

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Eighty-First Session
March 23, 2021**

The Committee on Legislative Operations and Elections was called to order by Chair Brittney Miller at 4:03 p.m. on Tuesday, March 23, 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 Brittney Miller, Chair
Assemblywoman Sandra Jauregui, Vice Chair
Assemblywoman Jill Dickman
Assemblyman Jason Frierson
Assemblywoman Cecelia González
Assemblyman Glen Leavitt
Assemblyman Andy Matthews
Assemblyman Richard McArthur
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Clara Thomas
Assemblywoman Selena Torres

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Howard Watts, Assembly District No. 15

STAFF MEMBERS PRESENT:

Pepper Sturm, Principal Policy Analyst
Bonnie Borda Hoffecker, Committee Manager
Lori McCleary, Committee Secretary
Trinity Thom, Committee Assistant



OTHERS PRESENT:

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Aaron Ford, Attorney General
Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Pamela A. Goynes-Brown, Councilwoman, Ward 2, City of North Las Vegas
Bruno Landivar, Intern for Assemblywoman Torres, representing Nevada Hispanic Legislative Caucus
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Liz Davenport, Intern, American Civil Liberties Union of Nevada
Benjamin Challinor, Policy Director, Faith in Action Nevada
Deborah A. Evans, Nevada State Director and National Communications Director, National Juneteenth Observance Foundation; and Founder and Chief Executive Officer, Juneteenth Nevada
Al Gourrier Sr., President, Samuel L. Smith Educational Foundation
Mercedes Maharis, Member, Senate District No. 3, Nevada Silver Haired Legislative Forum
Syeda Jamshed, Intern for Assemblywoman Torres, representing Nevada Hispanic Legislative Caucus
Rodney C. Smith, Private Citizen, Las Vegas, Nevada

Chair Miller:

[Roll was called. Committee rules and protocol were explained.] I would like to open the hearing on the one bill we have tonight, which is Assembly Joint Resolution 10, sponsored by Assemblyman Watts. This measure proposes to amend both the Ordinance of the *Nevada Constitution* and the *Nevada Constitution* to remove language authorizing the use of slavery and involuntary servitude as a criminal punishment.

Assembly Joint Resolution 10: Proposes to amend the Ordinance of the Nevada Constitution and the Nevada Constitution to remove language authorizing the use of slavery and involuntary servitude as a criminal punishment. (BDR C-496)

Assemblyman Howard Watts, Assembly District No. 15:

It is my honor to present Assembly Joint Resolution 10, which fully bans slavery and involuntary servitude in the state of Nevada.

Some members of this Committee and many members of the public may wonder why that is necessary. We have frequently heard and have learned that the Thirteenth Amendment to the *United States Constitution* abolished the practice of slavery in our nation, but that is not quite true. The actual language of the Thirteenth Amendment is this: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been

duly convicted, shall exist within the United States, or any place subject to their jurisdiction" [*U.S. Constitution*, Amendment XIII, Section 1]. The exception to our nation's abolition of slavery allows involuntary servitude to be administered as a punishment for crimes, and there is no further guidance other than the Eighth Amendment's protection against cruel and unusual punishment.

To give a little bit more history on this issue, the language that is found in the Thirteenth Amendment of the *U.S. Constitution* was copied from the Northwest Ordinance of 1787 [Section 14, Article 6], which led directly to the creation of the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin. All of these states, with the exception of Illinois, put the language from the Ordinance into their state constitutions, and that practice continued as additional free states joined the union and as Confederate states entered Reconstruction following the end of the Civil War. While the language was, at the time, a major step forward for human rights in this country, we have come a long way since then. Nevada enshrined this language in its state constitution—enshrining slavery and involuntary servitude as a punishment for crimes—and it has remained in the foundational document of our state government for more than 155 years.

The New Jim Crow: Mass Incarceration in the Age of Colorblindness by Michelle Alexander and the 2016 documentary film *13th* by Ava DuVernay explored the ways that criminal justice in America transformed in reaction to this very exemption clause in the Thirteenth Amendment—starting in the South following the end of Reconstruction, but later extending across the country. New petty offenses were created and enforced that specifically targeted Black citizens, often referred to as the "Black Codes." These included whistling and signs of disrespect to others. Not only that but penalties came with fees, and when the fees were not able to be paid, hard labor was required instead. As a result of this, we saw the rise of chain gangs and convict leasing, whereby both state governments and private enterprises profited from the free and forced labor of primarily Black men after the supposed end of slavery. The conditions were brutal and inhumane, with thousands of Black prisoners being literally worked to death.

