

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session
May 3, 2019**

The Senate Committee on Judiciary was called to order by Vice Chair Dallas Harris at 8:23 a.m. on Friday, May 3, 2019, in Room 2135 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 Nicole J. Cannizzaro, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Melanie Scheible
Senator Scott Hammond
Senator Ira Hansen
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Senator Patricia Spearman, Senate District No. 1
Assemblywoman Lesley E. Cohen, Assembly District No. 29
Assemblywoman Lisa Krasner, Assembly District No. 26
Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Nicolas Anthony, Committee Counsel
Eileen Church, Committee Secretary

OTHERS PRESENT:

Dora Uchel
Juan Martinez

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Shirley Cyrus
Craig Suponch
Bailey Bortolin, Coalition of Legal Service Providers
Kendra G. Bertschy, Deputy Public Defender, Office of the Public Defender,
Washoe County
Mike Dyer, Nevada Catholic Conference
The Honorable James Hardesty, Justice, Nevada Supreme Court
Chuck Callaway, Las Vegas Metropolitan Police Department
Jennifer Noble, Nevada District Attorneys Association
Eric Spratley, Nevada Sheriffs' and Chiefs' Association
John J. Piro, Deputy Public Defender, Office of the Public Defender,
Clark County
Holly Welborn, American Civil Liberties Union of Nevada
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence
Mary Sarah Kinner, Washoe County Sheriff's Office
Marlene Lockard, Nevada Women's Lobby
Sandy Anderson, Executive Director, Board of Massage Therapy
Patricia Moser Morris, Nevada Federation of Republican Women
Janet Quintero, United Way of Southern Nevada
Jessica Adair, Attorney General's Office
Jake Villani, Chief Deputy District Attorney, Office of the District Attorney,
Clark County

VICE CHAIR HARRIS:

I will open the hearing of the Senate Committee on Judiciary with Assembly Bill (A.B.) 140.

ASSEMBLY BILL 140 (1st Reprint): Prohibits discrimination against persons with a physical disability in certain proceedings relating to children.
(BDR 11-172)

ASSEMBLYWOMAN LESLEY E. COHEN (Assembly District No. 29):

I have submitted my testimony ([Exhibit C](#)).

DORA UCHEL:

I am a parent of five children and attend the University of Nevada, Reno. Blindness does not define who I am, it makes me stronger. I do not want to see any parent have his or her child taken away solely because of his or her physical disability.

JUAN MARTINEZ:

Even though I am blind, every day I walk over a mile from our home to pick up my daughter from school.

SHIRLEY CYRUS:

My parents taught me not to judge because it is rude. There are kids who are overweight in my school and my friends would judge them and I would ask them why they are judging. I try to defend them and explain sometimes it may not be in his or her control; perhaps they take pills and it causes them to eat a lot. Another thing my parents have taught me to be strong and determined and good-hearted. Being blind does not define you.

CRAIG SUPONCH:

At the age of 35, my doctor told me I would be lucky to still be walking by the time I reached 50. I am now 53 and never thought I would be blind. The reason why I bring this up is because my granddaughter was born in 2013, and I had slowly started losing my vision. I was the one taking care of her. I understand being disabled, blind and partially deaf are things that should not happen to anyone. You cannot take a child from someone because he or she is disabled. This bill needs to pass as we are regular people trying the best we can to raise our children and grandchildren.

SENATOR PICKARD:

This bill levels the playing field for children. The group we are talking about do not call themselves disabled but differentlyabled. Differentlyabled parents have a fair shot at keeping their families together.

BAILEY BORTOLIN (Coalition of Legal Service Providers):

We support A.B. 140.

KENDRA G. BERTSCHY (Deputy Public Defender, Office of the Public Defender, Washoe County):

We support A.B. 140. Originally we were concerned the way this was phrased that someone's blindness could be used in determining whether a child should be removed and in need of protection. The way it is written in this draft does resolve our issue.

MIKE Dyer (Nevada Catholic Conference):

We support A.B. 140.

VICE CHAIR HARRIS:

I will close the hearing on A.B. 140 and open the hearing on A.B. 112.

