

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session
May 4, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:10 a.m. on Wednesday, May 4, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, 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 Valerie Wiener, Chair
Senator Allison Copening, Vice Chair
Senator Shirley A. Breeden
Senator Ruben J. Kihuen
Senator Mike McGinness

COMMITTEE MEMBERS ABSENT:

Senator Don Gustavson (Excused)
Senator Michael Roberson (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman John Hambrick, Assembly District No. 2
Assemblyman William C. Horne, Assembly District No. 34

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Policy Analyst
Bradley A. Wilkinson, Counsel
Danielle Barraza, Intern to Assemblyman William C. Horne
Judith Anker-Nissen, Committee Secretary

OTHERS PRESENT:

Julie Janovsky, Polaris Project for a World Without Slavery, via Telephone
Jill Morris, International Constituency Director, Not For Sale Campaign,
Nevada Chapter, via Telephone
Tierra D. Jones, Office of the Public Defender, Clark County
George Flint, Select Legal Brothels of Nevada
John V. Cracchiolo, Executive Director, Nevada Catholic Conference
Brian O'Callaghan, Government Liaison, Las Vegas Metropolitan Police
Department; Nevada Sheriffs' and Chiefs' Association
Ronald P. Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada; Las Vegas Police Protective Association; Southern
Nevada Conference of Police and Sheriffs
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of
Nevada
Brett Kandt, Special Deputy Attorney General, Office of the Attorney General
Julie B. Towler, Deputy Attorney General, Bureau of Public Affairs, Public
Safety Division, Office of the Attorney General
Jose Montoya, Detective, Las Vegas Metropolitan Police Department
Laurie Rielly-Johnson, State Affiliate Leader, Nevada Citizens for Change,
America

CHAIR WIENER:

I will open the hearing on Assembly Bill (A.B.) 6.

ASSEMBLY BILL 6 (1st Reprint): Authorizes courts to allow certain victims of
sex trafficking or involuntary servitude who have been convicted of
engaging in or soliciting prostitution to have their judgments of conviction
vacated. (BDR 14-366)

ASSEMBLYMAN JOHN HAMBRICK (Assembly District No. 2):

Assembly Bill 6 is part of a journey. Two years ago, this Legislature started a
journey addressing issues involving human trafficking, a scourge that has
affected our State, particularly in southern Nevada but also in the north. We as
a society must address these issues head-on in order to send messages to those
far and wide that Nevada is not a place where people come from around the
world to buy and sell the bodies of youngsters in our communities.

Last Session, we addressed the traffickers, both criminally and civilly, but A.B. 6 will address the victims. As you read the bill, you will understand the victims are asking for mercy. I am hopeful this Committee will look favorably upon A.B. 6.

Assembly Bill 6 will allow victims of human trafficking who have been convicted, to petition the court—upon satisfaction that they can prove they were victims of trafficking—to vacate their sentences.

Section 1, subsection 5 states a victim can petition the court without a time frame because the average entry age into trafficking is 14 years old. This bill will address those victims older than that, particularly after the age of majority, because this bill will only address the adults who have been caught in this horrendous crime. As they escape and try to start their lives over again, when they fill out job applications and have to list convictions of prostitution or soliciting, that greatly diminishes the prospects for these men and women to obtain gainful employment and move on with their lives. They will never be able to return to those things that they have lost. But if this Committee looks on this bill favorably, the victims can petition the court to vacate the conviction. And as they go forward filling out job applications, they can start their lives relatively anew, seek employment and not have to list their convictions for soliciting and prostitution.

This is not a new trial of fact established with their previous convictions. This is a request for mercy by the victims of human trafficking. It takes a lot of courage for these women to come forward because the traffickers and their pimps have threatened these people time and time again with physical violence, not only to themselves but to their loved ones and extended families. For the victims to step forward and ask for mercy at times may put their family and friends at risk, but they realize they have to start over with a first step. This is the beginning of that first step.

There were many questions raised in the Assembly Committee on Judiciary, but Committee members, in their wisdom, passed this bill unanimously knowing that as the victims came forward, a lot of questions would ensue: Why were they involved and what happened? It is pure fear at that point. Every victim we have talked to has been abused physically or emotionally, and for victims to take that step is the beginning of a journey. I hope we will assist in that journey. This is

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one of many bills in the coming sessions. I hope we, individually and collectively, will have the courage to address this issue head on and go forward.

There are two individuals telephonically online. Julie Janovsky is with the Polaris Project for a World Without Slavery out of Washington, D.C., and Jill Morris is with Not For Sale, The Campaign to End Slavery in Our Lifetime, in Half Moon Bay, California.

JULIE JANOVSKY (Polaris Project for a World Without Slavery):

Thank you for providing us the opportunity to testify in support of A.B. 6, legislation that will help to provide victims of sex trafficking with a fresh start as they work to overcome, in most cases, extremely severe victimization and restart their lives.

