

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session  
April 26, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:18 a.m. on Friday, April 26, 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 Marilyn Dondero Loop  
Senator Melanie Scheible  
Senator Scott Hammond  
Senator Ira Hansen  
Senator Keith F. Pickard

**COMMITTEE MEMBERS ABSENT:**

Senator James Ohrenschall (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Richard Daly, Assembly District No. 31  
Assemblyman John C. Ellison, Assembly District No. 33

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Lynn Chapman, Independent American Party

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Janine Hansen, State President, Nevada Families For Freedom  
Bob Russo  
Holly Welborn, American Civil Liberties Union of Nevada  
Juanita Cox, Citizens in Action  
Anastasia Synn  
Elisa Cafferata, Nevada Technology Association  
Rick McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition  
Eric Spratley, Nevada Sheriffs' and Chiefs' Association  
Corey Solferino, Washoe County Sheriff's Office  
Mike Ramirez, Las Vegas Police Protective Association Metro, Inc.  
Brian O'Callaghan, Las Vegas Metropolitan Police Department  
Mike Cathcart, City of Henderson  
Natha Anderson, Washoe Education Association

CHAIR CANNIZZARO:

I will open the hearing of the Senate Committee on Judiciary with Assembly Bill (A.B.) 226.

**ASSEMBLY BILL 226 (1st Reprint)**: Prohibits any person from requiring or authorizing another person to undergo implantation of a microchip or other permanent identification marker under certain circumstances.  
(BDR 15-25)

ASSEMBLYMAN RICHARD DALY (Assembly District No. 31):

Assembly Bill 226 prohibits the microchipping of people. The bill states you cannot require microchipping, it cannot be a condition of employment and you cannot be forced to be microchipped. You cannot instigate or participate in a voluntary program to be microchipped.

We should start with the State having a prohibition against microchipping people. Future legislators could make whatever decisions they want to. If someone wants to come in before the Legislature and make an argument and ask for an exemption, it can be reviewed. There is a narrow exception for a medical device that transmits. It cannot be used for any type of personal identification.

SENATOR PICKARD:

The only question is the inability to voluntarily use these devices when it is not for diagnosis, monitoring or treatment. There are several universities around the world doing this. It stemmed from the introduction of additional advanced measures to pacemakers researchers were implanting. Researchers are looking at other heart functions and using the pacemaker as a means of study. Is it the intention of the bill to allow that because it is related to the prevention of health conditions.

ASSEMBLYMAN DALY:

I am fine with medical use. We need to clarify the language to make sure that is captured. We should start from the prohibition and then we can sort through issues as they come up in the future.

SENATOR PICKARD:

The language is broad when it says "or prevention of the health condition." That could describe just about anything. I wanted to get on the record where the intent was.

SENATOR HANSEN:

Section 1, subsection 1 states "An officer or employee of this State or any political subdivision ... ." This is strictly limited to the government? The private sector can do these things?

ASSEMBLYMAN DALY:

No. It does say, "An officer or employee of this State or any political subdivision thereof or any other person shall not ... ." If you look up the definition of person in *Nevada Revised Statutes* (NRS) 0.039, it covers everybody except for the government. If somebody wants to do this in the future, they can come before the Legislature and ask for it. I think this is the position we should start from. It does cover everybody. I do not find it acceptable to microchip people.

CHAIR CANNIZZARO:

Section 1, subsection 1, paragraph (b) prohibits somebody wanting to be microchipped voluntarily. Would this bill prohibit any microchipping unless it is for a medical purpose?

ASSEMBLYMAN DALY:

Yes. If someone wants to come and say we want to microchip people and this law prohibits us, the Legislature would review that.

CHAIR CANNIZZARO:

If we enact this bill, it would prohibit any microchipping—even a voluntary microchip somebody wanted to do that was completely within their discretion—and then we are having a conversation about how we would review these in the future. Someone would come in and prove that we should undo this entire law; or are we going to make particular exceptions for every company that comes into the Legislature and says, "Hey I have this product, and here is how it is going to be offered." As long as we define that in statute, then those sorts of programs for microchipping would be allowed? I am a little confused as this bill seems to narrow it specifically to health data if it is transmitting. I am just wondering how we get to the point that this bill allows reviewing in the future?

ASSEMBLYMAN DALY:

If a person wanted to voluntarily get microchipped by somebody, I am not sure if that would be prohibited. If somebody in Vermont got microchipped and came to Nevada, that would not be a felony. This bill prohibits the underlying program. If somebody had an app that went along with the microchip, that part would be prohibited. It is similar to a lot of other laws and bills in which we say you cannot do this, and then there are exceptions. If somebody had a product or an application they wanted to do, they would come in and say, "I need an exception from this" and would request a bill, and it would be reviewed by the Legislature. If the exception requested is justified and met the parameters the Committee finds acceptable, then there could be an exception.

We should start from the position where we say you cannot do it—then come in and justify your position in order to get it allowed.

