

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Ninth Session
April 18, 2017**

The Committee on Government Affairs was called to order by Chairman Edgar Flores at 8:30 a.m. on Tuesday, April 18, 2017, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblyman Richard Carrillo (excused)

GUEST LEGISLATORS PRESENT:

Senator Pat Spearman, Senate District No. 1



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Carol Myers, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Kevin Burns, Chairman, United Veterans Legislative Council
Dana A. Grigg, Major, Assistant State Staff Judge Advocate, Office of the Staff
Judge Advocate, Nevada National Guard, Office of the Military

Chairman Flores:

[Roll was called. Committee rules and protocol were explained.] We have two bills on the agenda for today, and we are going to take them out of order. I will open the hearing on Senate Bill 148.

Senate Bill 148: Revises provisions relating to veterans. (BDR 37-57)

Senator Pat Spearman, Senate District No. 1:

Senate Bill 148 provides assistance to members of the military from the lesbian, gay, bisexual, transgender, or queer community (LGBTQ). In addition, this bill will prohibit the denial of a veteran's eligibility for any program, service, benefit, activity, or facility solely based on a veteran's status as a discharged veteran who is LGBTQ.

Why is S.B. 148 important? Research shows that LGBTQ individuals often experience disparities and barriers to service and assistance. To better understand the LGBTQ veterans' needs, the California Department of Veterans Affairs requested a California research bureau to conduct a 2014 survey during a California Department of Veterans Affairs LGBTQ Veterans Leadership Forum. The focus group data revealed opportunities for change to promote acceptance of LGBTQ veterans and their unique experiences, including needs and gaps in services. First, findings indicated the need for assistance to LGBTQ veterans to update discharge paperwork. It is difficult for veterans to change their names or reverse an other-than-honorable discharge they may have related to their sexual orientation. Second, programs are needed that are aimed at educating, employing, housing, and caring for LGBTQ veterans to help smooth the transition from military to civilian life. Third, information and data concerning LGBTQ veterans, their families, and service providers must be collected and disseminated. Last, service providers must be educated about benefits and services available and accessible to LGBTQ veterans.

Senate Bill 148 accomplishes the following to assist LGBTQ veterans and their families. Section 2, subsection 1, paragraph (a) requires the Director of the Department of Veterans Services to "Conduct outreach to, and provide assistance designed for the unique needs of, veterans and members of the military who are lesbian, gay, bisexual or transgender and their spouses and dependents."

Section 2, subsection 1, paragraph (b) states, "Provide assistance to a veteran who is lesbian, gay, bisexual or transgender in applying for an upgrade to the character of the veteran's discharge from service or a change in the narrative reason for the veteran's discharge from service."

Section 2, subsection 1, paragraph (c) states, "Provide assistance in applying for and obtaining benefits which are available through agencies and programs that provide services and resources to veterans and members of the military who are lesbian, gay, bisexual or transgender and their spouses and dependents."

Section 2, subsection 1, paragraph (d) states, "Provide assistance to veterans and members of the military who are lesbian, gay, bisexual or transgender in applying for, and in appealing any denial of, federal and state benefits for veterans and members of the military and aid to which those veterans, members of the military and their spouses and dependents may be entitled."

Section 2, subsection 1, paragraph (e) states, "Develop and distribute informational materials to veterans and members of the military who are lesbian, gay, bisexual or transgender and their spouses and dependents regarding benefits which are available through agencies and programs that provide services and resources to veterans and members of the military who are lesbian, gay, bisexual or transgender and their spouses and dependents."

Section 3 prohibits the denial of a veteran's eligibility for any program, service, benefit, activity, or facility in Nevada for which the veteran would otherwise be available solely based on a veteran's status as a discharged veteran who is LGBTQ.

Senate Bill 148 is effective July 1, 2017. The Department of Veterans Services has determined there is no fiscal impact to this measure. The state of Oregon approved a similar measure in 2015. Oregon's Senate Bill 946 created a liaison position within the Oregon Department of Veterans' Affairs to provide outreach and assistance to LGBTQ veterans and their families.