Assembly Bill 6 is a commonsense bill. It is modeled after similar legislation enacted in New York in 2010. In 2011, it was enacted in Maryland and is still under consideration in Illinois and Pennsylvania, among a few other states. Polaris Project is in strong support of A.B. 6 as amended and has more than 20,000 supporters. We would like to thank Assemblyman Hambrick for introducing this bill, and thank all of you for your consideration of A.B. 6.

Polaris Project is a national nonprofit organization. We work to combat human trafficking in the U.S., human trafficking of both sex and the labor of minors, adults, U.S. citizens and foreign nationals. Our programs include legislative advocacy at the state, federal and local levels; community outreach and education; but perhaps most important, the direct survivor support from meeting with victims when they are first found through to housing, education and job training.

Polaris also operates the National Human Trafficking Resource Center and the hotline that provides a bridge to help the victims—an outlet to tipsters as well as anyone—looking for information or training on human trafficking. The National Human Trafficking Resource Center is primarily funded by a grant through the U.S. Department of Health and Human Services. I understand the Committee is somewhat familiar with human trafficking already and the issue of trafficking in persons.

I have provided you with written testimony ([Exhibit C](#)), so I will briefly highlight some of the key points of A.B. 6. As you may know already, human trafficking

is one of the fastest-growing criminal industries in the world. It is estimated that traffickers are now reaping between \$32 billion and \$36 billion per year in profits. It is only growing.

Traffickers force victims to provide commercial sex in a number of areas from massage parlors to residential brothels and also on the street. Increasingly, they are advertised on Internet sites like <<http://www.backpage.com>> and sold to many, many men for a single night in hotels or motels or even at truck stops. Traffickers generally require a victim to meet a daily quota, which can be anywhere from \$500 to \$1,200 per night.

The victims of this horrible abuse face such torture as they are repeatedly threatened, raped, beaten, starved, locked up and psychologically tortured. As a result, when we end up speaking to victims, they face a multitude of challenges once they are able to escape the traffickers' control. It often includes severe physical and psychological trauma.

The average age of entry for commercial sex for American-born females in the U.S. is between 12 and 14 years old. This leaves many victims without the most basic educational tools they could use and need before moving forward with their lives.

In addition, most victims of sex trafficking incur a criminal record laden with prostitution convictions; it is a crime they were forced into. These convictions carry great stigmatization and create yet another tremendous challenge as the survivor attempts to seek employment, loans or education, all critical aspects to restarting their lives.

I would like you to look at this from one of our client's point of view. She finally escaped the control of the trafficker and we were able to provide her with medical care, counseling, temporary housing and basic job training skills. She then applied for a job and landed an interview. At the end of the interview the future employer said, "You know, everything looks great and we would like to move forward with offering you the position. We need to run a quick background; is there anything we should be aware of?" Well, our survivor is at a loss and terrified at this point. The question and issue that she prayed would not come up has come up. How does she explain the prostitution record which would probably mean that she is not going to get this job? How does she explain sex trafficking when most people are unaware of what it is? Will this

employer accept anything she has to say at this point? Assembly Bill 6 would remove the fear of that question by vacating the record, it would take away the stigmatization that survivors face and it would give that victim a process to have those prostitution crimes she was forced into completely removed from her record.

As we have urged previously in the Assembly, we urge the Senate Judiciary Committee to help these survivors restart their lives by giving A.B. 6 a favorable report.

CHAIR WIENER:

Thank you for participating across the miles. I do have a question. Because the average age is between 12 and 14 years old, and predominately female, what would the timeline be before she could escape?

Ms. JANOVSKY:

That is a great question. The Federal Bureau of Investigation (FBI) came out with a statistic recently that the average lifespan of a female involved in sex trafficking is seven years, once they have been brought into that crime. We have had victims involved in the crime from 1 year to 15 years and some who will not seek assistance or help until up to 10 or 15 years after they escape because they are so fearful of their traffickers' control.

CHAIR WIENER:

You say the average lifespan. You mean seven years as a trafficked person?

Ms. JANOVSKY:

Yes. The FBI statistic is their lifespan—how long they are able to survive.

CHAIR WIENER:

You are talking about death?

Ms. JANOVSKY:

Correct.

SENATOR BREEDEN:

Do you have any specific statistics of children in Nevada who are used for trafficking?

MS. JANOVSKY:

I do not have specific statistics for Nevada. One of the horrible challenges we face—working to fight and combat human trafficking—is statistics are so incredibly difficult to come by. The main reason is most victims do not self-identify as victims of the crime, even when they are children. The other part is that, even when children are forced into prostitution, many adults view it as a choice the victims have made. The largest number we have is the national number, though perhaps Ms. Morris may have something to add. The most recent number is that each year, an estimated 100,000 American children are prostituted within the U.S. We do know that Nevada is a fairly large hot spot for that trafficking.

JILL MORRIS (International Constituency Director, Not For Sale Campaign, Nevada Chapter):

We are an international grassroots organization whose goal and mission is to bring about awareness and also action in our local communities to end slavery in our lifetime.

As Ms. Janovsky mentioned, two other states have passed similar bills and other states are considering legislation. Given the unique situation in Nevada, I am glad to see that you are looking at this issue.

