

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Eighty-First Session
April 14, 2021**

The Committee on Government Affairs was called to order by Vice Chair Selena Torres at 9:21 a.m. on Wednesday, April 14, 2021, Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Selena Torres, Vice Chair
Assemblywoman Natha C. Anderson
Assemblywoman Annie Black
Assemblywoman Tracy Brown-May
Assemblywoman Venicia Considine
Assemblywoman Jill Dickman
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Susie Martinez
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Clara Thomas

COMMITTEE MEMBERS ABSENT:

Assemblyman Edgar Flores (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Erin Sturdivant, Committee Counsel
Judith Bishop, Committee Manager
Geigy Stringer, Committee Secretary
Cheryl Williams, Committee Assistant



OTHERS PRESENT:

Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General

Jessica Adair, Chief of Staff, Office of the Attorney General

Kyle E.N. George, First Assistant Attorney General, Office of the Attorney General

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association

William Scott, Chief of Investigations, Office of the Attorney General

Annemarie Grant, Private Citizen, Quincy, Massachusetts

Vice Chair Torres:

[The meeting was called to order. Committee rules and protocol were explained.] Today we are going to hold a hearing on two bills. We will have a hearing on Senate Bill 37 and Senate Bill 46. At this time, we will open the hearing on S.B. 37. I believe that we have some members of the Office of the Attorney General here to present it.

Senate Bill 37: Revises certain provisions relating to the process by which a district attorney may request assistance in criminal cases from the Office of the Attorney General. (BDR 18-411)

Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General:

[She read from Exhibit C.] I am joined by my colleagues Jessica Adair, who is the Chief of Staff; Kyle E.N. George, the First Assistant Attorney General, who also gave this testimony in the Senate; and also by phone, our Chief of Investigations, William Scott. We also have Mr. Michael Kovac, who is our Chief Prosecutor.

By way of background, under current law, before a district attorney can refer a matter to the Office of the Attorney General (AG) for investigation or prosecution, they must make a request to the county commission, and the county commission must adopt a resolution authorizing the district attorney to do so.

Historically, district attorneys have utilized this mechanism when there is either a real or perceived conflict of interest that would bar their office from investigating or prosecuting a matter. More rarely, the district attorneys have also referred matters to our office when they lack the resources to investigate or prosecute a case.

Unfortunately, because county commission meetings are public, placing a matter on a county commission agenda for referral to the AG's Office also places the subject of an investigation on notice that they are being investigated. Any item that is sufficiently descriptive to conform to Open Meeting Laws would also necessarily be sufficient to destroy the confidentiality of an investigation.

Additionally, if the conflict arises because the matter involves a county commissioner, the district attorney is put in the untenable position of going before the commission to discuss a legal issue with one of their own.

This bill seeks to resolve this conflict and allow law enforcement to maintain the confidentiality of investigations by allowing the district attorneys to directly refer matters to the Attorney General's Office when they deem it necessary.

The Office of the Attorney General, however, is cognizant and mindful of county commissioners' roles in maintaining their county budgets. For that reason, this bill provides that the district attorney (DA) may only bypass the county commission approval process if the Attorney General's Office informs the DA that it will not seek reimbursement costs and expenses associated with the referred matter. We believe this solution respects the constitutional and statutory duties granted to both district attorneys and county commissions.

The Office of the Attorney General has conferred with stakeholders, including district attorneys, public defenders, the American Civil Liberties Union, and the Nevada Association of Counties. None of these stakeholders have articulated any concerns with this bill.

We stand ready to answer all Committee questions on S.B. 37.

Vice Chair Torres:

Are there any questions?

Assemblywoman Anderson:

Thank you for bringing forward this language. I am confused about one area, and that is under section 1, subsection 1: "the Office of the Attorney General must inform the district attorney whether the Office of the Attorney General will request reimbursement." Is that before the case starts? Let us say that before the case even starts, it does not seem to be a problem. But then, as the case continues and becomes larger and larger and larger, is there a way to revisit that request of information?

