

PROPOSED AMENDMENTS TO SB359

PROPOSED AMENDMENTS TO SB359

EXPLANATION: Matters 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; and (5) orange underlining is deleted language in the original bill proposed to be retained in this amendment.

PROPOSE TO AMEND THE BILL: To modify the procedure to follow current laws and rules of practice.

AMENDMENT #1: Amend Section 1 as follows by deleting the entire new language set forth in the bill and replace it with the following:

Section 1. Chapter 484A of NRS is hereby amended by 1 adding thereto a new section to read as follows:

1. A hearing conducted pursuant to NRS 484A.7041 must be conducted in accordance with the provisions of this section.
2. Subpoenas may be issued by:
 - a. The magistrate;
 - b. A clerk of the court designated by the magistrate, at the request of a party;
 - or,
 - c. An attorney of record for a party

→Obedience to a subpoena may be compelled in the same manner as provided in Chapter 22 of NRS.

3. The court shall, at the request of a defendant, provide an interpreter by the court. Any request for an interpreter must be made, in writing, not less than 15 calendar days prior to the hearing. The costs for any court approved interpreter may be taxed against defendant, who is found to have committed the offense. Any interpreter must be qualified to the satisfaction of the Court.
4. At the hearing, conducted pursuant to NRS 484A.7041:
 - a. The citing officer may, in the absence of the prosecuting attorney, represent the State.
 - b. The magistrate may conduct a hearing remotely and/or allow remote appearances by parties, witnesses and/or counsel, in compliance with the civil traffic rules adopted by the Nevada Supreme Court.

AMENDMENT #2: Amend Section 2, Subsection 2 as follows:

2. If a person is arrested pursuant to paragraph (c) of subsection 1 for an offense that arises out of the same facts and circumstances as the civil infraction and is punishable as a misdemeanor, the offense and the civil infraction ~~may~~ must be included in the same criminal complaint.

AMENDMENT #3: Amend Section 3, Subsection 1 as follows:

1. When a person is halted by a peace officer in this State for any violation of chapters 483 to 484E, inclusive, 486 30 or 490 of NRS that is a civil infraction, or a prosecuting attorney elects to treat a violation of chapters 483 to 484E, inclusive, 486 or 490 of NRS that is punishable as a misdemeanor instead as a civil infraction in accordance with NRS 484A.7049, the peace officer or prosecuting attorney, as applicable, may prepare a civil infraction citation manually or electronically in the form of a complaint issuing in the name of "The State of Nevada," containing : { except as otherwise provided in paragraph (a) of subsection 2 of NRS 484A.7049:}

AMENDMENT #4: Amend Section 3, Subsection 1 to add the following:

4. A citation may be dismissed upon failure to comply with the requirements of this section.

AMENDMENT #5: Amend Section 4, Subsection 2 as follows:

2. Except as otherwise provided in this subsection, before a hearing to contest the determination that a person has committed a civil infraction, the court shall require the person to post a bond ~~{equal to}~~ The court shall fix the amount of the bond cash security at not more than the amount of the full payment of the monetary penalty, the administrative assessment and any fees specified in the civil infraction citation. ~~In lieu of posting such a bond, the person may instead deposit cash with the court in the amount of the bond required pursuant to this subsection.~~ Any bond posted or cash deposited as cash security with the court pursuant to this subsection must be forfeited upon the court's finding that the person committed the civil infraction. Any person whom the court determines is unable to pay the costs of defending the action or is a client of a program for legal aid in accordance with NRS 12.015 must not be required to post a bond or deposit cash with the court in accordance with this subsection.

AMENDMENT #6: Amend Section 4, Subsection 3 as follows:

3. The person who requested the hearing may, at his or her expense, be represented by counsel . ~~{, and a city attorney or district attorney, in his or her discretion and as applicable,}~~ ~~If counsel appears at the hearing, the person who requested the hearing is not required to attend.~~ A prosecuting attorney may represent the ~~plaintiff.~~ State of Nevada. Absence of a prosecutor shall not preclude the citing officer from presenting testimony.

AMENDMENT #7: Amend Section 5 to remove the striking language and keep the language of the current law.

AMENDMENT #8: Amend Sec. 1.8 to amend NRS 484A.7043 to clarify the process for collecting the civil penalty associated with civil traffic infractions.

1. Except as otherwise provided in this section, a person who is found to have committed a civil infraction shall be punished by a civil penalty of not more than \$500 per violation unless a greater civil penalty is authorized by specific statute. Except as otherwise provided in NRS 484A.792, any civil penalty collected by a municipal court pursuant to NRS 484A.703 to 484A.705, inclusive, must be paid to the treasurer of the city in which the court is located. Any civil penalty collected by a justice court pursuant to NRS 484A.703 to 484A.705, inclusive, must be paid to the treasurer of the county in which the court is located.

~~(a) The treasurer of the city in which the civil infraction [occurred,] citation was filed; or~~

~~(b) If the civil infraction did not occur in a city, the treasurer of the county in which the civil infraction [occurred,] citation was filed~~

AMENDMENT #9: Amend NRS 4.370(w) to clarify that the juvenile court may have jurisdiction to adjudicate traffic infractions involving juveniles under the age of eighteen:

(w) In any action to determine whether a person has committed a civil infraction punishable pursuant to NRS 484A.703 to 21 484A.705, inclusive. Upon approval of the district court or juvenile court, as applicable, the justice court may transfer original jurisdiction of a civil infraction punishable pursuant to NRS 484A.703 to 484A.705, inclusive, to the district court or juvenile court, as applicable, if the person charged with the civil infraction is a person under 18 years of age.

AMENDMENT #10: Amend NRS 484A.705 to provide further clarity:

Notwithstanding any other provision of law, if a person commits a violation of a provision of chapters 483 to 484E, inclusive, 486 or 490 of NRS that is punishable as a civil infraction while the person is also charged with a crime of driving while under the influence of alcohol or a controlled substance, the person may instead be charged with a misdemeanor. If the charge of driving while under the influence of alcohol and/or a controlled or prohibited substance is dismissed or reduced to a different charge, the civil infractions that were charged as misdemeanors must be reduced to a civil infraction.