We are here today because we have learned a lot about criminal justice issues and about trafficking in the past 10 to 15 years. I have been doing this work since 1994. I started working in training law enforcement and working with prosecutors. We have come a very long way in this community looking at what happens to victims. For many decades, we have been focused on perpetrators and what we can do with them. Now we see that if we can help victims rebuild their lives, it creates a better community.

Victims who are often unintentionally victimized again by our system may be unable to rebuild their lives and fall back into poverty, criminal activity or become victims of trafficking again. It is important that not only do we put away the bad guys and prevent trafficking in our communities, but we help victims reclaim their lives so they can be productive members of society. They can be educated, raise their children and have jobs—all those things that the rest of us want, they deserve to have as well.

One thing that happens in Nevada is traffickers take advantage. They take advantage of your goodwill and the good fun in your State with the casinos and entertainment. Another thing they do is take advantage of your legalized sex industry. What we know about traffickers is they are opportunists. They see where there is a demand for sex trafficking, and they supply it. Traffickers will come to Nevada with the sole purpose of taking advantage of your customers and legal system. They think they can hide because in some counties, you do have a legalized sex industry. What they are doing is taking advantage of you. I find that a horrible incident, and I am sure you all do not want to see that happen.

Traffickers like to take advantage of vulnerable groups and young people. Young people leave their homes and go to the big city. Sometimes young people leave their small town and go to a big university. Sometimes young people leave because they see an opportunity or because the city looks fun and they want to go there and start out in the bright lights and the big city. Then they fall prey to traffickers.

We are not going to catch all of the traffickers all of the time. Even if we did and put them all in jail, if we do not help those victims, then what are we accomplishing? Traffickers also use the system to instill fear. Time and time again I have heard a victim say, "Well, I was so afraid I would get arrested. They told me that if I told the police or anyone what was going on that I would get arrested." Victims of trafficking are often mistaken for prostitutes or people willingly breaking the law, and it takes some time for the police to investigate or the prosecutor to understand the situation because the victim is so terribly scared. They have been beaten, raped, physically and psychologically abused, and sometimes members of their family may have suffered as well. Because the victims are so far away from their family, they have no one to tell and they are terrified. I understand why victims do not tell, why they are afraid, why they might not tell a police officer or prosecutor what is going on. What we can do is dig a little bit deeper.

The law passed in New York, and I have talked to that state's programs. Victims who have taken advantage of a similar law there said they finally feel free of what happened to them, that when their record is expunged for prostitution, they feel free. They can go out and get a job, they can obtain a home loan and education. A conviction like this could hang over their heads for life.

In 2007, a study by the University of Nevada, Las Vegas (UNLV), said that, at any point in time, at least 1,496 minors were being trafficked in Nevada for the sex industry. I cannot vouch for that number; I found it on the Internet, and not everything on the Internet is true. But I would be glad to send that information to you. Those numbers are staggering; it is probably small compared to reality. As Ms. Janovsky said, we do not know who is out there. We know they are there because we see those victims, we see those survivors and we see those perpetrators being arrested. What we need to do is give the victims a chance. I beg the Committee and the Legislature to do that. This is something that will work, it helps rebuild lives and it is a good way to start looking at this crime from a different view.

CHAIR WIENER:

In addition to the statistic you gave from the UNLV study, in our Committee packet we have Ms. Morris's material on the Not For Sale Campaign to End Slavery in our Lifetime ([Exhibit D](#)). That material says that in 2007, Las Vegas was named No. 17 of the most likely destinations for sex trafficking in the world.

TIERRA D. JONES (Office of the Public Defender, Clark County):

We support Assemblyman Hambrick's efforts in A.B. 6. We supported this bill on the Assembly side, and we intend to support it today. This bill is a great opportunity for many of my clients to turn things around for themselves. Many of my clients, who have been convicted of soliciting, will now be able to petition the court to have that conviction overturned so they will not have that on their records. The convictions will not be a hindrance to obtain employment, and victims can move on with their lives.

This is not going to open the floodgates so everybody will get all of their convictions overturned. From the legal standpoint, the fact that it says "may" leaves it within the discretion of the court. As the judge sees fit to give those who deserve it a second chance, they will get that opportunity. But this is definitely not something that will be abused by anyone convicted of soliciting who wants the conviction overturned. It leaves discretion within the hands of the judge to review each case individually. For those reasons, we strongly support A.B. 6.

SENATOR BREEDEN:

How long does that process take?

Ms. JONES:

Are you referring to the process to overturn the conviction?

SENATOR BREEDEN:

Yes.

Ms. JONES:

The way it works is after people have moved away from the life they were forced into living, they petition the court, which means they would have to hire somebody to represent them. Because most soliciting charges are misdemeanors, these people can file a motion in justice court in ten days. The district attorney would have an opportunity to respond, and then the judge can make a ruling.

SENATOR BREEDEN:

I know the court system is busy, so does the process take months or years?

