

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session  
April 23, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:15 p.m. on Thursday, April 23, 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)

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nick Anthony, Counsel  
Cassandra Grieve, Committee Secretary

**OTHERS PRESENT:**

Garrit Pruyt, Deputy Attorney General, Department of Corrections  
Robert Schofield, Psy.D., Northern Nevada Correctional Center, Department of Corrections  
Wes Goetz  
Brett Kandt, Special Assistant Attorney General, Office of the Attorney General

**Chair Brower:**

I will open the meeting with Assembly Bill (A.B.) 45. I have received exhibits from Mercedes Maharis ([Exhibit C](#), [Exhibit D](#), [Exhibit E](#), [Exhibit F](#), [Exhibit G](#), [Exhibit H](#) and [Exhibit I](#)).

**ASSEMBLY BILL 45:** Revises provisions governing the assessment by the Department of Corrections of prisoners convicted of sexual offenses. (BDR 16-152)

**Garrit Pruyt (Deputy Attorney General, Department of Corrections):**

Assembly Bill 45 is a textual change to *Nevada Revised Statute* (NRS) 213.1214.

Statute requires an assessment be made by the Department of Corrections (DOC) that returns a finding of either a high risk to reoffend, a moderate risk to reoffend or a low risk to reoffend. An assessment called Static-99 is utilized to evaluate sex offenders before being released. The Static-99 assessment is an evolving instrument because the science of evaluating sex offenders for the risk of recidivism is itself evolving. As the science evolves, the assessments evolve.

Statute does not allow for changes in assessment usage. Assembly Bill 45 allows the DOC to complete the Static-99 assessment, and it must have at least the option to make a finding of high risk to reoffend.

The Static-99 assessment is moving from three categories to four categories. Those categories are: low, low moderate, moderate high and high risk to reoffend; statute is: low, moderate and high.

Assembly Bill 45 allows for a more in-depth look at each individual inmate and instead of placing him or her in one of three categories, it uses four. The assessment information is passed to the State Board of Parole Commissioners, who make an in-depth determination based upon the specific information given.

**Robert Schofield, Psy.D. (Northern Nevada Correctional Center, Department of Corrections):**

Director Greg Cox of the DOC has asked me to relay his support for A.B. 45.

**Wes Goetz:**

I oppose A.B. 45. If you get rid of the low, medium and high categories and only use the high category, no sex offender will ever be released from prison.

I was present at the meeting of the Assembly Committee on Judiciary on May 4, 2011, when S.B. No. 187 of the 76th Session was heard. That bill was about evaluations back when a psychological panel evaluated sex offenders. Psychologists still do not know how to really use an assessment tool.

The DOC wants to use the Static-99 assessment, but it is only about ten questions long. Stable-2007 is the assessment tool that should be used. If an inmate is getting treatment in prison, Stable-2007 will help decide if an inmate's level of reoffending can be lowered. Most psychologists giving sex offender treatment in prison do not have a license to practice psychology in Nevada. This was discussed at the Assembly Committee on Judiciary meeting I mentioned earlier.

The requirements of licensing for psychologists in Nevada are in NRS 641.390. This law is probably from 1986 and now we are in 2015. Back then, the DOC said it did not have the budget to pay people to be licensed, but in 2015 ... I know some psychologists who work for the prison are making between \$90,000 and \$120,000 per year.

Regarding the Static-99, the DOC has a caseworker give this test to inmates, including incarcerated sex offenders. I want to know who is training the caseworkers giving these tests. I want to see a bill that says adult sex offenders, who will eventually be released from prison, are to be placed in highly instructive realistic and responsible treatment programs while they are incarcerated. This is from Nevada law. It also includes a statement recommending that, subject to Legislature appropriations, all convicted sex offenders, particularly inmates in the Department of Corrections, receive appropriate treatment to reduce the chance they will reoffend. The treatment in the prisons is not effective and is why no sex offenders have been paroled since the psychological panel was disbanded 2 years ago.

If the Committee votes to have only this high category and no longer have categories of low, moderate or high, sex offenders are going to be kept in prison. If the categories are kept as low, moderate or high, there will be a

chance for sex offenders to rehabilitate. With the Stable-2007, sex offenders may get out of prison instead of being warehoused for life.

There was a study done for the psychological panel by Mary Perrien, Ph.D., who worked for the DOC. The study was titled, "Risk Assessment for Sex Offenders Paroling from Nevada Corrections," January 4, 2013.

**Senator Ford:**

You feel A.B. 45 presents a potential transition to four categories: low, moderate low, moderate high, high. The bill itself does not indicate this transition. Perhaps a conversation is needed about the bill showing that transition. If I heard correctly, the Committee is looking at three categories. We are hearing four categories with the possibility of better assessing those who have a moderate high or high risk of offense opposed to moderate low or low risk of offense. It seems to me that four categories are better in assisting the determination of whether someone should be paroled from prison.

