

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session  
April 30, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:44 p.m. on Thursday, April 30, 2015, in Room 2134 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 Greg Brower, Chair  
Senator Becky Harris, Vice Chair  
Senator Michael Roberson  
Senator Scott Hammond  
Senator Ruben J. Kihuen

**COMMITTEE MEMBERS ABSENT:**

Senator Tick Segerblom (Excused)  
Senator Aaron D. Ford (Excused)

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nick Anthony, Counsel  
Lynette Jones, Committee Secretary

**OTHERS PRESENT:**

William Voy, District Judge, Department A, Eighth Judicial District  
Brigid Duffy, District Attorney's Office, Clark County  
Regan Comis, M + R Strategic Services  
Scott Anderson, Chief Deputy Secretary of State, Office of the Secretary of State  
Janine Hansen, Nevada Families for Freedom  
Lynn Chapman, American Legion Auxiliary

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Brian Patchett, Easter Seals Nevada  
Bob Brown, Opportunity Village  
Michael Hackett, Nevada Public Broadcasting  
Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates  
Jessica Ferrato, Nevada Association of School Boards

**Chair Brower:**

I will open the hearing on Assembly Bill (A.B.) 113.

**ASSEMBLY BILL 113 (1st Reprint)**: Revises provisions governing the sealing of juvenile records. (BDR 5-444)

**William Voy (District Judge, Department A, Eighth Judicial District):**

I will present A.B. 113. *Nevada Revised Statutes* (NRS) 62 govern juvenile justice in Nevada. Various provisions in this statute date back to the late 1950s and the early 1960s. The Nevada Supreme Court Commission on Statewide Juvenile Justice Reform reviewed various aspects of juvenile justice statutes to bring it in line with the twenty-first century. Assembly Bill 113 provides these updates. The Commission appointed a subcommittee chaired by me. The subcommittee also includes Alvin R. Kacin, District Judge, Department 2, Fourth Judicial District; Egan Walker, District Judge, Department 2, Second Judicial District; Brigid Duffy, District Attorney's Office, Clark County; Susan Roske, Juvenile Division, Public Defender's Office, Clark County; Ryan Sullivan, Juvenile Department, Public Defender's Office, Washoe County; and Jo Lee Wickes, District Attorney's Office, Washoe County.

The subcommittee reviewed statutes from California, Texas, Illinois, Nebraska, Ohio and Oregon to determine if similar language can be applied in Nevada. Assembly Bill 113 provides uniformity among the courts when sealing records. It provides clear definitions and guidelines regarding the sealing of juvenile records, clarifies when a petition to seal a juvenile record may be filed and provides a list of factors the judge must consider when determining if a juvenile has been rehabilitated for the purposes of sealing the record prior to the juvenile's twenty-first birthday. The bill also allows sealed records to remain public when fines and fees of restitution are converted to civil judgments pursuant to NRS 62B.420. This is a limited sealing or unsealing of records for enforcing civil judgments down the road. The case caption would be unsealed for this purpose, and no other records concerning the juvenile will be open for inspection.

Section 4 of the bill allows the clerk of the court to unseal a juvenile record for submitting personal identifying information to the National Instant Criminal Background Check System with the FBI. This information can be used for recidivism studies. Through my studies of various statutes in Nevada and throughout the United States, I learned that no jurisdiction continues to follow juveniles once they leave the system. If a child in the program does not reoffend prior to the age of 18, the program is considered successful. Once the child turns 18 and commits a felony, it does not count for juvenile recidivism. To bring honesty to the juvenile justice system, we need to follow juveniles after they leave the system to see if they reoffend. We do have a pending study on juvenile sex offenders.

Section 4 of the bill allows the clerk of court to submit data to the centralized repository. This data includes personalized identifying information and reoffense statistics. For research purposes, the information is coded and researchers are provided with numbers rather than the personalized identifying information.

A proposed amendment submitted to the Committee last night ([Exhibit C](#)) amends language in the last sentence of section 1, subsection 5, paragraph (c) that reads, " ... or placed with a suitable person or in an appropriate facility by a probation officer pursuant to subsection 5 of NRS 62C.300 ... " and replaces it with " ... or any periods of informal probation supervision under NRS 62C.200 ... ." This technical amendment makes sense.

**Chair Brower:**

Are you referring to the proposed amendment submitted by Ben Graham on behalf of the Nevada Supreme Court?

**District Judge Voy:**

Yes.

**Brigid Duffy (District Attorney's Office, Clark County):**

Assembly Bill 113 is supported by the Juvenile Division, Clark County District Attorney's Office. I was a member of the subcommittee. The juvenile court system is about helping and rehabilitating kids who made mistakes so they can move forward and have productive adult lives. We want to support this when it happens.

