

SENATE BILL NO. 64—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 20, 2012

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to court reporters. (BDR 1-386)

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 court reporters; revising various provisions relating to the recording and transcribing of court proceedings; revising provisions relating to defective transcripts; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law establishes certain duties and responsibilities of certified court
2 reporters employed by Nevada courts, including the reporting, transcribing and
3 recording of various matters and proceedings. Existing law also sets forth the
4 compensation to be paid and the manner in which it is made for certain services
5 provided by court reporters. (Chapters 3, 4, 16, 34, 125, 171, 172, 174, 175, 177,
6 179, 239 and 441A of NRS) **Sections 1-5 and 8-26** of this bill authorize, under
7 certain circumstances, those same duties and responsibilities to be carried out by
8 court recorders who operate sound recording equipment and provide to those court
9 recorders the same compensation otherwise provided to court reporters. **Section 7**
10 of this bill defines the term “court recorder.”

11 **Section 6** of this bill provides that where a district court finds that the transcript
12 of a case which was recorded by sound recording equipment is materially or
13 extensively defective: (1) the case must be returned for retrial in the municipal
14 court from which it came; or (2) the parties may stipulate to being bound by the
15 transcript, with or without changes to the transcript.



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

1 **Section 1.** NRS 3.360 is hereby amended to read as follows:

2 3.360 The transcript of the official reporter, ~~the~~ official
3 reporter pro tempore ~~the~~ *or court recorder* of any court, duly
4 appointed and sworn, when transcribed and certified as being a
5 correct transcript of the testimony and proceedings in the case, is
6 prima facie evidence of such testimony and proceedings.

7 **Sec. 2.** NRS 3.370 is hereby amended to read as follows:

8 3.370 1. Except as otherwise provided in subsection 3, for his
9 or her services the official reporter or reporter pro tempore *or a*
10 *court recorder appointed by the court pursuant to NRS 3.380* is
11 entitled to the following compensation:

12 (a) For being available to report *or record* civil and criminal
13 testimony and proceedings when the court is sitting during
14 traditional business hours on any day except Saturday or Sunday,
15 \$170 per day, to be paid by the county as provided in subsection 4.

16 (b) For being available to report *or record* civil and criminal
17 testimony and proceedings when the court is sitting beyond
18 traditional business hours or on Saturday or Sunday:

19 (1) If the reporter *or court recorder* has been available to
20 report *or record* for at least 4 hours, \$35 per hour for each hour of
21 availability; or

22 (2) If the reporter *or court recorder* has been available to
23 report *or record* for fewer than 4 hours, a pro rata amount based on
24 the daily rate set forth in paragraph (a),

25 ↳ to be paid by the county as provided in subsection 4.

26 (c) For transcription:

27 (1) Except as otherwise provided in subparagraph (2), for the
28 original draft and any copy to be delivered:

29 (I) Within 24 hours after it is requested, \$7.50 per page
30 for the original draft and one copy, and \$2 per page for each
31 additional copy;

32 (II) Within 48 hours after it is requested, \$5.62 per page
33 for the original draft and one copy, and \$1.50 per page for each
34 additional copy;

35 (III) Within 4 days after it is requested, \$4.68 per page for
36 the original draft and one copy, and \$1.25 per page for each
37 additional copy; or

38 (IV) More than 4 days after it is requested, \$3.55 per page
39 for the original draft and one copy, and 55 cents per page for each
40 additional copy.

41 (2) For civil litigants who are ordering the original draft and
42 are represented by a nonprofit legal corporation or a program for pro



1 bono legal assistance, for the original draft and any copy to be
2 delivered:

3 (I) Within 24 hours after it is requested, \$5.50 per page
4 and \$1.10 per page for each additional copy;

5 (II) Within 48 hours after it is requested, \$4.13 per page
6 and 83 cents per page for each additional copy;

7 (III) Within 4 days after it is requested, \$3.44 per page
8 and 69 cents per page for each additional copy; or

9 (IV) More than 4 days after it is requested, \$2.75 per page
10 and 55 cents per page for each additional copy.

11 (3) For any party other than the party ordering the original
12 draft, for the copy of the draft to be delivered:

13 (I) Within 24 hours after it is requested, \$1.10 per page;

14 (II) Within 48 hours after it is requested, 83 cents per
15 page;

16 (III) Within 4 days after it is requested, 69 cents per page;
17 or

18 (IV) More than 4 days after it is requested, 55 cents per
19 page.

20 (d) For reporting *or recording* all civil matters, in addition to the
21 compensation provided in paragraphs (a) and (b), \$30 for each hour
22 or fraction thereof actually spent, to be taxed as costs pursuant to
23 subsection 5.

24 (e) For providing an instantaneous translation of testimony into
25 English which appears on a computer that is located at a table in the
26 courtroom where the attorney who requested the translation is
27 seated:

28 (1) Except as otherwise provided in this subparagraph, in all
29 criminal matters in which a party requests such a translation, in
30 addition to the compensation provided pursuant to paragraphs (a)
31 and (b), \$140 for the first day and \$90 per day for each subsequent
32 day from the party who makes the request. This additional
33 compensation must be paid by the county as provided pursuant to
34 subsection 4 only if the court issues an order granting the translation
35 service to the prosecuting attorney or to an indigent defendant who
36 is represented by a county or state public defender.

