

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
June 1, 2013**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 2:00 p.m. on Saturday, June 1, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Tick Segerblom, Chair
Senator Ruben J. Kihuen, Vice Chair
Senator Aaron D. Ford
Senator Justin C. Jones
Senator Greg Brower
Senator Scott Hammond
Senator Mark Hutchison

GUEST LEGISLATORS PRESENT:

Assemblyman John Hambrick, Assembly District No. 2

STAFF MEMBERS PRESENT:

Mindy Martini, Policy Analyst
Nick Anthony, Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

James Dold, J.D., Senior Policy Counsel, Polaris Project
Camille Naaktgeboren, Ph.D., Nevadans for the Common Good
Adia Lancaster, Congo Justice
Andrea Swanson
Kareen Prentice, Ombudsman, Office of Ombudsman for Victims of Domestic Violence, Office of the Attorney General

Senate Committee on Judiciary
June 1, 2013
Page 2

Eric Spratley, Lieutenant, Washoe County Sheriff's Office
A.J. Delap, Las Vegas Metropolitan Police Department

Chair Segerblom:

I am opening the hearing of the Senate Committee on Judiciary with Assembly Bill (A.B.) 338.

ASSEMBLY BILL 338: Provides certain protections and services for victims of human trafficking. (BDR 16-679)

Assemblyman John Hambrick (Assembly District No. 2):

This is an education bill dealing with human trafficking. It will assist law enforcement, district attorneys, the Office of the Attorney General (AG), teachers, counselors and school nurses with information about human trafficking. I have included a packet of information, statistics and tools that will help those fighting human trafficking (Exhibit C). The bill will allow for the posting of hotlines and information to assist the public in getting information about how to fight this terrible scourge.

James Dold, J.D. (Senior Policy Analyst, Polaris Project):

I want to express my gratitude for the other bills on this subject that this Committee has heard and supported—A.B. 67, A.B. 146 and A.B. 311. These are all important bills to help fight human trafficking, an effort in which I have a personal interest.

ASSEMBLY BILL 67 (3rd Reprint): Revises provisions relating to crimes. (BDR 3-403)

ASSEMBLY BILL 146 (1st Reprint): Revises provisions governing servitude of a minor. (BDR 15-752)

ASSEMBLY BILL 311 (1st Reprint): Creates the Contingency Account for Victims of Human Trafficking. (BDR 16-715)

This bill does many important things to further each of those pieces of legislation that were recently passed. The crux of A.B. 338 is to create a victim-centered response to human trafficking. The AG's bill, A.B. 67, was centered on making sure prosecutors and law enforcement have the tools they need to target the traffickers and bring down the networks exploiting children. In this

bill, when victims are identified and come in contact with law enforcement, there is a victim-centered response, which is already embraced by the federal government and many states.

Section 1 includes the victim assistance provision. It makes sure that when law enforcement identifies a victim of human trafficking, certain things take place. First, the victim is notified that there is a crime victim compensation fund he or she might be eligible to draw from. Section 1 of the bill also requires that the victim be made aware of different benefits that may be available at the State and federal levels.

For victims trafficked into the U.S. from other countries, there is a requirement that law enforcement provide those individuals with U.S. Citizenship and Immigration Services Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons. This will help those victims in the U.S. visa application process to obtain their T or U Visas for which they may be eligible because of their victimization. These visas grant temporary legal status, so the person is in the Country legally and he or she can assist law enforcement with the investigation. The T Visa was created through the federal Victims of Trafficking and Violence Protection Act of 2000. It is designed to assist law enforcement with investigations and make sure we are not creating a climate of fear among victims—fear of deportation or criminal charges.

Section 2 highlights the posting of the National Human Trafficking Resource Center hotline. It requires that certain mass transit facilities such as rest stops, truck stops, airports and bus stations post the number for this hotline. In states with mandated posting of this hotline number, there has been a spike in calls from victims. Texas is a prime example. In 2007, that state mandated any place with a liquor license post the national hotline information. As a result, Texas is one of the states with the most calls to the hotline. If we implement this in Nevada, it will be a lifeline for those being trafficked here. Many other states have also passed similar laws—California, Pennsylvania, Louisiana, Virginia, Maryland—and now almost half of the U.S. has some form of mandated or encouraged hotline posting.

