

ASSEMBLY BILL NO. 422—COMMITTEE ON JUDICIARY

MARCH 25, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing criminal procedure.  
(BDR 14-1096)

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; providing that a person who is a victim of domestic violence or sexual assault and who fails to obey a subpoena shall not be deemed a contempt of the court; prohibiting a judge or magistrate from requiring certain bail if a person is a victim of domestic violence or sexual assault; prohibiting a court or officer from issuing certain warrants for arrest if a person is a victim of domestic violence or sexual assault; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law authorizes the prosecuting attorney or the attorney for the
- 2 defendant in a criminal proceeding to issue subpoenas for witnesses within the
- 3 State to appear before the court at which an indictment, information or criminal
- 4 complaint is to be tried. (NRS 174.315) Existing law also provides that a person
- 5 who, without an adequate excuse, fails to obey a subpoena of a court or a
- 6 prosecuting attorney that was served upon the person, or that was delivered to the
- 7 person and accepted, is in contempt of the court. (NRS 174.385) **Section 1** of this
- 8 bill excludes a person who is a victim of domestic violence or sexual assault from
- 9 such provisions governing contempt.
- 10 Existing law authorizes a magistrate to require bail for a person who appears as
- 11 a witness if such a person is material in a criminal proceeding and it is
- 12 impracticable to secure the presence of the person by subpoena. (NRS 178.494)
- 13 **Section 2** of this bill prohibits a judge or magistrate from requiring such bail if a
- 14 person is a victim of domestic violence or sexual assault.
- 15 Existing law authorizes a court or officer to issue a warrant to arrest a witness
- 16 upon the failure of the witness to appear. (NRS 50.205) **Section 3** of this bill
- 17 prohibits a court or officer from issuing such a warrant if the witness is a victim of
- 18 domestic violence or sexual assault.



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

1 **Section 1.** NRS 174.385 is hereby amended to read as follows:

2 174.385 ~~Failure~~

3 **1. Except as otherwise provided in subsection 2, failure** by  
4 any person without an adequate excuse to obey a subpoena of a  
5 court, a prosecuting attorney or an attorney for a defendant served  
6 upon the person or, in the case of a subpoena issued by a  
7 prosecuting attorney or an attorney for a defendant, delivered to the  
8 person and accepted, shall be deemed a contempt of the court from  
9 which the subpoena issued or, in the case of a subpoena issued by a  
10 prosecuting attorney or an attorney for a defendant, of the court in  
11 which a preliminary hearing is to be held, an investigation is  
12 pending or an indictment, information or complaint is to be tried.

13 **2. The provisions of this section do not apply to a person who**  
14 **is a victim of domestic violence or sexual assault.**

15 **3. As used in this section:**

16 **(a) "Domestic violence" means the commission of any act**  
17 **described in NRS 33.018.**

18 **(b) "Sexual assault" has the meaning ascribed to it in**  
19 **NRS 49.2543.**

20 **Sec. 2.** NRS 178.494 is hereby amended to read as follows:

21 178.494 1. ~~FF~~ **Except as otherwise provided in subsection**

22 **3, if** it appears by affidavit that the testimony of a person is material  
23 in any criminal proceeding and if it is shown that it may become  
24 impracticable to secure the person's presence by subpoena, the  
25 magistrate may require bail for the person's appearance as a witness,  
26 in an amount fixed by the magistrate. If the person fails to give bail  
27 the magistrate may:

28 (a) Commit the person to the custody of a peace officer pending  
29 final disposition of the proceeding in which the testimony is needed;

30 (b) Order the person's release if the person has been detained for  
31 an unreasonable length of time; and

32 (c) Modify at any time the requirement as to bail.

33 2. Every person detained as a material witness must be brought  
34 before a judge or magistrate within 72 hours after the beginning of  
35 the detention. The judge or magistrate shall make a determination  
36 whether:

37 (a) The amount of bail required to be given by the material  
38 witness should be modified; and

39 (b) The detention of the material witness should continue.

40 ↪ The judge or magistrate shall set a schedule for the periodic  
41 review of whether the amount of bail required should be modified  
42 and whether detention should continue.



1       **3. The provisions of this section do not apply to a person who**  
2 **is a victim of domestic violence or sexual assault.**

3       **4. As used in this section:**

4       **(a) "Domestic violence" means the commission of any act**  
5 **described in NRS 33.018.**

6       **(b) "Sexual assault" has the meaning ascribed to it in**  
7 **NRS 49.2543.**

8       **Sec. 3.** NRS 50.205 is hereby amended to read as follows:

9       50.205 ~~HB~~

10       **1. Except as otherwise provided in subsection 2, in** case of  
11 failure of a witness to attend, the court or officer issuing the  
12 subpoena, upon proof of the service thereof and of the failure of the  
13 witness, may issue a warrant to the sheriff of the county to arrest  
14 the witness and bring the witness before the court or officer where  
15 the attendance of the witness was required.

16       **2. The provisions of this section do not apply to a person who**  
17 **is a victim of domestic violence or sexual assault.**

18       **3. As used in this section:**

19       **(a) "Domestic violence" means the commission of any act**  
20 **described in NRS 33.018.**

21       **(b) "Sexual assault" has the meaning ascribed to it in**  
22 **NRS 49.2543.**



