

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

**Seventy-Eighth Session
April 8, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 8 a.m. on Wednesday, April 8, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Ira Hansen, Chairman
Assemblyman Erven T. Nelson, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblyman Nelson Araujo
Assemblywoman Olivia Diaz
Assemblywoman Michele Fiore
Assemblyman David M. Gardner
Assemblyman Brent A. Jones
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

Minutes ID: 755



STAFF MEMBERS PRESENT:

Diane Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Nancy Davis, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

Steven D. Hill, Executive Director, Nevada Governor's Office of
Economic Development
James W. Hardesty, Chief Justice, Nevada Supreme Court
Michael R. Montero, District Judge, Sixth Judicial District Court
Jim French, Commissioner, Board of Commissioners, Humboldt County
Sean A. Rowe, District Attorney, Mineral County
Scott W. Anderson, Chief Deputy, Office of the Secretary of State
Michael Hackett, representing Nevada Public Broadcasting
Mendy Elliott, representing KNPB Television, Reno, Nevada
Michelle Gorelow, Director of Program Services, Nevada Chapter,
March of Dimes
Ed Guthrie, Chief Executive Officer, Opportunity Village
Janine Hansen, representing Nevada Families Association
Elisa P. Cafferatta, President & Chief Executive Officer,
Nevada Advocates for Planned Parenthood Affiliates, Inc.
Tonja Brown, Private Citizen, Carson City, Nevada
Dawn Dillon, Private Citizen, Las Vegas, Nevada

Chairman Hansen:

[Roll was called and Committee protocol was reviewed.] We will begin with the work session, starting with Assembly Bill 49.

Assembly Bill 49: Revises provisions governing crimes. (BDR 15-158)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 49 revises provisions governing crimes. It was heard in Committee both on February 13 and March 6, 2015 (Exhibit C). This bill relates to certain crimes such as sexual assault, lewdness, gross lewdness, abuse or neglect, or substantial bodily harm. It also revises punishments imposed for certain employees or volunteers at a school who engage in sexual conduct with pupils. There are multiple amendments, most were proposed by Brett Kandt, Special Assistant Attorney General.

Chairman Hansen:

I am going to drop my amendment at the request of the Attorney General.

Diane Thornton:

This will be a motion to amend and do pass with the amendments proposed by Mr. Kandt.

Chairman Hansen:

I will entertain a motion on Assembly Bill 49.

ASSEMBLYWOMAN SEAMAN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 49.

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

Assemblyman Araujo:

Which amendments are not being accepted?

Chairman Hansen:

It is just mine. The public defenders, the Attorney General's Office, the district attorneys, law enforcement, everyone worked very cooperatively to get these amendments done. This is a consensus bill; no one is totally happy, but the theory is that is supposed to be a good thing.

Assemblywoman Diaz:

I have not had a chance to look at the amendments, but I would like Legal Counsel's advice. If there is a situation where an 18-year-old has consensual sex with someone who is 13 years old and the 18-year-old believes that the 13-year-old was of age, would the 18-year-old be subject to felony charges?

Brad Wilkinson, Committee Counsel:

You are referencing an 18-year-old, which is not a felony level. Consent in that circumstance is not an issue because a 13-year-old cannot consent.

Assemblyman Ohrenschall:

I appreciate all the hard work of the stakeholders, the prosecutors, and public defenders trying to work on this bill and address some of the concerns that I and other Committee members had during the hearing. I am still concerned about unintended consequences regarding that situation with these teenagers who might be posting on Facebook that they are 16, but they are not. Then you have a situation that I do not think belongs in the realm of criminal law, but is going to affect the rest of someone's life and have a lot of negative collateral consequences. I am voting no.

Assemblyman Thompson:

I will vote this out of Committee, but there is still a lot more that needs to resonate with me, especially with all of the amendments. I want to reserve my right to potentially change my vote on the floor.

Assemblyman Elliot T. Anderson:

I ditto Assemblyman Thompson's comments.

Assemblyman Araujo:

I will be voting no today because I, too, share the same concerns that Assemblyman Ohrenschall has in regard to the unintended consequences of this bill.

THE MOTION PASSED. (ASSEMBLYMEN ARAUJO, DIAZ, AND
OHRENSCHALL VOTED NO.)

Chairman Hansen:

I will handle the floor statement. Next up is Assembly Bill 212.

Assembly Bill 212: Eliminates the statute of limitations for sexual assault.
(BDR 14-1062)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 212 eliminates the statute of limitations for sexual assault. The original bill would have eliminated the limitation that requires that a sexual assault proceeding be commenced within four years after the commission of the offense. This bill was sponsored by Assemblywoman Bustamante Adams and was heard in Committee on March 13, 2015 ([Exhibit D](#)). Assemblyman Hansen proposed an amendment to extend the current period of limitation from 4 years after commission of the offense to 20 years after commission of the offense. This is a friendly amendment by Assemblywoman Bustamante Adams.

Chairman Hansen:

I will entertain a motion to amend and do pass.

ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 212.

ASSEMBLYMAN NELSON SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Bustamante Adams. Next is Assembly Bill 239.

Assembly Bill 239: Regulates operators of unmanned aerial vehicles in this State. (BDR 44-8)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 239 regulates operators of unmanned aerial vehicles in this state, and was sponsored by Assemblymen Elliot T. Anderson, Ohrenschall, Hansen, Spiegel, and Wheeler. It was heard in Committee on March 24, 2015 ([Exhibit E](#)). Assembly Bill 239 creates a new chapter in *Nevada Revised Statutes* establishing the right to operate an unmanned aerial vehicle in the state of Nevada. There is a proposed amendment from Assemblyman Elliot T. Anderson.