37 (2) In all civil matters in which a party requests such a
38 translation, in addition to the compensation provided pursuant to
39 paragraphs (a), (b) and (d), \$140 for the first day and \$90 per day
40 for each subsequent day, to be paid by the party who requests the
41 translation.

42 (f) For providing a diskette containing testimony prepared from
43 a translation provided pursuant to paragraph (e):

44 (1) Except as otherwise provided in this subparagraph, in all
45 criminal matters in which a party requests the diskette and the



1 reporter agrees to provide the diskette, in addition to the
2 compensation provided pursuant to paragraphs (a), (b) and (e),
3 \$1.50 per page of the translation contained on the diskette from the
4 party who makes the request. This additional compensation must be
5 paid by the county as provided pursuant to subsection 4 only if the
6 court issues an order granting the diskette to the prosecuting
7 attorney or to an indigent defendant who is represented by a county
8 or state public defender.

9 (2) In all civil matters in which a party requests the diskette
10 and the reporter agrees to provide the diskette, in addition to the
11 compensation provided pursuant to paragraphs (a), (b), (d) and (e),
12 \$1.50 per page of the translation contained on the diskette, to be
13 paid by the party who requests the diskette.

14 2. For the purposes of subsection 1, a page is a sheet of paper 8
15 1/2 by 11 inches and does not include a condensed transcript. The
16 left margin must not be more than 1 1/2 inches from the left edge of
17 the paper. The right margin must not be more than three-fourths of
18 an inch from the right edge of the paper. Each sheet must be
19 numbered on the left margin and must contain at least 24 lines of
20 type. The first line of each question and of each answer may be
21 indented not more than five spaces from the left margin. The first
22 line of any paragraph or other material may be indented not more
23 than 10 spaces from the left margin. There must not be more than
24 one space between words or more than two spaces between
25 sentences. The type size must not be larger than 10 characters per
26 inch. The lines of type may be double spaced or one and one-half
27 spaced.

28 3. If the court determines that the services of more than one
29 reporter *or court recorder* are necessary to deliver transcripts on a
30 daily basis in a criminal proceeding, each reporter *or court recorder*
31 is entitled to receive:

32 (a) The compensation set forth in paragraphs (a) and (b) of
33 subsection 1 and subparagraph (1) of paragraph (e) of subsection 1,
34 as appropriate; and

35 (b) Compensation of \$7.50 per page for the original draft and
36 one copy, and \$2 per page for each additional copy for transcribing
37 a proceeding of which the transcripts are ordered by the court to be
38 delivered on or before the start of the next day the court is scheduled
39 to conduct business.

40 4. The compensation specified in paragraphs (a) and (b) of
41 subsection 1, the compensation for transcripts in criminal
42 cases ordered by the court to be made, the compensation for
43 transcripts in civil cases ordered by the court pursuant to NRS
44 12.015, the compensation for transcripts for parents or guardians or
45 attorneys of parents or guardians who receive transcripts pursuant to



1 NRS 432B.459, the compensation in criminal cases that is ordered
2 by the court pursuant to subparagraph (1) of paragraph (e) and
3 subparagraph (1) of paragraph (f) of subsection 1 and the
4 compensation specified in subsection 3 must be paid out of the
5 county treasury upon the order of the court. When there is no
6 official reporter in attendance and a reporter pro tempore is
7 appointed, his or her reasonable expenses for traveling and detention
8 must be fixed and allowed by the court and paid in the same
9 manner. The respective district judges may, with the approval of the
10 respective board or boards of county commissioners within the
11 judicial district, fix a monthly salary to be paid to the official
12 reporter in lieu of per diem. The salary, and also actual traveling
13 expenses in cases where the reporter acts in more than one county,
14 must be prorated by the judge on the basis of time consumed by
15 work in the respective counties and must be paid out of the
16 respective county treasuries upon the order of the court.

17 5. Except as otherwise provided in subsection 4, in civil cases,
18 the compensation prescribed in paragraph (d) of subsection 1 and
19 for transcripts ordered by the court to be made must be paid by the
20 parties in equal proportions, and either party may, at the party's
21 option, pay the entire compensation. In either case, all amounts so
22 paid by the party to whom costs are awarded must be taxed as costs
23 in the case. The compensation for transcripts and copies ordered by
24 the parties must be paid by the party ordering them. No reporter *or*
25 *court recorder* may be required to perform any service in a civil
26 case until his or her compensation has been paid to him or her.

27 6. Where a transcript is ordered by the court or by any party,
28 the compensation for the transcript must be paid to the reporter *or*
29 *court recorder* before the furnishing of the transcript.

30 **Sec. 3.** NRS 3.380 is hereby amended to read as follows:

31 3.380 1. The judge or judges of any district court may, with
32 the approval of the board of county commissioners of any one or
33 more of the counties comprising such district, in addition to the
34 appointment of a court reporter as in this chapter provided, enter an
35 order for the installation of sound recording equipment for use in
36 any of the instances recited in NRS 3.320, for the recording of any
37 civil and criminal proceedings, testimony, objections, rulings,
38 exceptions, arraignments, pleas, sentences, statements and remarks
39 made by the district attorney or judge, oral instructions given by the
40 judge and any other proceedings occurring in civil or criminal
41 actions or proceedings, or special proceedings whenever and
42 wherever and to the same extent as any of such proceedings have
43 heretofore under existing statutes been recorded by the official
44 reporter or any special reporter, ~~for any~~ reporter pro tempore *or*
45 *court recorder* appointed by the court.



