

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-First Session
March 8, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:04 a.m. on Monday, March 8, 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:

Assemblyman Steve Yeager, Chairman
Assemblywoman Rochelle T. Nguyen, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Cecelia González
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Heidi Kasama
Assemblywoman Lisa Krasner
Assemblywoman Elaine Marzola
Assemblyman C.H. Miller
Assemblyman P.K. O'Neill
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Ashlee Kalina, Assistant Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager
Karyn Werner, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Jessica Adair, Chief of Staff, 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
Tonja Brown, Private Citizen, Carson City, Nevada
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Randy Hencken, Private Citizen, Washoe County, Nevada
Caitlin Gwin, Private Citizen, Las Vegas, Nevada
Annemarie Grant, Private Citizen, Quincy, Massachusetts

Chairman Yeager:

[Roll was taken. Committee rules and protocol were explained.] We are going to move to our agenda. We have one bill on the agenda, and I will open the hearing on Assembly Bill 64. For the members of the Committee, you should have received a proposed amendment [[Exhibit C](#)] proffered by the Office of the Attorney General, which is the sponsor of the bill. The public can also find the proposed amendment on the Nevada Electronic Legislative Information System.

[Assembly Bill 64](#): Revises provisions relating to certain crimes. (BDR 15-407)

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

Assembly Bill 64 is a bill intended to enhance the Office of the Attorney General's ongoing enforcement efforts against sex trafficking in Nevada. Sex traffickers frequently prey on the most vulnerable among us, including children and those who have a history of trauma or being abused. Trafficking organizations can be sophisticated organized crime operations or just a single individual. Regardless of the structure, all traffickers use force or fraud to profit off the commercial sexual exploitation of another adult or child.

Combatting sex trafficking is a top priority for Attorney General Aaron Ford. Our office coordinates with other federal, state, and local law enforcement agencies in Nevada to investigate and prosecute sex trafficking cases. The Office of the Attorney General's criminal investigators are embedded in task forces in both northern and southern Nevada.

They focus on investigations of trafficking and Internet crimes against children. Our prosecution efforts are led by Senior Deputy Attorney General Alissa Engler, who also serves as the Nevada Children's Advocate for missing and exploited children.

Our office coordinates with stakeholders across the state to improve the state's enforcement efforts and services provided to survivors. For example, our office hosted a law enforcement summit in both northern and southern Nevada that focused on sex trafficking and brought leading experts from across the country to present cutting-edge investigation techniques. We also serve on multiple trafficking task forces and in the Nevada Coalition to Prevent Commercial Sexual Exploitation of Children.

Assembly Bill 64 directly relates to the Attorney General's Office's efforts and ability to work with our law enforcement partners across the state to jointly combat this insidious criminal activity. I would like to bring to the Committee's attention an amendment [[Exhibit C](#)] provided by this office. This amendment reflects changes requested by criminal justice stakeholders and other interested parties.

Turning to the amendment, sections 1 and 2 refer to the original statutory provisions regarding *Nevada Revised Statutes* (NRS) 199.230 and NRS 199.305, respectively. Section 3 expands the Office of the Attorney General's jurisdiction to prosecute these crimes. Currently, our office has concurrent jurisdiction with district attorneys to prosecute pandering and sex trafficking, which is NRS 200.300; living from the earnings of a prostitute, NRS 201.320; and advancing prostitution, NRS 201.395. This amendment proposes to add related crimes that have similar elements. *Nevada Revised Statutes* 201.301 criminalizes facilitating sex trafficking, and NRS 201.354 criminalizes engaging in prostitution or solicitation for prosecution.

Section 3, subsection 2, also gives the Attorney General's Office jurisdiction over ancillary crimes committed during one of the previously listed crimes. For example, if a trafficker also commits kidnapping while facilitating sex trafficking, our office would be able to charge kidnapping, which is not usually our jurisdiction.

Section 4 makes a clarification to NRS 201.354. In the 2019 Session, the Attorney General's Office sponsored—and the legislation passed—an amendment to this statute that prevented sting operations for those soliciting children. This bill clarifies that a person who solicits a child, a peace officer posing as a child, or a person acting on behalf of a peace officer by posing as a child is guilty of soliciting a child. In practice, law enforcement agencies use online advertising mechanisms to post fake advertisements for commercially sexually exploited children. Solicitors often request photos of a person or child being solicited. Because of that, peace officers work with individuals to provide these photos for the operation. Our office—in coordination with local law enforcement agencies and the Federal Bureau of Investigation—has conducted several successful operations that resulted in the arrests of dozens of adults who were soliciting children for commercial sexual exploitation. This method of investigation specifically targets those who are seeking to harm Nevada's children. It also represents an important philosophical shift for law enforcement to focus on

those who solicit—and the traffickers themselves—and away from focusing on the victims of sex trafficking.

