

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session  
March 5, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:18 p.m. on Thursday, March 5, 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 Scott Hammond  
Senator Ruben J. Kihuen  
Senator Aaron D. Ford

**COMMITTEE MEMBERS ABSENT:**

Senator Michael Roberson (Excused)  
Senator Tick Segerblom (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman John Hambrick, Assembly District No. 2

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Connie Westadt, Committee Secretary

**OTHERS PRESENT:**

Brett Kandt, Special Assistant Attorney General, Office of the Attorney General  
Victor-Hugo Schulze, Senior Deputy Attorney General, Children's Advocate,  
Office of the Attorney General  
Julie Butler, Chief, General Services Division, Department of Public Safety

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Alexis Kennedy, Associate Professor, Department of Criminal Justice, University of Nevada, Las Vegas  
Chuck Calloway, Las Vegas Metropolitan Police Department  
Jerod Updike  
Ron Dreher, Peace Officers Research Association of Nevada, Washoe School Principals' Association  
Eric Spratley, Lieutenant, Washoe County Sheriff's Office  
Robert Roshak, Nevada Sheriffs' and Chiefs' Association  
Jill Tolles  
Steve Yeager, Office of the Public Defender, Clark County  
Sean B. Sullivan, Public Defender's Office, Washoe County  
Vanessa Spinazola, American Civil Liberties Union of Nevada

**Chair Brower:**

We will open the hearing on Senate Bill (S.B.) 192.

**SENATE BILL 192:** Revises provisions relating to sexual conduct between certain persons. (BDR 14-731)

**Brett Kandt (Special Assistant Attorney General, Office of the Attorney General):**

We support S.B. 192.

**Victor-Hugo Schulze (Senior Deputy Attorney General, Children's Advocate, Office of the Attorney General):**

I have served as the Nevada State Children's Advocate for 10 years. I have been a criminal prosecutor for 26 years, and I have been with the Attorney General's Office for 20 years. Prior to being hired by Attorney General Frankie Sue Del Papa, I was a criminal prosecutor in Nye County and Esmeralda County. I have personal memory of the cases in Pahrump that Terri L. Miller was talking about in the subcommittee earlier today. I am completely in support of S.B. 192. It closes a loophole that should have been closed many years ago. I am extremely thankful that I live in a State that has advocates for children like Ms. Miller. She is indefatigable, and I think children in this State are better off because she is here.

**Assemblyman John Hambrick (Assembly District No. 2):**

I do not have a script for my testimony. Senate Bill 192 does not require a script. It requires a heart. You know this is my passion on the other side of the

building. There is no perspective to a bill. What I would ask you to do is to put in perspective what we are trying to do—to consider the lifeblood, hearts and souls of the victims. It is so very important. We want these youngsters to have the best opportunities they can because some day they will be our educators and leaders. We have to give them a chance.

For my first bill a number of years ago, I gave a floor statement in which I asked the members of the Assembly to close their eyes and picture a young girl, a Brownie or Girl Scout. I asked them to see her run up and down the stairs at home with spirit in her eyes, giggling at the softball field and bumping her teammates.

The topic we are talking about now takes that life spirit away. We have to stop it. I believe that when we come to judgment before our Creator, he is going to ask us if we saw a problem like this and if we addressed it. We had better be prepared to answer and to be accounted for. Please support S.B. 192.

**Julie Butler (Chief, General Services Division, Department of Public Safety):**

The General Services Division of the Department of Public Safety houses the State's Sex Offender Registry and Sex Offender Community Notification Website. We support S.B. 192. In the 2011 Legislative Session, we proposed a similar bill, A.B. No. 75 of the 76th Session, which would have closed these registration loopholes. That bill was not heard. In preparation for A.B. No. 75 of the 76th Session, we conducted a survey of other states to determine what their laws required with respect to teachers convicted of sex with students and sex offender registration. Twenty-eight states responded to our Division's questionnaire. In 22 states, it was a crime for a teacher to have sex with a student and was registrable in 20 of those states. We reviewed the Department of Corrections data for 2012 to 2015. Two inmates have served time for sexual conduct by a school employee or teacher and student and two have served time for sexual conduct by a university employee and student. None has had to register as a sex offender because of this loophole in the law. We also collected newspaper articles in preparation for A.B. No. 75 of the 76th Session. Between 2009 and 2011, there were seven articles in Nevada newspapers about teachers or others affiliated with schools who were arrested for sexual misconduct with a student. Ms. Miller has already alluded to the worst of those cases in which a Las Vegas track coach impregnated his student and then paid for an abortion. Senate Bill 192 would fix that.