1 2. For the purpose of operating such sound recording
2 equipment, the court or judge may appoint or designate the official
3 reporter or a special reporter , ~~for~~ reporter pro tempore *or court*
4 *recorder*, or the county clerk or clerk of the court or deputy clerk.
5 The person so operating such sound recording equipment shall
6 subscribe to an oath that he or she will well and truly operate the
7 equipment so as to record all of the matters and proceedings.

8 3. The court may then designate the person operating such
9 equipment or any other competent person to listen to the recording
10 and to transcribe the recording into written text. The person who:

11 (a) Transcribes the recording shall subscribe to an oath that he or
12 she has truly and correctly transcribed the proceedings as recorded.

13 (b) Operates the sound recording equipment as described in
14 subsection 2 shall:

15 (1) Subscribe to an oath that the sound recording is a true and
16 accurate recording of the proceedings; and

17 (2) In the event of an error, malfunction or other problem
18 relating to the sound recording equipment or the sound recording,
19 report that error, malfunction or problem to the court.

20 4. The transcript may be used for all purposes for which
21 transcripts have heretofore been received and accepted under then
22 existing statutes, including transcripts of testimony and transcripts
23 of proceedings as constituting bills of exceptions or part of the bill
24 of exceptions on appeals in all criminal cases and transcripts of the
25 evidence or proceedings as constituting the record on appeal in civil
26 cases and including transcripts of preliminary hearings before
27 justices of the peace and other committing magistrates, and are
28 subject to correction in the same manner as transcripts under
29 existing statutes.

30 5. If a proceeding is recorded and a transcript is requested, a
31 copy of the sound recording must, if requested, be provided with the
32 transcript. The cost for providing the sound recording must not
33 exceed the actual cost of production and must be paid by the party
34 who requests the sound recording.

35 6. In civil and criminal cases when the court has ordered the
36 use of such sound recording equipment, any party to the action, at
37 the party's own expense, may provide a certified court reporter *or a*
38 *court recorder* to make a record of and transcribe all the matters of
39 the proceeding. In such a case, the record prepared by sound
40 recording is the official record of the proceedings, unless it fails or
41 is incomplete because of equipment or operational failure, in which
42 case the record prepared by the certified court reporter *or court*
43 *recorder* shall be deemed, for all purposes, the official record of the
44 proceedings.



1 **Sec. 4.** NRS 4.400 is hereby amended to read as follows:

2 4.400 1. Each justice of the peace shall appoint and, with the
3 approval of the board of county commissioners, fix the
4 compensation of a suitable person, *including a court recorder*, who
5 need not be a certified court reporter and may have other
6 responsibilities in the court to operate the sound recording
7 equipment. The person so appointed shall subscribe to an oath that
8 the person will so operate it as to record all of the proceedings.

9 2. The justice of the peace may designate the same or another
10 person to transcribe the recording into a written transcript. The
11 person so designated shall subscribe to an oath that the person has
12 correctly transcribed it. The transcript may be used for all purposes
13 for which transcripts are used and is subject to correction in the
14 same manner as other transcripts.

15 **Sec. 5.** NRS 4.410 is hereby amended to read as follows:

16 4.410 1. If the person designated to transcribe the
17 proceedings is:

18 (a) Regularly employed as a public employee, the person is not
19 entitled to additional compensation for preparing the transcript.

20 (b) Not regularly employed as a public employee and not a
21 certified court reporter, the person is entitled to such compensation
22 for preparing the transcript as the board of county commissioners
23 determines.

24 (c) A certified court reporter ~~H~~ *or a court recorder*, the person
25 is entitled to the same compensation as set forth in NRS 3.370.

26 2. The compensation for transcripts and copies must be paid by
27 the party ordering them. In a civil case, the preparation of the
28 transcript need not commence until the compensation has been
29 deposited with the court reporter ~~H~~ *or court recorder*.

30 **Sec. 6.** Chapter 5 of NRS is hereby amended by adding thereto
31 a new section to read as follows:

32 1. *Except as otherwise provided in subsection 2, if the district*
33 *court finds that the transcript of a case which was recorded by*
34 *sound recording equipment is materially or extensively defective,*
35 *the case must be returned for retrial in the municipal court from*
36 *which it came.*

37 2. *If all parties to the appeal stipulate to being bound by a*
38 *particular transcript of the proceedings in the municipal court, or*
39 *stipulate to a particular change in the transcript, an appeal based*
40 *on that transcript as accepted or changed may be heard by the*
41 *district court judge without regard to any defects in the transcript.*

42 **Sec. 7.** The preliminary chapter of NRS is hereby amended by
43 adding thereto a new section to read as follows:

44 *Unless the context otherwise requires, "court recorder" means*
45 *a person who is technically qualified and appointed or designated*



1 *by a court or judge to operate sound recording equipment for the*
2 *reporting, transcribing and recording of any matter or proceeding.*

3 **Sec. 8.** NRS 16.140 is hereby amended to read as follows:

4 16.140 After the jury has retired for deliberation, if there is a
5 disagreement among them as to any part of the testimony, or if they
6 desire to be informed of any point of law arising in the cause, they
7 may require the officer to conduct them into court. Upon their being
8 brought into court, the court may order the court reporter *or court*
9 *recorder* to read the portion of the testimony which they request, or
10 any part thereof, and the court may provide any information
11 requested on the law. This shall be in the presence of or after notice
12 to the parties or counsel.

