

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session  
February 7, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:02 a.m. on Thursday, February 7, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nicolas Anthony, Committee Counsel  
Jenny Harbor, Committee Secretary

**OTHERS PRESENT:**

Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety  
Greg Ferraro, Nevada State Athletic Commission  
Staci Alonso, Nevada State Athletic Commission  
Bob Bennett, Executive Director, Nevada State Athletic Commission  
Melissa A. Saragosa, Las Vegas Township Justice Court, Department 4, Clark County  
David Brown, Hearing Master, Las Vegas Township Justice Court  
Kerrie Kramer, NAIOP

CHAIR CANNIZZARO:

I will open the meeting with a presentation by Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety.

NATALIE WOOD (Chief, Division of Parole and Probation, Department of Public Safety):

This presentation ([Exhibit C](#)) is an overview of the Division of Parole and Probation (P&P). Slide 2 describes our mission statement, vision statement and statutory authority in which P&P is accountable.

The Division of Parole and Probation supervises probationers, parolees, lifetime sex offenders and conditionally released inmates in the Department of Corrections. We place individuals who are nearing the end of their sentences in supervised, residential confinement until parole is granted. Additionally, we transfer individuals in and out of the State and accept individuals who are on supervision from other states.

Slide 3 provides an overview of the 4 P&P area commands: Headquarters, Northern Command Urban, Northern Command Rural and Southern Command. The Southern Command, located in Las Vegas, is our largest.

From presentence and pardons investigations to offender supervision and oversight, Slide 4 describes many of the programs that P&P is accountable for.

Slide 5 outlines the Division of Parole and Probation's 2017 legislative initiatives. Day Reporting Centers (DRC) provide at-risk offenders with rehabilitative services as an alternative to incarceration. Services include General Education Development (GED) test preparation, job search assistance, substance abuse prevention, anger management, parenting, employment preparation and domestic violence prevention. Due to their complexities, DRC services are contracted through the State in partnership with Sentinel.

We were approved last Session to fund the Day Reporting Centers, so services are provided at no cost to offenders. We opened the Las Vegas location in October 2017 and the Reno location in February 2018. The Las Vegas location services approximately 200 active offenders; the Reno location services approximately 50 individuals.

Day Reporting Centers are intermediate sanctions that serve as an alternative to revocation for offenders who have compliance issues with their supervision, are self-sabotaging and are not necessarily predatory. Once referred to the DRC, we focus on more intensive supervision and offer needed services.

Day Reporting Centers have collaborated with several community partners. The Department of Health and Human Services assists with State-funded medical services and food stamps. Truckee Meadows Community College works in conjunction with the DRC to assist with job placement, education and trade programs. The Las Vegas DRC, through Sentinel, has collaborated with the Hard Rock Hotel & Casino to receive donations such as linens and hygiene products. Additionally, the Las Vegas DRC has a clothing donation center to assist participants in dressing appropriately for interviews. The Reno DRC, through Sentinel, has a bicycle program called "pedaling for positive change" in which donated bikes provide transportation to individuals who would otherwise have none.

For the record, Sentinel is a "good of the State" contract for house arrest. The contract for Day Reporting Centers falls under the umbrella of the National Association of State Procurement Officials, Inc., ValuePoint contract; the contract expires in June and is under a request for proposal process with the originating state.

Day Reporting Center statistics indicate our success rate. Of the 641 participants to date, approximately 114 graduated from the moral recognition treatment portion, though they may still be on active supervision. We successfully discharged 72 offenders. Approximately 89 individuals were revoked and 116 absconded.

An independent evaluation prepared by the Center for Crime and Justice Policy, University of Nevada, Las Vegas ([Exhibit D](#) contains copyrighted material. Original is available upon request of the Research Library.), further details the reduction in recidivism and some of the success rates of the DRC.

SENATOR OHRENSCHALL:

It appears the DRC has been successful. Are any of the offenders in mental health treatment and, if so, do you have those statistics?

Ms. WOOD:

We refer out individuals with mental health issues, so we do not track those statistics. The DRC focus is primarily around substance abuse and working with individuals who are self-sabotaging in their supervision.

SENATOR OHRENSCHALL:

Are there plans to expand this program during the next biennium?

Ms. WOOD:

Day Reporting Centers should be offered to almost everybody on parole and probation. Unfortunately, we do not have the funding to expand.

SENATOR SCHEIBLE:

Do the bikes that Sentinel and the DRC provide come with helmets and lights?

Ms. WOOD:

We do not provide helmets and do not require lights. Bikes may come with lights, but the majority of our bikes are donations from Burning Man.

SENATOR OHRENSCHALL:

Do you have statistics regarding DRC participants who were convicted of violent crimes?

Ms. WOOD:

We have not tracked that, but we could add it as a statistic going forward. We were asked for specific items when we were funded: how many participants obtained employment, how many obtained a GED and how many successful discharges there were. We could provide the data on each of the 641 cases, but it would require a great deal of research.

SENATOR OHRENSCHALL:

I will talk to you offline about that.