I will address the main provisions of the bill. The law allows children less than 21 years old to petition the court to seal their juvenile records after 3 years from the last adjudication or when they were placed on supervision by the juvenile court. At that time, the court has discretion as to whether the records will be sealed. This bill breaks down when the court shall seal records and when the court still has discretion to seal records. If a child is under the age of 18, the court will maintain discretion to the sealing of records based on a series of factors. If the child is over the age of 18, it is mandatory if the child meets the criteria to seal the juvenile record. For example, I had a 12-year-old foster child with a minor charge who was involved in the juvenile justice system. At the age of 16, his social worker brought him to me because he wanted to apply for a job, but he did not know how to respond to the question on the application regarding whether he had been convicted. I explained he was adjudicated, not convicted. I referred him to the Clark County Public Defender's Office to request a petition be filed for the sealing of his records. Once the record is sealed, the offense is treated as though it never happened. We support kids moving on, especially if they meet the criteria the bill allows.

As a member of the subcommittee, I want to be supportive in helping kids move on, but I also want to recognize the times we need to unseal records for legitimate purposes. In section 4, subsection 2, paragraph (c), we changed the language to read, "A prosecuting attorney or a defendant in a criminal action petitions the juvenile court to permit the inspection of the records to obtain information relating to the persons, including the defendant, who were involved in the acts detailed in the records ... ." The subcommittee worked with me as a representative of the Clark County District Attorney's Office when I said we support kids in moving on, but we need a mechanism when these kids become adults and commit horrific crimes. We need the ability to look back and see what happened. This information will be considered for sentencing within the criminal justice system.

**Chair Brower:**

Please clarify the opening sentence of section 1, subsection 1 that states, "If a child is less than 21 years of age, ... ." The age of 18 is the age in which one is deemed an adult for most purposes. How does the language in section 1 work within that context?

**District Judge Voy:**

Under NRS 62, a child is defined as a person who is less than 18 years of age or a person who is less than 21 years of age who commits a delinquent act. For our purposes, the maximum jurisdiction for the juvenile court is the age of 21.

**Chair Brower:**

Can you identify the section in statute with this definition?

**District Judge Voy:**

The definition for a child is in NRS 62A.

**Chair Brower:**

The specific statute is NRS 62A.030.

**Regan Comis (M + R Strategic Services):**

We support A.B. 113.

**Chair Brower:**

I will close the hearing on A.B. 113 and open the hearing on A.B. 50.

**ASSEMBLY BILL 50 (1st Reprint)**: Revises provisions concerning the solicitation of contributions. (BDR 7-447)

**Scott Anderson (Chief Deputy Secretary of State, Office of the Secretary of State):**

I will present A.B. 50 and read from my written testimony ([Exhibit D](#)). We had conversations with representatives of the Direct Marketing Association, and we are reviewing proposed language to address their concerns. We need more time to review and discuss this further with them. It is uncertain if new language must be put in statute or if regulations can be modified under the authority of the Secretary of State.

There is also a concern regarding section 15, subsection 1, paragraph (a) that says a charitable organization that solicits for contributions to less than 15 people in a year is not required to register with the Secretary of State's Office. Some believe this limit should be higher.

**Chair Brower:**

A lot of work has gone into the drafting of this bill. I heard from the Direct Marketing Association and their proposed changes make sense to me.

**Janine Hansen (Nevada Families for Freedom):**

We support A.B. 50, which is an improvement over A.B. No. 60 of the 77th Session. Draconian requirements and excessive fines were included in previous legislation with no due process or an appeals process. Assembly Bill 50 corrects the difficulties in previous legislation.

I want to clarify this bill almost addresses the circumstances of charitable organizations which are different from the general category of nonprofit organizations that are tax-exempt but not tax-deductible. These organizations, pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code, are tax-deductible. Many other categories of 501(c)-qualified organizations, such as 501(c)(4) organizations, are educational or lobbying organizations that do not fall within the category of a charitable organization, and these regulations do not apply to them. The disclosure requirement applies, and the organizations must disclose if they are tax-deductible, which must be listed on any solicitations. I understand that nonprofit organizations that are not charitable organizations do not receive tax-deductible donations but receive tax-exempt donations. In this case, the organization does not pay tax, but donors do not get a tax deduction. After speaking with Mr. Anderson, my understanding is the extensive regulations in the bill do not apply to nonprofit organizations. This bill is a much-needed improvement over the bill passed last Session that we opposed.

**Chair Brower:**

We identified issues with A.B. No. 60 of the 77th Session almost immediately after passage. We did not focus on potential problems in that bill, and this is why we are back with A.B. 50.

**Lynn Chapman (American Legion Auxiliary):**

I represent veterans in Nevada as the chair of the American Legion Auxiliary Poppy Program. I am concerned about the reporting requirements in A.B. 50.