13 **Sec. 9.** NRS 34.575 is hereby amended to read as follows:

14 34.575 1. An applicant who, after conviction or while no
15 criminal action is pending against the applicant, has petitioned the
16 district court for a writ of habeas corpus and whose application for
17 the writ is denied, may appeal to the Supreme Court from the order
18 and judgment of the district court, but the appeal must be made
19 within 30 days after service by the court of written notice of entry of
20 the order or judgment.

21 2. The State of Nevada is an interested party in proceedings for
22 a writ of habeas corpus. If the district court grants the writ and
23 orders the discharge or a change in custody of the petitioner, the
24 district attorney of the county in which the application for the writ
25 was made, or the city attorney of a city which is situated in the
26 county in which the application for the writ was made, or the
27 Attorney General on behalf of the State, may appeal to the Supreme
28 Court from the order of the district judge within 30 days after the
29 service by the court of written notice of entry of the order.

30 3. Whenever an appeal is taken from an order of the district
31 court discharging a petitioner or committing a petitioner to the
32 custody of another person after granting a pretrial petition for
33 habeas corpus based on alleged want of probable cause, or otherwise
34 challenging the court's right or jurisdiction to proceed to trial of a
35 criminal charge, the clerk of the district court shall forthwith certify
36 and transmit to the Supreme Court, as the record on appeal, the
37 original papers on which the petition was heard in the district court
38 and, if the appellant or respondent demands it, a transcript of any
39 evidentiary proceedings had in the district court. The district court
40 shall require its court reporter *or its appointed court recorder* to
41 expedite the preparation of the transcript in preference to any
42 request for a transcript in a civil matter. When the appeal is
43 docketed in the Supreme Court, it stands submitted without further
44 briefs or oral argument unless the Supreme Court otherwise orders.



1 **Sec. 10.** NRS 125.100 is hereby amended to read as follows:

2 125.100 1. When ordered by the court, the evidence in
3 divorce actions ~~{shall}~~ **must** be reported *or recorded* and transcribed
4 and the transcript thereof filed with the pleadings in the case.

5 2. The cost of such transcript ~~{shall}~~ **must** be immediately
6 computed by the reporter *or court recorder* and paid by the party
7 ordered by the court to do so to the clerk of the court, who shall pay
8 the same to the reporter *or court recorder* upon receiving from the
9 ~~{latter}~~ *reporter or court recorder* the transcript of evidence.

10 3. In all cases heretofore or hereafter where a transcript of
11 evidence has not been filed ~~{due to}~~ *because of* the death of the
12 reporter ~~{}~~ *or court recorder*, and a period of not less than 5 years
13 has elapsed and no claim has been made during that period by any
14 party, the amount of money on deposit with the clerk, and payable
15 to such reporter *or court recorder* if a transcript of the evidence had
16 been filed, ~~{shall}~~ **must** be, by the clerk, paid to the county treasurer,
17 who shall deposit the same in the county general fund.

18 **Sec. 11.** NRS 125.260 is hereby amended to read as follows:

19 125.260 1. When ordered by the court, the evidence in
20 separate maintenance actions ~~{shall}~~ **must** be reported *or recorded*
21 and transcribed and the transcript thereof filed with the pleadings in
22 the case.

23 2. The cost of such transcript ~~{shall}~~ **must** be immediately
24 computed by the reporter *or court recorder* and paid by the party
25 ordered by the court to do so to the clerk of the court, who shall pay
26 the same to the reporter *or court recorder* upon receiving from the
27 ~~{latter}~~ *reporter or court recorder* the transcript of evidence.

28 3. In all cases heretofore or hereafter where a transcript of
29 evidence has not been filed ~~{due to}~~ *because of* the death of the
30 reporter ~~{}~~ *or court recorder*, and a period of not less than 5 years
31 has elapsed and no claim has been made during that period by any
32 party, the amount of money on deposit with the clerk, and payable
33 to such reporter *or court recorder* if a transcript of the evidence had
34 been filed, ~~{shall}~~ **must** be, by the clerk, paid to the county treasurer,
35 who shall deposit the same in the county general fund.

36 **Sec. 12.** NRS 125.430 is hereby amended to read as follows:

37 125.430 1. When ordered by the court, the evidence in
38 annulment of marriage actions ~~{shall}~~ **must** be reported *or recorded*
39 and transcribed and the transcript thereof filed with the pleadings in
40 the case.

41 2. The cost of such transcript ~~{shall}~~ **must** be immediately
42 computed by the reporter *or court recorder* and paid by the party
43 ordered by the court to do so to the clerk of the court, who shall pay
44 the same to the reporter *or court recorder* upon receiving from the
45 ~~{latter}~~ *reporter or court recorder* the transcript of evidence.



1 3. In all cases heretofore or hereafter where a transcript of
2 evidence has not been filed ~~{due to}~~ *because of* the death of the
3 reporter ~~{}~~ *or court recorder*, and a period of not less than 5 years
4 has elapsed and no claim has been made during that period by any
5 party, the amount of money on deposit with the clerk, and payable
6 to such reporter *or court recorder* if a transcript of the evidence had
7 been filed, ~~{shall}~~ *must* be, by the clerk, paid to the county treasurer,
8 who shall deposit the same in the county general fund.