Christine Jones Brady:

To answer that question, we probably could go back and talk to the district attorney if we needed to. However, that would be on a rare occasion. What we do is—and I will let Chief Kovac speak to this issue—before we take a case, we analyze that very thoroughly, and we determine up front whether or not we are going to require or need financial assistance prior to taking on a case. In most cases, we try not to. But in some cases we do, such as when we know up front there are going to be a lot of expert costs or other witness travel—sometimes witnesses or victims may be out of state. If we know up front that a lot of travel will be required, we might request that up front. As all cases go, there are sometimes added expenses, but that is usually encapsulated in our budget already. I will refer that to Chief Kovac, and also Jessica Adair, who manages our chief financial officer, to weigh in on those questions as well.

Jessica Adair, Chief of Staff, Office of the Attorney General:

I just want to note that that provision that you referenced is in existing statute. We are not proposing to change any of the current procedures in regard to how the county and the AG's Office decide to pay for costs. What we do not want to do is agree to take a referral from a county, from a DA, and then send a county commission a very large bill that they did not have any way to agree to or to build into their budget. That is why we added the provision that the DA's can send us a referral directly. But if we agree to take the case, then we will cover the costs. I do want to note that that decision, that process where the AG's Office and the DA confer about the cost of the case, is existing statute and we are not proposing to make any changes to that.

Assemblywoman Anderson:

Thank you for that clarification. If there is a disagreement between the DA and the AG's Office about how to proceed—actually, that has nothing to do with this bill, so maybe I will have that conversation with you offline, assuming there is an agreement and steps for how to handle that, but that is not in this language.

Assemblywoman Thomas:

I am very impressed. I have a quick question. Ms. Brady, during your presentation, you mentioned the county commissioners' meetings being public, which we all know, and there is a case that may not destroy the investigation but put people that are being investigated on notice. I was wondering: How many cases have you been privy to where this has happened? Do you have data to support this narrative?

Christine Jones Brady:

I have just a couple of comments. I see Kyle E.N. George is nodding, so I will refer it to him and also to Chief Kovac. Usually, that is part of the problem and is why we are asking for this bill. If we do see that there are confidentiality issues, we often will not get the case, even if it would probably be a good idea for us to get it. We cannot risk the confidentiality of an investigation in that manner. In terms of data, I will turn it over, because I saw Mr. George nodding. Also, Mr. Kovac may have more numbers on specifics where that has happened.

Kyle E.N. George, First Assistant Attorney General, Office of the Attorney General:

Assemblywoman Thomas, the answer to your question is that we do not have a lot of data on that because right now, the mechanism in place precludes it from happening. Under current law, the practice is usually this: One DA's office will go to another DA's office and ask if they will take over a conflict case as a courtesy. It is a very informal process; it is not an ideal process because it shifts the burden of cost and the expenditure of resources from one county to another. But that is, in practice, the way it is usually done right now. What we envision with this is that on the rare occasion that there is a need to refer to the Attorney General's Office, there is a mechanism to do so—in appropriate circumstances of course—that avoids publicizing the existence of a case before it is the appropriate time to do so.

Assemblywoman Considine:

Thank you for bringing this bill. Actually, most of my questions have been answered by the Assembly folks who asked questions prior. I just wanted to confirm all this in my mind. Currently, if there is a situation where the confidentiality is such that there will not be a request to the county, in those cases, the AG just does not take it. Then it is left with the DA. But what this bill will do is allow a conflict case to be referred; the AG is then accepting the cost for all of that because they will not go to the county for any reimbursement on it. Because now that shifts the burden from where that money is coming from; they fully understand that whichever way this goes, the Attorney General's Office is going to be the one that does not get reimbursed. Am I right?