Senator Brower:

I understand section 1 but not section 2. I do not see the terms “owner” or “operator” defined in the bill.

Mr. Dold:

That refers to the owner or operator of any place previously cited as a public nuisance for prostitution-related offenses. In Nevada, this refers to sites where prostitution was not already legal. For example, if a strip club were busted for prostitution, the owner of that establishment would be required to post the hotline. That could also apply to a privately owned truck stop. Failure to place the hotline would generate a civil penalty assessment against the company. The fine would be around \$250 to \$500.

Senator Brower:

I did find the definition in section 2, subsection 6. The definition is ambiguous, though. It says:

..."owner or operator" means an owner or operator: (a) Who has been cited for maintaining or permitting a public nuisance relating to prostitution at an establishment which he or she owns or operates. (b) Of a mass transit facility including, without limitation, an airport, bus station or train station. (c) Of a rest area or truck stop.

I will read that a few more times, but what jumps out at me is paragraph (c), the owner or operator of a rest area or truck stop. Would that include a private business?

Mr. Dold:

Yes.

Senator Brower:

There has been litigation over State law requirements that certain retailers post warning signs in their establishments relating to tobacco use. I wonder if the same issue could come out of this requirement to post human trafficking hotline signs.

Mr. Dold:

These posting requirements are similar to what many businesses are already required to do under federal poster guidelines. For example, many businesses are required to post minimum wage rates or other requirements from the U.S. Occupational Safety and Health Administration. We have not had legal issues in any states that I am aware of where we have pushed these laws.

Section 3 requires the Department of Health and Human Services to come up with a plan to help identify victims of human trafficking and aid in coordinating the delivery of services to these victims. This is similar to legislation in other states. We want to get the Department involved and make sure staff members are trained to deal with all the dynamics of human trafficking. This section only requires the creation of a plan, so there is no fiscal impact.

Senator Ford:

I was looking at the definition of human trafficking in section 3, subsection 3, where it says,

As used in this section, "victim of human trafficking" means a person who is a victim of: (a) involuntary servitude as set forth in [*Nevada Revised Statute*] NRS 200.463 or 200.464. (b) a violation of any provision of NRS 200.465. (c) trafficking in persons in violation of any provision of NRS 200.467 or 200.468. (d) pandering in violation of any provision of NRS 201.300, 201.310, 201.330 or 201.340.

I am wondering what the interplay is between this bill and A.B. 67, which deals with sex trafficking. Also, in the hearing for A.B. 67, we were careful not to lump pandering in with the definition of sex trafficking. In this bill, A.B. 338, we are doing that. Is this consistent with what we decided in A.B. 67?

Mr. Dold:

When we drafted this bill, the original pandering statute was still in effect. We looked at that statute as incorporating human trafficking and sex trafficking crimes. Maybe we could do an amendment to strike the pandering section. Our intention was to incorporate the two trafficking offenses. Because of A.B. 67, which you recently passed unanimously, that dynamic has changed. I think you are right to say the new definition of pandering is not what we are talking about in terms of sex trafficking.

Senator Ford:

I am not certain we have a new definition of pandering. What we did was differentiate between pandering and sex trafficking under A.B. 67. I know that at the end of this Session, there will be a reconciliation of statutes. I am concerned that if we leave the pandering-based references in this bill, we might miss it in the reconciliation.

Nick Anthony (Counsel):

If A.B. 67 overlaps with A.B. 338 with different definitions, then there would be a conflict and we would reconcile those. Given that this bill makes changes to NRS 217, if that chapter is not in A.B. 67, this definition would stand on its own. Therefore, it is a policy choice for this Committee if, for consistency, you wanted to remove the part of section 1, subsection 5, paragraph (d) where it says "pandering" from this definition of victim of human trafficking.

Senator Ford:

I want to make clear that the pandering we were talking about in A.B. 67 is the same pandering we are talking about in A.B. 338. If it is, does it then make sense to remove it because we have separate trafficking definitions now that need to be consistent between the two bills?

