

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session
March 10, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:39 a.m. on Tuesday, March 10, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Terry Care, Chair
Senator Valerie Wiener, Vice Chair
Senator David R. Parks
Senator Allison Copeney
Senator Mike McGinness
Senator Maurice E. Washington
Senator Mark E. Amodei

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Kathleen Swain, Committee Secretary

OTHERS PRESENT:

Keith G. Munro, Assistant Attorney General, Office of the Attorney General
Heather Procter, Deputy Attorney General, Office of the Attorney General
Nancy E. Hart, Legislative Advocate, Nevada Network Against Domestic Violence
Kareen Prentice, Domestic Violence Ombudsman, Office of the Attorney General

CHAIR CARE:
Senate Bill 169 is off the agenda today.

SENATE BILL 169: Enacts the Revised Uniform Unincorporated Nonprofit Association Act of 2008. (BDR 7-674)

CHAIR CARE:

The hearing is open on Assembly Bill (A.B.) 27.

ASSEMBLY BILL 27: Clarifies requirements and procedures for obtaining a Nevada identity theft passport. (BDR 15-264)

KEITH G. MUNRO (Assistant Attorney General, Office of the Attorney General):
Identity theft has become a serious issue nationwide, creating havoc for individuals' financial situations. Recovering from identity theft can take time, money and patience. Some victims have lost job opportunities, been denied loans and been arrested for crimes they did not commit.

The Legislature has taken steps to assist victims of identity theft in Nevada with the creation of the Identity Theft Passport Program. The Program provides victims of identity theft a method of demonstrating to law enforcement and creditors that their identity has been stolen. It helps to rehabilitate a victim's credit history and identify any fraudulent criminal activity done in the victim's name.

We have some history with the Program now. Assembly Bill 27 is an effort to make the Program more efficient and effective for Nevada.

HEATHER PROCTER (Deputy Attorney General, Office of the Attorney General):
I will outline the Program adopted by the Attorney General's Office. To initiate the application process, a victim of identity theft must file a police report with a local law enforcement agency. The agency provides the victim with a pamphlet that includes instruction on how to apply for an identity theft passport ([Exhibit C](#)).

The pamphlet also provides a list of the documents the victim will need to prove their identity when they apply for a passport, [Exhibit C](#). Victims living in Carson City and Churchill, Clark, Douglas, Lyon, Storey and Washoe Counties apply for a passport at the local Attorney General's Office located in Reno, Carson City and Las Vegas. In the remaining counties, victims apply at their local sheriff's offices.

To complete the application, the victim provides personal information and two forms of identification, including a social security card. The victim's photograph, thumbprint and signature are taken, which appear on the completed passport at

the end of the process. Because of the confidential nature of the cards, we have provided you with a copy of a passport ([Exhibit D](#)).

Assembly Bill 27 changes the name of the program from Identity Theft Passport Program to Identity Theft Program. The term "passport" confused some individuals applying for the Program card. The card issued in this Program will no longer be called a passport, but a program card ([Exhibit E](#), page 1).

Assembly Bill 27 revises the criteria a victim of identity theft must meet before applying for a passport or program card, [Exhibit E](#), page 1. In section 1, subsections 1, 9 and 10, the bill clarifies that where the victim must file a police report is dependent on whether the victim is a Nevada resident or nonresident.

Assembly Bill 27 revises which agencies may receive an application for the Identity Theft Program Card, [Exhibit E](#), page 1. Section 1, subsection 2 expands this requirement to include any designated agency, which would include the Attorney General's Office. We have worked closely with the Nevada Sheriffs' and Chiefs' Association in implementing this Program, and they have indicated their full support of this bill.

CHAIR CARE:

This bill does not change the definition of identity theft contained in section 1, subsection 10. It just makes reference to it. Please explain to the Committee what those passages in the statute mean. What constitutes identity theft?

MS. PROCTER:

Identity theft is contained in subsection 10 and does refer to other sections of the *Nevada Revised Statutes* (NRS). Identity theft can involve a victim's name, address, credit card number or various other identifying information associated directly with an individual. We use the definition contained in the NRS noticed in subsection 10, paragraph (a) to determine whether to issue an identity theft passport to an individual.

CHAIR CARE:

The victim describes the facts, and then the determination is made? That constitutes identity theft?

MS. PROCTER:

Yes. We take those facts from the police report they file.

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CHAIR CARE:

In section 1, subsection 1, paragraph (b), does nonresident include a tourist from outside the United States as opposed to a resident of another state?

MR. MUNRO:

We are interpreting nonresident to be only a United States citizen. It could be a citizen from a different state.