9 **Sec. 13.** NRS 171.1975 is hereby amended to read as follows:

10 171.1975 1. If a witness resides more than 500 miles from
11 the place of a preliminary examination or is unable to attend the
12 preliminary examination because of a medical condition, a party
13 may, not later than 14 days before the preliminary examination, file
14 a request that the magistrate allow the witness to testify at the
15 preliminary examination through the use of audiovisual technology.
16 A party who requests that the magistrate allow a witness to testify
17 through the use of audiovisual technology shall provide written
18 notice of the request to the opposing party at or before the time of
19 filing the request.

20 2. Not later than 7 days after receiving notice of a request that
21 the magistrate allow a witness to testify at the preliminary
22 examination through the use of audiovisual technology, the
23 opposing party may file an objection to the request. If the opposing
24 party fails to file a timely objection to the request, the opposing
25 party shall be deemed to have consented to the granting of the
26 request.

27 3. Regardless of whether or not the opposing party files an
28 objection to a request that the magistrate allow a witness to testify at
29 the preliminary examination through the use of audiovisual
30 technology, the magistrate may allow the witness to testify at the
31 preliminary examination through the use of audiovisual technology
32 only if the magistrate finds that good cause exists to grant the
33 request based upon the specific facts and circumstances of the case.

34 4. If the magistrate allows a witness to testify at the
35 preliminary examination through the use of audiovisual technology:

36 (a) The testimony of the witness must be:

37 (1) Taken by a certified videographer who is in the physical
38 presence of the witness. The certified videographer shall sign a
39 written declaration, on a form provided by the magistrate, which
40 states that the witness does not have in his or her possession any
41 notes or other materials to assist in the witness's testimony.

42 (2) Recorded and preserved through the use of a videotape or
43 other means of audiovisual recording technology.

44 (3) Transcribed by a certified court reporter ~~{}~~ *or a court*
45 *recorder*.



1 (b) Before giving testimony, the witness must be sworn and
2 must sign a written declaration, on a form provided by the
3 magistrate, which acknowledges that the witness understands that he
4 or she is subject to the jurisdiction of the courts of this state and may
5 be subject to criminal prosecution for the commission of any crime
6 in connection with his or her testimony, including, without
7 limitation, perjury, and that the witness consents to such
8 jurisdiction.

9 (c) During the preliminary examination, the witness must not be
10 asked to identify the defendant, but the witness may be asked to
11 testify regarding the facts and circumstances surrounding any
12 previous identification of the defendant.

13 (d) The original recorded testimony of the witness must be filed
14 with the district court, and copies of the recorded testimony of the
15 witness must be provided to each party.

16 (e) The testimony of the witness may not be used by any party
17 upon the trial of the cause or in any proceeding therein in lieu of the
18 direct testimony of the witness, but the court may allow the
19 testimony of the witness to be used for any other lawful purpose.

20 5. Audiovisual technology used pursuant to this section must
21 ensure that the witness may be:

22 (a) Clearly heard and seen; and

23 (b) Examined and cross-examined.

24 6. As used in this section, "audiovisual technology" includes,
25 without limitation, closed-circuit video and videoconferencing.

26 **Sec. 14.** NRS 171.198 is hereby amended to read as follows:

27 171.198 1. Except as otherwise provided in subsection 2, a
28 magistrate shall employ a certified court reporter *or a court*
29 *recorder* to take down all the testimony and the proceedings on the
30 hearing or examination and, within such time as the court may
31 designate, have such testimony and proceedings transcribed into
32 typewritten transcript.

33 2. A magistrate who presides over a preliminary hearing in a
34 justice court, in any case other than in a case in which the death
35 penalty is sought, may employ a certified court reporter to take
36 down all the testimony and the proceedings on the hearing or
37 appoint a ~~person~~ *court recorder* to use sound recording equipment
38 to record all the testimony and the proceedings on the hearing. If the
39 magistrate appoints a ~~person~~ *court recorder* to use sound
40 recording equipment to record the testimony and proceedings on the
41 hearing, the testimony and proceedings must be recorded and
42 transcribed in the same manner as set forth in NRS 4.390 to 4.420,
43 inclusive. Any transcript of the testimony and proceedings produced
44 from a recording conducted pursuant to this subsection is subject to



1 the provisions of this section in the same manner as a transcript
2 produced by a certified court reporter **H or a court recorder.**

3 3. When the testimony of each witness is all taken and
4 transcribed by the reporter **H or court recorder**, the reporter **or**
5 **court recorder** shall certify to the transcript in the same manner as
6 for a transcript of testimony in the district court, which certificate
7 authenticates the transcript for all purposes of this title.

8 4. Before the date set for trial, either party may move the court
9 before which the case is pending to add to, delete from or otherwise
10 correct the transcript to conform with the testimony as given and to
11 settle the transcript so altered.

12 5. The compensation for the services of a reporter **or court**
13 **recorder** employed as provided in this section are the same as
14 provided in NRS 3.370, to be paid out of the county treasury as
15 other claims against the county are allowed and paid.

16 6. Testimony reduced to writing and authenticated according to
17 the provisions of this section must be filed by the examining
18 magistrate with the clerk of the district court of the magistrate's
19 county, and if the prisoner is subsequently examined upon a writ of
20 habeas corpus, such testimony must be considered as given before
21 such judge or court. A copy of the transcript must be furnished to
22 the defendant and to the district attorney.

