

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Eightieth Session
March 25, 2019**

The Senate Committee on Legislative Operations and Elections was called to order by Chair James Ohrenschall at 4:02 p.m. on Monday, March 25, 2019, in Room 2144 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 James Ohrenschall, Chair
Senator Marcia Washington
Senator Heidi Seevers Gansert
Senator Keith F. Pickard

COMMITTEE MEMBERS ABSENT:

Senator Yvanna D. Cancela (Excused)

STAFF MEMBERS PRESENT:

Michael Stewart, Committee Policy Analyst
Janae Johnson, Committee Secretary

OTHERS PRESENT:

Sarah Adler, Nevada Coalition to End Domestic and Sexual Violence
Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence
Daniele Staple, Executive Director, Rape Crisis Center
Lisa Ferriolo, School Based Advocate, Rape Crisis Center
Lindsay Anderson, Washoe County School District
Kyle Dalpe, Nevada System of Higher Education
Chris Daly, Nevada State Education Association
Jason Lamberth

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CHAIR OHRENSCHALL:

The Committee has a new member. Please welcome Senator Washington. I will open the meeting with Bill Draft Request (BDR) R-441.

BILL DRAFT REQUEST R-441: Expressing support for finding innovative transportation solutions in the Lake Tahoe Basin and for the efforts of the Bi-State Working Group on Transportation.

SENATOR WASHINGTON MOVED TO INTRODUCE BDR R-441.

SENATOR GANSERT SECONDED THE MOTION.

SENATOR PICKARD:

The Committee discussed another BDR like this one behind the bar. How is BDR R-441 different?

CHAIR OHRENSCHALL:

I asked the same question; the other BDR addressed Bi-State agency. This one is for transportation.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR OHRENSCHALL:

I will open the meeting on Senate Bill (S.B.) 332.

SENATE BILL 332: Revises provisions relating to education. (BDR S-640)

SENATOR HEIDI SEEVERS GANSERT (Senatorial District No. 15):

I am here to present S.B. 332, which contemplates an Interim committee on discriminatory harassment. Last fall, there were changes made to the guidelines with Title IX on the federal level. There were concerns around bullying and cyberbullying. I met with the Legislative Counsel Bureau Legal Division; Washoe County School District; Nevada Coalition to End Domestic and Sexual Violence; Clark County School District; University of Nevada, Reno; University of Nevada, Las Vegas; and the staff from the Rape Crisis Center. There were 14 people who attended online or by phone to discuss the bullying statute and how it is working on the federal level with Title IX. This issue is complex; how does

leadership deal with forms of harassment? The definition of harassment is narrow, and what is in statute is based around different types of people. I came up with a couple of solutions, and I have another bill draft in the Senate Committee on Education for bullying and cyberbullying. There are several complex issues, and an Interim study needs to be set up. This will help review the statutes and Title IX concerning higher education for changes and guidance over time. There is a conceptual amendment ([Exhibit C](#)) which defines discriminatory harassment.

SARAH ADLER (Nevada Coalition to End Domestic and Sexual Violence):

I bring two pieces of background for this work. I was on contract for a year with the Department of Education to set up a program called Safe Voice, which is Nevada's school safety and student well-being tip line. I was involved with bullying and cyberbullying through Safe Voice. In the first year of Safe Voice's operation, there were 1,516 bullying complaints. A third of the complaints were for harassment. This is a significant issue. The task force came up with an overlap between bullying for the time frame in statute. The statute requires immediate response on complaints concerning students who are victims of harassment, sexual harassment or those from the LGBTQ community who experience discriminatory harassment. The time frames required by the bullying statute are not beneficial to the trauma that these students are experiencing.

The U.S. Secretary of Education, Betsy DeVos, has begun a process for establishing new regulations to implement Title IX, and this federal law creates equal opportunity to access education. The sexual assault advocate community is active in reviewing the proposed rule. The rule would change the circumstances under which sexual assault complaints are reviewed at the campus level. When looking at Nevada law, there are several places the Legislature is proactive. For example, employment has been proactive in establishing law for specific categories so that people are free from harassment in the workplace. The idea came forward from the community that it would be beneficial for Nevadans to establish a Title IX in State law.