CHAIR CANNIZZARO:

I think there is a difference between the subsections which talk about if you are requiring someone to undergo a microchip implantation or if you are setting a program where it seems voluntary but is not voluntary, and, therefore, we want to prevent people from feeling as though they had to be microchipped to receive certain benefits. I think the voluntariness is where we struggle.

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SENATOR DONDERO LOOP:

I am struggling with the definitions. For example, in section 1, subsection 3, paragraph (b), subparagraph (1), sub-subparagraph (I) where the language says it is used for the purpose of self-expression. What does that mean?

ASSEMBLYMAN DALY:

It is nontransmitting. The only thing prohibited is a transmitting microchip.

SENATOR DONDERO LOOP:

Self-expression is anything that does not transmit?

ASSEMBLYMAN DALY:

It could be anything somebody wants to do to their body, a matter of self-expression.

SENATOR SCHEIBLE:

I understand the medical exceptions. Have you reviewed this with an organization which deals with people with disabilities who are deaf or hard of hearing who might have hearing aids to ensure the language is compatible with all of the new technology in hearing aids?

ASSEMBLYMAN DALY:

No. Cochlear implants are allowed under this bill.

SENATOR SCHEIBLE:

I would be more comfortable reviewing this with an organization specializing in those technologies before moving forward.

ASSEMBLYMAN DALY:

If you could help me identify them I would be happy to talk to them.

LYNN CHAPMAN (Independent American Party):

We support A.B. 226.

JANINE HANSEN (State President, Nevada Families For Freedom):

We support A.B. 226. This bill protects us from potential government overreach. If the government ever required us to get a microchip it would be incompatible with our free society and violate our constitutional rights. Microchips can be an invasion of privacy and can cause health problems.

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BOB RUSSO:

I support A.B. 226 and have submitted my testimony ([Exhibit C](#)).

HOLLY WELBORN (American Civil Liberties Union of Nevada):

We support A.B. 226. Section 1, subsection 2 reads a person who violates the provisions in the program would be convicted of a Class C felony. We want to ensure the entity corporation or governmental entity would be held responsible. Assemblyman Daly has agreed to accept amended language for that section.

The government should ban microchipping humans and act proactively to prohibit this in the future.

JUANITA COX (Citizens in Action):

We support A.B. 226.

ANASTASIA SYNNE:

I oppose A.B. 226. There are many beneficial uses for microchips.

ELISA CAFFERATA (Nevada Technology Association):

We agree there should be a prohibition on involuntary microchipping. We do agree there are a lot of corporate situations that might be particularly fraught with whether someone has fully informed consent to a microchip for certain situations. Corporations are offering discounts for technology—it is already part of their business model. That part of the bill is important and should remain.

All of the states which have laws prohibiting involuntary microchipping allow people to voluntarily microchip themselves. No other state has looked at a full-on prohibition. We could be supportive if you remove the prohibition on voluntary microchipping.

ASSEMBLYMAN DALY:

It is already illegal to forcibly chip somebody. There is a difference between required, involuntary or forced.

CHAIR CANNIZZARO:

I will close the hearing on A.B. 226 and open the work session. We have placed seven bills on a consent calendar for the work session.

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. 9, A.B. 31, A.B. 91, A.B. 134, A.B. 189, A.B. 207 and A.B. 221.

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

Assembly Bill 9 was heard on April 18. The work session document ([Exhibit D](#)) summarizes the bill.

**ASSEMBLY BILL 31**: Revises provisions concerning an application for a certificate as a community manager or registration as a reserve study specialist. (BDR 10-223)

Assembly Bill 31 was heard on April 19. The work session document ([Exhibit E](#)) summarizes the bill.

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

Assembly Bill 91 was heard on April 18. The work session document ([Exhibit F](#)) summarizes the bill.

**ASSEMBLY BILL 134 (1st Reprint)**: Revises provisions governing privileges. (BDR 4-694)

Assembly Bill 134 was heard on April 19. The work session document ([Exhibit G](#)) summarizes the bill.

**ASSEMBLY BILL 189**: Revises provisions relating to warrants for the search of a person. (BDR 14-958)

Assembly Bill 189 was heard on April 19. The work session document ([Exhibit H](#)) summarizes the bill.

**ASSEMBLY BILL 207 (1st Reprint)**: Revises various provisions relating to business entities. (BDR 7-146)

Assembly Bill 207 was heard on April 24. The work session document ([Exhibit I](#)) summarizes the bill.

**ASSEMBLY BILL 221 (1st Reprint)**: Revises provisions relating to gaming employees. (BDR 41-716)

Assembly Bill 221 was heard on April 22. The work session document ([Exhibit J](#)) summarizes the bill.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 9, A.B. 31, A.B. 91, A.B. 134, A.B. 189, A.B. 207 and A.B. 221.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR CANNIZZARO:

I will close the work session and open the hearing on A.B. 102.

**ASSEMBLY BILL 102 (1st Reprint)**: Enhances the criminal penalty for certain crimes committed against certain family members of first responders. (BDR 15-48)

ASSEMBLYMAN JOHN C. ELLISON (Assembly District No. 33):

Assembly Bill 102 builds on the work from last Session protecting our first responders. Senate Bill No. 541 of the 79th Session enhanced the criminal penalties on certain crimes committed against first responders and authorized an additional term of imprisonment up to 20 years to any person who willfully commits certain crimes because a victim is a first responder.

