



CLARK COUNTY 2025 Legislative Session PROPOSED AMENDMENT

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SB359 / SENATOR SCHEIBLE

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Purpose/Intent of Proposed Amendment:

The proposed amendment is intended to clean up certain matters stemming from AB116 (81st Session 2021). The amendment reflects the input of various stakeholders including the courts, counties, cities, public defenders, and prosecuting agencies

Text of Proposed Amendment:

PROPOSED AMENDMENT by CLARK COUNTY

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 (6) **black bold underlining** is language in existing statute that is added to this bill.

Section 1. Chapter 484A of NRS is hereby amended by 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 by a qualified ~~magistrate~~ court as specified in NRS 484A.750 and any rules adopted by the Nevada Supreme Court.

~~**2. Subpoenas may be issued by:**~~

~~(a) The magistrate.~~

~~(b) The parties.~~

~~(c) The attorney of record for a party.~~

~~Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS.~~

The court, the defendant, an attorney representing the defendant, and the prosecuting attorney, if any, shall have the right to subpoena witnesses to testify at a hearing conducted pursuant to NRS 484A.7041 in accordance with the rules of the court having jurisdiction over the matter.

3. At a hearing conducted pursuant to NRS 484A.7041:

(a) Oral evidence may be taken only upon oath or affirmation ~~administered by the magistrate.~~

(b) Every party has the right to:

(1) Call and examine witnesses;

(2) Introduce exhibits relevant to the issues of the case;

(3) Cross-examine opposing witnesses on any matters relevant to the issues of the case, even though the matter was not covered in a direct examination;

(4) Impeach any witness regardless of which party first called the witness to testify; and

(5) Offer rebuttal evidence.

(c) A civil contested traffic hearing is an informal proceeding, and the rules of evidence shall be liberally construed by the court hearing the case. Evidence may be admitted subject to a determination that the evidence has some probative value to a fact at issue. ~~The hearing need not be conducted according to technical rules relating to evidence and witnesses, except that those prescribed in NRS 233B.123 apply. Any relevant evidence that is not immaterial or unduly repetitious may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action.~~

~~(d) The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.~~

4. The magistrate court may, in accordance with rules adopted by the Supreme Court:

(a) Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which the magistrate is appointed.

(b) Permit a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means.

Sec. 2. NRS 484A.7033 is hereby amended to read as follows:

484A.7033 1. Except as otherwise provided by law, a peace officer in this State who has reasonable cause to believe that a person has violated a provision of chapters 483 to 484E, inclusive, 486 or 490 of NRS that is a civil infraction may halt and detain the person as is reasonably necessary to investigate the alleged violation and issue a civil infraction citation for the alleged violation. A peace officer who has halted and detained a person pursuant to this section may also:

(a) Detain the person in accordance with NRS 171.123 if circumstances exist that warrant such a detention;

(b) Search the person to ascertain the presence of a weapon in accordance with NRS 171.1232 and take any other action authorized pursuant to that section or any other provision of law; and

(c) Arrest the person in accordance with NRS 171.1231 if probable cause for the arrest exists.

2. If a person is arrested **or cited 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, **unless the court has already entered an order finding that the person has committed the civil infraction pursuant to NRS 484A.704(4), the offense and the civil infraction may must included in the same criminal complaint. be consolidated at any point in the proceedings on motion of a party or on the court's own motion. At the hearing of any consolidated case:**

(a) the rules governing the criminal complaint apply, but the standard of proof in the civil infraction is a preponderance of the evidence;

(b) if an attorney is providing indigent defense services on the criminal offense, the hearing shall be bifurcated and the defense attorney shall not be required to represent the person during that portion of the hearing on the civil infraction.

3. If a criminal offense and a civil infraction are charged together in the same complaint or citation, or consolidated together pursuant to this subsection, the court shall consider the evidence and render judgment for the criminal offense and civil infraction at the same hearing.

Sec. 3. NRS 484A.7035 is hereby amended to read as follows:

484A.7035 1. When a person is halted by a peace officer in this State for any violation of chapters 483 to 484E, inclusive, 486 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:]~~

(a) A statement that the citation represents a determination by a peace officer or prosecuting attorney that a civil infraction has been committed by the person named in the citation and that the determination will be final unless contested as provided in NRS 484A.703 to 484A.705, inclusive;

(b) A statement that a civil infraction is not a criminal offense;

(c) The name, date of birth, residential address and mailing address, if different from the residential address, telephone number and electronic mail address of the person who is being issued the citation and an indication as to whether the person has agreed to receive communications relating to the civil infraction by text message;

(d) The state registration number of the person's vehicle, if any;

(e) The number of the person's driver's license, if any;

(f) The civil infraction for which the citation was issued;

(g) The personnel number or other unique agency identification number of the peace officer issuing the citation and the address and phone number of the agency which employs the peace officer or, if a prosecuting attorney is issuing the citation, the personnel number or other unique agency identification number of the peace officer who halted the person for the violation or the volunteer appointed pursuant to NRS 484B.470 who issued the citation and

the address and phone number of the agency which employs the peace officer or volunteer, preprinted or printed legibly on the citation;

(h) A statement of the options provided pursuant to NRS 484A.703 to 484A.705, inclusive, for responding to the citation and the procedures necessary to exercise these options;

(i) A statement that, at any hearing to contest the determination set forth in the citation, the facts that constitute the infraction must be proved by a preponderance of the evidence and the person may subpoena witnesses, including, without limitation, the peace officer or duly authorized member or volunteer of a traffic enforcement agency who issued the citation or halted the person; and

(j) A statement that the person must respond to the citation as provided in NRS 484A.703 to 484A.705, inclusive, within 90 calendar days.

