

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
March 9, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:04 p.m. on Monday, March 9, 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
Senator Aaron D. Ford

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom (Excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Adam Paul Laxalt, Attorney General
Caleb S. Cage, Director of Military and Veterans Policy, Office of the Governor
Scott Katherman, Major, Deputy Staff Judge Advocate, Nevada National Guard,
Office of the Military
Brett Kandt, Special Assistant Attorney General, Office of the Attorney General
Joanna Jacob, Consumer Healthcare Products Association

Chair Brower:

I will open the hearing on Senate Bill (S.B.) 60.

SENATE BILL 60: Revises various provisions related to the Office of the Attorney General. (BDR 16-470)

Adam Paul Laxalt (Attorney General):

I want to start by discussing the part of S.B. 60 that creates the Office of Military Legal Assistance within the Office of the Attorney General. This addresses a need our State faces, which is that active duty, reservists and former military personnel have a growing need for affordable legal services. The Office of Military Legal Assistance is novel in that it does not create a new entitlement for the State, and it does not require the State to hire 20 lawyers to administer it. The Office of Military Legal Assistance will essentially be a clearinghouse. We will partner with law firms and lawyers in Nevada and accumulate pro bono hours to be used as a bank from which our military community can draw for legal services.

The first step in the process of creating the Office of Military Legal Assistance was to create the Attorney General's Advisory Committee for the Office of Military Legal Assistance. I have distributed a memo listing the membership of this Committee ([Exhibit C](#)). We believe we brought to the table all the participants in this. Our main priority is to narrow in on the demand and the range of legal services we will eventually provide.

Let me repeat that this program will not cost the State extra money to provide these services. We hope for the good will of lawyers around the State who will contribute pro bono hours to the Office of Military Legal Assistance. It will be our job to make sure all of our service member communities understand where to go for legal services and then partner lawyers to provide those services.

Chair Brower:

The Office of Military Legal Assistance is covered under sections 9, 10, 11 and 12 of S.B. 60. Does the creation of such an office within the Office of the Attorney General require a statutory change?

Attorney General Laxalt:

No. We want it to be officially recognized as an office within the Office of the Attorney General, but we do not believe anything else is needed.

Senator Harris:

Do you anticipate that the Office will also provide legal services to the families of military personnel, or will its services be restricted to active military personnel, reservists and veterans?

Attorney General Laxalt:

We are approaching this as active duty judge advocates general, in that there will be a spectrum. Typically, active duty personnel get first priority. We will not include spouses for the first year because we are concerned that we will not be able to meet the demand. In addition, spouses add a new layer of a conflict regime that would be challenging when the Office is new. We want to make sure we get off on the right foot. We are going to start with active duty and reservists, then offer some limited legal services to veterans. We hope to pin down those details with the Advisory Committee.

Senator Harris:

Assuming you have the resources, would it be your intention to extend these types of services to the families of servicemen and servicewomen?

Attorney General Laxalt:

It depends on the conflict issue. In certain areas of law, if a service member comes in for legal services, the spouse is now conflicted out. It is an administrative burden that we are not prepared to take on right now.

Chair Brower:

What types of legal services are contemplated to be offered? Why do you believe the options currently available for free legal services are not adequate to cover the needs of military personnel?

Attorney General Laxalt:

To answer your first question, part of the reason for the Advisory Committee is to narrow down the legal services to be offered. In broad terms, we contemplate dealing with consumer affairs issues, landlord-tenant issues, issues related to the Servicemembers Civil Relief Act of 2003 and issues related to the Uniformed Services Employment and Reemployment Rights Act of 1994. We anticipate focusing on 15 or so desired areas based on input from the military community in Nevada, and we will provide you with a complete list once we have it. It will largely depend on how many pro bono hours we have when we start the Office in July.

In answer to your second question, we have reached out to members of the Legal Aid Center of Southern Nevada regarding their program that helps our military community. That group does a great job, but they would be the first to say they are only meeting a fraction of the need.