Ms. WOOD:

Since last Session, the Division of Parole and Probation has taken full responsibility for reentry and parole planning per *Nevada Revised Statutes* (NRS) 213. Years ago, due to budget cuts, prison caseworkers took over some of the reentry and case planning.

We work collaboratively with the Department of Corrections to enable timely release, reduce prison overcrowding and expedite the transition of individuals who have been granted parole into the community.

We were funded for 9 Parole & Probation Specialist 3 positions who are tasked with meeting and working with inmates, preparing release plans and verifying residences.

Last Session, approximately 400 inmates were granted parole but were unable to be released. We have 384 inmates in this situation, but it is critical to understand the reasons why. The Division of Parole and Probation is only responsible for 88 of those individuals, 19 of whom submitted nonviable plans which our specialists are reviewing. Other inmates awaiting release include sex offenders and those restricted to where they can reside per NRS. There are a number of inmates who refused parole, and there are some with immigration holds. I can provide the Committee with the full report.

CHAIR CANNIZZARO:  
That would be helpful.

Ms. WOOD:  
Moving on, P&P was funded a considerable amount of money for State-funded house arrests. This is not offender-funded. House arrest is used as an intermediate sanction and is offered as an alternative to incarceration for technical violations that do not rise to a predatory level. With the additional tool of house arrest, we can increase supervision without immediately seeking revocation.

In fiscal year (FY) 2018, 428 offenders were placed on State-funded residential confinement at a cost of approximately \$242,000 of the allotted \$342,000. As of January 3 of FY 2019, about 461 offenders were logged. A total of approximately 889 individuals have been diverted from incarceration by using State-funded house arrest. The projected estimated savings to the State is over \$2 million. Each dollar spent on State-funded house arrest saves about \$4.39 against the cost of incarceration. There is huge savings with this program.

Indigent funding for transitional housing started as a pilot program last Session and is in our budget. It allocates about \$500 per offender to 10 to 12 days of transitional housing for inmates who are scheduled for release to parole but

have nowhere to go and have no funds on the books. The funds are directed to State-licensed and -approved transitional living homes and halfway houses, not to the offender. This is a proactive approach to establishing individuals in the community where they are not reporting to their officers under the influence and homeless. As of January 19 in FY 2019, we assisted 378 offenders with indigent funding for transitional housing compared to about 340 offenders in FY 2018.

The savings is staggering. Seven hundred and eighteen individuals who would otherwise have been incarcerated for a certain period of time at the cost of about \$140 per day were housed at a cost of \$500 a month. The estimated savings for 2018 was \$4.6 million for indigent funding alone. Savings from the beginning of FY 2019 through the end of the calendar year of 2018 was \$3.7 million.

The next initiative is risk assessment and supervision classification. It was determined last Session that P&P needed to change its supervision module to be more in line with evidence-based and national practices. This meant focusing less on lower-risk and more on higher-risk offenders. In doing so, a better assessment tool was needed to predict someone's likelihood to recidivate or victimize.

The Ohio Risk Assessment System was implemented and renamed Nevada Risk Assessment System (NRAS). In February 2018, Enterprise Information Technology Services developed the NRAS module, which is compatible with our offender tracking information system. Statewide, 378 staff members are trained in NRAS.

In addition to risk assessment, a case management component assesses individuals who are being actively supervised in the community.

We are working with the University of Cincinnati to develop a presentence investigation component where presentence reports are prepared for judges, district attorneys and public defenders who have the risk assessment tool.

Effective Practices in Community Supervision (EPICS) is a behavioral-based interviewing technique designed to develop an officer's relationship and problem-solving skills with the offender. It teaches the officers how to apply the principles of effective intervention and core correctional practices specifically to

community supervision practices. Officers increase their interactions with higher-risk offenders, and remain focused on the individual's criminogenic needs, using a social learning cognitive behavioral approach. Behavioral-based interviewing identifies the root cause of the problem as opposed to focusing on the actual act that violated the individual's supervision.

As of January, 74 staff members have been trained in EPICS. Among officers who have implemented EPICS, the University of Cincinnati found an increase in offender retention and compliance rates, and a reduction in offender recidivism rates.

Effective Practices in Community Supervision aligns with the Division of Parole and Probation's mission and overall vision. Regardless of the statistics, we consider saving even one individual from revocation and being placed back into incarceration a success. One relatable way to view this training is like raising children. You engage them, discuss right from wrong and work with them to find the root cause of the problem.

SENATOR HARRIS:

Once the discussion has been had about what the root cause might be, is there any follow-up to address that cause?

Ms. WOOD:

Absolutely; EPICS is a three-platform process that takes years to fully implement. The Division of Parole and Probation is working on Platform 1, which focuses on face-to-face initial contact with the individual. Once the problem is identified, referrals for appropriate services are made. Individuals are given assignments specific to their needs. In addition to internal checks and balances, the University of Cincinnati provides P&P with an assessment and an evaluation regarding officer implementation and performance.