Christine Jones Brady:

Yes. For the record, that is what we currently do. As Ms. Adair also referenced before, we confer with the DAs ahead of time. While they are in the process of referring the case, we consult and talk about where the witnesses are, what kind of experts are needed, what the travel costs are, et cetera. We do that calculation up front. Under the current system, in which that part is already in place, we have yet to go back to them and ask them for money if we have not agreed up front that they will pay for some or all of the cost.

Assemblywoman Considine:

Should it pass, would this bill be valid for any county?

Christine Jones Brady:

Yes.

Vice Chair Torres:

Members, do we have any additional questions? [There were none.] We can go ahead and start hearing testimony in support of Senate Bill 37.

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:

We are in full support of S.B. 37 and want to thank the Attorney General's Office for bringing the bill. This bill will significantly reduce the time it takes to transfer a case to the Attorney General's Office when the Attorney General is not seeking reimbursement for the prosecution. It is important to note that the decision of whether to accept or reject a prosecution request or whether to seek reimbursement is the sole decision of the Attorney General's Office. When we submit a case to the Attorney General's Office, we send a justification for the request to them when they make their decision. Again, the Nevada District Attorneys Association is in full support of S.B. 37.

Vice Chair Torres:

Could we go to the next caller in support of Senate Bill 37? [There was no one.] Are there any callers in the queue to testify in opposition to S.B. 37? [There was no one.] Do we have anybody in the queue to testify in the neutral position to S.B. 37? [There was no one.]

I think everybody that was going to call in must have heard the testimony from the AG's Office and their questions were all answered. They knew they did not have to call in today—but they are very excited about S.B. 37. Are there any final remarks from the sponsors or questions? [There were none.]

At this time, we will close the hearing on S.B. 37, and we will open the hearing on S.B. 46, which revises provisions relating to the Office of the Attorney General. I know that we have several members of the Attorney General's Office that are here to present S.B. 46.

Senate Bill 46: Revises provisions relating to the Office of the Attorney General.
(BDR 20-410)

Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General:

[She read from Exhibit D.] I am joined by my colleagues, Chief of Staff Jessica Adair; First Assistant Attorney General Kyle E.N. George, who gave this testimony in the Senate; our Chief of Investigations, William Scott; and our Chief of Prosecutions—I think he is still on the line—Michael Kovac.

Senate Bill 46 touches on several different statutes but distilled to their essence, all the provisions of this bill pertain to the safety of personnel of the Office of the Attorney General.

Over the years, the Nevada Legislature has provided protections to numerous government officials whose personal safety may be at risk due to the nature of their services to the state. For example, judges, social workers, code enforcement officers, deputy district attorneys, and public defenders may take steps to keep their property and tax information confidential, but Attorney General staff is conspicuously absent from this list.

Sections 1 through 4 of this bill allow the Office of the Attorney General lawyers to seal their property records with the county recorder and tax assessor, their voter records with the Secretary of State, and to display an alternate address on their driver's license. These protections are consistent with those currently extended to numerous other state and county employees, but not to Attorney General's Office personnel.

I would note that the language in these provisions applies to "any person employed by the Office of the Attorney General who prosecutes or defends actions on behalf of the State of Nevada or any agency in the Executive Department of the State Government." This construction is purposeful.

Over the past year, state agencies across the nation have been harassed, threatened, or doxed for serving their states and communities. In Nevada, several officials were explicitly threatened. And in the Office of the Attorney General, deputy attorneys general from our Personnel Division, Criminal Division, Taxation Division, Public Safety Division, and Solicitor General's Office have either all expressed concern for their personal safety at various points during the past year or have been personally threatened. Given the Attorney

General's role as Nevada's lawyer, our attorneys become the focal point for the ire against the state itself. For this reason, our proposed bill language is not limited to the Criminal Prosecutions Division.

The last provision of this bill, section 5, pertains to the sworn and badged officers of our Investigations Division. Under current law, law enforcement agencies, including sheriffs' offices, Department of Motor Vehicles police, and the State Fire Marshal are authorized to equip their vehicles with lights and sirens that readily identify them as law enforcement. The Office of the Attorney General is not on the list.