I know there are some that for various and sundry reasons may disagree with this bill. They may disagree based upon cultural, familial, or even religious preferences. But the fact remains, we have members of the military who are LGBTQ, and they are buried in Arlington National Cemetery. It is okay that not everyone served, but for those who did, for those who laid down their lives for this country, and for those who were willing to do so,

to deny access to benefits because they were discharged under an antiquated homophobic law is a disgrace and we as Nevadans are better than that. I can accept criticism, but I will never accept criticism from those who never put their life on the line for this country.

I want to end with a story that was told to me when I worked at the Pentagon Force Protection Agency of the U.S. Department of Defense. I served honorably, although in the closet my entire military career. There was not a better soldier than myself. I would have gone anywhere, done anything for this country.

One day, someone came to me and said, I understand you are an ordained minister. They said, I have someone I need you to talk to. I said okay, What is the problem? They are having a difficult time dealing with the death of their partner. I need you to put on your pastor's hat. I spoke with the individual and was given permission at that time to share their story. But, I will not share the details that might reveal who they are. The individual was in a committed relationship for four years when their partner deployed to Iraq. One day, a mutual friend asked them if they had heard from so and so. The individual said, No, last time I heard they were headed out on the convoy. Why do you ask? Oh, no reason but you might want to call company headquarters. They did. The person on the other end, who was part of the rear detachment duty said, I cannot give you any information because you are not family. Now, the individual is very concerned. What is going on? A few days later, watching the news and watching the names of service members who had been killed in action, they saw their partner's name.

The partner's parents came to their home—the home they had shared together, that they bought together, with the furniture they bought together, and that they decorated together. The partner's parents cleaned out everything and told the living partner, If you come anywhere near the funeral we will out you, and you will lose your career.

The individual stayed away from the funeral, but they did go to the graveyard. They stayed far enough away so that no one could see them. After everyone was leaving and the coffin was being laid into the ground, he or she raced over to the gravesite, fell face down, reached over, and managed to touch the flowers that adorned his or her partner's coffin, sobbing. No one—no one—should ever have to do that simply because of who they are or whom he or she loves.

I am so glad that President Barack Obama and Senator Harry Reid, along with others in Congress decided to dismantle, "Don't ask, don't tell" [Don't Ask, Don't Tell Repeal Act of 2010]. It was a homophobic law that never should have existed [Pub.L. 103-160, Div. A, Title V, § 571(a)(1), Nov. 30, 1993, 107 Stat. 1670]. I bring Senate Bill 148 before this Committee because I believe we have veterans in Nevada who do not know that they can get an upgrade to their discharge if they were discharged solely because of who they are. Depending on who their commander was, depending on how "religious" their commander was, or how culturally correct they tried to be, veterans discharged under "don't ask, don't tell" and before may have received anything from a general to a dishonorable to a bad conduct discharge. Even the level of discharge was unfair. This bill is another step to

correct it. As I have said before, there are some who may disagree with the science of accepting members of the LGBTQ community. You may disagree on religious grounds, you may disagree culturally, but the fact that you cannot deny is that members of the LGBTQ community are buried in Arlington National Cemetery and in veterans' cemeteries all across this country.

All gave some. Some gave all. Thank you.

Chairman Flores:

Thank you, Senator Spearman, for your passionate remarks and for your commitment to equality.

Assemblywoman Monroe-Moreno:

Thank you, Senator Spearman, for bringing forth this important bill. I served with a number of law enforcement officers who had been discharged and were never able to express who they really were. My question concerns conduction of the outreach. Do you have any examples of outreach that might be conducted in the community? Is it addressed directly in the bill?

Senator Spearman:

One of the things that they have done in California and in other states with this law is to reach out to agencies that already serve veterans to ensure they have the information available. Outreach can be printed, information on a website, or through word of mouth. Many veterans do not know that even if they did not retire from military service, they are still a veteran. Some feel like if they did not retire from military service, they are not a veteran. There are bills in this session that ask the question, Have you ever served in the armed forces? not, Are you a veteran? It is an outreach campaign integrated into existing programs, which is why there is no fiscal note.