Mr. Anthony:

I am going to compare the two bills side by side as you continue the hearing. and I will have an answer for you before we adjourn.

Mr. Dold:

Section 5 of A.B. 338 requires the Department of Health and Human Services to work with the Department of Education to ensure that human trafficking awareness information is provided to schools. This would include strategies for the prevention of trafficking in children.

We started working on this provision some time ago during our operation of the national hotline. Teachers were calling in to report suspicions that students at their schools might be involved in human trafficking. These teachers wanted to know what to do. Page 16 of my handout, [Exhibit C](#), is a form for educators to use to assess students and determine what to do if trafficking is suspected. This is in keeping with our effort to raise public awareness.

Senator Ford:

I was talking about the pandering definition under section 3. Section 5, subsection 3, paragraph (d) has the same issue, so we will want to look at that.

Senator Hutchison:

When there is a prostitution establishment as in section 2, subsection 6, with the owner/operator part Senator Brower was referring to earlier, must there always be a citation for public nuisance? Or, will there be instances when there

would be other actions taken, not necessarily resulting in public nuisance citation? If that is the case, you might not catch all the establishments you are trying to encompass within that definition.

Mr. Dold:

It could be either/or; it depends on the situation. Law enforcement experts tell me that if an establishment continues to be a problem, spurring calls about prostitution and the owners do not take action to remedy the situation, that is a situation where there would likely be public nuisance actions. If it was a hotel, for example, and the owners seemed to be looking the other way after there had been complaints about possible prostitution at the hotel, then public nuisance actions might be brought against an owner/operator. It would not follow that every time there was a complaint of prostitution happening on a property that the property would be deemed a public nuisance.

Senator Hutchison:

When you talk about a rest area or truck stop, are you talking about private rest areas?

Mr. Dold:

Yes.

Camille Naaktgeboren, Ph.D. (Nevadans for the Common Good):

I am here to ask you to support this bill. As a victim of 12 years of trafficking, I see many merits to this bill. While I was being trafficked, there were no resources available to me that I knew of. Until recently, I did not even know there was a name for what had happened to me. Even if I had known as a child, there was not a system in place to provide everything I needed. Had policies been implemented like these in A.B. 338, I might have been spared at least a few years of trafficking.

This bill proposes several measures that will help current victims and, hopefully, prevent others from becoming victimized. Posting the hotline is key to making victims and others aware of available resources. In the awareness talks I have been giving recently, many people have asked what they can do if they see trafficking happening. By providing them with links to local and national resources, I can help, but if the hotline number were posted, we could reach so many others.

I advocate getting this information to as many people in education as possible. Over the years, a few of my teachers knew there was something wrong in my life, but since they could not exactly put their finger on it, they did nothing. Had they known, I might have been rescued earlier. Parents all over Las Vegas ask me what to do, what to look for and how we can get information on trafficking into schools. By passing this bill, we have this opportunity. We do not want any more kids to slip through the cracks.

Having the Department of Health and Human Services develop a plan for delivery of services to victims is important. After exiting a trafficking situation, the needs of victims are extensive and often different from the needs of other victim populations. There are legal, physical, financial, psychological, educational and so many more needs that need to be met. Please support this bill. We may never defeat human trafficking, but we can significantly reduce it.

Adia Lancaster (Congo Justice):

I support this bill and have submitted my written testimony ([Exhibit D](#)).

Andrea Swanson:

I support this bill. I have been touched personally by trafficking and became an advocate as a result. My main purpose is to expose and educate people in this town about sex trafficking. I am your point person who will help find, as the bill says, persons who possess the knowledge and the expertise. I work with these people daily, and we are ready to help in any way to get this information out there. If I had this information 3 years ago, maybe my family and my daughter would not have lived through our tragedy.

Kareen Prentice (Ombudsman, Office of Ombudsman for Victims of Domestic Violence Office of the Attorney General):

We support A.B. 338.

Eric Spratley (Lieutenant, Washoe County Sheriff's Office):

We support this bill.

A.J. Delap (Las Vegas Metropolitan Police Department):

We also support this measure.