SENATOR PARKS:

Why are resident and nonresident separately distinguished?

MR. MUNRO:

In the last interim, your staff instructed us to make sure the regulations applied to non-Nevadans but United States citizens.

CHAIR CARE:

Hearing no opposition, I will entertain a motion.

SENATOR WIENER MOVED TO DO PASS A.B. 27.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

The hearing is open on A.B. 114.

ASSEMBLY BILL 114: Makes various changes concerning compensation to victims of crime. (BDR 16-624)

CHAIR CARE:

We have Victims of Crime Program Coordinator Bryan Nix's written testimony ([Exhibit F](#)).

NANCY E. HART (Legislative Advocate, Nevada Network Against Domestic Violence):

I present my written testimony ([Exhibit G](#)).

In section 1, the bill expands the 15-day time frame to 60 days to give victims a reasonable time to appeal the denial of compensation. The 15-day time frame within which a victim must file their appeal from a denial decision is not enough time. The letter of denial also does not include any information about the right to appeal.

Section 2 of the bill provides that any money in the compensation fund at the end of a fiscal year rolls over to the next year, rather than reverting to the General Fund. Over the last three fiscal years, almost \$1 million of crime victim funds has reverted to the General Fund. Victims are the appropriate recipients of these funds. When money comes in, it must be approved through the budgeting process. However, if the money is received in late June when the fiscal year ends June 30, there is not sufficient time to allocate the funds through the budgeting process. This bill makes changes to ensure the money is used for victims of crime.

The Advisory Commission on the Administration of Justice supports both of the proposals described, [Exhibit G](#). One of the subcommittees of that Commission is the Victims Issues Subcommittee. These issues were vetted by that Subcommittee. It went to the full Commission with the unanimous support of the Subcommittee.

Do you have a handout from Mr. Nix?

CHAIR CARE:

Yes. We have the amendment ([Exhibit H](#)). Mr. Nix talks about the misuse of the term "revert" and strikes that. The amendment adds the language "is not deposited" to replace the language "does not revert," [Exhibit H](#), page 2.

MS. HART:

I do not know the mechanics of how that happens.

SENATOR PARKS:

I am a member of the Advisory Commission on the Administration of Justice. In the State budget, many different funds collect money from various sources. At the end of a budget cycle, any money left in that fund reverts to the General Fund. This program is a good example of those cases. The money comes from a dedicated source, and if it is not used in that budget cycle, it reverts to the

General Fund. This is a step that diminishes the funds available for subsequent fiscal periods.

CHAIR CARE:

The same thing used to happen when veterans took advantage of the exemption on property tax or car license annual fee. They thought the money would go to the Veterans Home, but they did not realize if it was not used, it went to the General Fund. That was changed.

MS. HART:

We fully support this bill and urge you to pass it.

CHAIR CARE:

How do you determine the amount of money a victim will receive? Is there a threshold?

MS. HART:

I am not qualified to answer that question. There are never enough funds for the number of claims.

SENATOR WIENER:

Based on your comment that there are not enough funds to respond to the claims, your letter, [Exhibit G](#), references a substantial sum of money that was not used. The bill also seeks to extend the time to 60 days within which an appeal from a denial of compensation must be filed. There is apparently a surplus of money because it is not used, and there must be a substantial number of denials. What prompts a denial?

MS. HART:

This is more anecdotal than from my own direct experience. Some of the denials have been based on lack of cooperation, which is a catch-all term for failure to provide the paperwork required by the Program. They must provide a police report. If you do not provide a police report, your claim would be denied. Your claim could be denied if you do not submit enough receipts. The failure to cooperate is a large category. There are a number of different reasons why people's claims are denied.

There are other bills concerning the Victims Compensation Program that will come before your Committee. Another category of denials is based on contributory conduct. I do not know the percentage of denials based on that.

There is not enough money, and yet this excess money is being reverted. There are people who, if they were not denied, would be able to get that money. The money should not revert so it can be appropriately paid to victims. The victims deserve the opportunity to have enough time to file an appeal. The money coming in is not meeting the needs of the victims who are applying.

SENATOR WIENER:

How many people may have the opportunity to appeal who might not have been able to within the 15-day period? Extending the time period might be reasonable to provide greater access. Are there records to support this? What percentage of people who have applied for these funds has been denied compensation? Section 2, subsection 4 of the bill says the funds will not revert to the General Fund and will roll into the next fiscal year. What happens to that money in subsequent fiscal years?

Ms. HART:

My expectation is that if the money does not revert to the General Fund, it would be added to the pool of funds readily given out in the beginning of the next fiscal year.