Ms. JONES:

The court system is bogged down, but when a motion is filed, the attorneys determine the date or the master calendar at the courthouse determines a date. Normally, they can get it on the calendar within the ten-day filing period. Most judges would hear it that day unless the district attorney wants more time to respond. I would say these motions could be heard within the month, but I can only speak to the process in Clark County.

GEORGE FLINT (Select Legal Brothels of Nevada):

We wholeheartedly support every aspect of this bill. We believe it is a move in the right direction to address a serious problem. We also are appreciative of Assemblyman Hambrick's efforts, not only in this bill but in several others that he has brought forward in the last two Sessions.

I do have to say somewhat defensively that the well-meaning women who spoke by telephone are about 99 percent correct, but when there is any statement that indicates our legal industry may be a motivator for trafficking, it touches a nerve with me for the following reason: First of all, our women must be the age of majority before they work in the legal environment. They are personally interviewed by both the business as well as law enforcement. They must clear an FBI check and an extensive health check. Pimping in this State is a felony.

I do not believe that the massive amount of trafficking that happens in both Washoe County and Clark County has anything to do with our legal industry. I can say that not just because I am a hired gun for the industry, but I have been around the industry most of my life. It is apples and oranges. Until we have the courage—and I do not say that as a lobbyist—to address regulated and controlled activity on a wider basis than in rural Nevada, we will continue to have this problem in spite of the well-meaning efforts of the law.

There were 5,000 arrests last year in Clark County alone for either prostitution or the soliciting of prostitution. There were almost 100 arrests for pimping. That is sad—it makes me cry—and it should not happen. The average life expectancy is three years, not the professional life expectancy; you use the word death. The average life expectancy of a street working lady is three years. Those who do survive—and many do—will be able to make use of this law.

I want to give you a quick example. I grew up in another state where this activity was never legalized but was long tolerated and accepted. I met a young lady who was a customer of my father's photography business and a "working lady" in that town. She continued to work until she was approximately 30 years of age. When I first met her she was around 20 years of age. She had a lifetime scar—emotionally—because she had not wanted to be in that business but had been forced into it by a family member. She finally obtained a wonderful opportunity in midlife—a position with the U.S. Department of Justice, where she retired 20 or 25 years later as an honored member of the particular branch. The lady is 80 years old and a wonderful person; she lives in southern California. Even to this day, she is deathly afraid that somebody is going to find out that somewhere along the line she did that for a living, even though she did not have a criminal record. So you tie that fear factor onto those people who have been forced into this plus a criminal record; it is downright scary, fearful and sad for these sex workers. This is a move in the right direction, and I thank you.

I walked down the street one evening in San Francisco coming back from a restaurant to my hotel and I noticed a lady under a streetlight. I recognize these women, as I am a professional in that legal endeavor. I watched the lady catty-corner across the street. She was standing in the fog with a heavy coat on. A gentleman came up, screeched the brakes of his car, got out and got into an argument with the lady. She said, "But honey, I have only been able to make \$40 tonight." He said, "That is ridiculous." He hit her and knocked her to the

street, and she began to cry. He helped her up and brushed her off. And then he called her a naughty name and said, "I will be back in two hours, and if you do not have \$200 for me, I am going to go home and hurt your baby." That is the sadness of the street, an illegal, nonregulated facet of the world's oldest profession. This bill will help.

JOHN V. CRACCHIOLO (Executive Director, Nevada Catholic Conference):
I represent Reverend Randolph R. Calvo, Bishop of the Reno Diocese, as well as Most Reverend Joseph Anthony Pepe, Bishop of the Las Vegas Diocese. I am also a member of the Religious Alliance of Nevada (RAIN). I sit on the board representing the Catholic Conference. The RAIN is an interfaith group with five mainline Christian denominations. Normally, Larry Struve is the advocate specifically for RAIN; however, he is testifying elsewhere.

CHAIR WIENER:

And if I may interrupt, Mr. Struve had approached me prior to the meeting. Mr. Struve provided us with a letter for the record ([Exhibit E](#)).

MR. CRACCHIOLO:

We support A.B. 6 as we did on the Assembly side. We want to thank Assemblyman Hambrick for bringing this bill and, most important, shedding a light on the whole issue of human trafficking and the exploitation of so many people.

We agree with Assemblyman Hambrick that certain people should have an opportunity to have their cases heard again if they were indeed victims of human trafficking. The Catholic Conference believes in redemption, and this is the first step toward redemption and getting on to a more normalized life. This bill was passed in the Assembly unanimously, with a 42-0 vote. We urge this Committee to pass this legislation on to the full Senate. We would also be willing to step forward and urge the Governor to sign this bill into law.

BRIAN O'CALLAGHAN (Government Liaison, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We are in full support of A.B. 6, and we believe this will be an incentive and encouragement for the victims to come forward.

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RONALD P. DREHER (Government Affairs Director, Peace Officers Research Association of Nevada; Las Vegas Police Protective Association; Southern Nevada Conference of Police and Sheriffs):

We are in support of A.B. 6 and thank Assemblyman Hambrick for bringing this bill forward and request that you pass this bill.