Caleb S. Cage (Director of Military and Veterans Policy, Office of the Governor):

The need has been identified through both data and anecdote. I am the chair of the Interagency Council on Veterans Affairs, which compiled a report that included a survey with over 300 respondents from the veteran community. The survey asked what services were lacking in Nevada. The results showed that the highest percentage of need, 61 percent, was for legal services; that was more than the need for rural service centers, transportation services and homeless service centers for veterans. I have been working with veterans for the last 7 years, and I regularly received calls from veterans asking to be directed to an attorney. These referrals were based on relationships because there was no formal coordination at the time.

Senator Ford:

I understand we gave the Office of the Governor funds for an activity of this sort in the last Legislative Session. Are you suggesting we no longer need that in the Governor's Office?

Mr. Cage:

I am not saying we do not need that in the Governor's Office. In my position in the Governor's Office, I coordinate access to education, employment and wellness services for service members, veterans and their families. As you can imagine, that is an enormous task. The Office of Military Legal Assistance fits that overall vision, but it expands it to the legal community through the auspices of the Attorney General's Office.

Senator Ford:

Does the Governor's program not also have opportunities for lawyers to donate pro bono hours?

Mr. Cage:

No. There is no legal aspect to what the Governor's Office does, aside from coordinating some existing services. There is no pro bono piece; there is no coordination of legal services.

Attorney General Laxalt:

When we brought the Advisory Committee together, we were pleased to find that our vision for the Office of Military Legal Assistance was confirmed by everyone on the Committee. We are encouraged that we have the right people at the table to make sure we are not duplicating services. If the Legal Aid Center of Southern Nevada has the capacity to handle one or two types of the discrete areas of law that are most needed, we may just direct that particular service there. I am not a reinvent-the-wheel person; we are going to use what sources we have. The Advisory Committee will continue to meet so we can stay in front of the need in the coming months and years.

Scott Katherman, Major (Deputy Staff Judge Advocate, Nevada Army National Guard, Office of the Military):

From our perspective at the Office of the Military, this program is vital. What we can offer in our capacity with the Nevada National Guard is limited by Army and Air Force regulations. We are not authorized, for example, to appear in court. Often, we have to hand cases off to another attorney. I would prefer to have a clearinghouse, and I will underscore the fact that from our perspective, the clearinghouse is the most important part of this program. I have a hard time handing off a case to a legal service that may not be able to fulfill the requirement. On the other hand, if I were to hand off that case to people in the Attorney General's Office, I know they will find an applicable and suitable attorney to continue with the representation.

Attorney General Laxalt:

From an active duty Navy judge advocate general perspective, that is the problem we faced. You can provide a certain amount of legal assistance, but you cannot go into court or file papers. The Navy base I worked on took such a rigid view of the federal laws that we were not allowed to refer a 19-year-old service member with a serious problem to a lawyer because it showed favoritism from the government. It created problems; we were turning service members away when the core mission for legal assistance in the military community is military readiness. Any commander would testify that an 18- to 20-year-old service member in massive legal trouble will have a hard time deploying and doing the job.

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

I will take you through the remaining portions of S.B. 60. This bill revises *Nevada Revised Statutes* (NRS) 228, which specifies many of the duties and responsibilities of the Attorney General's Office.

Sections 1 through 5 of the bill transfer responsibility for administering the State's confidential address program, which was established pursuant to NRS 217.462 through 217.471, from the Secretary of State's Office to the Attorney General's Office. We worked together with the Secretary of State's Office to transfer this function because our Office serves as a nexus to provide other services for victims of crime.

I will briefly explain the purpose and scope of the address confidentiality program. This program was created to protect victims of stalking, domestic violence, sexual assault, sex trafficking and other crimes from offenders who use public records such as driver's license registries to locate their victims. The program grants participating victims fictitious mailing addresses. When victims transact business with State and local government agencies, fictitious addresses maintain victims' confidentiality and relieve those agencies of the difficult and costly responsibility of maintaining confidential records. The program greatly reduces the risk of victims being tracked through public records.