Chairman Hansen:

I would like to compliment Assemblyman Anderson for all the diligent time and effort he has put into this bill to make all sides happy and understand the issue. We are breaking new ground with this bill and are doing our best to avoid unintended consequences. Assemblyman Anderson has worked with numerous parties trying to reach some consensus.

Assemblyman Elliot T. Anderson:

I want to mention that most importantly, I was working with Steve Hill with the Governor's Office of Economic Development, to get a conceptual framework moving forward ([Exhibit F](#)). Most substantial in this amendment is the definition of an aircraft now includes unmanned aerial vehicles (UAV), which will require a major rework of the bill that cannot be done at this time. I think that it is provided to make it more clear. It also includes critical facility amendments about which we received much feedback from NV Energy and other parties. Section 17, the private surveillance, is removed from the bill. That is the most substantive change, but in the spirit of compromise I agreed because I think we have some good consensus from the law enforcement community on slightly expanding the Fourth Amendment law for UAVs, but without risking the physical security of Nevadans. I believe that we should do what we can to protect the privacy of Nevadans. Additionally, I would like to note that I changed the penalties in section 19 on page 6 of the mock-up so the penalty for weaponizing a UAV becomes a category D felony. If the weapon is discharged it becomes a category C felony. With this rework of the definition, there will need to be some conforming changes because not all of *Nevada Revised Statutes* Chapter 493 would apply in an unmanned context. I would now like Mr. Hill to discuss the process in writing the amendment.

Steven D. Hill, Executive Director, Nevada Governor's Office of Economic Development:

I would like to thank Assemblyman Anderson for not only being willing to work with all of us, including the UAV industry, but also for all the hard work he has put in on what is an important subject for Nevadans and not an easy one. We are fortunate to have his experience and dedication to this topic. We did reach a conceptual agreement yesterday on the content of the bill. As stated, it is not easy to draft in a 14-hour period, but we are confident that we will get it finished over the next several days. We think this bill provides important aspects to privacy in the use of UAVs in Nevada. We think this is good for the industry. If the industry is going to be accepted both in Nevada and across the country, that acceptance has to be by citizens throughout the state. We think this bill takes several important steps in those directions. As mentioned, this is new ground, and we also think that we are not getting in front of ourselves. Again, thank you for the opportunity to work with this Committee.

Chairman Hansen:

Thank you. This will go on the record that we are trying to work out all the issues with members of the industry. This is a brand new, budding industry for the state, and we certainly do not want to do anything that will jeopardize it. We appreciate your involvement. I will entertain a motion on A.B. 239.

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 239.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Anderson. We will now go to Assembly Bill 419.

Assembly Bill 419: Clarifies the applicability of the Uniform Unclaimed Property Act. (BDR 10-1104)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 419 clarifies the applicability of the Uniform Unclaimed Property Act heard in Committee on March 30, 2015, sponsored by this Committee ([Exhibit G](#)). The bill clarifies that the provisions of the Uniform Unclaimed Property Act do not apply to tangible property held in a safe-deposit box or other safekeeping depository which is not maintained by a bank or other financial institution. There is an amendment by the Nevada Resort Association. The amendment adds the language "safe-deposit company" to the bill.

The intent is to include companies that are in the business of providing for safe deposit, and not include entities that are not in the business of leasing safe-deposit boxes, such as hotels.

Chairman Hansen:

I will entertain a motion on A.B. 419 as amended.

ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 419.

ASSEMBLYMAN ARAUJO SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Trowbridge. Next is Assembly Bill 444.

Assembly Bill 444: Makes various changes relating to the Advisory Commission on the Administration of Justice. (BDR 14-544)

Diane Thornton, Committee Policy Analyst:

Assembly Bill 444 was sponsored by this Committee and heard on March 31, 2015 ([Exhibit H](#)). The bill creates the Subcommittee on Civil Procedure of the Commission, as recommended by the Sunset Subcommittee of the Legislative Commission. The measure authorizes the Commission to request the drafting of not more than five legislative measures which relate to matters within the scope of the Commission. Lastly, the bill eliminates the Subcommittee on Juvenile Justice to remove the overlap in statutory duties, as recommended by the Sunset Subcommittee. There are no proposed amendments.

Chairman Hansen:

I will entertain a motion on A.B. 444.

ASSEMBLYWOMAN DIAZ MADE A MOTION TO DO PASS
ASSEMBLY BILL 444.

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Seaman. That will close out our work session. I will now open the hearing for Assembly Bill 435.

**Assembly Bill 435: Provides for the realignment of certain judicial districts.
(BDR 1-302)**

James W. Hardesty, Chief Justice, Nevada Supreme Court:

It is an honor for me to be with the Assembly Judiciary Committee. It has been interesting to see all the bills you have been tackling these last 60-plus days. What a challenge you all have. Today, I believe, presents an opportunity for the citizens who reside in the rural counties throughout the central part of Nevada. With me today is Judge Jim Shirley, who lives in Lovelock and serves in the Sixth Judicial District Court, and Judge Michael Montero, who lives in Winnemucca and also serves as the District Court Judge in the Sixth Judicial District Court. We have a special guest today as well, Meg Montero, a high school senior who attends Albert M. Lowry High School in Winnemucca, here today to observe our government in action.