Slide 6 of [Exhibit C](#) provides an overview of P&P division-specific staffing and vacancies. The Carson City academy started in January with ten cadets. The Las Vegas academy will begin February 25 with 14 individuals slated to attend. Despite applications significantly increasing, P&P lost approximately 40 percent of its employees to retirement and 27 percent to better-paying jobs. That is a total of approximately 67 percent. In 2018, P&P hired approximately 106 applicants but lost 111.

SENATOR HANSEN:

The Division of Parole and Probation has a turnover rate of more than 50 percent a year?

Ms. WOOD:

Yes.

SENATOR HANSEN:

Historically, is that a normal turnover ratio?

Ms. WOOD:

It has improved because of aggressive recruitment and the dedication of P&P Public Information Office and Human Resources staff.

Slide 7 addresses P&P staffing enhancements from 2017. These are staff costs only. Nonsworn caseload changes are based primarily off James Frank Austin (JFA) Institute projections. We also received an independent presentence investigation staffing study from the National Council on Crime and Delinquency and adjusted completion ratios last Session for presentence investigation report writers based on that study. For example, instead of writing 18 per month, completion ratios dropped to 13:1 and 16:1 in some areas across the State. Prior to last Session, we had equivalent if not higher vacancy rates and received an additional 83 positions last Session. We had critical fills prior to last Session because our attrition rate was significant, and it was operationally impacting P&P. We have now released the majority of our critical fills as we have been backfilling those positions, some in difficult-to-fill areas such as Pahrump.

Slide 8 provides a snapshot of the Division of Parole and Probation supervision caseloads, which reflects roughly a 70 percent to 30 percent split between probation and parole. This is standard and has not changed in decades. Per NRS 176, P&P uses JFA Institute contract services for caseload projections. The miscellaneous category includes drug courts, mental health courts, DUI courts and veterans treatment courts. The supervision caseload ratios vary in that category across the State.

The new supervision module rolled out in October 2017 in the Las Vegas and Reno offices and is working well. A mixed caseload continues in rural areas due to understaffing or the types of offenders in the system. The Division of Parole and Probation is focusing on the higher-risk offenders, and the numbers in those



areas fluctuate because it is caseload-driven. Caseloads must be repurposed and covered when someone leaves or transfers to another division. As noted in Slide 8 of [Exhibit C](#), P&P is moving to optimal levels of supervision. However, those fluctuate on a daily basis depending on staffing.

There are low, medium and high supervision levels, and the contact guidelines are different for each level. The lowest supervision level was created for offenders who have acted responsibly and demonstrated consistency in compliance; they may be required to report once a year. Maximum contact levels may require the offender to report monthly with home contact taking place every four months.

Slide 9 summarizes 1 of 2 bills from the Division of Parole and Probation this year. Assembly Bill (A.B.) 8 is a housekeeping bill that changes the frequency of risk assessments from once every 6 months to the current Nevada risk assessment tool audit successor.

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

Under NRS, P&P is required to review the supervision level of each offender every six months and make adjustments where appropriate. The mechanism for determining the proper level of supervision is now the Nevada Risk Assessment System. The use of this tool went into effect in February 2018, and the timeline for reassessments under the NRAS model is either once a year or when the offender experiences a life-altering event. The tool you are using should dictate reassessment frequency outside a life-changing event. It should not be routine and redundant.

SENATOR OHRENSCHALL:

What is the policy if someone you are supervising loses housing?

Ms. WOOD:

Residence, employment, fines, fees and restitution are standard requirements for a violation report, but homelessness is not a violation of one's supervision. Triggers for violation include walking away from inpatient treatment, committing a new crime or refusing to go into a treatment program. However, it is expected that officers work with individuals to locate a stable residence.

SENATOR OHRENSCHALL:

Would P&P still work with an individual who is subject to sex offender registration without a stable address?

Ms. WOOD:

Absolutely. Homelessness for sex offenders is not a violation. They register as being homeless. It is not ideal, but they are in compliance if they are reporting and checking in.

Slides 10 and 11 of [Exhibit C](#) address [Assembly Bill 69](#) which provides a mechanism for allowing P&P to modify an offender's condition of parole, primarily by placement into residential confinement in lieu of incarceration.

**[ASSEMBLY BILL 69](#)**: Revises provisions governing residential confinement of violators of parole. (BDR 16-347)

This authority allows P&P to apply swift and certain sanctions in line with national standards following a violation of any parole conditions without the delay of an inquiry and subsequent hearing in front of the State Board of Parole Commissioners.

Although [A.B. 69](#) grants additional authority to P&P, it retains the Board's authority to request a hearing after placement on to residential confinement if required. The authority of the Division of Parole and Probation is also limited to cases in which the parolee signs a waiver agreeing to the violations, thereby waiving his or her right to counsel and a hearing before the Board.

This is also a housekeeping bill focused on efficiency. The Division of Parole and Probation acts as an intermediate sanction in placing the individual on residential confinement rather than seeking revocation before the Board. The lack of transportation, disruptions with child care and placing employment at risk make attending Board hearings difficult for many offenders.