Finally, section 5 of the amendment removes previously proposed changes and refers to the original statutory provisions regarding NRS 201.430.

Assemblyman O'Neill:

I did 40 years in law enforcement, and 30 of them were in investigations. I want to talk to you specifically about section 1. You talked about, "A person who, by persuasion, force, threat, intimidation, deception or otherwise, and with the intent to obstruct . . ." Then you go on to describe that he is guilty of a category C felony if physical force or the immediate threat of physical force is used, and that it is a gross misdemeanor if there is no physical force or immediate threat.

Let me give you an instance, so you can help me see where this would fit in. I am talking to a witness, I have a baseball bat in my hand, and I ask, "How is your day going right now? Do you have anything planned for later today or tomorrow?" There is no threat; I may be just standing there as a pimp or someone else with a strong tone. The threat is not immediate, but, to me, all threats—whether immediate or implied—should be classified as a felony. You talked about that only being during proceedings, such as court or subpoena service. How about during investigations? It says ". . . in any action, investigation, or other official proceeding . . .," so investigations would be protected. We have not gone to court yet; I am just handling the case from the start. You could prosecute any prevention of a witness talking to me. Am I correct? Am I understanding this correctly? To me they all should be felonies.

Jessica Adair:

In our proposed amendment, we are taking out any changes to the current NRS regarding victim witness dissuasion. The reason is that we have been working with some stakeholders on this issue. We recognized that there is often a unique relationship between traffickers and victims that leads to more susceptibility for people to be dissuaded from testifying against their traffickers. After working with various stakeholders, we could not agree on what would best encapsulate that relationship or on a way to specifically address that dissuasion piece. We understand that there is not a philosophical appetite toward increasing penalties—even if it is for philosophical reasons—or for fiscal considerations in this particular legislative session. We have opted to remove the proposed changes to that section and stick with the original NRS language regarding victim dissuasion and witness dissuasion. Your questions are important questions for us to discuss. Unfortunately, this particular amendment will not affect any existing NRS regarding that situation.

Assemblyman O'Neill:

You have included in section 1, subsection 2 of the amendment, "Where no physical force or immediate threat of physical force is used." Upon reading this bill, that is in there now, so that has been added back in. Correct?

Jessica Adair:

The orange text is the original NRS that we are proposing to revert back to. That is in existing statute.

Assemblyman O'Neill:

I appreciate that clarification. I will just say that I think we should consider talking about sentencing, et cetera, and the actual impact on the state or county. To intimidate a witness, whether it is with an immediate threat or implied threat, prevents justice from prevailing or going forward and—from my point of view from years of dealing with this—should be a felony.

Chairman Yeager:

Remember, Committee, we have not looked at a formal amendment yet. I know we have new folks on the Committee, so I will remind everyone that when a bill comes out of drafting in the first place, the blue language is language that is being added to the statute. The red, strikethrough language is what is being deleted from existing statute. Then, when we talk about amendments, we add a couple of different colors. One of those is green, which is new language in the amendment. That is language that does not appear in the original bill. We have purple, double strikethrough, which signifies deletion of things that were added in the original bill. Hopefully, that is not too complicated. When you look at this amendment and see those colors, the purple language was in the original A.B. 64 and is proposed to be deleted by amendment, and the orange language is new language that is to be added. No, I got those mixed up. The green language is the language that is being added for the first time in the amendment, and the purple strikethrough is language that was in the original but is being deleted. That will make more sense as we work through the amendment process. I appreciate Ms. Adair for trying to represent that in the amendment. It is not always intuitive, but, as we get through this process, we will pick up on it along the way.

Are there any additional questions? [There were none.] I have a few relatively simple questions. If you look at the amendment, my first question would be on the language on page 5 of the amendment. You touched on how police officers could use someone who is not a police officer to pose as a child. You also mentioned the use of photos, presumably photos of people who are not police officers or children. Beyond that example, are you aware of police actually getting individuals involved in these undercover sting operations aside from their photographs? Do the police officers use these individuals to do stings to lure people and then arrest them?

Jessica Adair:

Yes. This is something I learned during our law enforcement summit. Scammers do not only target law-abiding citizens; they also target those who are using many of the online systems for soliciting commercial sexual exploitation. Frequently, when someone is attempting to negotiate a transaction with another person, they will say to send them a picture holding up X number of fingers to prove the person is a real person and not a "bot" or someone other than with whom they have proposed to negotiate. Oftentimes, law enforcement officers work with people who pose as children to negotiate transactions. Later,

they set up a hotel room or a home where they agree to meet at a particular place and time. When the person shows up, he is arrested. The operation is not just a matter of a conversation; the person must take some action for the operation to be complete.