23 7. The testimony so taken may be used:

24 (a) By the defendant; or

25 (b) By the State if the defendant was represented by counsel or
26 affirmatively waived his or her right to counsel,
27 ↪ upon the trial of the cause, and in all proceedings therein, when
28 the witness is sick, out of the State, dead, or persistent in refusing to
29 testify despite an order of the judge to do so, or when the witness's
30 personal attendance cannot be had in court.

31 **Sec. 15.** NRS 172.138 is hereby amended to read as follows:

32 172.138 1. If a witness resides more than 500 miles from the
33 place of a grand jury proceeding or is unable to attend the grand jury
34 proceeding because of a medical condition, upon the request of the
35 district attorney, the district judge supervising the proceedings of the
36 grand jury may allow a witness to testify before the grand jury
37 through the use of audiovisual technology.

38 2. The district judge supervising the proceedings of the grand
39 jury may allow a witness to testify before the grand jury through the
40 use of audiovisual technology only if the district judge finds that
41 good cause exists to grant the request based upon the specific facts
42 and circumstances of the grand jury proceeding.

43 3. If the district judge supervising the proceedings of the grand
44 jury allows a witness to testify at the grand jury proceeding through
45 the use of audiovisual technology:



1 (a) The testimony of the witness must be:

2 (1) Taken by a certified videographer who is in the physical
3 presence of the witness. The certified videographer shall sign a
4 written declaration, on a form provided by the district judge, which
5 states that the witness does not possess any notes or other materials
6 to assist in the witness's testimony.

7 (2) Recorded and preserved through the use of a videotape or
8 other means of audiovisual recording technology.

9 (3) Transcribed by a certified court reporter *or court*
10 *recorder* appointed pursuant to NRS 172.215 in accordance with the
11 provisions of NRS 172.225.

12 (b) Before giving testimony, the witness must be sworn and
13 must sign a written declaration, on a form provided by the district
14 judge, which acknowledges that the witness understands that he or
15 she is subject to the jurisdiction of the courts of this state and may
16 be subject to criminal prosecution for the commission of any crime
17 in connection with his or her testimony, including, without
18 limitation, perjury, and that the witness consents to such
19 jurisdiction.

20 (c) The original recorded testimony of the witness must be
21 delivered to the certified court reporter ~~†~~ *or court recorder*.

22 (d) The testimony of the witness may not be used by any party
23 upon the trial of the cause or in any proceeding therein in lieu of the
24 direct testimony of the witness, but the court may allow the
25 testimony of the witness to be used for any other lawful purpose.

26 4. Audiovisual technology used pursuant to this section must
27 ensure that the witness may be:

28 (a) Clearly heard and seen; and

29 (b) Examined.

30 5. As used in this section, "audiovisual technology" includes,
31 without limitation, closed-circuit video and videoconferencing.

32 **Sec. 16.** NRS 172.215 is hereby amended to read as follows:

33 172.215 1. Whenever criminal causes are being investigated
34 by the grand jury, ~~††~~ *the grand jury* shall appoint a certified court
35 reporter ~~†~~ *or a court recorder*. If the ~~{certified court reporter}~~
36 *person so appointed* is not an official reporter of the district court,
37 the certified court reporter *or the court recorder* shall, before
38 entering upon his or her duties, take and subscribe the constitutional
39 oath of office. The certified court reporter *or court recorder* is
40 entitled to receive the same compensation for services as an official
41 reporter of the district court.

42 2. Except as otherwise provided in subsection 3, the certified
43 court reporter *or the court recorder* shall include in the notes taken
44 of a grand jury proceeding all criminal matters which come before
45 the grand jury including:



- 1 (a) The charge by the impaneling judge;
- 2 (b) Any subsequent instructions or statements made by the
- 3 judge;
- 4 (c) Each statement made by the district attorney;
- 5 (d) Each question asked of and response given by the witnesses
- 6 who appear before the grand jury; and
- 7 (e) Any statements made by the grand jurors during the
- 8 proceeding.

9 3. The certified court reporter *or court recorder* shall not
10 include in his or her notes:

11 (a) Any confidential communication between a witness and the
12 witness's legal counsel, if the legal counsel is allowed to accompany
13 the witness before the grand jury; or

14 (b) The deliberations and voting of the grand jury.

15 **Sec. 17.** NRS 172.225 is hereby amended to read as follows:

16 172.225 1. If an indictment has been found or accusation
17 presented against a defendant, the stenographic reporter *or court*
18 *recorder* shall certify and file with the county clerk an original
19 transcription of his or her notes and a copy thereof and as many
20 additional copies as there are defendants.

21 2. The reporter *or court recorder* shall complete the
22 certification and filing within 10 days after the indictment has been
23 found or the accusation presented unless the court for good cause
24 makes an order extending the time.

25 3. The county clerk shall:

26 (a) Deliver a copy of the transcript so filed with the county clerk
27 to the district attorney immediately upon receipt thereof;

28 (b) Retain one copy for use only by judges in proceedings
29 relating to the indictment or accusation; and

30 (c) Deliver a copy of the transcript to each defendant who is in
31 custody or has given bail or to the defendant's attorney.