To this day, the higher rates of policing, arrest, prosecution, and incarceration for communities of color; the subminimum wages for prison labor; and the collateral consequences of convictions that increase the likelihood of recidivism are considered by many to be direct legacies of these creative efforts to maintain the chattel slavery economy following the end of the Civil War and the supposed abolition of slavery in this country.

When we talk about slavery in the United States, I want to be specific about what we are referring to. We mean the designation of human beings as the personal property of others, denying their most basic agency and rights—losing all their liberties forever, without cause, and having their labor compelled without compensation. As we know, enslaved persons could be beaten, abused, or killed without consequence.

Let us also be clear about the other term, "involuntary servitude," which means being forced to work without compensation and with no choice in the matter. I just want to be clear that

that is, or at least it certainly should be, very different from the temporary deprivation of liberties as a form of punishment or the voluntary work programs that make up the modern corrections system.

Twenty-four states, about half, have had some form of language in their state constitutions banning slavery with an exemption for criminal punishment. The other half have no mention on the subject at all and are basically subject to the Thirteenth Amendment, which also has this clause. However, we have recently seen a national movement to change that. In 2018, Colorado became the first state in the country to change its constitution and completely ban slavery and involuntary servitude within the state. In 2020, Utah and Nebraska voters overwhelmingly passed similar measures to do the same. I believe it is time for Nevada to close this chapter and open a new page where the foundation of our government reflects our shared values for freedom. We must ensure and make absolutely clear that nobody will ever live the horror of state-sanctioned slavery or servitude ever again.

With that, the text of A.J.R. 10 is very simple. It removes from the Ordinance of the *Nevada Constitution* and from Section 17 of Article 1 of the *Nevada Constitution* the language that allows for slavery or involuntary servitude as a punishment for crimes. It is my hope that in 2024, Nevada will join these leading states in the movement to finish the abolition of slavery and involuntary servitude in America.

We have seen over the last year that the scars of slavery and racism still cause pain throughout this state and throughout our country. Changing this language is important to help all of us heal and to demonstrate our shared commitment to the concept of "justice for all." These words that are in the *Nevada Constitution* hold extraordinary weight to Black Nevadans and Black Americans. They certainly matter to me as the great-great grandson of Coleman Watts, who was born enslaved in the United States of America. I, and the Nevada Black Legislative Caucus, urge your support for A.J.R. 10.

I would also like to note that I did not submit a written amendment, but I do have one very simple proposal, which is to add Senator Spearman as a cosponsor of this legislation. We were not able to get the Senator signed on, but we do have cosponsorship from the rest of the Nevada Black Legislative Caucus and would like to make sure that everyone is on there.

That concludes my presentation, and I am glad to answer any questions that members of the Committee may have.

Chair Miller:

Committee members, do we have any questions?

Assemblyman Matthews:

I just have a quick question, and I think it is pretty straightforward. I would imagine that somewhere in either statute or perhaps even in common law, there is a distinction made between the terms "involuntary servitude" as opposed to "incarceration" or "imprisonment"

that we would typically see in the justice system. I am wondering if you could speak to where, just for clarity, that distinction is made in law.

Assemblyman Watts:

I would defer to committee counsel on any specific legal definitions and the differences between them. I would just refer to what I stated during my presentation, which is that "slavery" explicitly means removing someone's human rights and treating him or her as property. "Involuntary servitude" would, again, specifically mean compelling someone's labor without the person's choice and without any compensation. I do want to note that there is a difference between that and incarceration as a temporary removal of liberties as a punishment for a crime. It is also separate from, for example, the prison industries program, which is something that people voluntarily opt into and do receive compensation for—although I know that the rate of compensation is another matter that is being debated within this body.

Assemblyman Matthews:

Thank you, I am just envisioning some clever lawyer trying to misconstrue what is obviously the clear and obviously very, very good intent of this.

Assemblyman Watts:

If I may add one more thing. While, again, this is something that I hope our state will be on the leading edge of, I will note that Colorado, Utah, and Nebraska have adopted this, and it is not leading to a complete rethinking of their corrections systems.

