

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session  
April 23, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 9:02 a.m. on Tuesday, April 23, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Jason Frierson, Chairman  
Assemblyman James Ohrenschall, Vice Chairman  
Assemblyman Richard Carrillo  
Assemblywoman Lesley E. Cohen  
Assemblywoman Olivia Diaz  
Assemblywoman Marilyn Dondero Loop  
Assemblyman Wesley Duncan  
Assemblywoman Michele Fiore  
Assemblyman Ira Hansen  
Assemblyman Andrew Martin  
Assemblywoman Ellen B. Spiegel  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8



**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Brad Wilkinson, Committee Counsel  
Nancy Davis, Committee Secretary  
Colter Thomas, Committee Assistant

**OTHERS PRESENT:**

Vanessa Spinazola, representing American Civil Liberties Union of Nevada  
Kristin Erickson, representing Nevada District Attorneys' Association  
Brian O'Callaghan, representing Las Vegas Metropolitan Police  
Department

**Chairman Frierson:**

[Roll was taken and standing rules were reviewed.] We are only going to hear one bill today. Mr. Segerblom has asked for more time on Senate Bill 169 (1st Reprint).

**Senate Bill 169 (1st Reprint): Revises provisions governing criminal penalties.  
(BDR 15-495)**

I will open the hearing on Senate Bill 264 (1st Reprint) and invite Senator Cegavske to introduce the bill.

**Senate Bill 264 (1st Reprint): Revises provisions governing criminal procedure.  
(BDR S-671)**

**Senator Barbara K. Cegavske, Clark County Senatorial District No. 8:**

I am pleased to present Senate Bill 264 (1st Reprint) which directs the Advisory Commission on the Administration of Justice to take a look at the potential for over-criminalization, redundancy, or duplication of certain sentencing requirements. Under the provisions of this bill, the Advisory Commission will review four specific issues. First is a review of all criminal sentences. Second is a review of all criminal offenses which may be duplicative or sanction the same or similar behavior. Third is an evaluation of the reclassification of certain misdemeanor offenses to determine whether jail time is necessary and whether such offenses may be more appropriately classified as civil violations. Last is an evaluation of certain felony offenses to determine whether misdemeanor punishment may be more appropriate given the disparate impact a felony conviction may carry. In its deliberation, I would like the Commission to consider the lasting harm caused by an unlawful act, the blameworthiness accompanying the offense, and the impact of future public safety. That

concludes my presentation. We did have one amendment in the Senate, which passed unanimously.

**Chairman Frierson:**

You and I have talked about this for some time now; I appreciate you bringing the bill forward. We have discussed in other hearings the national trend and what other states are doing to be smarter with the money they are using.

**Assemblywoman Spiegel:**

Is the Commission going to make recommendations after completing the review?

**Senator Cegavske:**

I would hope that the Commission would offer recommendations; that they would make a presentation of their findings and come to us with recommendations. We did not specifically spell it out but, if you feel we should, we can do that.

**Chairman Frierson:**

I believe that the Advisory Commission is charged with making recommendations and have, in the past, reviewed certain aspects of the criminal justice system and made recommendations.

**Assemblyman Ohrenschall:**

Do you feel that judges, during sentencing, do not have the latitude that they desire in terms of being able to sentence someone to a misdemeanor instead of a gross misdemeanor, or not give someone jail or prison time? Are the statutes causing the over-criminalization or is it the judges? Or do we need to wait for the recommendations from the study to answer that?

**Senator Cegavske:**

What led me to looking at these issues was the national conference I had attended. There were 12 recommendations to look at in each state. This is one that we picked out. In fact I shared the entire list with the Chairman. We decided this is one that would probably help the other 11 in some respect. I did not talk to any judges personally, but in talking to Ben Graham and others, the feeling was that when the law is set, you are supposed to follow the law, and what we set. We do an awful lot of telling the judges and others what to do. We write the *Nevada Revised Statutes*; that is our job. We noticed there is duplication and sometimes a judge may find all of those things that apply to the same crime. Whether they are doing it right or wrong, I am not the one to tell you that. I do think there is some discretion with the judges, but if we look at it and see there is a need to clean up or remove anything, I think that is important.

Quite literally, I think we need to do that on a lot of things; every few years review what we have done to see if it is effective.

