

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session
April 25, 2019**

The Senate Committee on Judiciary was called to order by Vice Chair Dallas Harris at 8:12 a.m. on Thursday, April 25, 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 Dallas Harris, Vice Chair
Senator Marilyn Dondero Loop
Senator Melanie Scheible
Senator Scott Hammond
Senator Ira Hansen
Senator Keith F. Pickard

COMMITTEE MEMBERS ABSENT:

Senator Nicole J. Cannizzaro, Chair (Excused)
Senator James Ohrenschall (Excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Nicolas Anthony, Committee Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

Kyle George, Special Assistant Attorney General, Office of the Attorney General
Ray Spencer, Homicide Lieutenant, Las Vegas Metropolitan Police Department
Chuck Callaway, Las Vegas Metropolitan Police Department
Corey Solferino, Washoe County Sheriff's Office
Eric Spratley, Nevada Sheriffs' and Chiefs' Association
John T. Jones, Jr., Nevada District Attorneys Association

VICE CHAIR HARRIS:

We will open the hearing on Assembly Bill (A.B.) 16.

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)

KYLE GEORGE (Special Assistant Attorney General, Office of the Attorney General):

You have my written testimony ([Exhibit C](#)). Under *Nevada Revised Statutes*, a DNA search warrant must be executed and returned to the court within ten days of issuance. Assembly Bill 16 seeks to expand the effective period of a DNA warrant to six months. The proposed change was precipitated by the practical difficulties of obtaining DNA evidence within that narrow ten-day window.

To obtain a warrant, law enforcement officers must demonstrate to a judge that there is probable cause that the evidence they seek is related to a crime and describe with particularity where they expect to find the evidence. Law enforcement officers must also articulate the basis for their belief that the evidence exists and will actually be found there.

Over time, the reliability of that basis fades. Evidence that was there yesterday may not be tomorrow, and for that reason the odds of finding it at the specified location diminishes. To renew the warrant after ten days, law enforcement must provide fresh information that probable cause still exists. Without that showing, in Fourth Amendment parlance, the warrant becomes "stale."

This is how DNA evidence is different. Samples of DNA will always be found in the subject of the warrant, and no matter how much time elapses, that will not change. However, if a subject is actively evading the police, law enforcement must return to the courts every ten days to renew the warrant. If the warrant lapses and the subject is subsequently located, law enforcement can only detain that person for one hour while officers attempt to get the warrant renewed. If the clock runs out before then, the person must be released.

Assembly Bill 16 will promote Judicial and Executive Branch efficiency. Rather than expending court and law enforcement resources every ten days to renew DNA warrants, the longer period of enforceability will reduce the number of

visits to the courts. Because staleness is not at issue with DNA evidence, A.B. 16 does not raise Fourth Amendment issues.

RAY SPENCER (Homicide Lieutenant, Las Vegas Metropolitan Police Department):
If Las Vegas Metropolitan Police Department (LVMPD) has a murder and obtains DNA evidence from the crime scene, we will need a second sample from the suspect. To get that sample, we have to locate the suspect within ten days. The problem is the vast majority of homicide suspects attempt to flee, hide or evade capture, so by the time we locate them, it is usually past ten days.

If LVMPD locates the suspect after ten days, we must get a second search warrant. If I have a search warrant in hand, it takes about five minutes to collect a sample. If the warrant is expired, now I have to detain the suspect for another 45 or 55 minutes to obtain the search warrant. The bill's six-month time frame will be a major benefit to both the accused and law enforcement by streamlining investigation efficiency.

SENATOR PICKARD:

Why extend the time frame from ten days to six months? That is a huge gap. The bill's presenters talked about obtaining warrants within minutes, hours and days, but now six months is proposed.

MR. SPENCER:

Originally, the time frame was one year. After discussions with stakeholders, we decided that six months was a good compromise. When looking for suspects, LVMPD expends an extraordinary amount of resources in capturing people. Most suspects are captured within 6 months; many times, it takes us just 30, 60 or 90 days.

MR. GEORGE:

Nationally, other jurisdictions have one-year search warrants for DNA. We decided that was too much and reduced it to six months in the interest of compromising with defense law.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):
Las Vegas Metropolitan Police Department fully supports A.B. 16.

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COREY SOLFERINO (Washoe County Sheriff's Office):
The Washoe County Sheriff's Office believes A.B. 16 will streamline the process of obtaining DNA samples.

ERIC SPRATLEY (Nevada Sheriffs' and Chiefs' Association):
The Nevada Sheriffs' and Chiefs' Association supports A.B. 16 for all of the reasons heard today.

JOHN T. JONES, JR. (Nevada District Attorneys Association):
The Nevada District Attorneys Association supports A.B. 16.

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VICE CHAIR HARRIS:

We will close the hearing on A.B. 16. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 8:21 a.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Senator Dallas Harris, Vice Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
A.B. 16	C	1	Kyle George / Office of the Attorney General	Written Testimony