SENATOR WIENER:

My question is when we say for use in the next fiscal year, if there are residual funds, is it the intention that the money just stays there?

Ms. HART:

Yes.

SENATOR WIENER:

Does the term "for use in the next fiscal year" get in the way of that?

Ms. HART:

That is a bookkeeping question for Mr. Nix. He could explain how he would ensure the money from fiscal year (FY) 2009 was spent prior to FY 2010 so the money would not sit around and roll over for another year.

SENATOR WIENER:

What I see here is that it would not roll for the other year. That is why I am asking whether the money would not be deposited in a General Fund account and would stay for use as you need it, forgetting about the limitations of rolling into the next fiscal year.

MS. HART:

Yes. The intention is to make it available for victims' compensation claims whether it is immediately the next fiscal year or any subsequent fiscal year.

SENATOR WIENER:

Why do we even have the next fiscal year in there?

CHAIR CARE:

For purposes of legislative intent, Ms. Hart has made the record clear. We need some supplemental materials from Mr. Nix and staff to answer the questions you have raised.

SENATOR PARKS:

The term "at the end of each fiscal year does not revert" is a one-time event that happens at the end of each of the fiscal years. This would allow those funds to continue to accumulate. We heard testimony in the Advisory Commission on the Administration of Justice hearings that because the funds did revert, there were limited funds left. Hence, the determination of how much compensation to each victim of crime is diminished by an amount. They have to address all the other issues related to it. The money now is limited, and they give only proportional amounts to the victims of crime. At the pleasure of the Chair, since we are going to videoconference tomorrow, the Chair might like to hold this bill and ask Mr. Nix to be available.

CHAIR CARE:

We can do that.

KAREEN PRENTICE (Domestic Violence Ombudsman, Office of the Attorney General):

The Office of the Attorney General supports this bill and believes it will assist all victims in Nevada, as noted in my letter ([Exhibit I](#)).

SENATOR MCGINNESS:

Ms. Hart, you indicated there are more bills to come before this Committee about domestic violence. Can you give me a synopsis? Are you seeking to extend the appeal time because there is money left over? Are we trying to make it more available?

MS. HART:

Extending the appeal deadline gives the victims a reasonable period of time to gather the paperwork necessary for an appeal. It is not connected to the amount of money available in the fund to pay those claims. They are two separate issues. There may be limitations on funding, but that does not mean we do not want people to file their claims. The decision concerning the merits of one claim over another is a question for Mr. Nix. It is not because we have extra money so we want to increase the number of claims. We want to make sure we have a reasonable and realistic time frame for filing an appeal when there is a denial of those claims.

SENATOR WIENER:

Several sessions ago, I sponsored a bill expanding the definition of victim in domestic violence, which at that time meant the person who was injured or threatened directly. Often the greatest victims in that environment are children, but they are not physically touched by the person perpetrating the abuse. We expanded the definition to include the young people who are exposed to abuse and devastated by it. Will you share with us whether that has been utilized or helped children?

MS. HART:

Yes. Are you saying that the legislation you are referring to expanded the group that was eligible for victims' compensation claims or the category of people who are eligible for other domestic violence remedies, such as protection orders?

SENATOR WIENER:

It was for access to funds for counseling and other purposes. Before that bill, children were excluded because they were not defined as victims and because they were not physically impacted.

MS. HART:

Mr. Nix would be able to provide some statistics on how many claims have been paid that might include those victims, which would reflect usage.

SENATOR WIENER:

For the record, often when we pass legislation and we have worked with our efforts and commitment to get something we believe is good policy into place as statute, we do not realize that it sometimes sits on a shelf. When we have the opportunities, and certainly I am taking advantage of that here, to determine whether or not what we felt was good policy has actually been implemented. It is nice to bring that back to us. Thank you very much for your help.

SENATOR PARKS:

Most of those who submit claims are not experts at filling out the forms and providing the backup documentation required. What seems sufficient in their mind ends up being insufficient for our bureaucratic process. When a denial comes in, they have to scramble to provide a police report or a doctor's statement. They have only a 15-day window, which is too short for them to assemble and coordinate everything they need to submit an appeal.

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CHAIR CARE:

The hearing on A.B. 114 is continued to tomorrow morning. Please brief Mr. Nix. Hearing nothing further to come before the Committee, the hearing is adjourned at 9:11 a.m.

RESPECTFULLY SUBMITTED:

Kathleen Swain,
Committee Secretary

APPROVED BY:

Senator Terry Care, Chair

DATE: _____