ASSEMBLY BILL 112: Revises provisions governing the Advisory Commission on the Administration of Justice. (BDR 14-589)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):

Assembly Bill 112 deals with the duties of the Advisory Commission on the Administration of Justice. It is an Interim committee which meets in between sessions of the Legislature.

THE HONORABLE JAMES HARDESTY (Justice, Nevada Supreme Court):

In 1995, the Legislature adopted major revisions to Nevada's criminal code under the so-called concept of truth in sentencing. Part of the plan included an expectation there would be an Interim commission called an Advisory Commission made up of various stakeholders of the criminal justice system which would evaluate changes needed and the effects of the statutes that had been enacted. In the following two Interim Sessions, the Commission met—it did not produce any material recommendations, and there was no data assessment or evaluation of the impact of the criminal code adjustments that had been made in 1995.

From that point forward, the Commission did not meet at all. For more than a decade, the expectations of the Legislature in 1995 to evaluate and understand the impact of its major changes to the criminal code had gone wanting. In 2007, I testified and urged the Legislature to reinstate the Advisory Commission. The Commission was then reconstituted and its membership was changed and began to do what was expected in 1995. That process has continued over the last ten years.

Unfortunately, these Interim commissions do not have sufficient staff support or time to deal with the weighty issues which were generated from the reforms made to the criminal justice system. Frequently, efforts to evaluate data in order to understand important decisions both fiscal as well as public safety and related issues like recidivism are not able to be assessed because of the insufficiency of the data that exists within our system as well as the limitations that have been placed on the number of meetings these Interim commissions can conduct.

During this last Session, for the first time in almost 22 years—with the assistance of the Crime and Justice Institute—Nevada was selected as a justice reinvestment state. We received the benefit of over \$1 million for staff services to do deep dives into the data that drives Nevada's criminal justice system. That effort produced, for the first time on the Advisory Commission, a focused assessment on revisions to Nevada's criminal justice system which makes systemic changes and improvements and addresses a growing fiscal impact to the State projected to be almost \$750 billion over the next 10 years. With these changes, the Legislature will have the opportunity to debate major issues this Commission reviewed extensively, saving the State almost \$650 million over the next 10 years.

This bill reforms the Advisory Commission in a major way. It redirects its attention to the important subjects the Commission should be addressing: to assess if this new legislation is passed, how it operates, how it functions and how it addresses the State's fiscal relationship in connection with the criminal code and the criminal justice system.

In addition, it will provide the Legislature with ongoing data-driven information about what to expect and what changes are appropriate. This Commission's agenda should be more focused on the original expectations for the Commission and this bill does that.

The Advisory Commission unanimously recommends these changes to the Legislature.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):
We support A.B. 112.

JENNIFER NOBLE (Nevada District Attorneys Association):
We support A.B. 112.

ERIC SPRATLEY (Nevada Sheriffs' and Chiefs' Association):
We support A.B. 112.

JOHN J. PIRO (Deputy Public Defender, Office of the Public Defender, Clark County):
We support A.B. 112.

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Ms. BERTSCHY:
We support A.B. 112.

HOLLY WELBORN (American Civil Liberties Union of Nevada):
We support A.B. 112.

VICE CHAIR HARRIS:
I will close the hearing on A.B. 112 and open the hearing on A.B. 120.

ASSEMBLY BILL 120 (1st Reprint): Revises provisions relating to the crime of sex trafficking. (BDR 15-817)

ASSEMBLYWOMAN LISA KRASNER (Assembly District No. 26):
Assembly Bill 120 revises the crime of sex trafficking. According to the National Conference of State Legislators, approximately 293,000 children in the United States, mostly girls 12 to 14 years of age, are exploited and trafficked for sex. Reports of human trafficking are on the rise. In Nevada, the National Human Trafficking hotline received 305 calls in 2017, representing a 27 percent increase from 241 calls in 2016.

Sex trafficking is a pervasive national problem in the United States. Reports indicate sex trafficking occurs in both rural and urban areas with victims who are children and adults of any gender, race and sexual orientation. Sex trafficking is defined by the federal Trafficking Victims Protection Act as the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purpose of a commercial sex act. In 2016, there were sex trafficking arrests of minors in 46 out of the 50 states. Three-quarters of the cases involved only minor victims. The average age of the sex trafficker was 28.5 years old and the average age of the child was 13. The minor victims were transported up to 17 states for the purpose of being prostituted. The majority of the sex trafficking activities were in hotel rooms. Technology—like email, online ads and smart phones—were used in 67.3 percent of the cases.