CHAIR CANNIZZARO:

That was a thorough presentation and contained a lot of good information.

SENATOR HANSEN:

I appreciate your concern for keeping recidivism down with minimum budgets.

SENATOR PICKARD:

I commend P&P for its accomplishments, particularly after A.B. No. 23 of the 79th Session and looking at the Day Reporting Centers. Helping people who have been incarcerated not only saves the State an inordinate amount of money, it also helps people restore their lives.

CHAIR CANNIZZARO:

We will now open the hearing on Senate Bill (S.B.) 29.

**SENATE BILL 29**: Makes various changes relating to unarmed combat. (BDR 41-363)

GREG FERRARO (Nevada State Athletic Commission):

I am here on behalf of the Nevada State Athletic Commission. The Commission is made up of five part-time members, each of whom are appointed by the Governor for a three-year term. The chair is appointed by the Governor for a two-year term; the current Chair is Anthony A. Marnell III of Las Vegas. Members are Staci Alonso and Christopher Ault from Reno and Dallas Haun and Dr. Robert McBeath from Las Vegas.

The Commission regulates all contests and exhibitions of unarmed combat, including the licensure and supervision of promoters, boxers, mixed martial artists, kickboxers, seconds, ring officials, managers, ring announcers and matchmakers. The Commission is the final authority on licensing matters, having the ability to approve, deny, revoke or suspend all licenses for unarmed combat.

The Commission appoints an executive director, currently Bob Bennett, to conduct its day-to-day operations. The executive director does not have a vote on actions taken by the Commission. In addition to the executive director, the Commission has a staff of four full-time employees, and the Office of the Attorney General serves as legal counsel.

Along with collecting fees from the sale of tickets, the Commission works with venues that host events throughout the State. The responsibilities of the Commission also include ruling in disciplinary cases and arbitrating disputes between boxers and managers brought pursuant to *Nevada Administrative Code* (NAC) 467.

Additionally, the Commission is charged with the responsibility of promulgating regulations to implement and enforce State laws governing unarmed combat. For all championship bouts and special events, the Commission must approve the contest and assign judges and referees to work the event. In all other contests or exhibitions, the executive director is responsible for approving each bout, assigning judges and referees, ensuring that a contestant is not on suspension status in Nevada or another jurisdiction and determining that a contestant is not being mismatched with a superior opponent.

STACI ALONSO (Nevada State Athletic Commission):

We began working on the updates represented in S.B. 29 over a year ago with the former administration and Mr. Ferraro's office. As the unarmed combat sport evolves, it is important to ensure our guidelines are a road map for the future and reflect the State's position and intent to protect the health and welfare of the fighters.

We will reference the S.B. 29 Section-by-Section Outline ([Exhibit E](#)) as our reference point.

Section 1 adds a new section to NRS 467 and exempts the Commission from the rulemaking requirements of NRS 233B. Our sport is constantly evolving, and it is important that we adopt the changes to the universal rules as quickly as possible.

As noted in section 1, subsection 1, paragraphs (a) through (e), we are not requesting any changes that apply to the administration of the agency or to licensing requirements. We still include the formal process through the Legislative Counsel Bureau (LCB) for public notice, comments and hearings to ensure any recommended changes withhold the intent as outlined in those subsections.

Recently, we had grounding rules change in the Unified Rules of Mixed Martial Arts (MMA) through the Association of Boxing Commissions and Combative Sports (ABC). From tape-wrapping to the use of instant replay, the changes impact how we do our job as well as the health and safety of the combatants. The Commission would like to be able to respond to rule changes that take place as quickly as possible. It is also important that Nevada maintains its "fight capital of the world" standard. There are more venues outside of the State than

ever before, and we do not want to lose fights because we cannot respond to changes quickly or address the needs of the licensees.

Section 2 is a housekeeping item. We propose "United States Amateur" be changed to "USA Boxing, Inc." Also, add "amateur unarmed combatant" in subsection 2, paragraph (c). This terminology refers to a collegiate boxer.

Section 3 primarily relates to the reimbursement of services, which are outlined in detail in later sections.

In section 4, subsection 1, strike "where an admission fee is received" based on the recent addition of shows that do not require ticket sales. These events are still of interest to the Commission and must be regulated and monitored to protect the health and safety of combatants.

Also in section 4, subsection 4, remove the option to accept money in lieu of a bond for a license. This is housekeeping since the LCB audit does not allow the Commission to accept money.

Section 5 gives the chair or the chair's designee authority to grant a temporary license in order for a fight that has changes to a card or undercard to continue as intended. The application would then be subject to formal processing at the next Commission meeting.

Section 6 formalizes the authority to withhold the renewal of an applicant's license if the applicant has not entered into a payment plan or paid a debt. There are examples of fighters with improved payment plans, but the Commission would like to hold this condition for the license renewal.

Section 7 clarifies that any information submitted to the Commission be deemed confidential. The purpose and intent of this request is similar to the intent and language under the Nevada Gaming Control Board.