As a result, the investigators of the Attorney General's Office are often put in the position of arriving on the scene in unmarked vehicles, routing or blocking traffic using vehicles with no obvious indicia of law enforcement, while wearing badges and guns but no uniform. The likelihood of misidentification is high, and unnecessarily increases the risk to both officers and the public during an encounter. Emergency lights and sirens on Attorney General vehicles would permit investigators to visibly convey their status as law enforcement officers for some distance and provide some safeguards against misidentification. Additionally, providing statutory authority for these peace officers to install lights and sirens on their vehicles will put them on equal footing with other law enforcement agencies in the state.

Thank you again for this Committee's time and efforts on this bill. We are happy to answer any questions on this bill.

Vice Chair Torres:

Members, are there any questions?

Assemblywoman Thomas:

Again, thank you, Ms. Brady, for bringing forth this bill. I think that it is really important to have protections for the Office of the Attorney General, just like the office of the district attorney and so forth for all those agencies that require protection. My biggest question right now has to do with this: During your presentation you said, "any person employed by the Office of the Attorney General." My question has to do with support staff. Does this include support staff—as in your secretaries, your clerks, your process servers, and your investigators?

Christine Jones Brady:

The plain language of the law reads, Yes, to any person. That would include support staff. I will defer to Kyle E.N. George on this.

Kyle E.N. George, First Assistant Attorney General, Office of the Attorney General:

The language of the bill is limited to those who prosecute or defend actions, which would only be limited to attorneys in these roles.

Jessica Adair, Chief of Staff, Office of the Attorney General:

We are going to tag-team this answer. The reason for that is when, as an attorney, you are making a public filing with the court, your name and your bar number are on that document. That is why we want to keep that person's home address confidential. A secretary is not going to have the same level of publicly available information. When they publicly file a document, it does not associate their name and their bar number, obviously, because they are not a member of the State Bar of Nevada.

Assemblywoman Dickman:

I really like this bill. My question is this: Since the Attorney General is the top law enforcement official in the state, I am wondering why we are not affording all law enforcement officers the same protections. The officer who is on the front lines every day, who interacts with the public every day, who arrested the dangerous criminal, would be just as much at risk as the attorney who prosecutes them, would he not?

Kyle E.N. George:

You can go ahead, Ms. Brady.

Christine Jones Brady:

No, I will defer to you.

Kyle E.N. George:

Under existing law, other law enforcement officers do have that ability. The Attorney General's Office is the only office that does not, under current law. Right now, sheriff's offices, police departments, district attorneys, and city attorneys have it, but personnel in the Attorney General's Office do not. The purpose of this bill is to bring us on equal footing with other law enforcement agencies and to get what they already have.

Jessica Adair:

For the record, if you look on page 3, section 2, subsection 1, paragraph (e), it states, "Any peace officer or retired peace officer."

Assemblywoman Dickman:

I would direct you to section 1, which refers to the county recorder's office. It does not have that same line as section 2, subsection 1, paragraph (e). That is where the police officers are missing. I would respectfully ask if you would be open to amending this bill to add the police officers in section 1.

Jessica Adair:

I would like to confer with law enforcement before making that commitment. I do not anticipate that we would have any opposition to that, but I would like to discuss it with law enforcement prior to agreeing with that amendment on the record.

Kyle E.N. George:

On page 3 of the bill, section 1, subsection 1, paragraph (j), it says, "Any inspector, officer or investigator employed by this State or a political subdivision . . . designated by his . . . employer"—sorry, that is code enforcement. Yes, we are receptive to that, subject to internal discussions and discussion with law enforcement about whether or not they have that in other parts of statute as well.

Assemblywoman Dickman:

Section 1 refers to the recorder's office, and they are not included in there. I really appreciate the discussion, and feel free to contact me.