Recruitment tactics focused on runaways, friendship, romance, giving a place to stay to the victim and promises of money or wealth. Victim control tactics included threats of harm, psychological abuse, sexual violence, physical assault with a weapon and drugs to control the minor victim's behavior. More than half of the victims were runaways.

The findings of the study indicates arrests for the sex trafficking of minors is increasing. The majority of the sex traffickers had only minor victims which indicates the type of specialty offender.

In 2009, Las Vegas was identified by the FBI as one of 14 cities in the United States with high rates of child prostitution. The Las Vegas Metropolitan Police Department claimed that roughly 400 children are picked off the streets from prostitution each year. The United States Justice Department has also named Las Vegas among the 17 most likely destinations for human trafficking. Shared Hope International says Las Vegas is a major hub for child sex trafficking and Nevada has experienced an increase in child sex trafficking.

Section 1 of this bill expands the crime of sex trafficking to include a person who knowingly benefits financially or receives something of value for an act that constitutes prostitution. Something of value could be drugs, a stereo, a television, a computer or a phone.

MR. CALLAWAY:
We support A.B. 120.

MS. NOBLE:
We support A.B. 120.

MR. SPRATLEY:
We support A.B. 120.

SERENA EVANS (Nevada Coalition to End Domestic and Sexual Violence):
We support A.B. 120.

MARY SARAH KINNER (Washoe County Sheriff's Office):
We support A.B. 120.

MARLENE LOCKARD (Nevada Women's Lobby):
We support A.B. 120.

SANDY ANDERSON (Executive Director, Board of Massage Therapy):
We support A.B. 120.

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MR. DYER:

We support A.B. 120.

PATRICIA MOSER MORRIS (Nevada Federation of Republican Women):

We support A.B. 120. I have submitted a letter of support from our President ([Exhibit D](#)).

JANET QUINTERO (United Way of Southern Nevada):

We support A.B. 120. I have submitted a letter of support from our President and CEO ([Exhibit E](#)).

VICE CHAIR HARRIS:

I will close the hearing on A.B. 120 and open the hearing on A.B. 142.

ASSEMBLY BILL 142 (1st Reprint): Eliminates the statute of limitations for the prosecution of sexual assault in certain circumstances. (BDR 14-175)

ASSEMBLYWOMAN LISA KRASNER (Assembly District No. 26):

Assembly Bill 142 abolishes the statute of limitations for the prosecution of sexual assault when DNA evidence is available.

One out of every six women has been a victim of an attempted or completed rape in her lifetime. Every 98 seconds an American female or male is sexually assaulted. Every 11 minutes that victim is a child. Approximately 1 in 6 boys and 1 in 4 girls are sexually abused before the age of 18. Only 5 out of every 1,000 perpetrators will end up serving time in prison.

When a crime is committed, in this instance when a person is raped, there is a window of time the district attorney has to charge the perpetrator. The laws which determine this time frame are called criminal statutes of limitations which vary by state and by situation.

Statutes of limitations were put in place to discourage convictions based on unreliable witness testimony, including memories of events which occurred many years in the past. In recent years, evidence that does not erode over time has become more readily available, such as DNA evidence. According to the FBI, rape or sexual assault, which is a felony sex crime, is the second most serious crime behind murder. Ten states have abolished the statute of limitations for all felony sex crimes to allow a perpetrator to be prosecuted at

any point as long as there is enough evidence to win a conviction. Twenty-six states have abolished the statute of limitations for felony sexual assault when DNA evidence is available. Nevada law allows a 20-year statute of limitations for rape of an adult. This would remain the same under A.B. 142. Assembly Bill 142 would create an exception to the Nevada statute of limitations for a sexual assault when DNA evidence is available. When the identity of the person is established through DNA evidence, the statute of limitations is abolished and there is no statute of limitations within which a prosecution for sexual assault must be commenced. By adding this exception with DNA evidence, there will be a way for victims to seek justice where a report is not filed or a report was filed but lost, misplaced or could not be found.