This bill, in summary, would realign the counties that make up the Fifth and Sixth Judicial District Courts in Nevada. It would place Humboldt County as the sole county within the Sixth Judicial District Court. It would realign the counties of Pershing, Lander, and Mineral within the new Eleventh Judicial District Court, and it would place Nye and Esmeralda Counties in the Fifth Judicial District Court, which is the area of Pahrump.

Some of you may recall that the subject of Mineral County's judicial services has been something that has been talked about since 2009. Hawthorne, in Mineral County, is a part of the Fifth Judicial District Court. Up until the unfortunate passing of Judge John P. Davis, who resided in Tonopah, the district court judges have been elected and reside in Pahrump. The travel distance to Mineral County is 550 miles roundtrip. This impacts services to the folks who live in Mineral County.

One may wonder why I care about this, but I care about all of the citizens in our state as Chief Justice of the Court, and I am also concerned about our caseloads per judge. Every year the family court judges and the family court lawyers, probably more than 300, meet in Ely for their annual convention. It is probably one of the most successful continuing legal education efforts that the State Bar of Nevada has. At that meeting, we have an opportunity to collaborate on various issues. At the meeting this year, I met with Judge Jim Shirley, Judge Michael Montero, Judge Robert Lane, and later spoke with Judge Kimberly Wanker about the question of judicial services in Mineral County. I wanted us to revisit that subject in this session of the Legislature. This was not the idea of these two judges here today, they were just elected and reelected in their district. It was not the idea of Judge Lane or Judge Wanker. It was my idea.

Let me explain what is behind this. I have provided you with some maps ([Exhibit I](#)). The first map shows the judicial districts in Nevada and the counties that make up those districts. As I mentioned earlier, the Sixth Judicial District comprises Humboldt and Pershing Counties. Washoe County is in the Second District, Clark County is in the Eighth District. Relevant here is the Fifth Judicial District, which is Mineral, Esmeralda, and Nye Counties. The next map shows you the number of cases per judge in each of those districts. As you can see, Nye, Esmeralda, and Mineral Counties, the Fifth District, has the fourth largest case per judge in the state. That is due in large part to the growth in the Pahrump community. My concern is, from the standpoint of the Chief Justice of the Supreme Court, these caseloads begin to show an imbalance. Why is that important? It is important because it affects the time to disposition and the availability of judicial services to get cases resolved in a timely and efficient manner.

What I proposed to the judges in Ely, and later suggested to the Chair of this Committee, is that we examine a realignment and the creation of a new Eleventh District. The next map ([Exhibit I](#)) describes the realignment of the Fifth District, the creation of the new Eleventh District, and the establishment of the Sixth Judicial District. If you have a size nine foot, there is an area of Lander and Mineral Counties that touches, so there is some geographical connection between those two counties. I think it is important for us to think outside the box about the travel distances that are impacting these rural communities and how we can improve judicial services.

There is one more factor I would like to mention. In all of the previous discussions about where to place Mineral County or how to improve the judicial services in Mineral County and in the other counties in the central part of the state, no one has ever asked the people, through their county commissioners, what they think. In the last week and a half, I have been visiting with the county commissioners in all of the counties, with the exception of Lander, that are affected by this matter. I have met with the county commissioners in Mineral, Pershing, and Humboldt Counties. This bill comes to you today with the unanimous recommendation of all the county commissioners in the affected counties. I think this stresses to the Legislature just how important this measure is to the communities that are affected by this bill. I would like to turn to the last page, which is what I showed to each of the county commissioners. You can see that the projected caseloads change quite a bit. In Nye and Esmeralda, for example, the cases go down to 1,192 which improves judicial services for those communities. In Pershing, Lander, and Mineral, their projected caseload would be at 784 cases—higher than Lyon and Douglas. You all know the travel distances between Lovelock and Battle Mountain, which Judge Montero and Judge Shirley currently travel. The amount of travel

between Lovelock and Hawthorne is considerably reduced. The significance of that is, for every visit that Judge Wanker or Judge Lane make from Pahrump, Judge Shirley can make two from Lovelock. This is a big step forward in increasing the amount of time the district court judge is present in that community.

In Humboldt, while the caseload goes up slightly, the significance there is that Judge Montero does not have to travel anymore. He is able to commit his full efforts to the community in Humboldt County. We developed some leveling out of the judicial services and caseloads through this plan. We reduced travel time for judges so they are on the road less than they have been, and we are able to shorten the time to disposition as a consequence.

Judge Shirley and Judge Montero also looked at the fiscal impact of this and shared with each of the county commissioners what those calculations of dollars would be. By and large, there is a consensus that there would be no fiscal impact. If anything, there is an opportunity to look at approaching services in a different way over the course of the next fiscal year and perhaps reduce some costs in the process.

The bill is fairly straightforward. It creates a new Eleventh Judicial District and it realigns the Fifth and Sixth Judicial Districts. We have provided an amendment ([Exhibit J](#)), which is not quite complete. The amendment had the Sixth Judicial District consisting of the newly associated counties; that was a drafting error. There is also a drafting error in sections 3 and 4. Section 3 needs to also provide that the Eleventh Judicial District will be one district judge. In section 4, the departments are switched. We can resubmit the amendment with those corrections.