Please note that the language in section 14 would make the registration provisions in section 7 retroactive. Given the constitutional challenges the State is experiencing with retroactivity on A.B. No. 579 of the 74th Session, the Committee might wish to consider making S.B. 192 prospective.

**Alexis Kennedy (Associate Professor, Department of Criminal Justice, University of Nevada, Las Vegas):**

I am a professor at the University of Nevada, Las Vegas, and from 2006 to 2009, I was the facilitator of the Sex Offender Management Task Force of Southern Nevada. I first testified on this issue in 2009. My students and I did research on the cases of 52 Nevada teachers and tracked where they ended up. We found that of those convicted, even those who had been ordered by a judge to register as a sex offender, none were registered. If we do not force them to register in Nevada, they leave, and we pass the risk they pose on to other states. I offer again our tracking of these 52 cases, *State of Nevada, Educator Sexual Abuse 1994-2005, Report Prepared for SESAME* ([Exhibit C](#)), which makes the case for closing this loophole.

In 2009, I brought attention to the case of John Sinchak, who was released by the Department of Corrections in 2007. Despite being ordered by a Nevada judge to register as a sex offender for life, he did not register. If you search for him today, you will find that he reregistered as a teacher in Pennsylvania. In 2013, his Nevada record caught up with him. We need to close this loophole because if these sex offenders are not teaching in Nevada, they are teaching somewhere.

**Chuck Calloway (Las Vegas Metropolitan Police Department):**  
We support S.B. 192.

**Jerod Updike:**

I support S.B. 192 with a few amendments. People make mistakes. We need to allow nonviolent people to petition the court for relief from lifetime supervision after 7 years rather than 10. The lifetime supervision provisions of the law are badly written. In 1995, Nevada thought that it was best to set up lifetime supervision, but that was before there was a Sex Offender Registry. Over 40 states decided not to follow Nevada's lead. Seven states have some type of lifetime supervision, but they do a much better job than Nevada. For example, they permit a petition for relief to be filed after 3 years, much like Nevada does for habitual criminals.

Nevada is a trap for many people like me. Lifetime supervision requires monthly visits to a parole officer and other conditions not found anywhere in the law. It should be a civic duty, not a punishment. I am not on parole or probation anymore. My sentence expired 7 years ago. No states do what Nevada does. Many people including myself are fighting in court, and we have been for years because of the illegal actions by parole and probation. The stress is unbelievable.

Consider a 22-year-old teacher who has a relationship with a 17-year-old student. Ask yourself, is that 22-year-old teacher the worst of the worst or did that teacher just make a bad decision? The teacher will lose his or her job, go to prison for 10 years and register as a sex offender—but lifetime supervision is too long.

The amendment I propose ([Exhibit D](#)) would allow me to move out of state. I have been trapped in Nevada for 12 years. The sex offender list should be for the worst of the worst, not for a first-time or a one-time mistake. I have already been punished with the original sentence and consigned to the Sex Offender Registry. Now I have a hell of a life and a price to pay. I am begging you to please consider my amendment and give me my life back. I have submitted a copy of my written testimony ([Exhibit E](#)).