In Nevada, we had a rape kit backlog in 2015 of nearly 8,000 kits which were untested. As of today, over 95 percent of those rape kits have been sent for testing. This bill will directly benefit victims who, through no fault of their own, did not have their rape kit tested or chose not to have a rape kit done. This will allow victims who were sexually assaulted and completed a rape kit at a hospital, clinic or other medical exam center to have their case prosecuted and have the justice and closure they deserve. I am told 15 to 20 percent of persons who have a rape kit done at a medical center choose not to file a police report.

SENATOR PATRICIA SPEARMAN (Senate District No. 1):

This Session, I have sponsored several bills addressing sexual assault. I am a cosponsor of A.B. 142 to further help victims of sexual assault by eliminating the statute of limitations for the prosecution of sexual assault if the identity of the person accused of committing the crime is established by DNA evidence.

DNA testing is a powerful tool and can be used to ensure accuracy and fairness in our criminal justice system. When biological evidence exists, DNA can be used to identify criminals with incredible accuracy. By the same token, DNA can be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes.

DNA is used to solve crimes in one of two ways. In cases where a suspect is identified, a sample of that person's DNA can be compared to evidence from the same crime scene. The results of this comparison may help establish whether the suspect committed the crime. In cases where a suspect has not yet been identified, biological evidence from the crime scene can be analyzed and compared to offender profiles in DNA databases to help identify the perpetrator.

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MR. CALLAWAY:
We support A.B. 142.

MS. LOCKARD:
We support A.B. 142.

MS. NOBLE:
We support A.B. 142.

JESSICA ADAIR (Attorney General's Office):
We support A.B. 142. About 8,000 rape kits have been tested. Most of the kits have been tested or are on their way to be tested. There have been preliminary matches in southern Nevada of about 50 percent in the Combined DNA Index System.

MS. ANDERSON:
We support A.B. 142.

MR. SPRATLEY:
We support A.B. 142.

MS. EVANS:
We support A.B. 142.

MS. KINNER:
We support A.B. 142.

MS. QUINTERO:
We support A.B. 142. I have submitted a letter of support from our President and CEO ([Exhibit F](#)).

JAKE VILLANI (Chief Deputy District Attorney, Office of the District Attorney, Clark County):
We are in opposition of A.B. 142. Existing law protects the statute of limitations for these crimes. We have 20 years for a sexual assault victim to report a sexual assault. After a sexual assault crime has been reported to law enforcement, there is no statute of limitations.

MS. NOBLE:

I appreciate the comments from the Clark County District Attorney's Office, but I would like to make clear for the record that the District Attorneys Association has worked with Assemblywoman Krasner throughout this process and John Jones and I represent all the district attorneys in Nevada, including Clark County, and we are in support of this bill.

VICE CHAIR HARRIS:

I will close the hearing on A.B. 142.

CHAIR CANNIZZARO:

I will open the work session. We will be removing A.B. 260 from the work session. The remaining bills have been placed on a consent calendar for the work session.

ASSEMBLY BILL 260: Revises provisions governing mental health.
(BDR 4-1031)

PATRICK GUINAN (Committee Policy Analyst):

When we have bills with no amendments, we put them on a single calendar with one do pass motion. Today we have A.B. 8, A.B. 16, A.B. 61, A.B. 126, A.B. 266, A.B. 418, A.B. 480, A.B. 481 and A.B. 482.

ASSEMBLY BILL 8: Revises provisions governing the levels of supervision for probationers and parolees. (BDR 16-346)

Assembly Bill 8 was heard on April 18. The work session document ([Exhibit G](#)) summarizes the bill.

ASSEMBLY BILL 16 (1st Reprint): Increases the time for law enforcement officers to execute and return search warrants to obtain DNA samples.
(BDR 14-423)

Assembly Bill 16 was heard on April 25. The work session document ([Exhibit H](#)) summarizes the bill.

ASSEMBLY BILL 61 (1st Reprint): Revises provisions governing the authority of the Director of the Department of Corrections to assign certain offenders to serve a term of residential confinement. (BDR 16-203)

Assembly Bill 61 was heard on April 30. The work session document ([Exhibit I](#)) summarizes the bill.

