

**MINUTES OF THE SUBCOMMITTEE OF THE
SENATE COMMITTEE ON JUDICIARY**

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

The subcommittee of the Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:03 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.

SUBCOMMITTEE MEMBERS PRESENT:

Senator Greg Brower, Chair
Senator Becky Harris, Vice Chair
Senator Scott Hammond
Senator Ruben J. Kihuen

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Connie Westadt, Committee Secretary

OTHERS PRESENT:

Nicole Rourke, Clark County School District
John T. Jones, Jr., Nevada District Attorneys Association
Scott Baez, Washoe County School District
Terri L. Miller, Stop Educator Sexual Abuse Misconduct & Exploitation

Chair Brower:

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

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

Senator Becky Harris (Senatorial District No. 9):

Senate Bill 192 revises statutory provisions concerning sexual offenses committed by employees or volunteers at a school to cover a broader range of

both offenders and victims. The bill is lengthy, primarily because it inserts parallel language into several sections of the *Nevada Revised Statutes* (NRS). The new language adds to our list of offenses: sexual conduct between certain employees or volunteers at a school and a pupil pursuant to NRS 201.540 and sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

I will explain to the Committee how the new language functions in the bill by breaking it down section by section. Senate Bill 192, sections 1 and 12 add these offenses to the list of offenses that require lifetime supervision and specify the conditions of that supervision. Sections 2 and 3 add these offenses to the list of offenses that require a psychosexual evaluation as part of a presentence investigation, the results of which determine whether the offender can be granted probation or a suspended sentence. Section 4 adds these offenses to the list of crimes requiring victim and witness notification regarding the offender's release during the trial phase and upon final disposition.

Section 5 prohibits the sealing of an offender's records for these crimes. Section 6 requires registration as a sex offender and sets out conditions for parole or probation. Section 7 makes a person guilty of these offenses a Tier 2 sex offender. Section 9 provides an enhanced penalty for repeat offenders or persons who offend against a child under 14 years of age. Section 13 adds these offenses to those for which the Department of Corrections must conduct an assessment concerning the risk to reoffend, which the State Board of Parole Commissioners must take into account before granting or revoking parole.

Sections 10 and 11 expand the law to cover more employees or volunteers and to protect more students by providing that the offender no longer needs to be a person in a position of authority but rather can simply be an employee or a volunteer. The offender is guilty of a Category C felony for engaging in sexual conduct with a person up to 18 years old instead of 16 or 17 years old.

We have a responsibility to provide safe and secure schools in Nevada. There should be no distinction between an authority figure or any other school employee or volunteer who commits a sex crime against a student. The impact on a student is devastating and the scars can last a lifetime. Most children see virtually any adult as a person of authority. Moreover, while some adults, perhaps a principal or a respected teacher, may have the capacity to exert more

influence over a vulnerable student, a distinction is not warranted. Enhanced protections should not be eliminated when a student turns 18 years old.

I want to be clear about what is intended by S.B. 192, and some amendatory clarifying language may be required. Senate Bill 192 is not meant to extend to the higher educational system. The intent is to provide protection to students who are concurrently enrolled in high school and college, such as enrollment in the College of Southern Nevada High School. For example, if you are a 16-year-old who does not have a high school diploma or has not graduated with an equivalent degree, then these protections would extend to you. We extend protections to 16- and 17-year-olds. To not continue to extend protections to students turning 18 years old during their senior year of high school is bad public policy because the same protections should be extended to all students in our school districts.

Nicole Rourke (Clark County School District):

We support S.B. 192. Student safety is a top priority for our district, and this bill provides additional protections for the students entrusted to our care.

John T. Jones, Jr. (Nevada District Attorneys Association):

We support S.B. 192. This bill fills gaps in the law between these crimes against children and other crimes involving children.

Scott Baez (Washoe County School District):

We support S.B. 192 because of its enhanced punitive and monitoring measures, which we believe will help ensure that victims are protected and offenders do not reoffend.