Based on NRS language, as an example, organizations must submit confidential and proprietary drug testing reports in order to receive qualified drug testing tax credits. There is no public benefit to disseminate this information but extreme competitive disadvantages and loss of data integrity if it was not kept confidential. It is also a roadblock for the adaptation of our new regulation.

Another example is a bout agreement. A few years ago, a Conor McGregor vs. Floyd Mayweather Jr. boxing match had unique language in the bout agreement that would not have been beneficial to turn over to the Commission for public information. Yet, information specific to that agreement was important for our officials to understand due to the uniqueness of an MMA fighter competing in a boxing match. We view this similar to a casino sales agreement or takeover plan where it would be a competitive disadvantage if that information was made public.

Section 8 dictates that reimbursement monies the Commission seeks are only equal to services provided. The definition of "seats in the house" is a housekeeping item but important because our license fee is based off a percentage of seat sales. As an example, if a 5,000-seat fight takes place at a 10,000-seat facility, some of the sections are curtained off. We ask that the calculation of the fight be based on the number of tickets that were actually for sale.

Section 8, subsection 9 includes language regarding the collection of fees "for any professional contest or exhibition of unarmed combat for which no admission fee is imposed and for which the Commission provides services." Currently, a license fee is based on a percent of ticket sales because there were no events previously presided over that did not have ticket sales. Now we have those examples, and this subsection will offset Commission services expense.

Section 9 is similar to the example given with a license application. The Commission requests the ability to suspend a license or person associated with an unarmed combat event until the next scheduled meeting to allow us to address an issue in a timely manner. This would apply if a fight is announced, the licensee is not able to formally submit an application because the event takes place before the next Committee meeting, and then a failed drug test occurs.

We request "member" be changed to "a representative" in section 10, subsection 3.

Section 11, subsection 4 directs the reimbursement of expenses to the Athletic Commission's Agency Account. It is outlined in subsection 3, paragraphs (a) and (b). There is no impact on the General Fund as this is the reimbursement of services.

Section 12 changes "12m." to "noon."

Section 13 is similar to sections 8 and 11. The modification of subsection 6 is to direct the reimbursement of expenses incurred during the investigation of disciplinary action to the Athletic Commission's Agency Account where the expenses are reflected.

Section 14 relates to the reinstatement of a revoked license. The reimbursement of investigative expenses is to be directed to the Athletic Commission's Agency Account.

Section 15 is a formality exempting the Commission from the Administrative Procedures Act as referenced in section 1.

Section 16 sets an effective date of July 1.

SENATOR HAMMOND:

There appears to be a lot of changes. When was the last time this information was updated?

BOB BENNETT (Executive Director, Nevada State Athletic Commission):

It has been quite some time. I have been with the Commission for approximately four and one-half years, and to the best of my recollection, this is the first time we have taken on this challenge.

SENATOR DONDERO LOOP:

How do you train officials? How are they apprised of this information, and is it ongoing? What kind of training are they required to have, and how do you know they understand all the rules?

MR. BENNETT:

We provide training cards to MMA and boxing judges in order to prepare them for a fight. Officials are not intimately familiar with NRS 467 and NAC 467 administrative procedures unless they take the initiative to look at it themselves. I ensure these regulations and statutes are followed. The Commission conducts briefings before and debriefings after events. We also offer training approximately three times a year. In addition, training sessions are conducted by other sanctioning bodies such as the World Boxing Association, the World

Boxing Council, the World Boxing Organization and the International Boxing Federation.

SENATOR DONDERO LOOP:

I want to verify the rules are being followed.

MS. ALONSO:

Mr. Bennett conducts the Commission's training for judges. The ABC makes its unified rules training available to our officials. This is another reason it is important to align with that organization.

SENATOR HARRIS:

How are unarmed combat events that do not charge admission fees funded, and how would they pay for licensure?

MR. BENNETT:

As an example, "Dana White Tuesday Night Contender Series" would invite guests free of charge to MMA fights. Those events were telecast at a later time, which provided both publicity and product promotion. The series did not charge an admission fee but did pay for most of the Commission's expenses for the officials and inspectors who staffed the events.

SENATOR HARRIS:

Relating to the desire to circumvent NRS 233B when implementing regulations pursuant to this bill, there is still a requirement for a workshop and a hearing and notice requirements. What is the difference between this bill and what NRS 233B requires?

MR. BENNETT:

Rules and regulations constantly change. One example would be tape and gauze requirements. At one point, Commission regulations restricted the amount of tape used to no more than ten feet. The Commission conducted a study, consulted a board-certified hand surgeon and conducted a class with a number of world-renowned individuals who wrap hands. It was determined that it takes 37 feet of tape to wrap my hands, which are not particularly large. Making changes to NAC 467 would enable us to conduct a workshop regarding the new requirements and stay ahead of the "power curve."



Another example is instant replay. This bill will enable the Commission to increase the number of uses of instant replays. The only time NAC 467 allows the use of instant replay is in determining if a legitimate strike was used in order to determine a bout.

SENATOR HARRIS:

Please clarify the difference between the structure that is set up in this bill versus NRS 233B. Is the noticing requirement quicker? Are other requirements in NRS 233B that are not in S.B. 29?

Ms. ALONSO:

The language outlined in section 1, subsection 1, paragraphs (a) through (e) is specific to public notice, the workshop and the process to ensure that our requested adjustments are able to move quickly outside of the LCB. The Commission is not seeking to make a change without public process. It would still move quicker than the process of making any of those unified rule changes or guidelines through the LCB process.

SENATOR HARRIS:

Has the Legislative Counsel been contacted regarding this?

CHAIR CANNIZZARO:

Legal Counsel is researching the differences between section 1 of S.B. 29 and what is required in NRS 233B.

SENATOR PICKARD:

Regarding section 5, subsection 3, are there published minimum criteria in order to obtain a temporary license, or is this purely at the discretion of the chair? How is this process done? I am interested in transparency and assuring any appearance of impropriety is avoided.

MR. BENNETT:

The criteria for licenses for all contestants, seconds, etc., is listed on our website. I review all applications and am in constant communication with Chair Marnell to ensure standards are maintained and people registering to fight or who want to be licensed to fight do not have issues such as domestic violence.

SENATOR PICKARD:

I am unaware of any problems in the past. Is there no published minimum criteria an applicant has to meet in order to obtain a temporary license, or is this purely at the discretion of the chair?

MS. ALONSO:

The same standards for license application would still apply; the intent is to allow the chair or a designee to extend a temporary license.

CHAIR CANNIZZARO:

Legal Counsel has clarification with respect to the differences in NRS 233B.

NICOLAS ANTHONY (Committee Counsel):

Under NRS 233B, there are agencies that are already exempt from the regulation-making process. For instance, the Gaming Control Board, Gaming Commission, Nevada System of Higher Education and others are enumerated in NRS 233B. One of the main differences is some of the timing. Agencies that are exempt from NRS 233B draft their own regulations; they are not drafted by the LCB. Also, regulations do not come back to the Legislative Commission for approval. In this case, the Nevada State Athletic Commission is asking for rulemaking authority, not necessarily regulation-making authority, which would provide more of a streamlined process.

CHAIR CANNIZZARO:

Does that more accurately address the question?

SENATOR HARRIS:

It does.

SENATOR OHRENSCHALL:

I have a question for Mr. Bennett regarding section 4 of S.B. 29 and the removal of the requirement that an admission fee has to be received in order for licensure to happen. Are there statistics regarding the number of combatants who will now need to obtain a license who did not before? Will this apply to any bout that a fee is not charged, or is it at the discretion of the Commission? If there is an exhibition where no fee is charged, will those two combatants need to apply to be licensed by the Commission, or is it a case-by-case basis?

MR. BENNETT:

This primarily pertains to promoters. We have approximately 36 promoters who are licensed and are required to have a minimum \$10,000 bond in order for their applications to move forward to the chair and the commissioners.

SENATOR OHRENSCHALL:

This would apply to the promoters, not the combatants?

MR. BENNETT:

Yes.

SENATOR HANSEN:

The concern I have with MMA is the substantially higher level of brutality. What are the level of injuries typically sustained in the MMA? Have there been any deaths?

MR. BENNETT:

There have been no deaths in at least 12 1/2 years. The health and safety of the fighter come first and foremost. This commences with an extensive physical examination of the fighter, then a prefight physical is performed. The referees are told in their briefing before the fight, throughout the bout and in training that a fight is stopped one punch or one kick sooner than later.

The advantages an MMA fighter has as opposed to a boxer is that the MMA fighter can tap out. If fighters are in a submission, in other words if they are being choked or one of their joints is being compromised, they tap out and the referee stops the fight. If fighter A is on the ground and fighter B jumps on top of him and the referee sees that he is not with it, knocked out or sustains a concussive blow, he or she will stop the bout right away.

A list of all MMA injuries is maintained by the Association of Boxing Commissions and Combative Sports and can be accessed by logging on to the website: <<https://www.abcboxing.com>>.

Some may argue that boxing is more dangerous than MMA because most boxers will not stop fighting and their corners will not throw in the towel for our inspector to stop the fight. In boxing, as in MMA, health and safety is still top priority. We are in the hurt business where the object is to knock your opponent out, but we try to regulate events as carefully and as closely as we can.

Post-fight physicals are conducted by the Commission's ringside physicians, many of whom have been in the business for 20 to 30 years, so they know what to look for. Priority admission is set up with a nearby hospital, and there are always two ambulances on standby. Injured combatants are rushed to the hospital where they are seen right away, and computed tomography scans are performed.

SENATOR HANSEN:

Do you have financial data regarding what these fights bring in for Nevada?

MR. BENNETT:

In FY 2016, the Commission became self-funded and the State received approximately \$5.5 million; the Commission received approximately \$1.6 million. Funding was based on 8 percent of ticket sales—2 percent for the Commission and 6 percent for the State. In FY 2017, the State received \$3.7 million and the Commission received \$1.2 million. In FY 2018, \$6.1 million was received by the State and the Commission received approximately \$2.4 million. The Nevada State Athletic Commission received just over \$1 million for FY 2019.