Mr. Anthony:

Upon further review, A.B. 67 and A.B. 338 both appear to have definitions of a victim of human trafficking. The definitions are not the same. However, they do not need to be the same. It is a policy choice for this Committee.

In A.B. 338, section 1 amends NRS 217. In A.B. 67, section 1 amends NRS 40 for a civil action. The definitions of victim of human trafficking do not necessarily have to be the same, but they could be the same, if the Committee chooses. The definition in A.B. 67 may be a little bit broader, incorporating some provisions of federal law, which A.B. 338 does not. It comes down to a policy choice. If the Committee wants to amend A.B. 338 to match A.B. 67, we could do that. It could also stand on its own.

Senator Hutchison:

We spent a lot of time on A.B. 67, so it seems like we could amend and do pass with the definition in that bill.

Senator Ford:

I think that is probably the better solution. We did spend a lot of time on A.B. 67 and we only heard this bill today. We do want to make sure the pandering issue is addressed. This bill, A.B. 338, does not have a penalty and is not a criminal law, but I would like a more consistent definition of pandering.

Senator Hutchison:

We made a pretty clear record on A.B. 67 with regard to the pandering issues. If we did that, it would show the intent of our Committee to incorporate that sort of analysis and discussion with the human trafficking definition.

Senator Ford:

I agree. I do want to clarify that A.B. 67 has a definition of both human trafficking and sex trafficking. Is that right?

Mr. Anthony:

Yes. That bill, in some places, refers to "victim of human trafficking," which incorporates a definition of sex trafficking. What A.B. 67 did was to take a former crime of pandering, NRS 201.300, and change it into a new crime of sex trafficking. That is incorporated by reference in the definition of victim of human trafficking. If you were to change A.B. 338 to match the definition of victim of

human trafficking in A.B. 67, it would also incorporate those changes that were made through the definition of sex trafficking.

Chair Segerblom:

The question now is what the bill's sponsor thinks. And if we do this, can we get the new legal language written in time to get this to the Senate Floor tomorrow?

Mr. Anthony:

We can certainly try. It looks like a pretty easy change, just picking up the definition in A.B. 67 and moving it over to replace what is in A.B. 338. I cannot make any guarantees, though.

Senator Ford:

In doing this, we are not diluting either bill, are we?

Mr. Anthony:

No. It would simply make A.B. 338 mirror the provisions in A.B. 67, creating uniformity across the law.

Senator Hutchison:

Mr. Dold said that was his intent; to mirror the two bills.

Mr. Dold:

I agree. That was our intent.

Assemblyman Hambrick:

Keep in mind that the genesis of this bill is education. There are no consequences. It is all benefitting educators to gather the information to help law enforcement and prevent new victims. This is to provide guidance. I would hate to have fine-tuning of definitions delay this bill.

Also, keep in mind the readers will be the general public—educators, people at truck stops and rest areas. Those who are trained will already have access to A.B. 67 and will understand the nuances of that language. I would like to see this rectified in the reconciliation process rather than delay this bill from being passed.

Mr. Anthony:

These two bills are not in conflict with each other. Each one amends different chapters and sections of the NRS. Those definitions would not necessarily be changed later on. If you want the definitions in the two bills to match, it is a policy choice to make right now. The Legislative Counsel Bureau would not be making that choice down the road.

Senator Ford:

Then we should amend and do pass in accordance with the discussion we just had.

Senator Hutchison:

To confirm, the human trafficking definition would be amended to be consistent with A.B. 67. Is that right?

Senator Ford:

Yes.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 338, WITH THE DEFINITION OF HUMAN TRAFFICKING TO BE
CONSISTENT WITH THE DEFINITION IN A.B. 67.

SENATOR HUTCHISON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senate Committee on Judiciary
June 1, 2013
Page 12

Chair Segerblom:

Seeing no further business or public comment, I am closing the hearing of the Senate Committee on Judiciary at 2:44 p.m.

RESPECTFULLY SUBMITTED:

Linda Hiller,
Committee Secretary

APPROVED BY:

Senator Tick Segerblom, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
A.B. 338	C	16	James Dold, J.D.	Information Packet
A.B. 338	D	1	Adia Lancaster	Testimony