Chair Miller:

Are there any other Committee members with questions? [There were none.] I will go ahead and open for testimony in support of Assembly Joint Resolution 10.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

I want to thank Assemblyman Watts for bringing forward this very important resolution to ensure that we are removing the language of the use of slavery and involuntary servitude as a criminal punishment. To Assemblyman Matthews' question, the *Nevada Revised Statutes* very clearly defines "slavery" and "involuntary servitude," and I do not believe it is possible for a defense attorney to try to claim that this would remove the idea of prison as being a potential punishment.

I would just note that, as Martin Luther King, Jr. stated, "It is not possible to be in favor of justice for some people and not to be in favor of justice for all people." We believe that this resolution will ensure that there is justice for everyone with the removal of that language from the *Nevada Constitution*. Thank you all for considering this very important legislation.

Aaron Ford, Attorney General:

I am calling in support of A.J.R. 10. I did have testimony to read, but I will be submitting it for the record instead because, quite frankly, Assemblyman Watts' testimony was exactly

what I would say. It is no surprise, however, because there are only so many ways to say that we need to remove slavery and involuntary servitude from our *Nevada Constitution*. I want to rest on my comments that I will be submitting for the record and simply say that I support the passage of A.J.R. 10. It is the right thing to do. Thank you so much.

[Attorney General Ford did not submit further remarks.]

Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice: Nevada Attorneys for Criminal Justice opposes slavery. I think it is important to note in this context that, obviously, slavery was primarily a thing that happened to African Americans, but that was not exclusive. Many Native Americans were enslaved by various groups; Mexican and other Latinx groups were enslaved. In general, anyone can have his or her labor exploited, so it is important to recognize that this is not just a measure that helps Black people. This is a measure that helps all Nevadans. It helps support the values that we want to see in our society. For that reason, we support A.J.R. 10. Thank you.

John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:

We would like to thank Assemblyman Watts for bringing this important measure forward. Removing a harm from our *Nevada Constitution* makes sure that we never take a step backwards. I think that this is a very important step forward, and we thank the Committee for hearing this resolution.

Pamela A. Goynes-Brown, Councilwoman, Ward 2, City of North Las Vegas:

It is with great pleasure that I testify in support of A.J.R. 10. I want to give a heartfelt thank you to the sponsors of A.J.R. 10 for bringing light to this antiquated and discriminatory language that has somehow remained tucked away in the depths of the *Nevada Constitution*.

Slavery and indentured servitude were abolished in this country decades ago, yet there are eerie reminders that spring up from time to time—reminders of a history wrought with ignorance, pride, and hatred towards fellow human beings—resulting in oppressive practices that perpetrate division within the human race. It is terrible news that this language still exists in the construct of our great state, but harrowing is the reaction of state lawmakers in decrying said language and the eagerness to abolish such hatred as it serves no one.

The Thirteenth Amendment forever abolished slavery as an institution; however, there is a clause in the Thirteenth Amendment that serves as a loophole to slavery. This loophole kept the system of unpaid labor alive and disproportionately affected the Black community. Assembly Joint Resolution 10 proposes to amend the *Nevada Constitution* and remove the language allowing the use of slavery and involuntary servitude as criminal punishment. This resolution must pass the 2021 Legislature, the 2023 Legislature, and then be approved by the voters in an election to make this change to the *Constitution*.

In the words of Bryan Stevenson: "The greatest evil of American slavery was not involuntary servitude but rather the narrative of racial differences we created to legitimate slavery. Because we never dealt with that evil, I don't think slavery ended in 1865, it just evolved" ["Bryan Stevenson Brings Light to Our Criminal Justice System's Darkest Corners," December 25, 2015, *The Progressive*].

[Allotted time was exceeded.]

[Ms. Goynes-Brown also submitted written testimony, [Exhibit C](#).]

Bruno Landivar, Intern for Assemblywoman Torres, representing Nevada Hispanic Legislative Caucus:

I am a student at the University of Nevada, Reno, and an intern for Assemblywoman Torres. I am here on behalf of the Nevada Hispanic Legislative Caucus, voicing our support for Assembly Joint Resolution 10. This outdated language has no place in our *Nevada Constitution*. The Caucus urges the Committee to support A.J.R. 10. Thank you.

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:

First, we too want to thank Assemblyman Watts for bringing forth this important piece of legislation. The *Nevada Constitution* is our state's guiding document, an agreement of how we will interact with each other, our shared values, and a symbol of our ideals. This language in our *Constitution* is not the Nevada we want to be. The global pandemic and rise of the Black Lives Matter movement have created a watershed moment for change. Thousands of Nevadans have taken to the streets to demand an end to the ways in which our institutions perpetuate systemic racism. Nevadans are looking for the state to do what is right. You must act to remove this outdated and harmful language from our *Constitution*. We urge your support. Thank you.