Another benefit of this program is confidential voter registration records. Pursuant to NRS 217.466, qualified electors may register to vote and vote by absentee ballot without revealing their physical addresses. Additionally, program participants are exempt from jury duty.

Thirty-six states have launched address confidentiality programs, and laws governing eligibility vary from state to state. The Confidential Address Program was established during the 1997 Legislative Session. Presently, over 680 program participants use its benefits to further secure their lives outside of the dangerous environments they fled.

Chair Brower:

Did you say the Secretary of State is okay with this?

Mr. Kandt:

Yes. This was discussed under the prior administrations of both offices, which agreed it made sense to move the program because of the nexus to the victim services functions. The new administrations for both offices concurred and felt it best served the victims to have the program in our Office. I submit a letter from the Secretary of the State confirming that and expressing support for the move ([Exhibit D](#)).

Senator Harris:

I understand that on our voter registration form, voters can check "confidential" so their addresses are not released into the public record. Is your program different from that option? I am looking for a better understanding of the services you provide to victims.

Mr. Kandt:

Our Confidential Address Program provides confidentiality with regard to voting. I will follow up and get back to you on that.

Senator Ford:

I understand capacity gave rise to the request to make the transfer. I take it the efficiency of what you can do is also a reason to transfer it. What is going to be the fiscal efficiency with the transfer?

Mr. Kandt:

There is some sort of dedicated revenue funding stream to maintain this program, which I think has minimal fiscal impact. My understanding is with the transfer of the program to our Office, that small funding stream will also be transferred. I cannot provide any more detail than that.

I will move on to sections 6 through 8 of S.B. 60. We have submitted an amendment to delete these sections in their entirety ([Exhibit E](#)). Sections 6 through 8 relate to provisions in NRS 2.165, 3.241 and 4.235 regarding notice provided to our Office when the Nevada Supreme Court, a State district court or a justice court holds a provision of Nevada law to be unconstitutional. Pursuant to NRS 228.165, we are responsible for providing a compilation or a digest of all such rulings to the Legislature. However, that might be duplicative because your legal counsel typically compiles such a list as well. We want to ensure you are apprised when a provision of Nevada law is ruled unconstitutional. However, sections 6 through 8 of S.B. 60 were going to change the process by which we

receive notice, and the courts had some concerns about what was proposed. We are working with the courts to ensure we receive that sufficient notice when the constitutionality of a provision of Nevada law may be at issue. We think that can be achieved without legislative action.

Chair Brower:

We will consider that. As I read sections 6 through 8 of the bill, it makes sense to me to take the onus off the prevailing party and put it on the clerks of the different courts. However, if your Office is not sure that is what you want to do, we can give you some room to maneuver on that.

Mr. Kandt:

We appreciate that. The courts have expressed some concern about the fiscal impact of this change, and that was never our intent. We would prefer to seek a solution short of legislative action.

We have also submitted an amendment to delete sections 12 through 15 of S.B. 60 ([Exhibit F](#)). These sections would reorganize various victim services functions within our Office. I already made reference to the Confidential Address Program; we think that program has a nexus to some of the other victim service functions we provide and should be within our Office. However, sections 12 through 15 of the bill amount to a wholesale reorganization of the victim service functions. We would prefer to put that off so we can further assess the way we provide these functions now and how they are organized.

The National Association of Attorneys General is going to do a management review audit of our Office later this spring. We are going to ask the reviewers to look at the victim service functions and provide us with some input and recommendations on how we can most effectively handle them. For now, we would like to defer what was proposed in sections 12 through 15 of the bill.

Chair Brower:

Are sections 16 through 18 to remain?

Mr. Kandt:

Yes. Section 16 of S.B. 60 extends the sunset clause for the Substance Abuse Working Group. The Working Group was originally the Methamphetamine Working Group created by Executive Order by former Governor Jim Gibbons. In 2011, the Legislature realized the value brought by the Working Group, codified

it as a statutory working group and expanded its scope beyond methamphetamines to substance abuse in general. The Working Group is established pursuant to NRS 228.800 through 228.820. When it was codified, a sunset clause was included for July 30, 2015. Attorney General Laxalt intends to continue the existing effort to address the negative impact substance abuse has on Nevada. We therefore ask you to consider extending the sunset for another 4 years, through June 30, 2019.