2. A peace officer who issues a civil infraction citation pursuant to subsection 1 shall sign the citation and deliver a copy of the citation to the person charged with the civil infraction. If the citation is prepared electronically, the peace officer shall sign the copy of the citation that is delivered to the person charged with the violation.

3. A civil infraction citation may be served by delivering a copy of the citation to the person charged with the civil infraction pursuant to this section or NRS 484A.7049. The acceptance of a civil infraction citation by the person charged with the civil infraction shall be deemed personal service of the citation and a copy of the citation signed by the peace officer or prosecuting attorney, as applicable, constitutes proof of service. If a person charged with a civil infraction refuses to accept a civil infraction citation, the copy of the citation signed by the peace officer or prosecuting attorney, as applicable, constitutes proof of service.

Sec. 4. NRS 484A.7041 is hereby amended to read as follows: 484A.7041 1. If, pursuant to subsection 3 of NRS 484A.704, a person receiving a civil infraction citation requests a hearing to contest the determination that the person has committed the civil infraction set forth in the citation, the hearing must be conducted in accordance with this section.

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 or cash security . ~~[equal to]~~ **The court shall fix the amount of the bond or 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 **security** deposited 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 **security** with the court in accordance with this subsection.

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,~~ **and a prosecuting attorney in his or her discretion may represent the plaintiff.** **If counsel appears at the hearing, the person who requested the hearing is not required to attend and by not appearing stipulates to their identity as the person who received the citation.** ~~A prosecuting attorney may represent the plaintiff.~~

4. A hearing conducted pursuant to this section must be conducted by the court without a jury. In lieu of the personal appearance at the hearing by the peace officer who issued the civil infraction citation, the court may consider the information contained in the civil infraction citation and any other written statement submitted under oath by the peace officer. If the court has established a system pursuant to NRS 484A.615, the peace officer may, if authorized by the court, use the system to submit such a statement. ~~The person named in the civil infraction citation may subpoena witnesses, including, without limitation, the peace officer who issued the citation, and has the right to present evidence and examine witnesses present in court.~~

5. **If the peace officer who issued the civil infraction citation does not personally appear in court and fails to submit a written statement pursuant to subsection 4, the court shall dismiss the citation unless other evidence, including the information contained in the civil infraction citation and testimony of other witnesses, may be sufficient to establish whether the person committed the civil infraction.**

~~5.~~ **6.** After consideration of the evidence and argument, the court shall determine whether a civil infraction was committed by the person named in the civil infraction citation. The court must find by a preponderance of the evidence that the person named in the civil infraction

citation committed a civil infraction. If it has not been established by a preponderance of the evidence that the infraction was committed by the person named in the citation, the court must enter an order dismissing the civil infraction citation in the court's records. If it has been established by a preponderance of the evidence that the infraction was committed, the court must enter in the court's records an order pursuant to NRS 484A.7043.

~~6~~ **7.** An appeal from the court's determination or order may be taken in the same manner as any other civil appeal from a municipal court or justice court, as applicable, except that:

(a) The notice of appeal must be filed not later than 7 calendar days after the court enters in the court's records an order pursuant to NRS 484A.7043;

(b) If the appellant is the person charged with the civil infraction, any bond required to be given by the appellant in order to secure a stay of execution of the order of the court during the pendency of the appeal must equal the amount of the monetary penalty and administrative assessments which the court has ordered the appellant to pay pursuant to NRS 484A.7043. Any bond must be forfeited if the order of the court is affirmed on appeal; and

(c) If a prosecuting attorney does not represent the plaintiff during the proceedings in the justice court or municipal court, the appellate court shall review the record and any arguments presented by the person charged with the civil infraction and render a decision.

8. A court shall not award attorney's fees or costs to any party to the civil infraction hearing.

Sec. 5. NRS 484A.7049 is hereby amended to read as follows:

484A.7049 ~~[1.]~~ A prosecuting attorney may elect to treat a violation of a provision of chapters 483 to 484E, inclusive, 486 or 490 of NRS that is punishable as a misdemeanor, other than a violation of NRS 484C.110 or 484C.120, as a civil infraction pursuant to NRS 484A.703 to 484A.705, inclusive.

