

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session  
April 20, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:06 a.m. on Wednesday, April 20, 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  
Senator Don Gustavson  
Senator Michael Roberson

**GUEST LEGISLATORS PRESENT:**

Assemblyman Marcus Conklin, Assembly District No. 37  
Assemblyman John Ocegura, Assembly District No. 16

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Policy Analyst  
Bradley A. Wilkinson, Counsel  
Kathleen Swain, Committee Secretary

**OTHERS PRESENT:**

Michelle R. Jotz, Detective, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; Southern Nevada Conference of Police and Sheriffs  
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada

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Kevin Ranft, American Federation of State, County and Municipal Employees  
Local 4041

Anthony Aguillard, Sergeant, Las Vegas Metropolitan Police Department

Carlos Hernandez

Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department

Kristin Erickson, Chief Deputy District Attorney, Washoe County District  
Attorney's Office; Nevada District Attorneys Association

Heather Procter, Deputy Attorney General, Office of the Attorney General

CHAIR WIENER:

I will open the hearing on Assembly Bill (A.B.) 250.

**ASSEMBLY BILL 250**: Repeals the prospective expiration of the exemption from  
jury service of any police officer. (BDR 1-314)

ASSEMBLYMAN MARCUS CONKLIN (Assembly District No. 37):

This is a simple bill. In 2007, a bill was passed to provide a certain amount of  
exemption for police officers in jury duty. When police officers are called for jury  
duty, they come in and spend time but are not selected for juries for obvious  
reasons. Most attorneys would say police officers have a perspective about  
what goes on in court based upon their experience on the street.

We exempted them and included a sunset provision as part of a negotiation  
allowing courts the opportunity to examine ways to bifurcate the jury pool. We  
are now asking you to remove that sunset provision.

MICHELLE R. JOTZ (Detective, Director, Governmental Affairs, Las Vegas Police  
Protective Association Metro, Inc.; Southern Nevada Conference of Police  
and Sheriffs):

We support A.B. 250. I will read from my written testimony ([Exhibit C](#)).

RONALD P. DREHER (Director, Government Affairs, Peace Officers Research  
Association of Nevada):

We support A.B. 250.

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KEVIN RANFT (American Federation of State, County and Municipal Employees Local 4041):  
We support A.B. 250. Many correctional officers who are category III peace officers support this bill.

CHAIR WIENER:  
I will close the hearing on A.B. 250.

SENATOR BREEDEN MOVED TO DO PASS A.B. 250.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:  
I will open the hearing on A.B. 83.

[ASSEMBLY BILL 83 \(1st Reprint\)](#): Revises the statute of limitations for crimes relating to identity theft. (BDR 14-536)

ASSEMBLYMAN JOHN OCEGUERA (Assembly District No. 16):  
Assembly Bill 83 will protect Nevada's young people. It holds criminals responsible and prevents future identity theft. Child identity theft occurs when a child's identity is used by another person for personal gain. The perpetrator is sometimes a family member, a person known by the family or a stranger who purposely targets children. This crime is attractive to criminals because it goes undetected until the child reaches legal age.

In 2007, approximately 400,000 children were victims of identity theft nationwide. The number of complaints has increased over 78 percent in the past several years. The law requires an indictment or complaint be filed within three years after the commission of an identity theft offense. Generally speaking, children do not discover their identity was stolen until they try to obtain a credit card, mortgage, vehicle or college tuition. They are unable to open a bank account or checking account. They receive a collection notice in the mail, are denied an apartment, cannot get utility service or renew their driver's licenses. They are quoted high insurance rates. They receive a credit

card in the mail they did not ask for, or they are denied social security or welfare services.

This bill provides a complaint relating to identity theft must be filed within four years after the victim discovers or reasonably should have discovered an offense was committed. This gives the child-identity-theft victims a reasonable amount of time to learn of and take action against a perpetrator of identity theft. Most children do not get those credit cards or apartments until after they reach the age of 18. With a four-year period of time, a child would probably discover that at some point his or her identity had been stolen.

CHAIR WIENER:

This bill is a reprint. What changes have been made to the original bill?

ASSEMBLYMAN OCEGUERA:

The American Civil Liberties Union of Nevada asked for a reasonable standard. The bill said "within 4 years after the victim discovers." The ACLU added the phrase "... or reasonably should have discovered the offense."

ANTHONY AGUILLARD (Sergeant, Las Vegas Metropolitan Police Department):

I have been with the Las Vegas Metropolitan Police Department for 28 years and a supervisor for the last 10 years. I have been involved with investigative details of identity theft for three years. The crime of identity theft has increased. Last year, there were more than 11 million victims of identity theft that resulted in \$55 billion in damages. Children make up a large percentage of the victims because they are easy to target.

The victims have no recourse. Our hands are tied. We cannot investigate, and the Clark County District Attorney's Office will not prosecute the crime because children usually do not discover they are victims until the statute of limitations expires. Children discover they have been victimized when they check their credit report, apply for a college loan, or try to get an apartment or a car. Children are usually victimized by a family member, a scammer, a hacker, a felon or anyone. One of the biggest problems we have is that many children are wards of the State. They are victimized because they are passed from one location to another. Many are victimized by the time they reach the age of 16 because the opportunity has presented itself.

California passed a law a couple of years ago wherein children who are wards of the State must have a credit check done by the time they reach the age of 16.

Another trend in child identity theft has surfaced. Companies have credit profile notifications on the Internet. Criminals search the Internet for dormant social security numbers that usually belong to children or incarcerated people. These social security numbers are not being used, and the company sells them to criminals. The criminals then sell these social security numbers to people looking to improve their credit or purchase cars or homes. Those who purchase social security numbers use the numbers to allow them to purchase homes or cars. Once they finish using the social security number, they discard it and get another one.