To your question about live individuals in sting operations, to my knowledge they do not use them. I think that is possible, but it is not used very often because of the sheer resources it takes to conduct those types of operations and for the safety of the officers and civilians who would be involved.

Chairman Yeager:

Moving on to page 7 of the proposed amendment, the language you have midway down on line 29—and I realize this is language that is being restored from the original NRS—it talks about 50 percent of the money deposited being used for the enforcement of this section. Is that enforcement meant to be the undercover sting operations? What would enforcement of this section encompass in terms of 50 percent of the money deposited in the fund?

Jessica Adair:

Yes, it is for this type of operation and similar operations. This original statutory language was the result of a bill sponsored by Assemblywoman Tolles, whom I want to thank for her work on this issue. She passed a bill that addressed this section and the penalty scheme of depositing fines in these two different areas. After hearing from stakeholders who have been relying on this statutory language and how it would affect their enforcement efforts, we proposed to revert to the original statute.

Chairman Yeager:

In the amendment, at the top of page 9 on line 3, we have the word "advertise," which already exists in statute. Then, when we turn to page 10 of the proposed amendment, there is language being deleted that was in the original bill that proposed this new language. One proposal was to define "advertise" or "advertising." What was the thought process of deleting that definition? Perhaps there already is a definition of "advertise" in the NRS, but please explain why that is being removed from the original bill.

Jessica Adair:

It was suggested by a trafficking organization that we expand the definition of "advertising" to include online electronic advertising. The problem with that from a practical standpoint is that we have legal houses of prostitution here in this state. Expanding that online provision would practically affect their ability to advertise. Legal houses of prostitution in Nye County cannot prevent a user in Clark County, for example, from viewing that website. From a practical standpoint, it was not going to work with the technology we now have. That is why we removed the definition that had been expanded to include the electronic means.

Chairman Yeager:

That makes good sense. I thought there was a good reason that I was missing.

Are there other questions from Committee members? [There were none.] I will allow you to ask questions after the testimony if you have any. I will now open testimony in support of Assembly Bill 64.

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

We want to voice our support for A.B. 64 and thank the Attorney General's Office for working with us on this bill.

Tonja Brown, Private Citizen, Carson City, Nevada:

As an advocate for the innocent and the inmates, we support this bill.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We are calling in to show our support for this bill.

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We are here in support of A.B. 64.

Chairman Yeager:

I will note for the record and Committee members that there are two exhibits on the Nevada Electronic Legislative Information System. One is a letter in support from Dignity Health-St. Rose Dominican [[Exhibit D](#)], and the other is a letter in support from Barbara G. Brents, Professor, Department of Sociology, University of Nevada, Las Vegas [[Exhibit E](#)].

Although they may not have said it, I take it from their testimony that everyone who has testified in support is in support of the bill as proposed in the amendment. According to our rules, if you are in support, it means you support the amendment that is being presented by the sponsor. If they oppose the amendment, they would be in opposition. Although they did not say it, I believe that to be the case for the clarity of the record. If it is not the case, please let us know.

I will close testimony in support. I will open testimony in opposition to A.B. 64 as proposed in the amendment.

Randy Hencken, Private Citizen, Washoe County, Nevada:

I am not really in opposition to the bill. I think it is a good amendment, but I am concerned about the measures in place to protect innocent people from being swept up in these stings using children. I have heard, and read an exposé in *The New York Times*, about something that happened in the state of Washington. Dozens of men, who committed no other crimes, were caught in child stings where they presumed the person who looked like a teenager was an adult. I am curious if the district attorneys are concerned or taking measures to make sure the people they capture are true predators rather than people who thought they were in some

type of "cosplay." I encourage the district attorneys to find that exposé—I could send it to them—if they have not seen it.

Chairman Yeager:

If you find the article, feel free to send it to the Committee as well. You can send it to our committee manager or to me, and I will make sure everyone gets it.

I will close opposition and open testimony in the neutral position.

Caitlin Gwin, Private Citizen, Las Vegas, Nevada:

I am here from the Sex Worker Alliance of Nevada. I want to say thank you to the Attorney General's Office, especially to Jessica Adair for taking time to listen to all of our concerns and for dropping all the increased penalties that we felt made it more dangerous. We are in support of the amended version of the bill; however, we are excited to begin a conversation with the Attorney General's Office, especially with this proposed [unintelligible] jurisdiction. With the amendment, there is nothing in this bill that, on the surface, is harmful, but I want to address some patterns that make me hesitant to be in full support.