One final point, which is obviously important to the central part of our state, is the adjudication of water under the Humboldt River Decree. That decree was entered in 1938 and it adjudicates the water along the Humboldt River. In two cases the Nevada Supreme Court has held that the Sixth Judicial District Court has continuing jurisdiction over matters affecting the Humboldt Decree: a case in 1992, *State v. Sustacha*, 826 P.2d 959, 961 (Nev. 1992), and a case called the *South Fork Band v. Sixth Jud. Dist. Court* 7P.3d 455 (2000). Nothing in this realignment should change the jurisprudence with respect to the jurisdiction of the courts sitting in the Sixth District and the newly created Eleventh District to adjudicate disputes, if they arise, involving the Humboldt Decree. Currently, if a case were filed involving that decree, it would be filed in Humboldt or Pershing, but under the existing rules within that district, the cases are alternated between Departments 1 and 2. The amendment we would tender would make clear that the Eleventh Judicial District, along with the

Sixth Judicial District, has jurisdiction to consider disputes over the Humboldt Decree, and the venue of those would be assigned exactly the same way as the cases would be assigned under the existing departments in the Sixth Judicial District. This subject matter was discussed with the commissioners in both Pershing and Humboldt Counties and their approval and recommendation of this plan is subject to that designation in the bill itself. I thank the Committee for consideration of this important measure for the citizens who reside throughout the central part of Nevada.

Michael R. Montero, District Judge, Sixth Judicial District Court:

I appreciate your hearing this bill this morning. I do not have much to add, but would like to thank Chief Justice Hardesty for presenting this for us.

Assemblyman Ohrenschall:

Has there been input from any of the public defenders or any of the contract criminal defense attorneys who represent indigent defendants, in terms of how this will affect them?

Justice Hardesty:

The district attorneys and public defenders in all of the counties are aware of this realignment. In Mineral County the public defender or contract lawyer in that county supported this change, as does Mr. Sean Rowe, Mineral County District Attorney. All of the affected lawyers are aware of this and support it.

Assemblyman Ohrenschall:

I remember hearing some testimony recently about how Mineral County is one murder trial away from insolvency.

Justice Hardesty:

That issue is not limited to Mineral County. In Pershing County, for example, some years ago there was a serious murder trial and Judge Wagner asked me to conduct a settlement conference in a civil case which, if the civil case settled, would result in a plea agreement in the murder trial and save that county \$500,000. We successfully settled the civil case and the murder trial entered in a plea. It is a challenge, for sure, for all of the rural counties to deal with serious criminal events.

Assemblyman Nelson:

I would like to follow up on one of the statements you made. You said that in Humboldt and Pershing Counties, both courts will have jurisdiction over those water cases, and the venue will be decided as it has always been decided. Does that mean if the geographical location of the dispute is in one county that county will handle it?

Justice Hardesty:

It is on a random assignment basis. If a case is filed in the Sixth Judicial District, whether filed in Pershing or in Humboldt, it is randomly assigned to Department 1 or Department 2. The venue assignment would also be a random selection of the districts as opposed to the departments.

Chairman Hansen:

I represent Humboldt, Pershing, Lander, Mineral, and Esmeralda Counties, and a good portion of Nye and Washoe Counties. Justice Hardesty reached out to me to ensure we work this out. I am very grateful to him for doing so much. This will make a big difference. Is there anyone else who would like to testify in favor of A.B. 435?

Jim French, Commissioner, Board of Commissioners, Humboldt County:

I would like to weigh in this morning and let this Committee know that Humboldt County hosted a tri-county meeting on Monday, April 6, 2015. This meeting consisted of Humboldt, Pershing, and Lander Counties; all of the county commissioners were present. We discussed A.B. 435 and all of the issues and concerns relative to redistricting and the budget impacts. I am here today to report that Humboldt County joins with Pershing, Lander, and Mineral Counties in support of the proposed bill. Contingent on that support is the Legislature enacting a provision allowing the presiding district court judges in Pershing and Humboldt Counties to maintain jurisdiction over all cases pertaining to the Bartlett/Edwards Decrees and to hear such cases within the respective counties.

Sean A. Rowe, District Attorney, Mineral County:

I would like to voice my and the Mineral County Board of Commissioners' enthusiastic support for A.B. 435 and to address that our contract public defender did submit a letter of support to the Mineral County Board of Commissioners based upon what is a very definite improvement to district court services that will come about with this bill. We will be able to get our clients, whether criminal or civil, in front of a district court judge in a much more efficient manner.

Chairman Hansen:

Is there anyone else who would like to testify in favor of this bill? Seeing no one, I will move to opposition. Seeing no one, is there anyone in the neutral position? [Also provided was the Pershing County Resolution ([Exhibit K](#)).] Seeing no one, I will close the hearing on Assembly Bill 435 and open the hearing on Assembly Bill 50.

**Assembly Bill 50: Revises provisions concerning the solicitation of contributions.
(BDR 7-447)**

Scott W. Anderson, Chief Deputy, Office of the Secretary of State:

I am here to present Assembly Bill 50. Before I begin my testimony on the details of the bill, I would like to provide you with a bit of background. In 2013, the Legislature passed Assembly Bill No. 60 of the 77th Session requiring nonprofit corporations organized under *Nevada Revised Statutes* (NRS) Chapter 82, those entities which solicit or intend to solicit charitable contributions in or from Nevada, to file a Charitable Solicitation Registration Statement, providing information about the organization and requiring that nonprofit corporations make certain disclosures when soliciting contributions or donations, regardless of whether the contribution or donation is tax deductible. [Continued to read from prepared testimony ([Exhibit L](#)).]

Section 14 provides the requirements to file and the contents of the Charitable Solicitation Registration Statement that are in current law.

