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WASHOE COUNTY DISTRICT ATTORNEY
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Senate Commerce & Labor Committee
72nd Session
Nevada State Legislature
401 S. Carson St.
Carson City, NV 89701-4747

Position Paper – Senate Bill 184

Chairman Townsend and Ladies and Gentlemen of the Committee;

My name is Mike Neville. I am a Criminal Investigator with the Washoe County District Attorney's Office. I have been so employed for over 13 years. Prior to that I served a total of 17 ½ years with the Reno and Sparks Police Departments. In coming before the Committee today, I do so not only as the president of the Washoe County District Attorney Investigators' Association (WCDAIA), but also as a director of the Peace Officers Research Association of Nevada (PORAN). In that capacity I speak for professional peace officers throughout the state.

Today I wish to address the merits of SB 184 and to ask the Committee to support this legislation. There are basically two facets to this bill. The bill seeks to include "police officers" as defined in NRS 617.135 under the protections against exposure to hepatitis as afforded to fire fighters and emergency medical attendants under NRS 617.485. SB 184 further seeks to expand the definition of "police officer" as defined in NRS 617.135 to include game wardens who possess the powers of a peace officer under NRS 289.280 and district attorney investigators who possess the powers of a peace officer under NRS 289 and who are employed by a county with a population in excess of 100,000.

Let me first address the inclusion of "police officer" in the protection against hepatitis. In the 2001 legislative session, the Committee and the Legislature approved the passage of AB 313. That legislation created the provisions of NRS 617.485, applying that protection to fire fighters and emergency medical attendants. While I was not present at those hearings, I am sure that the arguments presented by the fire fighters were identical to our own. I believe that this is a common sense issue. When one looks at the assumed off duty lifestyle of the officers covered by Chapter 617 and contrasts that with the environment in which they work and the people with whom they regularly make contact, one can easily conclude that if an officer contracts hepatitis, he or she has done so in the course of his or her employment. SB 184 simply asks the legislature to extend to the dedicated peace officers of this state, the benefit that it wisely created for firefighters and emergency medical attendants in 2001.

The Committee may ask, "What do DA Investigators do that exposes them to hepatitis?" The nature of our exposure is identical to that of street cops. First and foremost, we are regularly exposed to inmates of local jails and prisons. This includes the people that we arrest, inmates who we transport from jails and prisons for court appearances, and inmates of jails and prisons who we interview in the course of our investigations. We respond to crime scenes where bodily fluids and other hazardous materials are present. In locating and contacting witnesses we deal with people whose lifestyles and personal habits subject them to the contraction of hepatitis and other communicable diseases and we do so in environments where these diseases flourish.

Let me now address the proposed expansion of the definition of "police officer" under NRS 617.135. Within the Nevada Revised Statutes there are three separate chapters that define peace officers or "police officers" and none of them are in sync. Chapter 289, specifically NRS 289.150 through NRS 289.360, spells out who in the state possess general or limited powers of a peace officer. Simply put, this chapter states who the cops are in Nevada. NRS 286.061 defines "police officer" for the purpose of determining eligibility for enrollment in the PERS Police/Fire fund, and currently excludes approximately 300 officers who are defined as peace officers under Chapter 289. NRS 617.135 defines "police officer" for the purpose of determining eligibility for the benefits provided for in Chapter 617 and in NRS 287.021, and currently excludes roughly 800 officers who are defined as peace officers under Chapter 289.

Over the last two legislative sessions we have sought to bring these definitions of "police officer" under the umbrella of Chapter 289. In the current session, SB 45 seeks to expand the definition of "police officer" in Chapter 286 to include all members defined as a peace officer under Chapter 289. Let me make it clear to the Committee that it is our ultimate goal to achieve this definition for chapter 617 as well. It may interest the Committee to know that the State of Nevada's risk management people agree philosophically with this goal. Due to the large number of officers excluded under NRS 617.135 and the associated fiscal concerns, we have agreed with them to pursue the ultimate inclusion of these officers in a piecemeal approach over several sessions. This process has already begun with the passage of AB 289 in the 2001 session, adding state fire marshals to the "police officer" definition in NRS 617.135.

The fiscal impact of inclusion of a particular group of officers in this definition is divided into a hard dollar figure and an actuarial liability. The hard dollar figure is minimal and I doubt that it would be opposed by any employer. This figure is the cost of the annual medical examination required of each covered officer under Chapter 617 and paid for by the employer. Depending on the geographic location and the type of examination conducted, this cost is between \$200 and \$300 per covered employee per year. So, as an example, the inclusion of Washoe County's fifteen DA investigators would cost the County a maximum of \$4500 per year.

This is a small price to pay when one considers the benefit to the employer. The purpose of the medical examination is to protect the employer/insurer from preventable

claims. If the medical examination of a covered employee reveals evidence of heart disease or its precursors, such as high cholesterol, the employer can require the employee to take medical, dietary or fitness steps to arrest the problem.


In conversations with Washoe County Risk Management, I have been told that their primary concern for liability is a claim for a heart attack. I am not an actuary, but I really believe that incremental inclusion such as we are proposing will have a very small impact on the employer's assumed liability. This observation is supported by the fact that the State of Nevada's risk management people support this approach. As Washoe and Clark Counties are self-funded, their liability has to be considered separately from that of the State of Nevada. Nonetheless, I submit that the impact is minimal. Given the numbers of deputies currently covered by Washoe and Clark Counties, the inclusion of DA investigators in those two jurisdictions would increase volume of covered officers by approximately 3½% and 1½% respectively.

As it applies to Washoe County, the additional liability incurred is actually less than these numbers suggest. Of the fifteen investigators in the Washoe County District Attorney's Office, eight of us have at least five years of full-time continuous, uninterrupted and salaried service as a "police officer" as defined in NRS 617.135. Consequently, pursuant to NRS 617.487, those eight investigators already have a "conclusively presumed" claim in the event of a heart attack. So in reality, Washoe County would only incur liability for seven additional employees.

I am sure that the Committee will agree that, philosophically, the currently excluded officers are worthy of the protections and benefits provided for in Chapter 617. Further, I believe that it has been shown that those officers can be incrementally included in this coverage with minimal fiscal impact on their respective employers.

I respectfully urge the Committee to pass SB 184 in an effort to ultimately achieve equity in protection for all of the dedicated peace officers of Nevada.

Respectfully submitted,


Michael B. Neville,
President