While we are certainly not in support of enabling the abuse of children, I find the general push toward stings and arrests troubling. These patterns are consistent with what is called the "end demand" model, and sometimes called the "Nordic" model because it is popular in Scandinavian countries and in Europe. It has been proven to be inefficient in stopping the abuse of vulnerable people doing sex work. There is ample evidence on the Internet if you do a quick Google search for the Nordic model or the end demand model. They will show that most human rights organizations are against it. Let me take a moment to illustrate that. The idea is, if someone is doing sex work through enthusiastic consent or because it is their best or only option, criminalizing buyers does not make the market safer. Workers will be forced to take clients in unsafe situations without being able to vet them. If the market is still pushed underground, many workers will be forced to work with pimps or managers to access clients. Although the end demand model does make the arrest of sex workers less likely, it does nothing to quell a violent or exploitive sex work environment.

Chairman Yeager:

Are there other callers in the neutral position? [There were none.] I will close the neutral testimony. I will invite concluding remarks, but before I do that, I want to make sure no one has a question that they thought of during testimony. [There was no one.] Now would be the time for concluding remarks.

Jessica Adair:

I want to thank the many stakeholders who worked with us on the bill for the last couple of months. I appreciate their input. We hope you support this bill.

Chairman Yeager:

The amendment looks very different from the original bill. I think that was a reflection of a lot of input from folks who were interested in the bill. I appreciate your office's willingness to do that and to come forward with an amendment that seems to be a consensus piece of legislation.

I will now close the hearing on Assembly Bill 64. That will take us to the next item on the agenda, which is public comment. As a reminder, we reserve up to 30 minutes for public comment at the end of each meeting. Callers on the public comment line will have two minutes to provide public comment. Also, as a reminder, public comment is a time for comments of a general nature for matters within the jurisdiction of this Committee. It is not a time to relitigate or reopen hearings on bills, but a chance to address matters of a general nature.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

My brother was killed at the Washoe County jail after he was hog-tied for 40-plus minutes and was asphyxiated to death.

This past Saturday, March 6, I attended an event in Boston showing solidarity with local families impacted by police violence, including Juston Root's, Terrance Coleman's, and Beau Ramsey's [Burrell Ramsey-White] families. Families impacted by police violence across the country were calling for a nationwide protest this past weekend. As jury selection begins in the trial of the cop who killed George Floyd, Derek Chauvin, similar events were held across the country on Saturday, including in Las Vegas. Our demands are the conviction of George Floyd's murderer and to reopen all past cases of police brutality, abuse, murder, and cover-up. Prosecute, convict, and jail all cops who abuse, murder, and cover up. Prosecute, convict, and jail those in government—to include district attorneys—who aid and abet police brutality.

When I watched George Floyd being murdered, it immediately brought me back to my brother and how he died a horrible, torturous death nearly five years before Mr. Floyd, and how so many after my brother have been asphyxiated to death by law enforcement. I call for public comment, not only for my family, but for all impacted families across the country. According to [unintelligible] 29,639 people have died during interaction with police since the year 2000, including 395 in Nevada.

I want you to imagine the agonizing and terrifying death my brother, Thomas Purdy, experienced hog-tied for 40 minutes. Now imagine it was someone you loved: your son, daughter, brother, parent. He even said to the officers, "Why did you have to do this to me? Why did you not just charge me? You could have been a lot better people about this." It is shocking to the conscience that so many officers had a chance to speak up and save my brother's life, but none chose to. I choose not to be like those moral-less officers, and I will continue to speak out and urge all of you to support bills that promote transparency and accountability. Please do not support bills that protect bad police officers or that extend

further protections to them, such as Assembly Bill 92, which I read will come before this Committee.

Chairman Yeager:

Is there anyone else on the line for public comment? [There was no one.] I will now close public comment. Before we talk about the rest of the week, is there anything from any of the Committee members? [There was nothing.]

In terms of the rest of the week, we have agendas for Tuesday and Wednesday so far, both with 8 a.m. starts. We have two bills tomorrow. As far as I know, there are no amendments for those bills, but I will get them to you if I learn of any. I expect to have meetings on Thursday and Friday. It is a matter of which bills and what time we start. I do not know that yet, but will, hopefully, know more tomorrow and Wednesday. We may also add another bill to the one bill scheduled on Wednesday.

I think that is all for now. See you tomorrow morning at 8 a.m. This meeting is adjourned [at 9:44 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to Assembly Bill 64, presented by Jessica Adair, Chief of Staff, Office of the Attorney General.

[Exhibit D](#) is a letter dated March 8, 2021, submitted by Katie Roe Ryan, System Director, Nevada Government Relations, Dignity Health-St. Rose Dominican, in support of Assembly Bill 64.

[Exhibit E](#) is a letter dated March 8, 2021, submitted by Barbara G. Brents, Professor, Department of Sociology, University of Nevada, Las Vegas, in support of Assembly Bill 64.