Section 15 identifies the types of organizations that are exempt from registration requirements. In addition to exemptions that exist in current law, we added religious organizations that meet the IRS definition. We also determined that an appeal or solicitation for funds to assist an individual which is intended to be used by the person or expended for the benefit of his or her family does not trigger the registration requirement. For example, if a person is injured in a recreational activity and the community raises funds to help pay for medical expenses, or a fund is set up to help a child who has lost a parent. [Continued to read from prepared text ([Exhibit L](#)).]

The American Red Cross has requested a conceptual amendment that we are agreeable to. It would restore the language of the proposed provision to be repealed in NRS 82.387, which states the provisions of these sections of the new chapter inclusive, do not apply to a corporation that is a unit or instrumentality of the United States government.

Assemblyman Jones:

I went to Pepperdine University; they send me a quarterly magazine and always ask for a donation to the alumni association. So now every school and fraternity in the country would have to register under this act, but they would not have to file an annual disclosure statement. Is every school and every fraternity in the country registered with our Secretary of State as a charitable organization?

Scott Anderson:

They are not. I would have to check as far as the registration requirement is concerned, but being instrumentalities of the government, they would not have to. Even if they are private, I believe they would not have to register. Again, this is relatively new ground for us, and we are still learning some of the issues surrounding the registration requirements, solicitations, and the disclosures.

Assemblyman Jones:

It looks like alumni associations described in section 3 are not exempt; however, in section 17 they are exempted from disclosure of every act of solicitation. It looks like they would be required to file, but not have to file the disclosure. I get frustrated when we keep enacting laws that just create a huge net, and the reality is people are not following through. So now my school, which is a private university, would be guilty of a crime or civil penalty for every magazine they send me, and that would apply to every school and fraternity in the country.

Scott Anderson:

The current law is registration requirements on Nevada nonprofit corporations. While this would move the provisions from NRS Chapter 82 to include all nonprofit organizations in the state of Nevada, the intent of this bill is not to cast that wider net and grab those alumni associations and other entities. It is basically to take those same provisions and apply them to Nevada nonprofit organizations, regardless of what type they are, whether they are a corporation, an unincorporated association, or a limited liability corporation. The intent is not to have thousands of alumni associations or other organizations that are not Nevada nonprofits register.

Assemblyman Gardner:

Are you saying the intent is to focus on companies that are incorporated or based here or is it that they are doing business here?

Scott Anderson:

The intent of the overall bill in 2013 was for only Nevada nonprofit corporations, and it was put into NRS Chapter 82. It only covered those nonprofits that were registered under NRS Chapter 82. This would expand it to other nonprofit organizations that are organized outside of NRS Chapter 82 in order to level the playing field, so all of those entities that are soliciting from or to Nevada residents should be filing with us.

Assemblyman Gardner:

Section 14 shows that churches are exempt and would have to register, correct? Also, what about a charitable lottery? Approximately 10 years ago the

Constitution of the State of Nevada was amended to allow a charitable lottery; I am wondering what section that would fall under.

Scott Anderson:

I will have to check that out and get back to you.

Assemblyman Araujo:

If this bill passes, would it require a national organization that raises money in different states, including Nevada, to now file the forms to register?

Scott Anderson:

They should register because they are coming into Nevada.

Assemblyman Araujo:

Most of these charitable organizations function through online use. If there is a national campaign and there are many Nevadans contributing to this national organization, such as the ice bucket challenge, would that organization now have to register with Nevada because they did receive contributions from Nevadans?

Scott Anderson:

I will need to take a look at that and get back to you.

Assemblyman Nelson:

Some 501(c)(3) organizations, such as churches, are exempt. Are political action committees (PAC) exempt also? Some of them have gone under the educational category with the Internal Revenue Service (IRS). The way I read this is they would have to register with you, is that correct?

Scott Anderson:

Those organizations would have to register only if they are soliciting charitable contributions under 501(c)(3). There are different designations that may not be considered charitable contributions. This bill deals with the charitable contributions.

Assemblyman Nelson:

Would an educational contribution be considered charitable? I know some of the things I get in the mail claim to be an educational PAC.

Scott Anderson:

They would have to be registered as a 501(c)(3).

Assemblywoman Diaz:

I was wondering, have you received a lot of complaints about other individuals trying to seek charitable contributions on behalf of an organization when it was not legitimate? If that is the case, what are the shortcomings of not having this legislation in place?

Scott Anderson:

The original intent of the bill was to give Nevada donors information relating to the charitable organizations that are soliciting from them.

Assemblywoman Diaz:

Oftentimes people get a call from someone claiming he is calling on behalf of the retired police officers, for example, asking for contributions for the police officers, which may or may not be a legitimate organization. Has the Secretary of State's Office received any complaints regarding these calls?

Scott Anderson:

That was the impetus of this bill in 2013 when we met with the nonprofit organizations in regards to problems with those that were not legitimate. There were a lot of complaints relating to frivolous charities. We have received some complaints. The consumer can contact the Secretary of State's office and let us know that there is a charity soliciting from them that is not registered with us. We can then contact that charity and either have them file the registration statement, or have them give us the information to help us determine whether they are actually soliciting in the state.

Chairman Hansen:

Is there anyone else who would like to testify in favor of A.B. 50?

Michael Hackett, representing Nevada Public Broadcasting:

With me today is Mendy Elliott, who is a board member for American Public Television as well as a board member for Nevada Public Broadcasting member station KNPB Television in Reno. We are in support of A.B. 50. Nevada Public Broadcasting was one of the organizations that had the opportunity to work with the Secretary of State's Office during the interim to address some of the challenges from A.B. No. 60 of the 77th Session. As stated earlier, specifically, A.B. 50 provides an exemption from the disclosure requirements for public broadcasting stations that meet Corporation for Public Broadcasting reporting requirements. That and other information is currently readily available on our member station websites. We express our thanks and gratitude to the Secretary of State's Office for the continued cooperation on this and we are in support of this bill.