Liz Davenport, Intern, American Civil Liberties Union of Nevada:

Thank you for bringing this resolution. We support A.J.R. 10 and echo previous comments. Nevada is in the vast minority in allowing slavery as a punishment for a crime: one of only eleven states. As Assemblyman Watts discussed, other states have recently taken steps to correct this. In addition to those previously mentioned, Wisconsin and Tennessee have also presented bills to remove similar language. Nevada should not be the last state to have slavery in its constitution. America's history of slavery has fostered a view of harsh punishment, and it has echoed into our future. Racial disparities in sentencing are found in almost every crime category.

Slavery should not be a Nevada value. This is archaic language. Nevada should not allow the possibility of slavery or involuntary servitude, regardless of the circumstances. Removing this language from the *Nevada Constitution* is a positive step forward to removing any possibility of future abuses. While we would hope that our Legislature, courts, and correctional institutions would never allow slavery, it is nonetheless currently allowed. Prison work and service programs should not be upheld as a version of slavery or involuntary servitude.

The American Civil Liberties Union of Nevada supports A.J.R. 10, finally abolishing slavery and involuntary servitude as a punishment for crime in Nevada, and we should join the majority of America in removing this language from our state's *Constitution*. Thank you, and that concludes my testimony.

Benjamin Challinor, Policy Director, Faith in Action Nevada:

We are here in full support of A.J.R. 10. We would like to thank Assemblyman Watts for bringing this joint resolution. We would like to echo the sentiments and previous statements. We support removing this exception from our *Nevada Constitution* and fully abolishing slavery here in Nevada. Thank you for your time.

Deborah A. Evans, Nevada State Director and National Communications Director, National Juneteenth Observance Foundation; and Founder and Chief Executive Officer, Juneteenth Nevada:

I am here in support of passage of A.J.R. 10. The National Juneteenth Observance Foundation (NJOF) was instrumental in the passage of Assembly Bill 174 of the 76th Session in 2011, which recognizes Juneteenth. Juneteenth serves as a completion in the cycle of freedom. That bill was introduced by then-Assemblyman Munford and signed by then-Governor Sandoval. Again, NJOF and Juneteenth Nevada are here to support the passage of A.J.R. 10.

Al Gourrier Sr., President, Samuel L. Smith Educational Foundation:

I am calling today in support of A.J.R. 10. I have been very pleased with the comments of the previous speakers. I do have a prepared statement, but it contains a lot of the comments of the previous person. I will submit it in writing.

I would like to make two brief comments. One is a quote from Nelson Mandela: "It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."

Further, I would like to suggest to all of the listeners, particularly the legislators, that they might read a present document called *American Prison: A Reporter's Undercover Journey into the Business of Punishment* [dated 2018, written by Shane Bauer]. Thank you for your attention today.

[Dr. Gourrier did not submit further remarks.]

Mercedes Maharis, Member, Senate District No. 3, Nevada Silver Haired Legislative Forum:

I am brought to tears with all of this support. I have wanted this to come out of our *Nevada Constitution* since about 2002, and now it is happening. As a chaplain, I have worked with countless prisoners coming out of the Department of Corrections (NDOC) throughout the years. This is a very real problem that we have in abusing individuals who are inside this [unintelligible] to standards department of the state.

Thank you, everyone, for everything that you have said. Lives are absolutely being destroyed because of this hidden concept that is played out every day in NDOC. Based upon testimony that I have received—thousands of letters I will say, but I have not counted them—I think that this will send a message to everyone that we do not want this attitude of slavery and indentured servitude.

At this very moment, there is a young man living under a bridge, coming out of a Nevada prison, with no social security, even though he is a person with disabilities. He has no hope of becoming a normal citizen and, of course, the bottom line in this situation is not rehabilitation but a continued state of warehousing. This is very emotional, I am sorry.

Chair Miller:

You do not have to apologize for your emotions. We appreciate your comments. If you have any additional comments, we would appreciate it if you would submit them for the record.

Mercedes Maharis:

Yes, I want to thank this brave young man, Assemblyman Watts. Thank you a thousand times, from thousands and thousands of incarcerated individuals, for bringing this up. Thank you, everyone.