I have been in communication with the Office for Safe and Respectful Learning which manages the students' wellbeing and the bullying law. The Office would be willing to look at current data from the bullying law to see where Nevada is with this issue. Washington State created the term "discriminatory harassment." It comes from sexual harassment concerning females or gender-based harassments and makes it an inclusive term. We have a concept

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page, called "A Title IX for Nevada" ([Exhibit D](#)). We have prepared a proposed amendment for S.B. 332 ([Exhibit E](#)).

SENATOR WASHINGTON:

Who is this supposed to include? Are you referring to adults or students?

Ms. ADLER:

It is to be inclusive to students within a Nevada public educational system. This would include K-12 and higher education systems.

SERENA EVANS (Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence):

Discriminatory harassment is complex, and this Interim study will allow us to analyze the data and make suggestions for a lasting policy. This will positively affect anyone who is in K-12 or higher education. The Jean Nidetch Women's Center at the University of Nevada, Las Vegas, is not present, but it supports S.B. 332.

DANIELE STAPLE (Executive Director, Rape Crisis Center):

The staff at the Rape Crisis Center has concerns about how the implementation of the bullying statute has impacted investigations of sexual assault and abuse. We have asked for this issue to be examined further and changed in the future.

LISA FERRIOLO (School Based Advocate, Rape Crisis Center):

I support S.B. 332. I advocate for students, and my testimony has been provided ([Exhibit F](#)).

SENATOR PICKARD:

I am alarmed at this type of story. Is the intent of S.B. 332 to collect anecdotal studies for implementation of existing rules? Does this include looking for deficiencies and coming up with recommendations to correct these deficiencies?

SENATOR GANSERT:

Yes. The Committee heard about some of the issues and what happened. There were anecdotal stories, and in some cases, there is not an immediate response or a safety plan. If there was a safety plan, it was not necessarily a victim-centered safety plan. The discussion about cyberbullying and federal law requires that an effective investigation is conducted within 30 days, but Nevada has 48 hours. There can be 30 to 50 people involved in cyberbullying that

includes students or adults. Other incidents include a faculty member, a student, or a coach who does not play someone, which causes parents to be upset. This could lead to the coach being fired. Some students may be upset and will go on social media to get the coach rehired. During the meetings, several topics were discussed which included diverse incidents that could not be solved with a bill immediately. The guidelines are changing, and there needs to be due process for students on both sides. Higher education is going to reflect on where it sits and how it can move forward. This concerns K-12 and higher education, but higher education has a lot of uncertainty right now.

SENATOR PICKARD:

Part of my concern is you are describing the commission of a crime. It does not sound like that was even addressed. I would make a motion to do pass, but the Committee has to hear opposition and neutral testimony first.

MS. ADLER:

Sexual assault victims need to have the right to determine what time they will engage with law enforcement. The bullying statute does appropriately set aside a two-day time frame if the crime is being investigated by law enforcement. That is the victim's right to decide when or if he or she is going to report to law enforcement. That is why we need to examine these other processes.

SENATOR PICKARD:

Certainly, Legislators do not want to revictimize victims. People do not want perpetrators to be victimizing others. There is a balance, and I certainly appreciate the intent of S.B. 332.

CHAIR OHRENSCHALL:

Is the Interim study going to include K-12 through higher education?

SENATOR GANSERT:

Yes. Section 1, subsection 4, paragraph (c), subparagraphs (1) through (3) have representatives from the Crisis Support Services, Rape Crisis Center, and the Coalition to End Domestic and Sexual Violence. Section 1, subsection 4, paragraph (b) pertains to higher education. There are different representatives from these organizations to provide consolidation for these issues.