REBECCA GASCA (Legislative and Policy Director, American Civil Liberties Union of Nevada):

We did not support this bill on the Assembly side. I am happy to be here today on behalf of the ACLU to support it in its amended form to vacate the judgment. This is a good, smart-on-crime bill. Redemption is important, especially with reintegration of individuals who are victims of crime who, as a result of the way laws are applied, are unable to reintegrate into society and enjoy the offers of life in general under the *Nevada Revised Statutes*. This is definitely a good redemption bill. We appreciate Assemblyman Hambrick bringing it forward and the Committee's consideration.

CHAIR WIENER:

Assemblyman Hambrick, could you explain to us what changed with this reprint?

ASSEMBLYMAN HAMBRICK:

I was unaware of any amendments coming out of the Assembly Judiciary. It was a misprint. It came through unscathed and I was unaware of any change.

CHAIR WIENER:

This is a first reprint so maybe counsel could help us out.

BRADLEY A. WILKINSON (Counsel):

The bill, as originally introduced, would have allowed seeking a new trial and then vacating the judgment of conviction. It is a technicality. The bill now moves directly to a motion to vacate the judgment.

ASSEMBLYMAN HAMBRICK:

I sincerely hope this Committee will give a favorable consideration. We have heard the term redemption. That is normally not in our vocabulary on a day-to-day basis, but another word has similar meaning—mercy. The victims of trafficking are now asking us, as a society, to have mercy and allow them to go forward.

CHAIR WIENER:

I will close the hearing on A.B. 6 and open the hearing on A.B. 57.

[ASSEMBLY BILL 57 \(1st Reprint\)](#): Makes various changes governing certain criminal offenders. (BDR 14-292)

BRETT KANDT (Special Deputy Attorney General, Office of the Attorney General): I am here today to offer testimony in support of A.B. 57. The rationale for this bill came from discussions in the Advisory Committee to Study Laws Concerning Sex Offender Registration which was established in 2009 by A.B. No. 85 of the 75th Session. Assembly Bill 57 was deemed to have merit even while litigation regarding Nevada's enactment of the federal Adam Walsh Act and a permanent injunction entered in the case of *ACLU of Nev. v. Mastro*, No. 2:08-cv-00822 (D. Nev. October 7, 2008), remained pending in federal court. Assembly Bill 57 addresses a fundamental nuts-and-bolts issue in the effective administration of the Nevada Sex Offender Registry, an issue unrelated to the Adam Walsh Act and independent of whether the Adam Walsh Act is implemented in whole or in part in Nevada. Simply stated, that issue is the ability of law enforcement to keep track of transient sex offenders in our State in a manner that achieves the purposes of the Nevada Sex Offender Registry.

With me today is Julie Towler, Deputy Attorney General, who represents the Department of Public Safety, the agency that maintains the Nevada Sex Offender Registry. Ms. Towler will go through the specific sections of the bill.

Also with me here today is Brian O'Callaghan from the Las Vegas Metropolitan Police Department (Las Vegas Metro) and Detective Jose Montoya of the Las Vegas Metro Sex Offender Apprehension Program, who will provide further detail on the challenges that law enforcement faces due to deficiencies in our sex offender registration laws that would be remedied by A.B. 57.

JULIE B. TOWLER (Deputy Attorney General, Bureau of Public Affairs, Public Safety Division, Office of the Attorney General):

Section 3 of the bill adds the requirement that a sex offender when registering with law enforcement agencies must provide specific information if he does not have a fixed residence. This information would include the address of any dwelling or temporary shelter of the sex offender or any other location where the sex offender habitually sleeps. Currently, sex offenders must only provide, to the extent the information is available, information concerning the sex

offender's fixed residence. Transient sex offenders have no fixed residence to provide and therefore may be located anywhere within the county of registration, which poses significant challenges for law enforcement that will be further detailed by the representatives from Las Vegas Metro.

Please note that the proposed requirement that the sex offender must provide information concerning any dwelling or temporary shelter of the sex offender or any other location where the sex offender habitually sleeps is subject to an important qualifier. This information must only be provided to the extent that it is available. Therefore a sex offender who truly does not know where he will be sleeping tonight, tomorrow or next week would not be caught in a legal catch-22 by his inability to provide a location. Furthermore, the language, as drafted, is intended to allow a sex offender to provide multiple locations. This recognizes the reality of the situation for some individuals who, for instance, reside in one outdoor location unless the weather forces them into a shelter.

Section 5 of the bill expands the existing duty of a sex offender under NRS 179D.470 to notify local law enforcement agencies after staying in a jurisdiction longer than 30 days if the sex offender initially reported an intention to stay less than 30 days. Section 5 also requires a transient sex offender who has no fixed residence to notify law enforcement at least every 30 days if there are any changes in any temporary shelter or location where the sex offender habitually sleeps. These revisions would again address the failure of the current law to address transient sex offenders who have no fixed residence. Further, it would address the issue of sex offenders who initially represent to law enforcement that they do not intend to stay in Nevada, yet remain after a significant period of time.