Mendy Elliott, representing KNPB Television, Reno, Nevada:

On behalf of Big Bird, Elmo, Clifford the Big Red Dog, and Downton Abbey, we want to thank you for hearing this bill. Channel 5 and all of the stations around the country are held to a much higher standard because of the fact that we receive federal dollars that support local programming for Ready To Learn and the Emergency Alert System. We are also involved in the spectrum auction, which ensures that Nevadans have access to television throughout the state.

Michelle Gorelow, Director of Program Services, Nevada Chapter, March of Dimes:

As a national, nonprofit charitable organization with chapters in all 50 states, the District of Columbia, and Puerto Rico, the March of Dimes believes that nonprofit organizations have the responsibility to use public donations for programs and services and to keep administrative and fundraising costs low. [Continued to read from prepared testimony ([Exhibit M](#)).] There is a gray area in the bill regarding Internet solicitation. As we read it, we are assuming that it is referring to over the Internet or on a computer. We feel that is purposeful so that it will include any future forms of communication that develop.

Ed Guthrie, Chief Executive Officer, Opportunity Village:

Opportunity Village is a community rehabilitation program in southern Nevada that provides assessment, training, and employment services to over 2,000 youths and adults with intellectual disabilities every year. We have been serving youths and adults with disabilities in southern Nevada since 1954. We rely on the support of our friends and neighbors to provide these services. Only 20 percent of the total revenue of Opportunity Village comes from fee-for-service revenue from the state of Nevada. The other 80 percent of our revenue comes from fundraising and other contract revenue. Fundraising is very important to Opportunity Village and to the people we serve. We have worked with the United Way, Salvation Army, Goodwill, and other major nonprofits in southern Nevada to develop the original A.B. No. 60 of the 77th Session that was passed in 2013.

There were two reasons for this. One was that we had donors who were donating to nonprofit organizations that were not 501(c)(3), assuming that they were tax-deductible donations. Those donors were getting in trouble with the IRS because they were claiming those donations on their tax forms.

The other reason we worked with the Secretary of State's Office and the Office of the Attorney General is because there are a number of unethical fundraisers who divert charitable contributions from unsuspecting donors from good charities that provide great services to line the pockets of the unethical fundraisers. We wanted to ensure that the donors had every chance to realize

when they are giving to an ethical charity that is providing great services, and when they might be being hoodwinked.

Assembly Bill 50 is trying to clean up some of the unintended consequences of the current law. Some of the issues that have been brought up today are issues that also may need to be addressed in the charitable solicitation laws. I would suggest that passing A.B. 50 will not change any of the issues that are outstanding issues with the current law, whether A.B. 50 passes or not. The requirement for registration to do charitable solicitations in Nevada became law in 2013 and is still the law in the state. Assembly Bill 50 is intended to address the unintended consequences that go along with telethons and other issues. We support A.B. 50 and would be happy to work with the Secretary of State's Office to address some of the other issues that go along with charitable solicitation.

I think it is very important to realize that every year we have reports of people going door to door asking for money for Opportunity Village; we have never authorized a door-to-door campaign for fundraising. We have reports of people being called and asked to buy tickets to a circus and the people who will go to the circus are the folks from Opportunity Village. Opportunity Village has never authorized that. We want to ensure that we have a way of trying to slow, if not stop, those types of solicitations in Nevada so that the money that is raised in Nevada goes to organizations that are providing services to the folks in need in the state of Nevada.

Assemblyman Jones:

Regarding the fraudulent acts of people claiming to represent Opportunity Village when in fact they do not, would that be covered under statutes of fraud? Those who are fraudulent are not going to register that they are a fraudulent organization pretending they are Opportunity Village. Nothing in this bill would cover that situation.

Ed Guthrie:

I am not sure. Someone from the Attorney General's Office may be able to answer that. The requirement for registration is in the law now. This bill is simply trying to clean up some of the unintended consequences that affected groups like public radio or television.

Chairman Hansen:

Is there a cap, or a percentage, that delineates an ethical charitable organization versus an unethical charitable organization? For example, 50 percent can be used for administrative costs, and 50 percent goes to the charity. I do not know what the standard percentage is.

Ed Guthrie:

Normally it is approximately 35 percent or less that goes to administrative and fundraising purposes. There may be some exceptions to that. As an example, we have an event called the Magical Forest where Opportunity Village has a Christmas village that tens of thousands of people visit and pay to ride on the train, sit on Santa Claus's lap, et cetera. We have 70 volunteers a night help us operate the Magical Forest and literally thousands of people, over the course of 50 nights, help us to operate the Magical Forest. All of those contributions of time have to be valued by Opportunity Village's in-kind contributions. That raises our fundraising costs. Even though they are donations of time, they have to be considered in-kind expenses. Sometimes it gets a little confusing, but for the most part, charitable organizations do need to spend some of their contributions on administrative costs, such as bookkeeping; otherwise people are going to embezzle income.

