

SENATE BILL NO. 34—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 5, 2008

Referred to Committee on Judiciary

SUMMARY—Makes certain changes concerning the use of court reporters in certain court proceedings. (BDR 14-397)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to courts; authorizing a magistrate to appoint a person to use sound recording equipment instead of employing a certified court reporter in certain proceedings in a justice court; providing for the use of transcripts produced from such recordings made by sound recording equipment; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 This bill authorizes a magistrate, when presiding over a preliminary hearing in
2 justice court in a case where the death penalty is not sought, to choose whether to
3 employ a certified court reporter or appoint a person to use sound recording
4 equipment to record certain testimony and proceedings of the court. This bill also
5 provides that if a magistrate presiding over such a proceeding appoints a person to
6 use sound recording equipment: (1) the testimony and proceedings of the court
7 must be recorded in accordance with certain existing laws; and (2) any transcripts
8 produced from such recordings must be treated in the same manner as a transcript
9 produced by a court reporter. (NRS 171.198)

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

1 Section 1. NRS 171.198 is hereby amended to read as follows:
2 171.198 1. ~~The~~ Except as otherwise provided in subsection
3 2, a magistrate shall employ a certified court reporter to take down



1 all the testimony and the proceedings on the hearing or examination
2 ~~[3]~~ and , within such time as the court may designate , have such
3 testimony and proceedings transcribed into typewritten transcript.

4 2. *A magistrate who presides over a preliminary hearing in a*
5 *justice court, in any case other than in a case in which the death*
6 *penalty is sought, may employ a certified court reporter to take*
7 *down all the testimony and the proceedings on the hearing or*
8 *appoint a person to use sound recording equipment to record all*
9 *the testimony and the proceedings on the hearing. If the*
10 *magistrate appoints a person to use sound recording equipment to*
11 *record the testimony and proceedings on the hearing, the*
12 *testimony and proceedings must be recorded and transcribed in*
13 *the same manner as set forth in NRS 4.390 to 4.420, inclusive.*
14 *Any transcript of the testimony and proceedings produced from a*
15 *recording conducted pursuant to this subsection is subject to the*
16 *provisions of this section in the same manner as a transcript*
17 *produced by a certified court reporter.*

18 3. When the testimony of each witness is all taken and
19 transcribed by the reporter, the reporter shall certify to the transcript
20 in the same manner as for a transcript of testimony in the district
21 court, which certificate authenticates the transcript for all purposes
22 of this title.

23 ~~[3]~~ 4. Before the date set for trial, either party may move the
24 court before which the case is pending to add to, delete from ~~[3]~~ or
25 otherwise correct the transcript to conform with the testimony as
26 given and to settle the transcript so altered.

27 ~~[4]~~ 5. The compensation for the services of a reporter
28 employed as provided in this section are the same as provided in
29 NRS 3.370, to be paid out of the county treasury as other claims
30 against the county are allowed and paid.

31 ~~[5]~~ 6. Testimony reduced to writing and authenticated
32 according to the provisions of this section must be filed by the
33 examining magistrate with the clerk of the district court of his
34 county, and if the prisoner is subsequently examined upon a writ of
35 habeas corpus, such testimony must be considered as given before
36 such judge or court. A copy of the transcript must be furnished to
37 the defendant and to the district attorney.

38 ~~[6]~~ 7. The testimony so taken may be used:

39 (a) By the defendant; or

40 (b) By the State if the defendant was represented by counsel or
41 affirmatively waived his right to counsel,

42 ↪ upon the trial of the cause, and in all proceedings therein, when
43 the witness is sick, out of the State, dead, or persistent in refusing to
44 testify despite an order of the judge to do so, or when his personal
45 attendance cannot be had in court.



1 **Sec. 2.** This act becomes effective upon passage and approval.

⑩



* S B 3 4 *