MS. STAPLE:

The examples that Ms. Ferriolo shared were only a few cases, as there are dozens of cases related to this subject. The Rape Crisis Center hopes the Committee will create this Interim study to design and implement a process that will better serve the students. While meeting with the Clark County School District, I learned of concerns about how individual situations were being dealt with. The Clark County School District informed the Rape Crisis Center about the investigations that are happening this way because everything falls under the bullying statute, which is an unintended consequence. Clark County's opinion on the process of how it is conducted is a disservice to the students. Also, schools are not properly equipped or trained to conduct these investigations within a 48-hour time frame.

Depending on a way an allegation comes forward, the investigation of an incident between an adult and a student is sometimes investigated under this process. Perpetrators of sexual assault utilize access, vulnerability and lack of credibility to perpetrate their crimes and to quiet the voices of the victims. The way the system is implemented, predators are emboldened. They can use these three tactics to access victims and assure that victims who do speak out are intimidated, minimized and discredited.

The Rape Crisis Center is welcome to work with the Interim study and to fully explore these issues and implications to help Legislators and schools understand the dynamics that allow sexual violence to be perpetrated on a daily basis in schools. The Center had a great experience with an Interim study in the past concerning child sexual abuse prevention. Great recommendations came out of that study. These recommendations have been enacted on local policy and State levels. The Center urges the Committee to move the study forward to address important issues that examine the process to help make a better one. Processes need to protect students, adequately prepare professionals and assure everyone an equal opportunity to feel safe, learn and thrive in school.

LINDSAY ANDERSON (Washoe County School District):

The Washoe County School District supports S.B. 332. We thank Senator Gansert for including Washoe County in these discussions. Washoe County will continue to work on these issues over the Interim. Discriminatory harassment is taken seriously in Washoe County.

KYLE DALPE (Nevada System of Higher Education):

The Nevada System of Higher Education supports S.B. 332 and proceeding with the Interim study to receive research and data that will support a safer, respectful environment for learning. This will ultimately help access for students' success. The Nevada System of Higher Education appreciates being included with the representatives for consultation and information as noted in section 1, subsection 4, paragraphs (b) and (e).

CHRIS DALY (Nevada State Education Association):

The Nevada State Education Association is neutral to S.B. 332. We hope the Committee will accept the amendments, and in section 2, subsection 3 which changes the word "represented" to "investigated." The Nevada State Education Association is concerned that the original language made a foul for employees' Weingarten Rights. The Weingarten Rights gives an employee the opportunity to get representation for an investigatory hearing. The language proposed in the amendment is much better.

CHAIR OHRENSCHALL:

Are you referring to page 3, line 7 or 6?

MR. DALY:

Yes. Page 3, line 6 of the bill.

JASON LAMBERTH:

I am neutral to S.B. 332. There is some good work that could come from this bill. My concern is with public schools on the existing law that allows private institutions to opt into the bullying statutes through the Office of the Safe and Respectful Learning. Additionally, the Committee members are spelled out clearly, and there is a wide range of folks represented. But it should be spelled out for the director or representative from the Office of Safe and Respectful Learning. Additionally, there should be someone from the Safe Voice Program. Ms. Adler remarked that these programs collect all the data concerning bullying, and this information could be useful to the Committee.

SENATOR GANSERT:

I communicate with the Office of Safe and Respectful Learning quite frequently. I am open to adding someone from that Office. I think that would cover the Safe Voice representative. Safe Voice is housed in the Office of Safe and Respectful Learning in the Department of Education.

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CHAIR OHRENSCHALL:
I will adjourn this meeting at 4:31 p.m.

RESPECTFULLY SUBMITTED:

Janae Johnson,
Committee Secretary

APPROVED BY:

Senator James Ohrenschall, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	2		Attendance Roster
S.B. 332	C	1	Senator Heidi Seevers Gansert	Conceptual Amendment
S.B. 332	D	2	Sarah Adler / Nevada Coalition to End Domestic and Sexual Violence	Title IX for Nevada
S.B. 332	E	3	Sarah Adler / Nevada Coalition to End Domestic and Sexual Violence	Proposed Amendment
S.B. 332	F	2	Lisa Ferriolo / Rape Crisis Center	Testimony