**Mr. Goetz:**

I spoke with a few psychologists approved by the Division of Parole and Probation to treat sex offenders once they are released from prison. These psychologists agreed that low, moderate and high should be the categories of evaluation.

**Senator Ford:**

Assembly Bill 45 says "without limitation." It is open to interpretation as to whether the prisoner is at a high risk to reoffend, and it is also open to the intention of having four categories. It might be necessary to have a conversation about why, if the intention is to go from three categories to four categories, that is not expressly mentioned.

**Chair Brower:**

When Mr. Goetz finishes, I would like someone from the State to provide clarification.

**Mr. Goetz:**

Those who use these assessment tools to assess sex offenders need to be psychologists who have doctorate degrees in psychology from accredited colleges or universities and accreditation by the American Psychological Association. Psychologists have to be specifically trained and competent in the

field of conducting psychosexual evaluations for sex offenders, including having the knowledge and competency in how to conduct, use and grade all different kinds of risk assessment instruments, tools and tests to evaluate sex offenders. Psychologists must be competent in using all risk assessment tools for sex offenders that will be consistent and maintain a level of scientific validity to ensure that the psychosexual evaluation will be precise in assessing the level of risk to reoffend: low, moderate or high.

Psychologists have to have 3 or more years of competency and specific experience in the field of giving psychosexual evaluations to sex offenders and in different kinds of professional intensive sex offender treatment that reduces recidivism and lowers the tier levels of sex offenders while they are in prison.

**Chair Brower:**

Is that a proposed amendment to A.B. 45?

**Mr. Goetz:**

Yes, that could be an amendment. I am not knowledgeable of how to create a law or an amendment, but that is what I would like to see.

During the hearing of A.B. 45 in the Assembly Committee on Judiciary, it was testified when the Static-99 is used by the DOC, inmates feel doomed when they walk into prison because the only variable in the Static-99 is age. I propose to have the amendment use the Stable-2007.

Another question from the Assembly Committee on Judiciary was how many lawsuits were against the State because a sex offender had reoffended. That question could not be answered.

The Association for the Treatment of Sexual Abusers published a report entitled, "A Reasoned Approach: Reshaping Sex Offender Policy to Prevent Child Sexual Abuse." This report is good information for the Committee to use.

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

The sole purpose of A.B. 45 is to allow the DOC to adapt and utilize whichever assessment the profession considers the best standard for establishing recidivism among sex offenders.

The bill gives the DOC the flexibility to use the best assessment possible. The DOC does not want to use one single assessment or be statutorily locked into using a specific assessment. The DOC wants to defer to the profession on what the best assessment may be.

The best assessment for the female population may not be the best assessment for the male population. The best assessment for a juvenile may not be the best assessment for an adult. We want to leave it to the experts to determine the current best assessment for a specific type of offender. We want the experts to not be limited by statute.

Statute references three levels, which is a product of the past when an assessment utilized three levels. It has been demonstrated that current assessments utilize four levels. A future assessment may utilize ten levels. We do not want to lock the DOC or the professionals in by statute and limit their ability to use the best assessment available.

Section 1, subsection 1 of A.B. 45 removes the reference to low, moderate or high and replaces it with "without limitation," a determination of the prisoner's level of risk to reoffend in a sexual manner. The Legal Division of the Legislative Counsel Bureau pointed out subsection 3 of NRS 213.1215 requires a specific determination of whether the prisoner is at a high level of risk to reoffend and included the additional verbiage of "for the purposes of subsection 3 of NRS 213.1215" in A.B. 45.

The Legal Division concurs with our conclusion that this language allows the DOC flexibility to utilize whatever assessment determined by the profession to be the best to determine the risk to reoffend. The safety of our community dictates we utilize the best industry standard assessment possible.

**Senator Ford:**

I am not sure you addressed Mr. Goetz's concern about what assurances we have there will be an opportunity to have an assessment of low or low moderate. I do not know what current research says about the best assessment tool and if the best assessment tool indicates four categories is the best approach. Can you clarify?

**Mr. Kandt:**

The Static-99 assessment was referenced in testimony. This is not a Static-99 bill. The Static-99 assessment does return those four levels of low, moderately low, moderately high and high. Static-99 is only one assessment tool. In some instances, Static-99 has been determined to be the best assessment tool for a particular population. If that one assessment is codified, you lock in the DOC and professionals who do these assessments in a way that does not best serve the public.

**Senator Ford:**

Is there another alternative to incorporate what you just said? Can you assure me the most recent research will be utilized in determining sex offenders propensity to reoffend?