Every year many of our first responders fall victim to senseless acts of crime. Sometimes violence pours into the lives of their family and loved ones. We do a great job in putting the safety of first responders as a top priority and now their families. We are going to send a message if you do this, you can receive between 1 to 20 years added to your sentence.



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RICK McCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):  
We support A.B. 102 and I have submitted my testimony ([Exhibit K](#)).

SENATOR SCHEIBLE:

I want to make sure this bill aligns with crimes that are enhanced for being committed against a first responder. My understanding is there are crimes against protected persons that generally include police officers and firefighters but not necessarily emergency medical providers. I want to make sure we are not setting up a system where you can be punished for committing a crime against a spouse of an emergency medical provider that would not be enhanced if you committed it against the emergency medical provider.

MR. McCANN:

If you look at the original bill, EMTs are included. This is an enhancement against the families of police, firefighters and EMTs.

SENATOR SCHEIBLE:

What about paramedics or medical providers who are not responding to an emergency. I am imagining people who come across somebody who might be in distress or overdosed and try to wake the person and then the person attacks them.

ASSEMBLYMAN ELLISON:

When we went through the bill, we made sure they had to prove it was a hate crime. If somebody is a target for a hate crime, that is what this bill represents.

SENATOR SCHEIBLE:

I am struggling with the specific wording. In section 1, subsection 1 is the part that spells out the crime has to be committed against a particular person because he or she is the spouse or family member of one of these protected persons, and then it is incumbent upon the prosecutor to prove it is the reason the particular victim was targeted.

MR. McCANN:

It does say "because of the fact that the victim is the spouse of a first responder" and it must be knowingly and willfully in violation. The prosecutor would bring that to everyone's attention, and there is the nexus. It is not just somebody who gets into a fight, gets hurt or is in an accident. There has to be

the nexus between the victim and the relationship and the reasons for being the target because he or she is the spouse or child of a member of law enforcement, a firefighter or EMT.

CHAIR CANNIZZARO:

Somebody could commit, for example, a robbery against a family member of a first responder. This would be a robbery with an enhancement. The enhancement would be because the victim is someone who is associated with a first responder.

MR. MCCANN:

This is correct.

CHAIR CANNIZZARO:

It is an additional penalty?

MR. MCCANN:

Yes.

SENATOR SCHEIBLE:

In section 1, subsection 1, the term punishable as a felony is stated twice.

CHAIR CANNIZZARO:

Where it says NRS 200.481, that is a battery statute and would be a felony battery. In that statute, there are a number of other misdemeanor versions so it needs to be punishable as a felony.

SENATOR SCHEIBLE:

*Nevada Revised Statutes* 200.481 is the general battery statute which is punishable as a felony because the victim is a spouse of a first responder.

NICOLAS ANTHONY (Committee Counsel):

In section 1 of the bill, the new language is mirrored off section 1.3 of the bill which is existing language under NRS 193.1677. In terms of drafting conventions, we merely replicated the language and applied it to the new circumstances where the victim is the spouse or child of a first responder.

SENATOR PICKARD:

Judicial officers also receive threats, particularly from gang-related things. I am wondering if there would be any appetite to expand this to include those family members as well.

ASSEMBLYMAN ELLISON:

We would be happy to expand that and ask for a friendly amendment. We are just trying to protect those who protect us.

SENATOR PICKARD:

Just let me clarify with Legal Counsel—judicial officers are not included since this language is talking about first responders?

MR. ANTHONY:

Yes.

ERIC SPRATLEY (Nevada Sheriffs' and Chief's Association):

We support A.B. 102.

COREY SOLFERINO (Washoe County Sheriff's Office):

We support A.B. 102.

MIKE RAMIREZ (Las Vegas Police Protective Association Metro, Inc.):

We support A.B. 102.

BRIAN O'CALLAGHAN (Las Vegas Metropolitan Police Department):

We support A.B. 102.

MIKE CATHCART (City of Henderson):

We support A.B. 102.

NATHA ANDERSON (Washoe Education Association):

We support A.B. 102.

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VICE CHAIR HARRIS:

I will close the hearing on A.B. 102 and adjourn this meeting at 9:32 a.m.

RESPECTFULLY SUBMITTED:

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Eileen Church,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	6		Attendance Roster
A.B. 226	C	1	Bob Russo	Testimony in Support
A.B. 9	D	1	Patrick Guinan	Work Session Document
A.B. 31	E	1	Patrick Guinan	Work Session Document
A.B. 91	F	1	Patrick Guinan	Work Session Document
A.B. 134	G	1	Patrick Guinan	Work Session Document
A.B. 189	H	1	Patrick Guinan	Work Session Document
A.B. 207	I	1	Patrick Guinan	Work Session Document
A.B. 221	J	1	Patrick Guinan	Work Session Document
A.B. 102	K	2	Rick McCann / Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition	Testimony