Janine Hansen, representing Nevada Families Association:

I was one of the major opponents of A.B. No. 60 of the 77th Session. I felt they were very draconian rules placed upon nonprofits and charitable organizations in Nevada. We feel this bill is a vast improvement. The original bill, which was presented by the Secretary of State in 2013, had no due process, no rights of appeal, and huge fines on individuals and organizations. It makes the Secretary of State the judge, jury, and executioner. It violated our Fourth Amendment rights. There was a problem with the Secretary of State being able to access the individual records of organizations being in violation of the Fourth Amendment. One of the great improvements in this bill is that it does provide for some due process. It provides for some court proceedings so that peoples' rights can be defended, with a judge who is not part of the Secretary of State's Office. We feel all of the *U.S. Constitution* rights were being violated through the administrative process.

We do have some concerns; we feel it would be better to roll it back a little. We feel there is a duplicate registration for nonprofits. They must now register with the Secretary of State. If they are incorporated, they are already registered with some of this information. There is a distinction in this bill between charitable organizations who solicit tax-deductible donations, and those who have a status with the IRS where they do not have to pay taxes, which is a nonprofit organization. Section 11 of this bill, under nonprofit, identifies some of the information that is required. We feel the information that is required should be the same as what the IRS requires. In addition, in section 16 we feel the disclosure may go beyond what is necessary with regard to what is currently required by the IRS. This is a vast improvement over the current law and we hope that this can go forward.

Chairman Hansen:

Is there anyone else who would like to testify in favor of A.B. 50? Seeing no one, is there anyone who would like to testify in opposition?

Elisa P. Cafferatta, President & Chief Executive Officer, Nevada Advocates for Planned Parenthood Affiliates, Inc.:

I am supportive of the clean-up efforts of this bill. I am testifying in opposition because I feel it does not go far enough to clean up some of the challenges that are in the existing law. To clarify, there are many different types of nonprofit organizations and, in existing law and even in the bill, there is a distinction between the requirements for charitable organizations, which are 501(c)(3)s and nonprofits, which can include 501(c)(4), et cetera. There are several different types of nonprofits in the IRS code. Even the Secretary of State's Office, in his testimony, was using these terms interchangeably, and that contributes to the confusion about which organizations need to file which forms. We think this is a great step forward in terms of clarifying that, but there is some duplication and some unnecessary confusion.

There is nothing in this bill that is going to stop people who are pretending to be charitable organizations and soliciting unscrupulously. This bill just adds additional requirements to legitimate nonprofit organizations in terms of what they need to do.

To answer Assemblyman Hansen's question about rules of the percentages of your money being used for the charitable purpose that you are organized for, that is the reason the IRS goes through a very lengthy process to give you a nonprofit status. It is a huge application and the IRS will then give you a nonprofit letter that you are required to show anyone who is interested in looking at it. The IRS also requires that your Form 990, which is your tax return form, be available to the public. That form is also available on the GuideStar website. Anyone who is interested in finding out if he is donating to a legitimate charity can ask for your tax return and see what you are spending your money on and how much of it is being used to cover fundraising costs.

One of the things we would like to see changed is the transparency requirement. There is no reason for the Secretary of State's Office to ask for your Form 990; it is public information and available online. There is no reason for them to capture that information. As far as I know, the Secretary of State does not have a nonprofit division that analyzes these statements or does anything with them; it is just an additional requirement that is completely duplicative of what we need to do with the IRS.

The second thing we would like to see changed is that whatever your IRS status is, if you are a 501(c)(3), you are required to say that contributions can be tax deductible. If you are a 501(c)(4), or any other form of nonprofit organization, you are required by the IRS to say that deductions are not tax deductible. That is already required by the IRS. The Secretary of State is prescribing a different disclosure with additional information. Again, why does the Secretary of State need to have a different standard than the IRS currently has for nonprofit organizations? Those are the two changes we would like to see, but we are supportive of the cleanup; we do think it is a huge improvement, and we would be happy to work with the Secretary of State's Office.

Chairman Hansen:

Is there anyone else who would like to testify in opposition at this time? Seeing no one, is there anyone in the neutral position? Seeing no one, I will close the hearing on A.B. 50. I will open the meeting up for public comment.

Tonja Brown, Private Citizen, Carson City, Nevada:

On March 25, 2015, this Committee heard Assembly Bill 401, which was regarding a court of inquiry. I am here again today to ask that you consider this bill. I want you to know something, and I would like to set the record straight on some things that were said during the hearing. The district attorney, Mr. Jones [John T. Jones, Jr., representing the Nevada District Attorneys Association] made a comment that people can file writs of mandamus, writs of habeas corpus, and petitions. This is something that I personally did on behalf of the estate. I have received an order from the Second Judicial Court of the State of Nevada, Judge Patrick Flanagan, regarding this. Mr. Jones also stated that the person can go through the courts to file and get a grand jury empaneled. I also did that with my writ of mandamus. This is the answer:

A Grand Jury Inquiry Is Not Warranted Based On The Information
Before This Court

In Nevada, a District Court Judge may empanel a Grand Jury for a limited specific purpose. NRS §172.047. Among the purposes for which a grand jury may be empaneled is to inquire into the matters set forth in NRS § 172.175. NRS § 172.175(1)(c) states that grand juries shall inquire into "the misconduct in office of public officers of every description within the county which may constitute a violation of a provision of chapter 197 of NRS." Chapter 197 contains two sections which could in theory be construed as applicable to the case at hand.

NRS § 197.200, "Oppression Under Color of Office" includes unlawfully and maliciously doing any act whereby the person, property or rights of another person are injured. Brady violations would seem to fit this description. NRS § 197.220, a catchall provision, states that "Every public officer or other person who shall willfully disobey any provision of law regulating his or her official conduct in cases for which no other punishment is provided shall be guilty of a misdemeanor." Violation of the rules of professional conduct by a prosecutor seems to fit this description.