The Working Group has been valuable and has produced excellent information and recommendations. Last Session, A.B. No. 39 of the 77th Session came about as a recommendation of the Working Group; it created the National Precursor Log Exchange (NPLEx) system used by pharmacies and retailers to prevent illegal sales of pseudoephedrine, which can be diverted to the manufacture of methamphetamine.

By statute, the Working Group provides the Legislature with a report of its activities at the end of each biennium. If you have not seen the latest report, I have a copy of it for your perusal ([Exhibit G](#)). It identifies the current composition of the Working Group and some of the issues it has focused on this past biennium, including prescription drug abuse, which is a tremendous problem in Nevada.

We have submitted one further amendment ([Exhibit H](#)). That amendment amends section 18 of S.B. 60 to say that the effective date of sections 1, 2, 3, 4, 5, 10 and 11 is July 1, 2015. Those sections transfer the Confidential Address Program to our office and authorize us to set up the Office of Military Legal Assistance. This would give us time to set those programs up at the start of the fiscal year.

The remainder of the bill consists of conforming amendments.

I would like to make two follow-up comments about sections 10 and 11 of S.B. 60 regarding the Office of Military Legal Assistance. As for the necessity for express statutory authorization in section 11, subsection 2, we are asking you to grant us the authority to apply for and accept "grants, gifts, donations, bequests or devises." To the extent we are able to procure funding to assist us in this effort, we need your authority to accept funding from those sources. That is an important piece behind embodying this program in NRS 228.

With regard to the possible duplication of effort, the Nevada Supreme Court has a standing commission called the Access to Justice Commission. The Commission addresses the unmet civil legal needs of our populace. I have been the Attorney General's representative on the Commission. The person who heads up the Office of Military Legal Assistance will take my place on the Commission. That will be another example of how we will work within the existing framework to address the issue of unmet legal needs so as to complement each other, not work against each other.

Chair Brower:

The Attorney General suggested that a statutory change would not be necessary to create the Office of Military Legal Assistance, but it sounds like you are telling us that, at least with respect to section 11, subsection 2, legislative approval is necessary.

Mr. Kandt:

We need your authorization to accept funding or donations that may be available. We do not need section 11, subsection 2 of S.B. 60 to create the Office of Military Legal Assistance, but if we want to take advantage of resources, it would be prudent to have the authority to accept that funding.

Chair Brower:

Understood. With respect to your proposed amendments, please provide the Committee with a mock-up of the bill with those changes.

Mr. Kandt:

To summarize, those three amendments would delete sections 6 through 8 of the bill, delete sections 12 through 15 and change the effective date for specific sections to July 1, 2015.

Joanna Jacob (Consumer Healthcare Products Association):

We support the sections of S.B. 60 extending the life of the Substance Abuse Working Group.

In [Exhibit G](#), our association is listed on page 5 as the Consumer Health Products Association. That should say the Consumer Healthcare Products Association. We attended all the meetings of the Working Group. It was a productive forum that involved law enforcement and the Attorney General's Office, and we were heavily involved in the NPLeX bill last Session.

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Chair Brower:

I will close the hearing on S.B. 60. We are adjourned at 1:40 p.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 60	C	2	Attorney General Adam Paul Laxalt	Press Release regarding Office of Military Legal Assistance
S.B. 60	D	1	Secretary of State's Office	Letter of Support
S.B. 60	E	1	Brett Kandt	Proposed Amendment #2
S.B. 60	F	1	Brett Kandt	Proposed Amendment #1
S.B. 60	G	11	Office of the Attorney General	Nevada Substance Abuse Working Group 2015 Report
S.B. 60	H	1	Brett Kandt	Proposed Amendment #3