Section 4.3 of the bill adds a mental health expert to the Advisory Committee to Study Laws Concerning Sex Offender Registration.

MR. KANDT:

The Office of the Attorney General urges the Committee to approve A.B. 57 and require transient sex offenders to provide sufficient information regarding that offender's location, including any temporary shelter or place where the sex offender habitually sleeps, and to notify authorities when the sex offender remains in a jurisdiction beyond a specified period contrary to the offender's previously stated intentions. This will enable law enforcement to keep track of

transient sex offenders in a manner that achieves the purposes of our sex offender registry.

I would also like to have Mr. O'Callaghan and Detective Montoya further detail the challenges that law enforcement face due to these deficiencies in the law and how we believe those deficiencies will be remedied by this bill.

CHAIR WIENER:

Mr. Kandt, I am going to ask you a question, but it certainly could be something law enforcement could respond to as well. There is a reason you have brought this measure, so there must be some level of significance to it. What prompted bringing the bill, and how significant is this problem in Nevada?

MR. KANDT:

The law focuses on providing information regarding the offender's fixed residence. There are a significant number of offenders who do not have a fixed residence, but the bill also has a qualifier, it says to the extent that information is available. Currently, those offenders indicate, where they are supposed to put a fixed residence, that they are homeless or they have no fixed residence. Well, that means they could be anywhere in that county. They are in compliance with the requirements of the law, but they could be anywhere in the county in which they are registered. For all intents and purposes, we really do not know where they are. That undermines the whole purpose of having the sex offender registry allowing law enforcement, and the public as a whole, to know where registered sex offenders reside, work and spend their time. That is why we felt this was a reasonable approach to require them, to the extent the information is available, to put some information about where they are staying, such as a temporary shelter. We know that there are areas where some of the homeless people have their own encampments. If they can provide us information on the nearest cross street, enough information for law enforcement to keep tabs on these individuals, then we know where they are to fulfill the purpose of registry and promote public safety.

The second part of the bill was the issue of people who initially indicate they will only be in the location for a limited period of time, say a week. Then it turns out they are still in the same location a month or so later. Law enforcement needs to know that. That is why the provision in the bill requires if the sex offender initially intends to stay for less than 30 days and is still in that same location after 30 days, he or she needs to let law enforcement know.

MR. O'CALLAGHAN:

We have an issue with the homeless sex offender registration. We have approximately 100 people who fall under this requirement. A person goes into a substation and he or she can list an address as a transient, which could be in all of Clark County. Most homeless people will have a location, a cross street or underneath a bridge, and they always go back to that. Then you have others who are described as nomads. What do you do with them? If the sex offenders do not have a place, they need to check in every 30 days. That is our problem; they do not have to indicate the area where they are staying so law enforcement can check on them for compliance. If law enforcement has a crime, they can go to these locations and check on the sex offender. This is good for both parties—for Las Vegas Metro and the person who is registered in those locations—but how about for the people who are transient? They are not being compliant, so we are looking at ways to close that loophole.

JOSE MONTOYA (Detective, Las Vegas Metropolitan Police Department):

I certainly agree that we have an issue in Clark County with the transient or homeless population. As stated earlier, the number of transients who are in Clark County varies from month to month anywhere from 110 to 125 as they register or leave the County. It certainly poses a problem for law enforcement when they list that they are transient. With Clark County as big as it is and only six detectives assigned to the Sex Offender Apprehension Program, it is difficult to keep track of these individuals. We do not know where to look for them if we need to confirm that they are residing where they registered.

MS. GASCA:

We appreciate working with the Office of the Attorney General on this bill in its amended form. We are neutral today, but we had testified against it in its original form because of technical issues.

Page 5, section 4.3 of the bill does not address the addition of a psychologist on the panel. This is a specialized area, and we have found, as a result of litigation and also sitting on the sex offender panel during the interim, that this requires special attention. We appreciate the addition of this member of the Advisory Committee to look at this issue because it is acute. We would appreciate it if the Committee would consider clarifying the language to make it specific by not only adding a mental health professional but somebody who specializes in this particular area. Maybe it is a Ph.D. psychologist who is certified to administer offender risk assessments or maybe it is enough to say

that it is the intent of the Committee or a recommendation of the Committee to the Attorney General who appoints this position. It is important this person is not a general mental health professional but somebody who specializes in this area and is able to contribute to the work of the Advisory Committee as it moves forward because of the acute problems and the specialization of this type of issue.

CHAIR WIENER:

Did you share that in the other House?

Ms. GASCA:

This was a Committee recommendation to add that particular person onto the panel. I was not at the work session.

MR. KANDT:

As Ms. Gasca said, section 4.3 was added during the Assembly Judiciary work session because the dialogue indicated the Advisory Committee to study these laws could benefit from having somebody from that field. Certainly, when the Attorney General appoints that individual to the Advisory Committee, we will work with the ACLU and the other stakeholders to ensure that the person appointed to represent the mental health perspective brings the appropriate experience, background, qualifications and credentials to benefit the Advisory Committee.