ASSEMBLY BILL 126 (1st Reprint): Enacts provisions governing the procedures for changing the name of an unemancipated minor who is in the legal custody of a child welfare agency. (BDR 3-402)

Assembly Bill 126 was heard on May 1. The work session document ([Exhibit J](#)) summarizes the bill.

ASSEMBLY BILL 266 (1st Reprint): Revises provisions governing the sealing of records relating to evictions. (BDR 3-809)

Assembly Bill 266 was heard on May 1. The work session document ([Exhibit K](#)) summarizes the bill.

ASSEMBLY BILL 418 (1st Reprint): Enacts provisions governing an offer of judgment. (BDR 2-1115)

Assembly Bill 418 was heard on April 29. The work session document ([Exhibit L](#)) summarizes the bill.

ASSEMBLY BILL 480: Enacts provisions governing supported decision-making agreements. (BDR 13-164)

Assembly Bill 480 was heard on May 2. The work session document ([Exhibit M](#)) summarizes the bill.

ASSEMBLY BILL 481: Revises provisions relating to civil actions and homesteads. (BDR 2-1106)

Assembly Bill 481 was heard on April 29. The work session document ([Exhibit N](#)) summarizes the bill.

ASSEMBLY BILL 482 (1st Reprint): Revises provisions relating to governmental administration. (BDR 11-1111)

Assembly Bill 482 was heard on May 1. The work session document ([Exhibit O](#)) summarizes the bill.

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SENATOR HAMMOND:

I would like to pull A.B. 126 for further discussion.

CHAIR CANNIZZARO:

We will pull A.B. 126 for further discussion, and it will not be part of the consent calendar.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 8, A.B. 16, A.B. 61, A.B. 266, A.B. 418, A.B. 480, A.B. 481 and A.B. 482.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR HAMMOND:

I agree with the amendment offered by the Washoe County Public Defender's Office, and we can continue to talk to the office about getting that language into the bill. I support the intention of the bill and what the bill sponsors are trying to accomplish, but there has to be an avenue for parents for their rights to still be asserted before a name change happens.

SENATOR HANSEN:

I agree with Senator Hammond.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 126.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND AND HANSEN VOTED NO.)

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CHAIR CANNIZZARO:

We were referred A.B. 449 which provides for a study to be conducted regarding juvenile detention facilities. Typically, studies process through our Legislative Operations and Elections Committee because they are an Interim

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item we have to consider. I would like to refer this matter over to the Legislative Operations and Elections Committee as it is the proper venue to have a conversation about a study.

ASSEMBLY BILL 449: Directs the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study relating to juvenile detention in this State. (BDR S-450)

SENATOR PICKARD MOVED TO REREFER A.B. 449 TO THE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

Assembly Bill 449 will be moved to the Senate Legislative Operations and Elections Committee.

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

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CHAIR CANNIZZARO:

I will close the work session and adjourn this meeting at 9:41 a.m.

RESPECTFULLY SUBMITTED:

Eileen Church,
Committee Secretary

APPROVED BY:

Senator Nicole J. Cannizzaro, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	6		Attendance Roster
A.B. 140	C	4	Assemblywoman Lesley E. Cohen	Testimony
A.B. 120	D	1	Nevada Federation of Republican Women	Letter of Support from Diane Baranowski
A.B. 120	E	1	United Way of Southern Nevada	Letter of Support from Kyle B. Rahn
A.B. 142	F	1	United Way of Southern Nevada	Letter of Support from Kyle B. Rahn
A.B. 8	G	1	Patrick Guinan	Work Session Document
A.B. 16	H	1	Patrick Guinan	Work Session Document
A.B. 61	I	1	Patrick Guinan	Work Session Document
A.B. 126	J	1	Patrick Guinan	Work Session Document
A.B. 266	K	1	Patrick Guinan	Work Session Document
A.B. 418	L	1	Patrick Guinan	Work Session Document
A.B. 480	M	1	Patrick Guinan	Work Session Document
A.B. 481	N	1	Patrick Guinan	Work Session Document
A.B. 482	O	1	Patrick Guinan	Work Session Document