**Assemblyman Ohrenschall:**

Do you think that a subsequent Legislature might need to revisit many of the mandatory minimums that are in place in statute so that judges have more latitude to impose the appropriate sentence?

**Senator Cegavske:**

I think this study should look at that. I believe judges should have a little more latitude with some of the things they do. Each case is different—we should not peg everyone in the same hole. Even though crimes are similar, they are different, with different behaviors, and different things going on. I feel that judges should have more discretion in what they are doing.

**Chairman Frierson:**

What is the difference between how misdemeanor offenses are treated in municipal courts versus justice courts? I presume this bill would look at sentencing for misdemeanors, regardless of which court's jurisdiction. In my experience, a misdemeanor in municipal court is often treated significantly different than a misdemeanor in justice court. For example, driving under the influence (DUI) and domestic violence are misdemeanors, yet in municipal court these are the most serious offenses. Folks are generally looking at doing significant time if they happen to fall within the jurisdiction of municipal courts for the exact same offense where they would do two days if they fell within the jurisdiction of the justice court. I am wondering if that came up in the Senate, or in talking with some of the stakeholders.

**Senator Cegavske:**

No, I have not had that discussion.

**Chairman Frierson:**

For example, in one of the outlying areas of Clark County, one judge has self-imposed parameters for every point you are over the limit in DUI cases, you get more time in jail. That is the only jurisdiction in Nevada where, if you have a .10 blood alcohol level, you are looking at more time by virtue of being two points over versus any other jurisdiction. Would this be part of your intent to try to standardize how this is treated across the state?

**Senator Cegavske:**

I had not heard that before. I have heard that some judges are harder or easier on penalties. What I was trying to do was to leave it more open to the Commission to look at it overall and not to tell the courts what to do.

**Chairman Frierson:**

Section 1, subsection 3 discusses an evaluation of the reclassification of certain misdemeanor offenses. Are you specifically targeting traffic violations to be classified as civil violations?

**Senator Cegavske:**

I did not do anything specifically. I was leaving it open so everything would be looked at.

**Chairman Frierson:**

Are there any other questions? Again, we have discussed this for months, and there is a great deal of research out there in other states. This speaks to the bipartisan nature of this concern and I appreciate that.

**Senator Cegavske:**

This has been a very educational issue for me. I have really enjoyed talking to different people around the nation and to see what we can do here in Nevada.

**Chairman Frierson:**

I will now invite those here to offer testimony in support of S.B. 264 (R1) to come forward.

**Vanessa Spinazola, representing American Civil Liberties Union of Nevada:**

We are in support of this bill. The American Civil Liberties Union likes to look at incarceration in our society and ways to possibly reduce that.

**Kristin Erickson, representing Nevada District Attorneys' Association:**

We are in support of this bill and are very much interested in finding ways to promote the efficient and just use of our resources and to see that justice is done.

**Chairman Frierson:**

In your opinion, in reading section 1, subsection 3, would that address traffic tickets?

**Kristin Erickson:**

Yes, I believe so. We are certainly open to reclassifying some of those crimes which would perhaps be better suited as civil infractions rather than criminal misdemeanors.

**Chairman Frierson:**

I cannot imagine any other current misdemeanor which could be considered civil other than traffic. Are there any questions? Is there anyone else here in

support of this bill? Is there anyone wishing to offer testimony in opposition?  
Is there anyone neutral?

**Brian O'Callaghan, representing Las Vegas Metropolitan Police Department:**  
We are in support of this bill.

**Chairman Frierson:**

Ms. Cegavske, if you have any closing remarks, please come back up. We have three bills to refer to the Advisory Commission.

**Senator Cegavske:**

I appreciate the opportunity to have talked with you early on in this session to review this matter. I am looking forward to working with you in utilizing all three of the bills together.

**Chairman Frierson:**

With that I will close the hearing on S.B. 264 (R1), and open it up for public comment. Seeing none, this meeting is adjourned [at 9:20 a.m.].

RESPECTFULLY SUBMITTED:

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Nancy Davis  
Committee Secretary

APPROVED BY:

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Assemblyman Jason Frierson, Chairman

DATE: August 28, 2013

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** April 23, 2013

**Time of Meeting:** 9:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster