

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session
April 18, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:11 a.m. on Thursday, April 18, 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

GUEST LEGISLATOR PRESENT:

Assemblywoman Lesley E. Cohen, Assembly District No. 29

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Nicolas Anthony, Committee Counsel
Andrea Franko, Committee Secretary

OTHERS PRESENT:

Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety
Nicole Rosales, Sergeant, Division of Parole and Probation, Department of Public Safety

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John McCormick, Rural Courts Coordinator, Administrative Office of the Courts,
Nevada Supreme Court
Erik Jimenez
Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center

CHAIR CANNIZZARO:

I will open the Senate Committee on Judiciary with Assembly Bill (A.B.) 8.

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

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

I have provided a presentation ([Exhibit C](#)) for reference.

NICOLE ROSALES (Sergeant, Division of Parole and Probation, Department of Public Safety):

Assembly Bill 8 updates the verbiage regarding supervision-level assessments within the Division of Parole and Probation. The change will allow the Division to assess our offender population based on current evidence-based practices utilizing not just the Nevada Risk Assessment System but any future assessment tools. Probationers and parolees are assessed using an assessment tool. The results determine the supervision level of the offender. Heightened supervision levels translate to more intensive supervision and greater frequency of home and office contact. Supervision levels help guide our decision-making and programming specific to the offender.

The Division recognized the use of an antiquated assessment tool was not contributing to effective offender supervision. The previous tool was designed in the 1970s and not used for decades. The tool had been validated as required, but the measures have not changed with the times. The Division researched and made appropriate changes. *Nevada Revised Statutes* requires the Division to conduct reassessments every six months based on the now outdated tool. The University of Cincinnati designed the Ohio Risk Assessment System. It was proven effective and adopted by numerous other states. The recommendation by the University of Cincinnati states the offender supervision level is reviewed at least annually or with any significant behavior changes, which is two or more risk categories changing. Fidelity and adherence to the tool will ultimately maintain its integrity. The update allows the Division to tailor our risk

assessment frequency to the needs of the offender as well as the tool utilized. In the coming years through the validation of our data and population, the new assessment tool can be modified further to better suit the risks and needs of our offenders.

CHAIR CANNIZZARO:

I will close the hearing on A.B. 8 and open the hearing on A.B. 9.

ASSEMBLY BILL 9: Revises provisions governing justice courts. (BDR 6-491)

JOHN MCCORMICK (Rural Courts Coordinator, Administrative Office of the Courts, Nevada Supreme Court):

Assembly Bill 9 is intended to clarify questions regarding jurisdiction of justice courts in small claims cases.

The primary purpose of the bill is to address a loophole. We have had a situation where a tenant wanted to file a small claims action because the landlord did not return the security deposit. The landlord was a resident of California and sold the apartment complex. The landlord no longer met the statutory language requiring a person doing business, residing or employed in a township in order to file a lawsuit in small claims court. The tenant was left without recourse. Assembly Bill 9 allows a small claims action be filed if the potential defendant is a resident, does business or is employed in the township at the time the cause of action arose or at the time the complaint is filed.

Additionally, in cases involving injury to the person or property, small claims actions may be tried in the township where the injury occurred. Finally, in cases involving a contract to perform an obligation, small claims actions may be tried in the township in which the obligation is or was to be performed.

SENATOR HANSEN:

If the individual does not live in Nevada any longer, what are the rules?

MR. MCCORMICK:

I believe you can use certified mail, but I am not 100 percent sure.

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NICOLAS ANTHONY (Committee Counsel):

The *Nevada Rules of Civil Procedure* (NRCP) would govern the situation. The processes are addressed in NRCP Rule 4, which explains personal service by certified mail and eventually by publication if needed.

SENATOR HAMMOND:

Can you go to any jurisdiction? In the case of an injury, where is the case heard?

MR. MCCORMICK:

There was no requirement as to where the action was filed. Assembly Bill 9 clarifies the action should be filed in the township where the injury occurred.

SENATOR HAMMOND:

Can you bring a lawsuit where you live, or must it be where the service was performed? Is there a procedure where one takes precedence?

MR. MCCORMICK:

Yes. In section 1, subsection 2, paragraph (b) in addition to the townships where the person was doing business, there is no statutory guidance as to precedence or order where the action is filed. It is up to the plaintiff pursuant to the Justice Court Rules of Civil Procedure.

CHAIR CANNIZZARO:

We will close the hearing on A.B. 9 and open the hearing on A.B. 91.

ASSEMBLY BILL 91 (1st Reprint): Establishes provisions concerning the sterilization of protected persons. (BDR 13-173)

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

Nevada Revised Statutes 159.0805 relates to guardianships and provisions concerning the sterilization of a protected person. Law prohibits a guardian, without court authorization, from consenting to the experimental medical, biomedical or behavioral treatment of a protected person; participation of a protected person in any biomedical or behavioral experiment; or sterilization of a protected person.

During the Interim, the Committee received an analysis of Nevada's statute as it compares to the provisions of the United States Constitution and caselaw. Assembly Bill 91 contains the provisions missing in our law.

Assembly Bill 91 clarifies the process under which a request for sterilization of a protected person may be authorized. In section 1 of the bill, the process is strengthened by requiring the courts to appoint an attorney and a guardian ad litem for the protected person and conduct a full evidentiary hearing before authorizing the guardian to consent to the sterilization.

In addition, the bill clarifies a court may authorize a guardian to consent to the sterilization of a protected person only if it finds clear and convincing evidence that the sterilization is in the best interest of the protected person. The measure also requires the court to consider whether any less irrevocable and intrusive means of contraception would be suitable.

ERIK JIMENEZ:

We received a case in Washoe County of a person with a disability. The guardian was petitioning the court to have the person forcibly sterilized against his or her wishes. As we started our research, it was difficult finding data on how many people had been sterilized. About ten years ago, we heard about a case where a guardian petitioned a court for a person with autism. The person was forcibly sterilized because the guardian did not want him or her to spread the disease.

These people deserve the same due process rights and reproductive freedoms as everyone else. Through the bill we are trying to establish additional due process rights, mainly the right to counsel or guardian ad litem and an evidentiary hearing. We are giving people the ability to seek less extreme forms of birth control.

JACK MAYES (Executive Director, Nevada Disability Advocacy and Law Center):

We were asked to investigate the deficiencies in *Nevada Revised Statutes* (NRS) 159.0805. We determined some weaknesses. There are six areas of the law needing attention. Nevada law fails to reference a burden of proof, appoint a guardian ad litem or counsel, mandate the appointment of an expert to examine and observe the protected person, demand an evidentiary hearing take place before the court orders an involuntary sterilization, include the judge's direct role in apprising the protected person's competency to

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consent or withhold consent to a sterilization and consider less irrevocable and intrusive means of contraception, other than sterilization.

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CHAIR CANNIZZARO:

Having no further business, I adjourn the Senate Committee on Judiciary at 8:32 a.m.

RESPECTFULLY SUBMITTED:

Andrea Franko,
Committee Secretary

APPROVED BY:

Senator Nicole J. Cannizzaro, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	5		Attendance Roster
A.B. 8	C	5	Natalie Wood / Division of Parole and Probation	Presentation