An allegation has been made that would implicate the sections of NRS Chapter 197.

When the District Attorney's Office came here and told you that a grand jury can be empaneled through the court, I have done so, and clearly it cannot be done. This is why we need A.B. 401. I believe Mr. Yeager [Steve Yeager, representing the Clark County Public Defender's Office] testified that since 2013, the petitioner can have DNA testing conducted at their own expense. I have been working on that for numerous years, in fact I call it Nolan's law. That did not pass in 2013. What did pass is that a person could petition the court, but if the court denies DNA testing, then the person who maintains his innocence is not getting the DNA testing. That has happened. A petitioner can be denied DNA testing, at his own expense or not. As it stands now, there are inmates who are asking for DNA testing to exonerate themselves and it is not being done. Also, on March 25, 2015, I provided an idea called the public integrity unit commission, other than what was put in the bill, giving you another avenue. Basically, it would be set up like the Advisory Commission on the Administration of Justice. It would do statistics and find out who has been wrongfully convicted, it would be a case study, and set up much like The Innocence Project in New York. I implore you, do not let this bill die.

I also provided to your office a copy showing that all eyes are on Nevada. It is an article ([Exhibit N](#)) titled *Nevada Has an Innovative Idea for How to Right Wrongful Convictions*. This came out of Washington, D.C.; all states are looking to Nevada to see what you are going to do on this bill. I implore you to pass this. Do not let innocent people remain in prison and do not let them die there. I do not want to see anyone else go through what we had to go through. I have used our *Nevada Revised Statutes*. I have tried to do a citizen's arrest only to be told by the police, We are not going to take your complaint; we are not going to arrest this person. I have done it all, everything our statutes have stated. The law enforcement, district attorneys, and the courts are not following those statutes. [Also provided written testimony, ([Exhibit O](#)) and ([Exhibit P](#)).]

Chairman Hansen:

Is there anyone else who would like to talk under public comment?

Dawn Dillon, Private Citizen, Las Vegas, Nevada:

I am a realtor in Nevada and also a mortgage securitization auditor. I just took the course to get educated on my own property because I had discovery. I went down a rabbit hole. I just found out about Assembly Bill 282 late yesterday. Because of my knowledge with the mortgage securitization and the banking industry and what has happened, I am passionate about educating people about these fraudulent foreclosures. I do not think that A.B. 282 is adequate for banks to not have the standards that even realtors have, to take away treble damages for committing fraud. Even a homeowner has treble damages in the disclosure. Why would the banks not be subject to treble damages if they do not disclose? I am very proud of the Legislature and would like to commend you on making Nevada one of the first in the nation to make illegally repossessing a home a felony. Again, getting back to why A.B. 282 is wrong. The banks are still doing these forgeries, it is even in a Wells Fargo manual. Bank of America has the "Hustle" program; even the Mortgage Electronic Registration System (MERS) has no authority without written authority. Some of these banks are defunct and they are still doing a lot of these assignments. The MERS rulebook states that they must have written authority from the banks. They have not been getting that authority. Another thing about MERS is they are not even licensed in Nevada. I heard you speaking earlier about needing to be licensed to do business here. Is it not true that all of these assignments being done are being done outside of Nevada? Therefore, it makes it hard for the homeowner to even question the notary and question the validity. To be able to pull in a notary book from another state whenever you are in court, I think is also an issue.

I also want to discuss current things that are going on. I have a couple of assignments that are pretty current. One assignment is a corporate assignment, which is obviously a forgery.

In closing, I am speaking for all homeowners and I am a homeowner advocate. Where is our bailout? Where is our bonus? Where is our clear equitable ownership? Our titles are being clouded right now. The U.S. Supreme Court case *Carpenter v. Longan*, 83 U.S. 16 Wall. 271 (1872) states that regarding the separation of the note and the deed of trust, if you separate them, you break the chain of title forever. That trumps David Edelstein [*Edelstein v. Bank of New York Mellon*, 286 P.3d 249 (2012)] and he is used as a precedent, and that precedent needs to be explained. Why is he still able to be in that house whenever that is used as a precedent that you can reconnect the deed of trust and the note?

Chairman Hansen:

If you have some more specific items on this you can submit it to the Committee members. I thank you for your testimony. Is there anyone else who would like to take advantage of public comment? Seeing no one, I will close public comment. This meeting is adjourned [at 9:38 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Judiciary

Date: April 8, 2015

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 49	C	Diane Thornton, Committee Policy Analyst	Work Session Document
A.B. 212	D	Diane Thornton	Work Session Document
A.B. 239	E	Diane Thornton	Work Session Document
A.B. 239	F	Assemblyman Elliot Anderson	Proposed Amendment
A.B. 419	G	Diane Thornton	Work Session Document
A.B. 444	H	Diane Thornton	Work Session Document
A.B. 435	I	James W. Hardesty, Chief Justice, Nevada Supreme Court	Presentation
A.B. 435	J	Justice Hardesty	Amendment
A.B. 435	K	Pershing County Commissioners	Pershing County Resolution 15-0303
A.B. 50	L	Scott Anderson, Chief Deputy, Office of the Secretary of State	Prepared Testimony
A.B. 50	M	Michelle Gorelow, Director of Program Services, Nevada Chapter, March of Dimes	Prepared Testimony
A.B. 401	N	Tonja Brown, Private Citizen	News Article
A.B. 401	O	Tonja Brown	Written Testimony
A.B. 401	P	Tonja Brown	Written Testimony