**Mr. Kandt:**

We will work with the Committee and the bill's stakeholders to come up with more comfortable language. I have clearly stated our goal.

**Senator Ford:**

It may be I have no issue with this in the end, but I am always concerned about language in a statute because that is what will be interpreted.

Those interpreting and enforcing this bill may be of good intention, but there may be someone in this position 30 years from now who hates all sex offenders. This person may think all sex offenders are high risk. It concerns me if statute does not indicate how we gauge that risk in a fair way.

**Senator Harris:**

I have a question about the assessments. The Legislature has an interest in making sure the DOC has flexibility with its assessment tools. When you talk about utilizing the best possible assessment, are you talking about cohorts of offenders and types of offenses, or are you looking for the flexibility to offer the assessment that most appropriately assesses an individual's particular issues?

**Mr. Kandt:**

I am not a professional in this science or this area. I defer to Dr. Schofield.

**Dr. Schofield:**

The Static-99 assessment, which we most widely use, is designed to assess risk for adult males who are not pornography offenders. We use another instrument for females, another for people who are pornography offenders and yet another for juveniles.

**Senator Harris:**

More than utilizing assessments for particular types of offenders, how uniquely can the most current scientific research be tailored to accurately assess a particular individual's likelihood to reoffend?

If we give you latitude in utilizing a variety of different testing mechanisms, are you then going to take advantage of that and make sure the individual cases you assess accurately rate likelihood for reoffending in a low, moderate or high category? Or are you simply looking for flexibility to have a test for all women, a test for all men who do not use pornography, a test for all juveniles, etc.? How individualized do you anticipate this testing to be?

**Dr. Schofield:**

I do not anticipate it to be individualized. Having a different assessment for every inmate we see would create more confusion than what we already have. We evaluate on a regular basis and try to keep abreast of recent research in the risk assessment area. We consult with international experts in the area. If another instrument emerges that is better than what we use, we would certainly entertain changing or exchanging it for what we do now.

**Senator Harris:**

How frequently does the science change with regard to the testing of sex offenders? How long has Static-99 been considered to be an effective assessment tool versus some of the new emerging science? How frequently does a new test emerge? How scientifically valid is that test?

**Dr. Schofield:**

The Static-99 assessment represents the year it was developed: 1999. It has been in use ever since. Over the years, researchers have studied it, tested it, compared it to different populations throughout the world, and they have seen how effective it is. To date, nothing has emerged better than Static-99.



There is no instrument for assessing inmates convicted of pornography. One has been in development for at least 15 years by Dr. Michael Seto of Canada. Dr. Seto's work is the closest in coming to actually creating an instrument. We use his research in our assessment of pornography offenders, but it is still a matter under research.

**Senator Harris:**

Without any kind of a valid assessment that you can utilize for certain types of offenders, how do you accurately identify how at risk sex offenders are to reoffend?

**Dr. Schofield:**

We use the best science available at the time, which is Dr. Seto's right now. He has developed a list of items that suggest risk for reoffending in the area of pornography. We use that list of items and compare it to the inmate we are assessing. We review the inmate's history and other information and make a judgment.

**Senator Harris:**

It sounds subjective to me. How many of those judgment calls result in a low, moderate or high assessment? Is anyone able to qualify as a low-level reoffender under that type of analysis?

**Dr. Schofield:**

It is subjective. Less than five assessments were done in the past year. All five assessments were categorized as low risk.

**Senator Ford:**

Senator Harris asked about the prospect of refining tools to focus on specific populations: women, men, children, etc. I thought I heard an aversion to moving toward that, which seems counterintuitive to me. If we can refine the tool to focus on specific populations—for example, juveniles are different from adults—why is there an aversion to an effort to move toward the adoption of population-specific assessment tools?

**Dr. Schofield:**

You may have misunderstood my answer. To clarify, there is no aversion to adopt something specific for juveniles, adults, pornography, etc. We are already doing that. You may have sensed aversion to the idea of an assessment

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specifically tailored for each inmate we assess. In doing that, we would have chaos and confusion.

**Senator Ford:**

That does clarify the issue for me.

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**Chair Brower:**

I will close the hearing on A.B. 45 and adjourn the meeting at 1:47 p.m.

RESPECTFULLY SUBMITTED:

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Cassandra Grieve,  
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	2		Attendance Roster
S.B. 45	C	4	Mercedes Maharis	Letter
S.B. 45	D	1	Mercedes Maharis	Summary Analysis
S.B. 45	E	1	Mercedes Maharis	Video Link
S.B. 45	F	1	Mercedes Maharis	Graph
S.B. 45	G	1	Mercedes Maharis	Graph
S.B. 45	H	1	Mercedes Maharis	Graph
S.B. 45	I	1	Mercedes Maharis	Graph