32 4. Any defendant to whom a copy has not been delivered is
33 entitled upon motion to a continuance of the defendant's
34 arraignment until a date 10 days after the defendant actually
35 receives a copy.

36 5. If several criminal charges against a defendant are
37 investigated on one investigation and thereafter separate indictments
38 are returned or accusations presented upon the several charges, the
39 delivery to the defendant or his or her attorney of one copy of the
40 transcript of the investigation is a compliance with this section as to
41 all of the indictments or accusations.

42 6. Upon the filing of such a transcript with the county clerk, the
43 transcript and any related physical evidence exhibited to the grand
44 jury become a matter of public record unless the court:



1 (a) Orders that the presentment or indictment remain secret until
2 the defendant is in custody or has been given bail; or

3 (b) Upon motion, orders the transcript and evidence to remain
4 secret until further order of the court.

5 **Sec. 18.** NRS 172.235 is hereby amended to read as follows:

6 172.235 1. Except as otherwise provided in subsection 2, the
7 following persons may be present while the grand jury is in session:

8 (a) The district attorney;

9 (b) A witness who is testifying;

10 (c) An attorney who is accompanying a witness pursuant to
11 NRS 172.239;

12 (d) Any interpreter who is needed;

13 (e) The certified court reporter who is taking stenographic notes
14 of the proceeding **† or the court recorder who is operating the**
15 **sound recording equipment;**

16 (f) Any person who is engaged by the grand jury pursuant to
17 NRS 172.205; and

18 (g) Any other person requested by the grand jury to be present.

19 2. No person other than the jurors may be present while the
20 grand jury is deliberating or voting.

21 **Sec. 19.** NRS 172.245 is hereby amended to read as follows:

22 172.245 1. The disclosure of:

23 (a) Evidence presented to the grand jury;

24 (b) Information obtained by the grand jury;

25 (c) The results of an investigation made by the grand jury; and

26 (d) An event occurring or a statement made in the presence of
27 the grand jury other than its deliberations and the vote of a juror,
28 ➔ may be made to the district attorney for use in the performance of
29 the district attorney's duties.

30 2. Except as otherwise provided in subsection 3, the Attorney
31 General or a member of the Attorney General's staff, a grand juror,
32 district attorney or member of the district attorney's staff, peace
33 officer, clerk, stenographer, **court recorder**, interpreter, witness or
34 other person invited or allowed to attend the proceedings of a grand
35 jury shall not disclose:

36 (a) Evidence presented to the grand jury;

37 (b) An event occurring or a statement made in the presence of
38 the grand jury;

39 (c) Information obtained by the grand jury; or

40 (d) The results of an investigation made by the grand jury.

41 3. A person may disclose his or her knowledge concerning the
42 proceedings of a grand jury:

43 (a) When so directed by the court preliminary to or in
44 connection with a judicial proceeding;



1 (b) When permitted by the court at the request of the defendant
2 upon a showing that grounds may exist for a motion to dismiss the
3 presentment or indictment because of matters occurring before the
4 grand jury;

5 (c) If the person was a witness before the grand jury and is
6 disclosing his or her knowledge of the proceedings to the person's
7 own attorney; or

8 (d) As provided in NRS 172.225.

9 4. No obligation of secrecy may be imposed upon any person
10 except in accordance with this section. The court may direct that a
11 presentment or indictment be kept secret until the defendant is in
12 custody or has been given bail, and the clerk shall seal the
13 presentment or indictment. It is unlawful for any person to disclose
14 the finding of the secret presentment or indictment except when
15 necessary for the issuance and execution of a warrant or summons.

16 5. A person who violates any of the provisions of this section is
17 guilty of a gross misdemeanor and contempt of court.

18 6. The Attorney General or district attorney shall investigate
19 and prosecute a violation of this section.

20 7. The grand jury shall inform each person who appears before
21 the grand jury of the provisions of this section and the penalties for
22 its violation.

23 **Sec. 20.** NRS 174.195 is hereby amended to read as follows:

24 174.195 If a defendant is without counsel the court shall advise
25 the defendant of his or her right and assign counsel to represent the
26 defendant unless the defendant elects to proceed without counsel or
27 is able to obtain counsel. If it appears that a defendant at whose
28 instance a deposition is to be taken cannot bear the expense thereof,
29 the court may direct that the expenses of the court reporter *or court*
30 *recorder* and of travel and subsistence of the defendant's attorney
31 for attendance at the examination must be paid as provided in
32 NRS 7.135.

33 **Sec. 21.** NRS 175.011 is hereby amended to read as follows:

34 175.011 1. In a district court, cases required to be tried by
35 jury must be so tried unless the defendant waives a jury trial in
36 writing with the approval of the court and the consent of the State. A
37 defendant who pleads not guilty to the charge of a capital offense
38 must be tried by jury.

39 2. In a Justice Court, a case must be tried by jury only if the
40 defendant so demands in writing not less than 30 days before trial.
41 Except as otherwise provided in NRS 4.390 and 4.400, if a case is
42 tried by jury, a *certified court* reporter *or a court recorder* must be
43 present ~~[who is a certified court reporter]~~ and shall report *or record*
44 the trial.



1 **Sec. 22.** NRS 175.131 is hereby amended to read as follows:

2 175.131 Before any evidence has been introduced the judge
3 may inform the jury they may individually take notes during the
4 trial, but the judge shall further caution them not to rely upon their
5 respective notes in case of conflict among them, because the
6 ~~reporter's~~ notes *of the reporter or court recorder* contain the
7 complete and authentic record of the trial.