~~[2. The prosecuting attorney shall make the election described in subsection 1 on or before the time scheduled for the first appearance of the defendant by:~~

~~(a) Preparing a civil infraction citation in accordance with subsection 1 of NRS 484A.7035 that contains all applicable information that is known to the prosecuting attorney, signing~~

~~the citation and filing the citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau;~~

~~(b) Filing notice of the prosecuting attorney's election with the court having jurisdiction of the underlying criminal charge; and~~

~~(c) Delivering a copy of the notice and citation to the defendant.~~

~~3. Upon the filing of a notice pursuant to paragraph (b) of subsection 2, the court shall dismiss the underlying criminal charge.]~~

Sec. 6. NRS 484A.7043 is hereby amended to read as follows:

NRS 484A.7043 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; or~~

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

2. If a person is found to have committed a civil infraction, in addition to any civil penalty imposed on the person, the court shall order the person to pay the administrative assessments set forth in NRS 176.059, 176.0611, 176.0613 and 176.0623 in the amount that the person would be required to pay if the civil penalty were a fine imposed on a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor. If, in lieu of a civil penalty, the court authorizes a person to successfully complete a course of traffic safety approved by the Department of Motor Vehicles, the court must order the person to pay the amount of the administrative assessment that corresponds to the civil penalty for which the defendant would have otherwise been responsible. The administrative assessments imposed pursuant to this subsection must be collected and

distributed in the same manner as the administrative assessments imposed and collected pursuant to NRS 176.059, 176.0611, 176.0613 and 176.0623.

3. If the court determines that a civil penalty or administrative assessment imposed pursuant to this section is:

(a) Excessive in relation to the financial resources of the defendant, the court may waive or reduce the monetary penalty accordingly.

(b) Not within the defendant's present financial ability to pay, the court may enter into a payment plan with the person.

4. A court having jurisdiction over a civil infraction pursuant to NRS 484A.703 to 484A.705, inclusive, may:

(a) In addition to ordering a person who is found to have committed a civil infraction to pay a civil penalty and administrative assessments pursuant to this section, order the person to successfully complete a course of traffic safety approved by the Department of Motor Vehicles.

(b) Waive or reduce the civil penalty that a person who is found to have committed a civil infraction would otherwise be required to pay if the court determines that any circumstances warrant such a waiver or reduction.

(c) Reduce any moving violation for which a person was issued a civil infraction citation to a nonmoving violation if the court determines that any circumstances warrant such a reduction.

Sec. 7. NRS 484A.705 is hereby amended to read as follows:

NRS 484A.705 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. **Unless pursuant to a plea negotiation, if the charge of driving while under the influence of alcohol and/or a controlled or prohibited substance is dismissed, or reduced any civil infraction charged as a misdemeanor shall be reduced to a civil infraction.**

Sec. 8. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

Unless the imposition of a civil penalty is prohibited by law, the board of county commissioners may, in lieu of a criminal penalty, provide a civil penalty for a violation of an ordinance unless state law provides a criminal penalty for the same act or omission.

Sec. 9. NRS 484B.600 is hereby amended to read as follows:

NRS 484B.600 1. It is unlawful for any person to drive or operate a vehicle of any kind or character at:

(a) A rate of speed greater than is reasonable or proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions.

(b) Such a rate of speed as to endanger the life, limb or property of any person.

(c) A rate of speed greater than that posted by a public authority for the particular portion of highway being traversed.

(d) A rate of speed that results in the injury of another person or of any property.

(e) In any event, a rate of speed greater than 80 miles per hour.

2. If, while violating any provision of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, an electric bicycle or an electric scooter, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.

3. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130 or 484B.135.

4. Except as otherwise provided by law, if a person is issued a traffic citation for a violation of any provision of subsection 1 **and admits to the commission of the offense or civil infraction on or before the person's first appearance in court**, the court may, in its discretion, reduce the violation from a moving traffic violation to a violation that is not a moving traffic violation. There is a presumption in favor of reducing the violation if **:**

(a) the person pays the entire amount of the fine and all fees due before the date ~~on which the person is first required to make an~~ **of the first** appearance relating to the citation, whether by personal appearance or through his or her counsel **; and,**

(b) provides the court with a copy of the person's driving record maintained by the Department of Motor Vehicles and a copy of all traffic citations issued to the person which were not reported to the Department of Motor Vehicles. ~~which but such a~~

The presumption may be overcome if the driving record of the person demonstrates a pattern of moving traffic violations. This subsection shall not apply if the person contests the offense or civil infraction.

5. Any fine imposed pursuant to paragraph (a), (b), (c) or (e) of subsection 1 must not exceed \$20 for each mile per hour a person travels above the posted speed limit or the proper rate of speed at which the person should be traveling, as applicable. The provisions of this subsection apply regardless of whether a person pays the entire amount of the fine and all fees due in accordance with subsection 4.

6. Except as otherwise provided in subsection 7, a person who commits a violation of any provision of this section that causes physical injury to a person or damage to property shall be punished by a civil penalty of not more than \$1,000.

7. A person who commits a violation of any provision of this section and, at the time the violation was committed, was operating a vehicle at a rate of speed that was 30 miles per hour or more over that posted by a public authority is guilty of a misdemeanor.