Syeda Jamshed, Intern for Assemblywoman Torres, representing the Nevada Hispanic Legislative Caucus:

I am a student at the University of Nevada, Las Vegas, and an intern with Assemblywoman Torres. I am here on behalf of the Nevada Hispanic Legislative Caucus and voicing our support for Assembly Joint Resolution 10. This outdated language has no place in our *Nevada Constitution*. The Caucus urges the Committee to support A.J.R. 10. Thank you so much.

[There were no more callers in support. Testimony later provided in the hearing by Mr. Smith was categorized as support for A.J.R. 10.]

[[Exhibit D](#), [Exhibit E](#), and [Exhibit F](#) were submitted in support of A.J.R. 10 but not discussed and are included as part of the record.]

Chair Miller:

Is there anyone wishing to testify in opposition to A.J.R. 10?

Rodney C. Smith, Private Citizen, Las Vegas, Nevada:

[The following testimony was categorized as support.]

I am with the Black Leadership Summit Las Vegas, calling in regard to Assembly Joint Resolution 10. I am a supporter of the resolution and believe that the language should have never been in the *Nevada Constitution* in the first place since Nevada came into the union as the Battle Born State to fight for the Union in defeating the

Confederacy, thus ending slavery in the nation. There is absolutely no reason why, in the twenty-first century, a slavery clause of any type should be included in the *Nevada Constitution*.

I thank Assemblyman Watts and all of the cosigners and all of the supporters of this resolution. Its time has come. It does more harm than good. It provides something similar to convict leasing by incarcerating people, forcing them to work, and then not properly compensating them for that work. The sooner we can rid ourselves of the last vestiges of America's original sin, which is slavery, the better we will be as a nation that is a free nation where the people are represented by its elected officials. There is no room for slavery in our *Constitution*. Thank you very much.

Chair Miller:

Mr. Smith's testimony was in support, so we will make sure it goes on the record in support, even though the queue is open right now for anyone testifying in opposition. Can we return to anyone wishing to testify in opposition? [There was no one.] I know the queue has been open for a few minutes because we had a full testimony, so we will go ahead and move to anyone wishing to testify in neutral for A.J.R. 10. [There was no one.]

I would like to thank Assemblyman Watts for bringing forth this legislation that has brought much community support. I will go ahead and close the hearing on A.J.R. 10.

We will move to our next agenda, which is a bill draft request (BDR) introduction. Before we proceed, I just want to remind members that this is not at all an indication of support on the policy in the BDR. It simply allows the BDR to become a bill or resolution so that we can refer it to the Committee for possible hearings. We will be introducing BDR 24-1038. This measure is sponsored by the Committee on Legislative Operations and Elections. It is an act relating to elections, requiring notice of a contest of an election to be provided to the candidate whose election is being contested, and providing other matters properly relating thereto.

BDR 24-1038—Revises provisions relating to elections. (Later introduced as [Assembly Bill 390](#).)

I will entertain a motion to introduce BDR 24-1038.

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO INTRODUCE
BILL DRAFT REQUEST 24-1038.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will move to our last agenda item, which is public comment. Again, I want to remind everyone that if you are interested in giving public comment, we ask that you keep your remarks to two minutes and to topics under the purview of this Committee. Is there anyone there for public comment? [There was no one.] Let us wait a few moments to ensure that we capture anyone who may be dialing in right now. Does there seem to be anyone? [There was no one.] With that, I will close public comment.

Thank you to the Committee members for all the work you put in today. Our next meeting will be this Thursday, March 25, 2021, at 4 p.m. This meeting is adjourned [at 4:50 p.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Recording Secretary

RESPECTFULLY SUBMITTED:

Jordan Green
Transcribing Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a letter dated March 23, 2021, submitted by Pamela A. Goynes-Brown, Councilwoman, Ward 2, City of North Las Vegas, in support of Assembly Joint Resolution 10.

[Exhibit D](#) is a letter dated March 23, 2021, submitted by Representative Steven A. Horsford, Nevada Congressional District No. 4, United States House of Representatives, in support of Assembly Joint Resolution 10.

[Exhibit E](#) is a copy of an email dated March 23, 2021, submitted by Robert D. Bush, President, Las Vegas Chapter, National Action Network, in support of Assembly Joint Resolution 10.

[Exhibit F](#) is a letter submitted by Las Vegas Branch 1111, National Association for the Advancement of Colored People, in support of Assembly Joint Resolution 10.