8 **Sec. 23.** NRS 177.165 is hereby amended to read as follows:

9 177.165 All appeals from a district court to the Supreme Court
10 shall be heard on the original papers and the reporter's *or court*
11 *recorder's* transcript of evidence or proceedings. The form and
12 manner of preparation of the record and of other papers filed may be
13 prescribed by the Supreme Court, and to the extent not otherwise so
14 prescribed shall conform to the practice in civil cases.

15 **Sec. 24.** NRS 179.045 is hereby amended to read as follows:

16 179.045 1. A search warrant may issue only on affidavit or
17 affidavits sworn to before the magistrate and establishing the
18 grounds for issuing the warrant or as provided in subsection 2. If the
19 magistrate is satisfied that grounds for the application exist or that
20 there is probable cause to believe that they exist, the magistrate shall
21 issue a warrant identifying the property and naming or describing
22 the person or place to be searched.

23 2. In lieu of the affidavit required by subsection 1, the
24 magistrate may take an oral statement given under oath, which must
25 be recorded in the presence of the magistrate or in the magistrate's
26 immediate vicinity by a certified court reporter or by electronic
27 means, *including the use of sound recording equipment by a court*
28 *recorder*, transcribed ~~+~~ and certified by the reporter ~~if the reporter~~
29 ~~recorded it.~~ *or court recorder*, and certified by the magistrate. The
30 statement must be filed with the clerk of the court.

31 3. Upon a showing of good cause, the magistrate may order an
32 affidavit or a recording of an oral statement given pursuant to this
33 section to be sealed. Upon a showing of good cause, a court may
34 cause the affidavit or recording to be unsealed.

35 4. After a magistrate has issued a search warrant, whether it is
36 based on an affidavit or an oral statement given under oath, the
37 magistrate may orally authorize a peace officer to sign the name of
38 the magistrate on a duplicate original *search* warrant. A duplicate
39 original search warrant shall be deemed to be a search warrant. It
40 must be returned to the magistrate who authorized the signing of it.
41 The magistrate shall endorse his or her name and enter the date on
42 the warrant when it is returned. Any failure of the magistrate to
43 make such an endorsement and entry does not in itself invalidate the
44 warrant.



1 5. The warrant must be directed to a peace officer in the county
2 where the warrant is to be executed. It must:

3 (a) State the grounds or probable cause for its issuance and the
4 names of the persons whose affidavits have been taken in support
5 thereof; or

6 (b) Incorporate by reference the affidavit or oral statement upon
7 which it is based.

8 ➔ The warrant must command the officer to search forthwith the
9 person or place named for the property specified.

10 6. The warrant must direct that it be served between the hours
11 of 7 a.m. and 7 p.m., unless the magistrate, upon a showing of good
12 cause therefor, inserts a direction that it be served at any time.

13 7. The warrant must designate the magistrate to whom it is to
14 be returned.

15 **Sec. 25.** NRS 239.053 is hereby amended to read as follows:

16 239.053 1. If a person requests a copy of a transcript of an
17 administrative proceeding that has been transcribed by a certified
18 court reporter **† or a court recorder**, a governmental entity shall
19 charge, in addition to the actual cost of the medium in which the
20 copy of the transcript is provided, a fee for each page provided
21 which is equal in amount to the fee per page charged by the court
22 reporter **or court recorder** for the copy of the transcript, as set forth
23 in the contract between the governmental entity and the court
24 reporter **† or court recorder**. For each page provided, the
25 governmental entity shall remit to the court reporter **or court**
26 **recorder** who transcribed the proceeding an amount equal to the fee
27 per page set forth in the contract between the governmental entity
28 and the court reporter **† or court recorder**.

29 2. The governmental entity shall post, in a conspicuous place at
30 each office in which the governmental entity provides copies of
31 public records, a legible sign or notice which states that, in addition
32 to the actual cost of the medium in which the copy of the transcript
33 is provided, the fee charged for a copy of each page of the transcript
34 is the fee per page set forth in the contract between the
35 governmental entity and the court reporter **† or court recorder**.

36 **Sec. 26.** NRS 441A.720 is hereby amended to read as follows:

37 441A.720 When any involuntary court isolation or quarantine
38 is ordered under the provisions of NRS 441A.510 to 441A.720,
39 inclusive, the involuntarily isolated or quarantined person, together
40 with the court orders, any certificates of the health authorities,
41 physicians, physician assistants licensed pursuant to chapter 630 or
42 633 of NRS or registered nurses, the written summary of the
43 evaluation team and a full and complete transcript of the notes of the
44 official reporter **or a court recorder** made at the examination of



- 1 such person before the court, must be delivered to the sheriff of the
2 appropriate county who must be ordered to:
- 3 1. Transport the person; or
 - 4 2. Arrange for the person to be transported by:
 - 5 (a) A system for the nonemergency medical transportation of
6 persons whose operation is authorized by the Nevada Transportation
7 Authority; or
 - 8 (b) If medically necessary, an ambulance service that holds a
9 permit issued pursuant to the provisions of chapter 450B of NRS,
10 to the appropriate public or private medical facility, residence or
11 other safe location.
- 12 **Sec. 27.** This act becomes effective on July 1, 2013.

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* S B 6 4 *