CHAIR CANNIZZARO:

We will close the hearing on S.B. 29 and open the hearing on Senate Bill 74.

**SENATE BILL 74**: Revises provisions governing eviction actions. (BDR 3-492)

MELISSA A. SARAGOSA (Las Vegas Township Justice Court, Department 4, Clark County):

Senate Bill 74 clarifies for the court the legislative intent behind the number of days required to file a notice of appeal for a summary eviction action as distinguished from an unlawful detainer action which is a formal, civil trial. The bill also clarifies whether the notice of appeal period and bond requirement is necessary for both types of summary eviction cases. It also gives a tenant the ability to file a verified complaint for expedited relief, which is a complaint filed if someone feels his or her essential services have been wrongfully cut off by a landlord without an eviction proceeding.

Many times, a complaint for relief is filed at the same time a landlord is beginning the process of a summary eviction. Instead of those proceeding as

two separate cases, it would be beneficial to the courts to be given the authority to consolidate.

DAVID BROWN (Hearing Master, Las Vegas Township Justice Court):

Senate Bill 74 makes two primary changes to NRS 40. The first change codifies the 1996 Nevada Supreme Court decision *Lippis v. Peters* 921 P.2d 1248 (1996) wherein the court found unconstitutional Rule 106 of the Justice Court Rules of Civil Procedure which expressly prohibited any appeal of summary evictions. Since then, appeals from justice court summary eviction proceedings to the district courts have proceeded under the *Lippis v. Peters* decision as well as NRS 40.380 and NRS 40.385. Senate Bill 74 makes amendments to NRS 40.385 which, in its present form, provides post eviction relief in the form of a temporary stay. Senate Bill 74 would add clear language to NRS 40.385, giving both landlord and tenant an expressed right to appeal a justice court summary eviction decision.

The bill also adds clarifying language that such appeals pertain to both NRS 40.253 evictions relating to nonpayment of rent, as well as NRS 40.254 which relates to nonrent evictions such as nuisance, waste and nonrent lease violations. Perhaps by oversight, the stay relief in NRS 40.385 is only expressly provided for the nonpayment of rent cases thus necessitating the inclusion of the other types of evictions.

This bill is needed for formal unlawful eviction proceedings for, among other things, certain commercial evictions, post foreclosure evictions and mobile home lot evictions. *Nevada Revised Statutes* 40.385 establishes an appeal right for summary eviction-type cases.

Senate Bill 74 also sets the time period for appealing summary evictions at 5 days. The court applies a 10-day appeal period in part because that is the time set forth in NRS 40.380 as to formal eviction appeals. The court included a 5-day appeal period primarily because the summary eviction process is an expedited process akin to small claims cases which have a 5-day appeal period.

The second change relates to the statutory relief provided to tenants in NRS 118A.390, subsection 2, that allows a tenant to file a complaint for expedited relief if the landlord unlawfully removes, locks out or terminates essential services such as HVAC, power and water. It authorizes the court to provide a judgment against a landlord for a tenant's actual damages and

statutory damages up to \$2,500 if it has been determined the landlord wrongfully locked out the tenant. The statute expressly prohibits a tenant from filing a complaint for expedited relief if there is a pending summary eviction action. In such situations, the statute states that a tenant may raise lockout issues at the time of the eviction hearing. The prohibition of filing a complaint for expedited relief creates a problem when eviction cases are sealed if denied by virtue of A.B. No. 107 of the 79th Session. This bill will authorize the tenant to file a complaint even when a summary eviction case is pending.

The benefit of this amendment is twofold. One, it puts the complaint information into the hands of the court before the eviction hearing so the court is prepared to address such issues. Two, in the event a summary eviction is denied, the case is automatically sealed, and the court takes evidence as to an unlawful lockout and awards damages; there is essentially no case or complaint by which the court can render such a decision as that particular case would have to be sealed. If the court does not seal the eviction case, the expedited relief may remain a public record, and the eviction case may injure a tenant in seeking future tenancy as it is viewed as a black mark on his or her rental history.

This bill allows the filing of the complaint by a tenant and gives the court discretion to consolidate the eviction proceeding and the complaint for expedited relief. The court may then consider all issues in a combined hearing.

SENATOR OHRENSCHALL:

Senate Bill 74 Legislative Counsel's Digest mentions that section 1 will also make an appeal available in actions involving mobile home parks. Does this apply only in cases where someone owns the home or where someone rents the mobile home and the lot as well?

JUDGE SARAGOSA:

That is a misnomer. Mobile home park cases fall in the two categories that you stated. If one owns the mobile home and rents or leases the lot, a landlord may not proceed by way of a summary eviction. The landlord must instead go through the formal process of an unlawful detainer complaint, proceed to trial and obtain a permanent writ of restitution in order to have that mobile home removed from the lot.