CHAIR WIENER:

There is your intent on the record.

LAURIE RIELLY-JOHNSON (State Affiliate Leader, Nevada Citizens for Change, America):

I am a mother of an adult sex offender immediately adjudicated to an adult from the juvenile level with zero priors in his criminal history.

I am pleased with the outcome of A.B. 57 in its amended version for both our homeless individuals who are required to register and for revisiting the Committee to study current research and facts. In creating any further sex offender policy per section 4.3, subsection 2, paragraph (i), I make myself available to the Attorney General for consideration and for the purpose of being nominated by Citizens for Change America, Nevada under section 4.7, subsection 1 for appointment purposes.

Further, under the same sections and subsections, I recommend that a psychologist be considered for appointment as defined under section 4.3, subsection 2, paragraph (h). I agree wholeheartedly with Ms. Gasca.

I will state again for the record, we must no longer lump all sex offenders into one category; they are as individual as we are here today. I appreciate all of you for making wise choices, moving forward toward our current and any future sex offender policy. It all boils down to public safety and money. Well-thought-out policy will both protect the public properly and save our State a whole lot of money in the process. I will be forwarding all information to the Senate Judiciary as I submitted to the Assembly Judiciary.

CHAIR WIENER:

Certainly, Ms. Johnson, if this measure moves forward, you can have communications with the appointing authorities for those recommendations you suggested during your testimony.

I will close the hearing on A.B. 57 and open the hearing on A.B. 181.

ASSEMBLY BILL 181 (1st Reprint): Provides for evaluation by the Advisory Commission on the Administration of Justice of the policies and practices relating to the involuntary civil commitment of sexually dangerous persons. (BDR 14-95)

ASSEMBLYMAN WILLIAM C. HORNE (Assembly District No. 34):

The purpose of A.B. 181 was to address the issue of those dangerous persons who are incarcerated for certain sex crimes to be continually, civilly committed because they continue to pose a risk to the community. However, this bill was amended in the Assembly due to fiscal matters. It would be costly to embark on this endeavor at this time. However, there is a need for additional study on the numbers of those inmates we have and of the amount of success that could be experienced if we go down this road in the future. It was suggested that we send this bill to the Advisory Commission on the Administration of Justice, so during the interim we could answer more questions on how Nevada could do this and further protect our communities.

With me is my intern, Danielle Barraza. Ms. Barraza is great and has been with me all Session. Ms. Barraza presented this bill in the Assembly Judiciary and is here today to give you a presentation.

CHAIR WIENER:

I knew the amendments took out the fiscal part of the bill, but it was interesting reading the commentary. Often, we find that something we need to take a serious look at can be a shift of culture. When you chaired the Advisory Commission, was this one of the issues discussed? I am curious about the conversations that took place during your meetings.

ASSEMBLYMAN HORNE:

Only briefly. This came on my radar screen through my work with National Conference of State Legislatures (NCSL). I am also the chair for the NCSL Law and Criminal Justice Committee. These are things that other jurisdictions are looking at as well. One of the issues we have with sex offenders is when they are released, some drop off the radar screen for various reasons. Some do it deliberately, some do it because of policies that jurisdictions put in place that make it difficult for them to find jobs or places to live and so on. Also, there are those who term out, and we have no hold on them other than to have that mandatory lifetime supervision component. They are still deemed to be dangerous on their evaluation upon release, but we had no mechanism to continue to hold them. That is why this is a good idea for us to explore.

DANIELLE BARRAZA (Intern to Assemblyman William C. Horne):

I am here today as the intern to Assemblyman Horne, Chair of the Assembly Committee on Judiciary, to discuss A.B. 181 pertaining to the involuntary civil commitment of sexually dangerous persons.

As Assemblyman Horne stated, this kind of civil commitment would be for those about to be released from prison who are still considered a threat to society and would likely repeat their offenses after being released or paroled. While the original bill would have provided a program for Nevada, this amended version, which passed unanimously in the Assembly Committee on Judiciary and the Assembly Floor, would simply include discussing and evaluating this in the interim and in meetings of the Advisory Commission on the Administration of Justice.

I will read from my PowerPoint packet ([Exhibit F](#)) to discuss some of the reasons civil commitment should be addressed at this Commission. As you can see on slide 2, there are currently 20 states that have civil commitment programs. The U.S. Supreme Court has ruled them to be constitutional. One of the reasons we need to evaluate this is looking at the recidivism rates. There

was a study by the U.S. Department of Justice showing that of the sex offenders released in 1994, within three years 5.3 percent were arrested for another sex crime and 43 percent were arrested for various other offenses. There are always problems calculating recidivism rates when it comes to sexual offenses because they go widely underreported. National crime surveys done in 1994, 1995 and 1998 indicate that 32 percent of sexual assaults against persons 12 years or older are unreported to law enforcement. And a three-year study released in 1992 found that 84 percent of respondents identified as rape victims did not report the crime to the authorities. Some of the reasons victims do not report the crime is fear of further victimization by the offender; fear of arrest, prosecution and incarceration of an offender who may be a family member or someone the victim depends on; fear of others finding out about the sexual assault; fear of not being believed; and fear of being traumatized by the criminal justice system response.