Terri L. Miller (Stop Educator Sexual Abuse Misconduct & Exploitation):

This has been a long time coming for me. I am the mother, formerly from Pahrump, who asked then-Senator Mike McGinness in 1995 to criminalize sexual conduct by a person employed in a position of authority in our schools with a student. *Nevada Revised Statutes* 201.540 and 201.550 were added to the NRS in 1997. For 18 years, we have been able to prosecute teachers for sexually offending our students. It was brought to my attention in 2002 that these particular offenders were not required to register as sex offenders. I tried to close the registration loophole during the 2002 Legislative Session. I have been here every Session since trying to do so. Let us get this done. I want to

thank Senator Harris for taking on this issue and directing her attention to protecting not only Nevada's children but to protecting our Nation's children.

I remember the day in early 1983 when I first learned about a sexual predator at Pahrump Valley High School. My children would one day attend Pahrump Valley High School because Pahrump is where I had chosen to raise them. I assumed that it was just a matter of calling the principal and telling him that one of his employees had told me that a teacher had been found in bed with a high school student. I expected that the teacher would be summarily fired and that would be the end of it. Instead, it took me 13 years to find justice for 60 former students I identified through my own investigation. Six students claimed to have been raped. In 1996, that teacher was sentenced to 5 years to life in prison for the sexual assault of one of those students. To this day, I wonder how many of those children could have been spared had someone acted sooner. It is unfathomable that this many years later we are still seeking justice for the children who have come and the children who will come. It should not be this hard.

Nonetheless, I have continued to fight to protect children from sexual predators in the classroom. I currently serve as president of Stop Educator Sexual Abuse Misconduct & Exploitation. I have served in this capacity since 2001. I have been a member of the organization since 1996.

Along the way, I have seen some harrowing cases. A coach from Dayton High School, who impregnated his teenage victim, was convicted of sexual conduct with a student in 2002. He served 5 years of probation. A former Las Vegas high school track coach impregnated one of his team members and then helped her get an abortion. He was sentenced to probation in 2009.

Both of these cases are significant, not just in their similar victimization and outcomes, but because neither of these convicted sex offenders was required to register. Both resumed working with youths after serving their sentences—one in Las Vegas and one right here in Carson City. This is very disturbing not only to me but also to the many parents who have contacted me looking for solutions to protect their children and for peace of mind. They have found neither because our laws do not require educator sex offenders to register as sex offenders, and nothing precludes them from finding access to children again.

Senate Bill 192 is a good bill. It is the best I have seen in the 12 years that I have been working on this issue. It prevents educator sex offenders from being able to expunge their records. Two serious cases have resulted in that kind of action. In Pennsylvania, a teacher who had sexually offended students for a number of years was prosecuted. He managed to get his record expunged in Pennsylvania and made his way to Las Vegas where he taught in several elementary schools. He sexually offended in every school in which he taught until six of his second grade victims came forward and testified at his trial. That teacher is now serving a life sentence in a Nevada prison. A Pahrump Valley High School teacher sexually offended at least three victims. He too was prosecuted but pleaded to a lesser offense that did not require him to register. He was sentenced to a 12-month suspended sentence. Before his criminal history made its way into the Nevada criminal database, he managed to be licensed to teach in another state. When he was up for license renewal, he was successful in getting his Nevada record expunged. However, I notified the California Commission on Teacher Credentialing of his history. I sent them all of the news articles I had, including a half-page op-ed that he wrote for the *Pahrump Valley Times*. The Commission did not renew his license. Unfortunately, that teacher continues to teach at a college of education on the East Coast.