Assemblywoman Neal:

I am not clear on the range of discharges before "don't ask, don't tell." Is it because LGBTQ veterans were under that rule? Or was it because the military found out they were gay?

Senator Spearman:

"Don't ask, don't tell" was implemented in the 1990s. I was commissioned in 1978. You always wondered when the commander said, I need you to come to my office, if there was going to be someone there who would accuse you of being gay. As a matter of fact, I never told my family. They may have known, but I never told them because I never wanted them to be under oath and forced to lie. Prior to the 1990s, there were those who were discharged because someone accused them. They were wrongly accused because they were not gay. There were some who were discharged prior to "don't ask, don't tell" because they simply said, yes, or because someone found a picture of a partner, saw them on vacation with a partner, saw them eating dinner with a partner, or whatever. Prior to "don't ask,

don't tell" it was a free-for-all. "Don't ask, don't tell" is a compromise position. The current political atmosphere in Washington, D.C., would be humorous if it were not so sad concerning the LGBTQ community.

There were some personnel discharged because people accused them of being gay and the military said they might be compromised by the Soviet Union. What? They might be compromised because the Soviet Union would have something that could be used against them. They were discharged: some in the 1970s, some in the 1980s. The idea behind Senate Bill 148 is to ensure everyone who was discharged solely based on their sexual orientation has an opportunity to upgrade their discharge.

Assemblywoman Neal:

Is there a time frame for upgrading, or is it in perpetuity?

Senator Spearman:

It is in perpetuity. There is no time limit because someone may not consider themselves a veteran. They received a bad conduct discharge, general, or less than honorable but never said anything to anyone. They simply said, Yeah, I was in the military, and I got out. We are trying to cast a wide net, and that mandates not having a time limit. We are saying that if you served and if you were discharged solely because of who you are, you are eligible for an upgrade.

Assemblywoman Neal:

Section 2, subsection 1, paragraph (a) provides that the Director shall conduct outreach and provide assistance. Currently, we have a problem of identifying veterans and inputting them into the database. Now we have a specific unique group who may or may not want to be identified. What will the process be for finding the individuals to upgrade their discharge? What will the process be for conducting the outreach?

Senator Spearman:

In terms of finding the veterans, the process will be the same as what is currently done to identify veterans. After this bill had passed the Senate, I posted it on Facebook. All of my Facebook friends reposted it, and all of their friends reposted it. We posted to Instagram and Twitter. We want to say very publicly, if this is you, you have an opportunity to have your discharge upgraded.

You are correct that it is difficult to identify veterans right now. I do not think that the difficulty should stand in the way of our saying to those veterans, for whom this bill is designed, that it is too much, it is too hard, and we cannot do it. We are reaching out. Some veterans heard the information at the Las Vegas Vet Center, which is part of the U.S. Department of Veterans Affairs. These veterans had no idea they were eligible but called to say, Thanks, I just heard I might be eligible for a discharge upgrade. Those are the types of things we hope to knit together and provide an information chain to people who qualify for a discharge upgrade.

Some religious institutions and civic organizations are willing to put the information in their announcements. I would encourage each member of this Committee, once it passes, to make sure you are telling people. If individuals had something other than an honorable discharge, they can contact the Department of Veterans Services in Nevada and inquire about their eligibility.

Assemblywoman Neal:

Section 3, subsection 1 states, "No veteran may be denied eligibility for any program, service, benefit, activity or facility of a department" I thought there was a federal law that stated an individual could not be denied eligibility for any program, service, or benefit. Are we retroactively walking backward and pulling services forward for individuals who were denied over time?

Senator Spearman:

Both. At the federal level when "don't ask, don't tell" was repealed, the law allowed for an opportunity to upgrade a discharge. But some states denied the individual's service. Senate Bill 148 is designed to ensure that if by chance the 10 percent of sanity remaining in Washington, D.C., happens to leave, then the people in Nevada will be protected.

Chairman Flores:

Is there anyone in Carson City or Las Vegas wishing to speak in support of S.B. 148?