Vice Chair Torres:

I do want to remind the Committee that we did have a bill that was similar to that already heard this legislative session. There was quite a bit of opposition from our Committee members on that additional amendment. I would encourage the Attorney General's Office to reach out to fellow Committee members and see if that would be something that all members of the Committee would be open to because I think there are a lot of good parts of this legislation. I would hate for us to see it amended to a point where our colleagues would not be comfortable with this piece of legislation.

Kyle E.N. George:

Nevada Revised Statutes (NRS) 247.560, subsection 1, paragraph (a) does, in fact, provide that law enforcement does have the ability to keep county recorder records confidential. It looks as though it is in existing law. To repeat it, that is NRS 247.560, subsection 1, paragraph (a).

William Scott, Chief of Investigations, Office of the Attorney General:

Yes. The investigators at the Nevada Attorney General's Office are category II Peace Officers' Standards and Training-certified investigators, so they would fall underneath that existing NRS statute that First Assistant Kyle E.N. George just spoke of.

Vice Chair Torres:

Members, are there any additional questions? [There were none.] We will now move again to hear testimony in support of S.B. 46. [There was none.] Could we now go to testimony in opposition of S.B. 46? [There was none.] Is there anyone willing to testify in the neutral position on S.B. 46? [There was no one.] From the Attorney General's Office, do you have any additional closing remarks?

Christine Jones Brady:

No, Vice Chair.

Vice Chair Torres:

I appreciate the Attorney General's Office for being present with us today. I will now close the hearing on S.B. 46. At this time, we will move to our public comment portion of today's meeting.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

My brother, Thomas Purdy, was 38 years old when he had a mental health crisis at the Peppermill Casino in Reno. Reno police showed up and hog-tied him for 40-plus minutes. They never called a paddy wagon or anything else; they just put him in the regular cruiser. Their policy says that they are supposed to call the paddy wagon. They then brought him to the Washoe County jail, where my brother was able to get one leg out of the hobble. He was not kicking anybody or anything. It was never alleged that he was kicking anybody at that point. The Reno Police Department took him out of the cruiser and then they put the hobble back on him even tighter, seconds before sheriffs carried him into the jail, where he was then still hog-tied, told them he could not breathe, told them that he had had major lung surgery—he had a collapsed lung prior—that he was going to die, and that he needed an ambulance. The nurse asked him again, "Why can't you breathe, sir?" He told her, "I told you, I had major lung surgery. I'm going to die. You're going to kill me." Sure enough, they did. They put him face down, four deputies on top of him, his legs, knees, back, and neck. He was no threat to anybody, not one single person. He needed a hospital, not a jail cell to be asphyxiated to death.

Please support bills that promote transparency and accountability, like Senate Bill 50 (1st Reprint) and Assembly Bill 157 (1st Reprint). Please do not support bills like Assembly Bill 92 or Assembly Bill 127, which proposes hiding police identities from civilians whom they are meant to serve. Passage of A.B. 127 would mean lower accountability for police officers who murder or assault civilians. Thank you, have a nice day.

Vice Chair Torres:

Could we have the next caller, please? [There was no one.] Thank you, Committee, for showing up on time, making sure that we were ready for today's hearing, and doing our homework. I just want to remind the Committee that tomorrow, Thursday, April 15, we will be meeting at 9 a.m. I believe that there will be some updates about our possibly meeting in person. That should be in the Committee's email. Please make sure that you check that, as I know that there will be several changes going on as the building begins to reopen to members of the public physically—although we will continue to be open virtually and physically as well.

Additionally, I want to remind the Committee that we will have two bill hearings tomorrow on Senate Bill 28 and Senate Bill 47. I encourage you to read those ahead of time to be prepared for our Committee. Thank you for doing your good work. This meeting is adjourned [at 9:56 a.m.].

RESPECTFULLY SUBMITTED:

Geigy Stringer
Recording Secretary

RESPECTFULLY SUBMITTED:

Lindsey Howell
Transcribing Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony prepared and presented by Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General, in support of Senate Bill 37.

[Exhibit D](#) is written testimony prepared and presented by Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General, in support of Senate Bill 46.