In my fight, I have learned alarming statistics. Nearly one in ten kindergarten through Grade 12 students suffers some form of educator sexual misconduct as noted in the publication from the Policy and Program Studies Service, *Educator Sexual Misconduct: A Synthesis of Existing Literature 2004* ([Exhibit C](#)). That amounts to nearly 44,100 Nevada students. Studies teach us that the typical pedophile employed in our schools makes his or her way through three different school employment settings before being stopped, as written by attorney Dean Pickett in "Is the Teacher in the Classroom Next Door a Convicted Felon?" in the September 20, 1999, *Education World* ([Exhibit D](#)). One sex offender can have as many as 73 child victims in his or her lifetime, as reported by the U.S. Government Accountability Office in *K-12 Education, Selected Cases of Public and Private Schools That Hired or Retained Individuals with Histories of Sexual Misconduct*, December 2010 ([Exhibit E](#)). Four hundred fifty-nine teachers were arrested nationwide last year alone. Four of them were Nevada cases. One lives right here in Carson City and the other three in Las Vegas. Those are just the people who made the headlines. How many more children are we going to put at risk?

The best we can and should do is make sure that those sex offenders we know about are never allowed to have access to children again by requiring them to register when they are convicted.

The U.S. Department of Justice, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking issued the Sex Offender Registration Notification Act (*SORNA*) *Implementation Review State of Nevada*, February 2011 ([Exhibit F](#)). The report lists offenses codified in NRS 201.540 and NRS 201.550 as Tier 2 and Tier 3 registrable offenses. It is my understanding that, by neglecting to require these convicted sex offenders to register, Nevada is out of compliance with the Adam Walsh Act and SORNA. I am not an attorney. I could be wrong, but this is how it was explained to me by the SORNA office.

One more astonishing number is 42. Forty-two is the average age a victim of child sexual abuse finds the strength and courage to come forward publicly and make a report. In my 30-plus years of advocacy to protect our students in school from sexual violations, I have listened to countless victims and parents tell me their horrifying experiences. The most compelling reason for them to battle against all odds is the fact that their perpetrators are still teaching or may teach again. It is excruciating for them to know other children have or may be harmed as they have been.

Stop for a moment to think about this: we hand over our children to educators whom we explicitly trust for 180 days per year. Who can drill down into the minds and hearts of our children better than teachers? Some teachers are motivated by malicious intent. That is what makes not monitoring the ones we know about so dangerous. I want to thank Senator Harris and all the cosponsors of this bill for your heroic efforts to protect students enrolled in secondary school by raising the age of protection to 18. While Senator McGinness fought valiantly, S.B. No. 122 of the 69th Session left a vulnerable population easy prey for those who seek to betray and abuse. For obvious reasons, it is not hard to consider protection of high school students who are 18 years old. However, here is why we must protect 18-year-old college students. One of my bright piano students attended the College of Southern Nevada High School. When she graduated, she received her high school diploma and her associate of arts degree. Since we permit our high school students to take college or university courses, we must also look out for their well-being. In closing, I want to leave

Senate Subcommittee on Judiciary
March 5, 2015
Page 7

you with the words of a survivor. It is an excerpt from a newsletter she sent from her Website "A Most Sacred Trust" ([Exhibit G](#)).

It is up to the adults in any situation to abide by appropriate boundaries of professional behavior. And if they cannot or will not do so, they need to be removed from positions of trust over our children and be held criminally and civilly responsible for the immense emotional and physical trauma that they cause. We owe it to our children, for they are our most sacred trust.

For the safety of our children and on behalf of survivors of educator sexual abuse, I ask you to pass S.B. 192 without delay. You have my written testimony ([Exhibit H](#)).

Remainder of page intentionally left blank; signature page to follow.

Senate Subcommittee on Judiciary
March 5, 2015
Page 8

Chair Brower:

The Subcommittee is adjourned at 1:18 p.m.

RESPECTFULLY SUBMITTED:

Connie Westadt,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 192	C	156	Terri L. Miller	Policy and Program Studies Service Report
S.B. 192	D	6	Terri L. Miller	Article
S.B. 192	E	44	Terri L. Miller	U.S. Government Accountability Office Report
S.B. 192	F	12	Terri L. Miller	SORNA Implementation Review
S.B. 192	G	3	Terri L. Miller	A Most Sacred Trust
S.B. 192	H	5	Terri L. Miller	Written Testimony