Civil commitment programs vary by states. There are different standards of proving the person is a sexually dangerous person needing to be put into the program. Eleven states use a reasonable doubt standard, eight states use a crime convincing evidence standard and Texas is the only state whose civil commitment program is solely outpatient. That state uses GPS monitor tracking systems. There are different things that can be looked at during the interim.

There are reasons why Nevada specifically could benefit from a civil commitment program for sexually dangerous persons. One reason is sexual assaults have continued to rise the past several years. Earlier this year, Doug Gillespie, Sheriff of Clark County, announced numerous downward crime trends in Las Vegas from 2005: violent crime is down 15 percent from 2005, auto thefts are down 64 percent, homicides are down 24 percent and robberies are down 18 percent, but then he added that sexual assaults comprise one area where "we are not ringing the bell."

In addition, parolees have been known to slip through the cracks if they are not properly monitored. There are incidents of sex offenders never registering as sex offenders or giving false information on their registration. According to the Nevada Sex Offender Registry, there are 408 known sex offenders residing in Nevada who have not registered, 70 known sex offenders who have given false or misleading information regarding residence and/or employment and 1,001 known sex offenders who are not complying with the annual verification process.

As Assemblyman Horne stated, ultimately the original version of A.B. 181, which provided a program for a civil commitment of sexually dangerous persons, came with a huge fiscal note by the Division of Mental Health and Developmental Services. This is because there would have to be a new facility built and costs of the program would rise over the years because, while the program may start out small with a relatively small amount of sexual offenders, in other states they rarely get released. They are usually lifetime members of the program. While there would be a steady number of them coming into the program, there would not be such a steady number going out. These are also issues that would need to be discussed in the Advisory Commission.

In conclusion, while it is not fiscally responsible or even feasible at this time to put through a program, what is responsible and feasible is discussing this during the interim so that an achievable plan can be formed for monitoring and treating these people because it is a serious issue and it needs to be worked out. I urge your support in passing this bill.

SENATOR MCGINNESS:

Mr. O'Callaghan indicated there were hundreds of sex offenders in Clark County. Do you have a figure of how many sex offenders are in Clark County, and do you have any figures for the rest of the State?

MS. BARRAZA:

I am looking at the Department of Public Safety information, which says the total number of active cases is 6,703. It indicates these are monthly statistics, so that could be just for this month.

MS. GASCA:

I am in support of A.B. 181. We did oppose A.B. 181 in its original form on the Assembly side but appreciate Assemblyman Horne's amendment to look at the issue in a holistic manner. The ACLU does have several due-process-related concerns with civil commitment as a whole. It definitely needs to be addressed with a careful eye and a practical approach. We think the Advisory Commission on the Administration of Justice has done wonders to address criminal justice issues as a whole with a legislative approach, a practical approach and a sound way to address these policy issues.

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CHAIR WIENER:

I will close the hearing on A.B. 181. Although we do not have a full complement of members present, I will entertain a motion.

SENATOR COPENING MOVED TO DO PASS A.B. 181.

SENATOR KIHUEN SECONDED THE MOTION.

CHAIR WIENER:

Any discussion?

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR WIENER:

Is there anyone in the public wanting to come forward?

Ms. JOHNSON:

I am pleased with the evaluation of all involved policies, procedures and sentencing practices on this bill for the commitment of sexually dangerous offenders. I am honored to offer evidence-based facts and research in this area as I have been focused for over five years on the true facts and research on truly dangerous sex offenders. We as a State must move from lumping all sex offenders and work toward true individual evaluations, researching facts versus our mind and statute set per conviction crimes. I do believe that this Committee must consist of proper members from all sides as well on every level.

For the record, I have been participating on both a victim and offender level with Stop Child Trafficking Now, Not for Sale, Stop It Now! and Prison Talk, to name only a few. I have gone deep into my research. I appreciate all of you for making wise choices and moving forward toward our current and any future sex offender policy. It boils down to public safety and money. Well-thought-out policy will protect our public property, versus create a false sense of safety as it stands, and save our State a lot of money in the process.

Ms. Barraza is going to be phenomenal in whatever area she goes into and I applaud her.

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Thank you again for this opportunity to go on record for commitment purposes on A.B. 181.

CHAIR WIENER:

Madam secretary, because I did close the hearing on A.B. 181, please include Ms. Johnson's testimony on the record for A.B. 181.

The meeting is adjourned at 9:27 a.m.

RESPECTFULLY SUBMITTED:

Judith Anker-Nissen,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 6	C	Julie Janovsky	Written Testimony
A.B. 6	D	Jill Morris	Written Testimony
A.B. 6	E	Larry Struve	RAIN Support for A.B. 6
A.B. 181	F	Danielle Barraza	A.B. 181 Presentation