**Ron Dreher (Peace Officers Research Association of Nevada; Washoe School Principals' Association):**

Until 1999, I was a major crimes detective for the Reno Police Department. I did not work sexual assault cases, but what I learned from homicides and other horrific cases was the fact that many murders of children are committed by pedophiles. They murder children because they do not want to go back to prison. Senate Bill 192 provides additional tools that we do not have. We want these people registered for life. The example Mr. Updike gave of a bad decision made by a 22-year-old teacher and a 17-year-old can be explained to the court and that may have a bearing on the outcome. However, once that person is convicted of sexual assault, registration must be mandatory.

I still work the child abduction murders. Jaycee Dugard's case is one in which a pedophile violated his victim for years and years. This is a victim's bill. We support it wholeheartedly and ask the Committee to support S.B. 192 in its entirety.

**Eric Spratley (Lieutenant, Washoe County Sheriff's Office):**  
We support S.B. 192.

**Bob Roshak (Nevada Sheriffs' and Chiefs' Association):**  
We support S.B. 192.

**Jill Tolles:**

I served on the Task Force on the Prevention of Sexual Abuse of Children created by S.B. No. 258 of the 77th Session, known as Erin's Law, during the 2013 Legislative Session. We worked hard with Legislators, members of the community and various agencies to write a report for the Governor regarding child sexual abuse prevention in Nevada. Recommendation No. 4 states: "Policies should be developed within educational institutions designed to prevent child sexual abuse by educational professionals." The discussion notes read:

Shakeshaft (2003) found that 9.6 percent of students in a national survey reported experiencing educator sexual abuse (of contact and noncontact types) at some point in their previous k-12 school years. Data suggest more female perpetrators (42.8% compared to 57.2% male) than is commonly assumed (*Educator Sexual Misconduct*, 2004). This same report also summarizes evidence that 28.3% of this sexual abuse is same-sex abuse (15.2% male-male and 13.1% female-female).

For these reasons, I support of S.B. 192.

**Steve Yeager (Office of the Public Defender, Clark County):**  
We are neutral on S.B. 192. We appreciate and understand the intent of S.B. 192. We have some concerns around the margins of the bill but not about any of its major policy objectives.

**Chair Brower:**

Can you share with us any of your marginal concerns?

**Mr. Yeager:**

Senator Harris said that her intent with respect to the college environment was to protect students who are concurrently enrolled in high school and college. Senate Bill 192 does not expressly say that. Clarifying language could be added.

We also have a concern about the sex offender tiering and whether it should be a Tier 1, a Tier 2 or a Tier 3 offense. The bill itself suggests Tier 2. Tier 1 might be more appropriate for this kind of scenario. Either way, the person would have to register and the goal of S.B. 192 would be accomplished. Finally, we have a concern about section 9, which indicates that this offense could be an enhancement for a later crime resulting in mandatory life in prison. Sexual assault on a minor is already a 35-years-to-life offense. We wonder whether it should be an enhancement for a later crime.

**Sean B. Sullivan (Public Defender's Office, Washoe County):**

We are neutral on S.B. 192. We share the same concerns as the Clark County Public Defender.

**Vanessa Spinazola (American Civil Liberties Union of Nevada):**

We are neutral on S.B. 192. We believe that people who are a threat to public safety should be incarcerated. We share the concerns of the public defenders. We are worried about removing the position of authority language, particularly with increasing the age to 18. You could have a 18-year-old student and a 22-year-old teacher. In that particular scenario, the position of authority language in section 10 is essential. We also want to put a word in for the necessity of prevention through comprehensive sex education in schools, a forum for discussion and clear reporting requirements so that we can prevent these incidents from happening in the first place.

**Senator Harris:**

I am grateful for all people who came out today in support of S.B. 192 and look forward to working with those who have concerns. We want to make sure that we are protecting our children and providing a safe and secure school environment.

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**Chair Brower:**

We are adjourned at 1:49 p.m.

RESPECTFULLY SUBMITTED:

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Connie Westadt,  
Committee Secretary

APPROVED BY:

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Senator Greg Brower, Chair

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



EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 192	C	1	Alexis Kennedy	Educator Sexual Abuse Report
S.B. 192	D	1	Jerod Updike	Proposed Amendment
S.B. 192	E	1	Jerod Updike	Testimony