It is difficult to recruit volunteers to perform tasks for the organization, especially completing required reports. To complete the reports for the Poppy Program in Sparks, I must go to the police department, fill out an

extensive form that takes 30 minutes and pay \$20 to get the form notarized. We have ROTC volunteers dressed in their uniforms go out and ask for donations door to door. When donations come in, they must be counted and I must fill out forms that go to City Hall. When I attempted to submit the paperwork to City Hall, a representative informed me the forms could not be accepted, and I am directed to another office. I go where I am directed and representatives in the next office accept the forms but do not know how to process them. If I had not completed and delivered the required paperwork, I believe no one would know or care. I got the impression the required reports were not important. I want the Committee to be aware of this process.

**Chair Brower:**

Do you support the bill?

**Ms. Chapman:**

Yes. We support the bill.

**Brian Patchett (Easter Seals Nevada):**

I am in support of A.B. 50. Easter Seals serves over 8,000 children and adults throughout the State every year. I agree with today's testimony related to the duplicative regulations that need to be fixed. As a nonprofit organization, we already complete the extensive IRS Form 990 Return of Organization Exempt from Income Tax required by the federal government. Much of the information we report to the federal government is also required by the Secretary of State's Office, and the reporting requirements are no problem for us. The main reason I support the bill relates to Mr. Anderson's testimony regarding nonprofit organizations. We want nonprofit organizations in the State to provide good service, and we want to ensure the dishonest or nefarious players are easily identified.

**Bob Brown (Opportunity Village):**

Opportunity Village supports A.B. 50 as presented. Our organization started 60 years ago by seven Nevada families to help intellectually and developmentally disabled children. Today, we help 3,000 children a year, and you can multiply that number by families and relatives to see the impact we have in Nevada.

A recent study showed our organization saved the State \$34 million. We put forth quite an effort. Assembly Bill 50 is a good bill, and it helps us. We

understand the bill was created to streamline the reporting of solicitations and contributions for nonprofit organizations, and we are proud to support the changes. We want donors in Nevada to be assured their dollars are being used for the intended purpose. More than 20 percent of the annual budget for Opportunity Village is generated because of fundraising solicitations. It is important we have a process that supports those donations as well as streamlining the requirements of oversight and reporting.

**Michael Hackett (Nevada Public Broadcasting):**

We support A.B. 50. We were one of the organizations that worked with the Secretary of State's Office this past interim to address some of the challenges presented by A.B. No. 60 of the 77th Session. As Mr. Anderson stated in his testimony, A.B. 50 provides an exemption from disclosure requirements for public broadcasting stations that meet the reporting requirements and standards set forth by the Corporation for Public Broadcasting. Representatives from the March of Dimes Foundation were unable to be here today, but they wanted the Committee to know they support the bill.

**Elisa Cafferata (Nevada Advocates for Planned Parenthood Affiliates, Inc.):**

I was in support of A.B. 50, but as I listened to testimony today, I realized I have some opposition. This bill is an improvement over A.B. No. 60 of the 77th Session that Janine Hansen and I both opposed. I cannot fully support A.B. 50 as written due to language in section 16 that requires disclosure be provided with any solicitation. If you are making a solicitation on a Website or with a letter, these requirements are fine, although they do not match the requirements of the IRS.

This disclosure requirement could never apply to a mobile application request for donations. Mobile application solicitations will say, "Text the word 'sweet' to help victims of a hurricane." There is no way you could comply with disclosure requirements in the bill because you have a limited number of characters available. You would never want to send 20 messages to your potential donors to say, "If you want to help the victims in Nepal, first read this extensive disclaimer." In this case, a donor would be charged for multiple texts in order to make a \$10 donation.

**Chair Brower:**

Have you seen the proposed amendment from the Direct Marketing Association?



**Ms. Cafferata:**  
No.

**Chair Brower:**

The proposed amendment from the Direct Marketing Association addresses the scenario you described. We will make it available for everyone's review.

**Ms. Cafferata:**

I want to make sure we keep up with technology. There is a way to comply with the disclosure requirements during the donation acknowledgement or before the credit card is processed. Nonprofit organizations must provide a disclaimer from the IRS for nontax-deductible donations. The IRS allows notification to be provided in a different place, and A.B. 50 requires notification be given at the time of solicitation, which is difficult for many organizations. I may be fully in support of the bill after I review the proposed amendment.

**Jessica Ferrato (Nevada Association of School Boards):**

We are neutral on A.B. 50. I met with the Secretary of State's Office this week, and I received answers to my questions on the bill. Our organization had questions for Mr. Anderson about the registration requirement in section 15, subsection 1, paragraph (a). I wanted the Committee to know we were concerned with this section. I will follow up with the Secretary of State's Office, but at this point, we have no issues with the bill.

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**Chair Brower:**

I will close the hearing on A.B. 50 and adjourn the meeting at 2:21 p.m.

RESPECTFULLY SUBMITTED:

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Lynette Jones,  
Committee Secretary

APPROVED BY:

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Senator Greg Brower, Chair

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

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	3		Attendance Roster
A.B. 113	C	2	William Voy/Nevada Supreme Court	Proposed Amendment
A.B. 50	D	7	Scott Anderson/Office of the Secretary of State	Written Testimony