Alternatively, if the mobile home park owns the mobile home, renting the mobile home to a tenant would be considered equivalent to renting an apartment or home and would fall under summary eviction procedures.

*Nevada Revised Statutes* 40.380 sets forth the time frame and the appeal period for someone leasing a mobile home lot and proceeding by way of a formal unlawful detainer trial.

*Nevada Revised Statutes* 40.385 is intended to address specifically those summary eviction cases that would apply to a typical nonpayment of rent or in the mobile home scenario where the park owns the mobile home and rents it to a tenant. It does not change anything with respect to mobile home parks.

SENATOR OHRENSCHALL:

The only change would be to the tenant who rents the mobile home and the lot?

JUDGE SARAGOSA:

That is correct.

SENATOR OHRENSCHALL:

Hearing Master Brown mentioned that S.B. 74 shortens the appeal time from 10 to 5 days. Will this lessen the amount of time a tenant—except one who owns a mobile home on a rented lot—has to appeal an eviction?

JUDGE SARAGOSA:

Appeals on civil matters are generally set by the Nevada Justice Court Rules of Civil Procedure; they are not set forth in statute. For the typical civil trial, the appeal period is 20 days per Justice Court Rules of Civil Procedure Rule 72B, and the appeal period for small claims cases is 5 days.

It is unclear whether the 10-day period for a formal unlawful detainer trial in NRS 40.380 is intended to apply for a summary eviction. We selected a five-day period because it is akin to a small claims summary type of proceeding. This bill is intended to provide clarity in setting a period of time; the actual number of days selected is at the discretion of the Committee.

I am also here on behalf of the Nevada Judges of Limited Jurisdiction who support the bill.

SENATOR OHRENSCHALL:

Are most justice courts in Clark County applying the ten-day period?

JUDGE SARAGOSA:

Yes, they are.

SENATOR PICKARD:

Regarding a summary eviction process, a five-day notice provision in the first instance is appropriate.

I opposed A.B. No. 107 of the 79th Session in Committee but voted for it on the Floor last Session. I am concerned with some of the potential unintended consequences. In regard to A.B. No. 107 of the 79th Session, can you tell me the impact or the consolidation of the expedited relief for summary evictions, the wrongful lockout procedure, how that interplays now and how this bill is going to fix these issues?

HEARING MASTER BROWN:

If there is a wrongful lockout or termination of essential services, the tenant is precluded from filing a complaint after a landlord has filed an eviction proceeding. According to statute, the tenant can instead raise those issues at the hearing. This is challenging because the judge has no knowledge of the complaint until the proceeding. By permitting a tenant to file a complaint with a pending action, the court is provided with some discretion and the ability to review timelines.

I have tried cases where I denied the eviction and found in favor of the tenant based upon a wrongful lockout. Based on A.B. No. 107 of the 79th Session, I am able to seal that eviction case because the eviction was denied. At the same time, I am permitted to issue judgments in favor of tenants if they present damages. This is problematic if the case is sealed. I need to issue an order and the case needs to be active in order for the tenant to enforce that judgment. Under S.B. 74, the tenant can file a complaint and a judge can hear both cases simultaneously or bifurcate them. The eviction that is sealed is not visible to apartment complexes if a tenant is trying to find a new tenancy, yet the wrongful eviction judgment can remain public record.

SENATOR PICKARD:

Should we look at language that expressly provides for a delay in the sealing?



HEARING MASTER BROWN:

That is not necessary. Every instance I have handled was contemporaneous. Sometimes the complaint for expedited relief is filed at the same time the tenant has filed an answer to an eviction proceeding, but the landlord has not yet filed a complaint. Because there is no complaint from the landlord, I do not deem that an active pending action. The court simply has the answering affidavit of the tenant which was filed pursuant to, for instance, a five-day pay-or-quit notice. I hear those two actions together—this permits the tenant to file a complaint if the landlord has already filed the complaint for the eviction action.

SENATOR PICKARD:

I am concerned with a tenant's ability to understand how to consolidate and the case being sealed if a summary eviction is denied.

HEARING MASTER BROWN:

Tenants do not file a motion to consolidate; the court files sua sponte in the interest of justice.

CHAIR CANNIZZARO:

With respect to mobile home parks, the language in the S.B. 74 Legislative Counsel's Digest is included solely due to the NRS 40.254 reference to mobile homes.

KERRIE KRAMER (NAIOP):

To clarify, is S.B. 74 meant only to affect NRS 118A, residential, as opposed to NRS 118C, commercial?

CHAIR CANNIZZARO:

That is correct according to Legal Counsel.

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CHAIR CANNIZZARO:

We will close the hearing on S.B. 74. The meeting is adjourned at 9:51 a.m.

RESPECTFULLY SUBMITTED:

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Jenny Harbor,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	6		Attendance Roster
	C	11	Natalie Wood / Division of Parole and Probation	Presentation
	D	6	Natalie Wood/ Division of Parole and Probation	UNLV Publication
S.B. 29	E	2	Staci Alonso / Nevada State Athletic Commission	Testimony