Kevin Burns, Chairman, United Veterans Legislative Council:

The United Veterans Legislative Council is the voice for the majority of the nearly quarter of a million veterans in Nevada. We are here to support S.B. 148 wholeheartedly. Thank you, Senator Spearman, for bringing it forward. My testimony in front of the Senate Committee on Government Affairs is one of the exhibits ([Exhibit C](#)). However, I would like to add a couple of thoughts.

The treatment of the LGBTQ community, as Senator Spearman so eloquently stated, is nothing short of reprehensible. I, too, was commissioned in the 1970s in the U.S. Marine Corps, and some of the things I witnessed were well beyond poor treatment, they were criminal. The recognition of the changing social, moral values needs to be identified, and S.B. 148 goes a long way in doing that. The part we love about this bill is when you look at section 2 there is "conduct outreach," then "provide assistance," "provide assistance," "provide assistance," "provide assistance," and finally, "develop and distribute informational materials."

As Senator Spearman noted, many of the people discharged in those days ended up with dishonorable discharges, bad conduct discharges, or general discharges. There was no standard for treating someone who came forward as being part of the LGBTQ community. Many of them have faded into the woodwork as far as the veteran community goes and will not even acknowledge that status.

Assemblywoman Neal asked how we are going to find all these people. Many of them do not associate with my community—the veteran community. Many of us are actively working and pursuing in our individual, small communities to get the word out. We will work with them to upgrade their discharges. We have become a little more enlightened in the twenty-first century, and we are trying to prove to the rest of the world that while Nevada may have a lot of rock, we are not living under it. This legislation is critical to allowing us to move that process forward. Many members served honorably and long for this country, and perhaps at the end of their careers were outed. Their 15, 18, 19 years of honorable service for this country were flushed down the toilet. We urge the Committee to task this legislation so we can show the rest of the world that Nevada has joined the twenty-first century.

Chairman Flores:

Is there anyone in Carson City or Las Vegas wishing to speak in opposition of S.B. 148? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Senator Spearman, do you have any closing remarks?

Senator Spearman:

My closing remark is that their service speaks for themselves. Thank you.

Chairman Flores:

I will close the hearing on S.B. 148 and open the hearing on Senate Bill 7.

Senate Bill 7: Revises provisions of the Nevada Code of Military Justice. (BDR 36-169)

Dana A. Grigg, Major, Assistant State Staff Judge Advocate, Office of the Staff Judge Advocate, Nevada National Guard, Office of the Military:

I am here on behalf of Brigadier General William R. Burks, The Adjutant General of Nevada, to present Senate Bill 7. This is a housekeeping bill. We are proposing to clean up language from two sessions ago when our department did a major overhaul on *Nevada Revised Statutes* (NRS) Chapter 412, our Nevada Code of Military Justice, which is the state equivalent to the Uniform Code of Military Justice. We are cleaning the language up to make it whole, flow well, and so there is no more confusion embedded in the language.

Assemblywoman Neal:

In section 1, the language "in a duty status" is struck out. If that language is struck out, does that mean offenses committed off base are not subject to the Nevada Code of Military Justice?

Dana Grigg:

This law was cleaned up two sessions ago. In that cleanup, we encompassed the jurisdiction 24/7 over our members. There are personal jurisdiction and subject matter jurisdiction, and they apply on and off duty. If you are a member of the Nevada National Guard, Office of the Military, we have personal jurisdiction over you. That has been law since 2013 [Senate Bill 18 of the 77th Session]. If a crime is committed or something that is equivalent to a crime and it has a military nexus, the Nevada National Guard has jurisdiction whether

the member is on or off duty. That was encompassed in NRS Chapter 412 and changed in 2013. Another change in 2013 was the uniformity and a severability clause. The language does not flow in regards to the uniformity of the entire law, and it should be stricken. At this point in time, it is superfluous language. Leaving it in makes it more confusing to our members, and it was a mistake not to remove it. We are not doing anything different from how the law was applied in 2013.

Assemblywoman Neal:

Section 2 states, "... willfully or recklessly wastes, spoils or otherwise willfully and wrongfully destroys or damages any property other than military property" What is the military nexus that would occur with the property?