The problem goes on and on, and the victim is left with no recourse. Carlos Hernandez, a victim of child identity theft, is with me today. He is 19 years old and was victimized when he was 9 years old. Our hands are tied, and we cannot help him because of the statute of limitations.

CARLOS HERNANDEZ:

I am 19 years old and a victim of identity theft. It has had a big impact on me. When I get pulled over, I am hassled because things appear on my criminal record that are not mine. Sometimes, I am handcuffed until the officer verifies the matters on my criminal record are not actually mine. I wanted to join the United States Navy when I graduated from high school but could not pursue that because of the matters showing up on my record. When I turned 18 years of age, I tried to purchase a vehicle but was turned down. If this bill passes, I hope I will get some help and be able to move forward.

CHAIR WIENER:

Because of the language in this bill, will we be able to help Mr. Hernandez and others who have gone through this when the statute of limitations has expired?

BRADLEY A. WILKINSON (Counsel):

Section 2 of the bill provides that this retroactively applies to crimes if this statute has not yet expired. We cannot revive an expired statute of limitations. In Mr. Hernandez's case, it is too late to do that. If this statute has not expired on crimes being committed, this might give a person some extra time.

ASSEMBLYMAN OCEGUERA:

Mr. Hernandez is referring to his criminal record or credit history. He does not have a criminal record. Someone else has a criminal record and has ruined his credit.

MR. HERNANDEZ:

I get hassled because of this criminal record. My record shows domestic violence and driving under the influence offenses. It is nerve-racking when I get pulled over.

The Internal Revenue Service (IRS) notified me I owe \$4,000 in taxes that are not mine. For the past two years, the IRS has withheld at least half my tax refund to go toward the \$4,000 that is not my obligation. It has been difficult until Sergeant Aguillard began helping me. I am in the last couple of steps to finally clear the IRS record.

Criminals can get pretty far using someone's social security number to purchase vehicles or houses. I have had two cars repossessed. I have had two or three houses. One of them was lost; another was repossessed; I do not know the status of the third one.

This includes smaller things, such as bank accounts, loans and credit cards. I cannot build up credit if my credit is already ruined. If this bill is passed, I could finally open a bank account, get a credit card and eventually get my own apartment.

CHAIR WIENER:

At what age was your identity first stolen?

MR. HERNANDEZ:

It was stolen when I was 9 or 10 years old. When I was 9, someone was already a couple payments into a mortgage.

CHAIR WIENER:

Does anyone have an idea who did this, or has it been done multiple times by multiple parties?

MR. HERNANDEZ:

I do not know if it has been multiple parties, but multiple things are on my record. One or two parties might have been responsible for this.

MR. DREHER:

People get social security numbers as soon as they are born. That information is so public today. Everything Mr. Hernandez talked about is happening to people. If any of you have been victims of identity theft, you know how difficult it is to clear your record. Imagine a minor fighting the IRS when he or she has no idea how to navigate through the system to stop this activity. If any of you have ever taken on the IRS, you know it is difficult, and you are still penalized.

These things go on a victim's record and then his or her credit. It is difficult to convince others you are not the person responsible. Assembly Bill 83 includes good language where it says, "... within 4 years after the victim discovers or reasonably should have discovered the offense." This gives the victim an opportunity for recourse. The law cannot go backwards; you move forward. However, if Mr. Hernandez is still the victim of identity theft, there is reason to take this case forward to the Clark County District Attorney's Office.

I have grandchildren, some of whom have gone through what Mr. Hernandez has gone through. It is an uphill battle to help them through the system. I ask for your support of A.B. 83.

CHAIR WIENER:

Mr. Hernandez mentioned being pulled over for domestic violence and driving under the influence. Was someone else arrested somewhere with his identity? How does that work?

CHUCK CALLAWAY (Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

Yes. That is what happened. Someone using his identification—his social security number or his name—was arrested for domestic violence or driving under the influence. That person probably bailed out of jail or was released and never returned. He probably got a new identity. A warrant was issued because that person did not come back to court. It is now in Mr. Hernandez's name. If he is pulled over, we must go through all the data and investigate to determine he is telling the truth and the warrant is not his. It can be time consuming for the officer and the victim to go through this.

SENATOR BREEDEN:

Now that you have discovered that, does Mr. Hernandez have to go through the explanation if he is pulled over again?

MR. CALLAWAY:

Yes. Once we determine he is not the person listed in the warrant, a notation to that effect goes into the system. That warrant remains active because the person who used Mr. Hernandez's identity is still out there, and he or she may be picked up on some other charge and use that identity again. Many times, we find that some of these people have multiple identities. They will forget which one they have used, and they will try to use it again.

KRISTIN ERICKSON (Chief Deputy District Attorney, Washoe County District Attorney's Office; Nevada District Attorneys Association):

On behalf of the Nevada District Attorneys Association, we support A.B. 83. Identity theft is becoming an increasing problem throughout the State. By the time a juvenile discovers it, the police investigate it and submit it to the district attorney's office, many times the statute of limitations has expired. Nothing can be done when that occurs.

HEATHER PROCTER: (Deputy Attorney General, Office of the Attorney General):  
We support A.B. 83.

CHAIR WIENER:

I will close the hearing on A.B. 83.

SENATOR COPENING MOVED TO DO PASS A.B. 83.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

The hearing is open for public comment. There being nothing further to come before the Committee, we are adjourned at 8:35 a.m.

RESPECTFULLY SUBMITTED:

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Kathleen Swain,  
Committee Secretary

APPROVED BY:

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Senator Valerie Wiener, Chair

DATE: \_\_\_\_\_

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 250	C	Michelle R. Jotz	Written Testimony