Dana Grigg:

There is military property at the state and federal level ([Exhibit D](#)). At the Nevada National Guard, we have many pieces of equipment that fit in those two categories. We need to have an interest in that in order to go after someone for doing any damage to our property on base. We do not have jurisdiction over civilians. This refers to the fraud, waste, and abuse clause. If you are a guard member and you do something to the state military property or the federal military property, we have jurisdiction.

Assemblywoman Neal:

My confusion is with "any property" versus "military property." If it is on the base, I assume it is all "property".

Dana Grigg:

This could apply to a member's property, which does not belong to the base or the state. If you come on the base, you must be a Nevada National Guard member or have an identification card. We are trying to preserve jurisdiction over members if they are doing damage to the property of another member and maintain concurrent jurisdiction with the state police and local authorities.

The Nevada National Guard is a unique entity because we do share concurrent jurisdiction with local authorities and other state figures. We have a unique relationship with those entities. This may be some antiquated language left over, but we are reserving the right to maintain rights in the interest of base property regardless of whether it is member, state, or federal property and it is on the base. The language is overall encompassing.

Assemblyman Kramer:

In the military, an individual is subject to the Uniform Code of Military Justice. Sometimes an individual on a U.S. military base can be put in the position of double jeopardy. My experience was, unless it was really serious, the local jurisdictions were more likely to allow the Uniform Code of Military Justice to attach and have it become part of the individual's military record. The Uniform Code of Military Justice is harsher than the local magistrates. If I go to work on the base and perform guard duty, I get off work,

have a beer, drive, and get caught driving under the influence (DUI), the Uniform Code of Military Justice will have a say in how I am treated. I would like you to address the double jeopardy.

Dana Grigg:

That question came up in 2012 and 2013. We have addressed it over and over again because it is a great lawyer question. From a double jeopardy perspective and an active duty lens, local jurisdictions have a little more wiggle room to state there is no double jeopardy with the federal government. They would not want the member tried under the Nevada Code of Military Justice depending on the crime.

Uniquely, we are a state entity but also a federal entity. Because the Nevada National Guard falls under state law, it would clearly be double jeopardy. If you did go off base, whether you are on or off duty, you drink, you are pulled over, and convicted of a DUI or acquitted, the Nevada National Guard cannot indict you. That is reserved to the local jurisdictions.

There is a carve-out in NRS Chapter 412 that reverses the first chance jurisdiction for assault, battery, murder, rape, sexual assault, and theft over \$100. Those kinds of crimes may uniquely fall in the federal status on active duty and are not something we have the capabilities or the resources to do on a regular basis as a large active duty base can. As most of you know, we are citizen soldiers, we live in the community, and we do not live on base. We have a unique relationship with the local authorities, and we want them to have the first chance. Most of them have concurrent or proprietary jurisdiction on our bases, and if we have an offense such as that, we are going to call on them. There are times when an offense will be a uniquely military offense. We would look at that, and in most cases, the local authorities would want us to take jurisdiction. As an example, failure to go to an appointed place of duty would be locally tried, convicted, or acquitted.

Chairman Flores:

Is there anyone in Carson City or Las Vegas wishing to speak in support of S.B. 7? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in opposition of S.B. 7? [There was no one.] Is there anyone in Carson City or Las Vegas wishing to speak in the neutral position? [There was no one.] Are there any closing remarks?

Dana Grigg:

I would like to thank the Committee for your time today and, on behalf of Brigadier General Burks, thank you for all you do for our state.

Chairman Flores:

I will close the hearing on S.B. 7. To our service members, thank you for your service. Is there anyone here for public comment [There was no one.] This meeting is adjourned [at 9:08 a.m.].

RESPECTFULLY SUBMITTED:

Carol Myers
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony submitted by Kevin Burns, Chairman, United Veterans Legislative Council, dated March 8, 2017, in support of Senate Bill 148.

[Exhibit D](#) is a letter dated May 8, 2017 to Chairman Flores and members of the Assembly Committee on Government Affairs, authored and submitted by Dana A. Grigg, Major, Assistant State Staff Judge Advocate, Office of the Staff Judge Advocate, Nevada National Guard, Office of the Military.