

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session  
April 23, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:01 p.m. on Friday, April 23, 2021, Online and in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Melanie Scheible, Chair  
Senator Nicole J. Cannizzaro, Vice Chair  
Senator James Ohrenschall  
Senator Dallas Harris  
Senator James A. Settelmeyer  
Senator Ira Hansen  
Senator Keith F. Pickard

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nicolas Anthony, Counsel  
Gina LaCascia, Committee Secretary

**OTHERS PRESENT:**

Elizabeth Neighbors, Forensic Director, Division of Public and Behavioral Health,  
Department of Health and Human Services  
John Piro, Office of the Public Defender, Clark County  
Kendra Bertschy, Office of the Public Defender, Washoe County  
Jim Hoffman, Nevada Attorneys for Criminal Justice  
Cathy Kaplan, Chief, Child Support Enforcement Program, Division of Welfare  
and Supportive Services, Department of Health and Human Services  
DaShun Jackson, Director, Children's Advocacy Alliance  
Kimberly Surratt, Nevada Justice Association  
Jennifer Noble, Office of the District Attorney, Washoe County

CHAIR SCHEIBLE:

Today's hearing is now open. We will start with Assembly Bill (A.B.) 23, which is being presented by Elizabeth Neighbors.

**ASSEMBLY BILL 23 (1st Reprint)**: Revises provisions regarding the procedure to commit an incompetent criminal defendant. (BDR 14-291)

ELIZABETH NEIGHBORS (Forensic Director, Division of Public and Behavioral Health, Department of Health and Human Services):

This bill modifies the timeframe for comprehensive risk assessments requested by the prosecutor in criminal cases under *Nevada Revised Statutes* (NRS) 178.461. This statute allows for an individual who is incompetent, without probability of attaining competence, and charged with a Category A felony and a limited list of Category B felonies to be committed to the Division of Public and Behavioral Health for up to ten years if the individual is considered too dangerous for commitment to the civil system.

Once a person is found to be incompetent, the comprehensive risk assessment provides information which assists the court in making a weighted decision for the length of time the person can be committed. In cases where the charge is other than murder or sexual assault, the recommendation of the evaluator is binding to the court. The evaluations must be thorough and utilize all evidence-based practices available. These evaluations are time-consuming and labor-intensive.

The current law allows only seven days to complete these risk assessments. This takes into consideration the date the prosecutor makes the request. The hearing must occur within ten days after which the report needs to be in court within three days before the hearing. This only leaves seven days for the report to be completed. We must consider that the evaluators have a myriad of other obligations and demands that have deadlines as well.

In the years that we have been completing these evaluations, the evaluators have found that this timeframe is painfully inadequate in order to complete the evaluation and submit an accurate report to the court that then makes a decision based on the evaluation. The evaluation must be thorough, and this takes time. This has resulted in repeated requests for extensions to the court on every evaluation. The timeframes to complete the evaluations and submit a

report need to be more reasonable. This would allow the evaluators to complete the assessments in a responsible and thorough manner.

Our Division has had discussions with the stakeholders involved in this process and concluded that a 40-calendar-day timeframe would meet the needs of the evaluators. This takes into consideration the possibility of an extension if the court deemed it appropriate.

SENATOR PICKARD:

This bill seems to be aligned with what is in practice, except for the timeframe. Does anything else in this bill change the procedure other than the timing?

MS. NEIGHBORS:

No, it does not change anything but the timeframe. The timeframe allows the evaluators to follow national standards and complete what would be an acceptable comprehensive risk assessment. The assessments involve a number of standardized instruments and requirements for data collection that are time-consuming.

JOHN PIRO (Office of the Public Defender, Clark County):

We support A.B. 23. We thank Dr. Neighbors and her staff for taking the time to explain all the complexities of these reports and help us work out solutions for all stakeholders involved in making the system better.

KENDRA BERTSCHY (Office of the Public Defender, Washoe County):

We support A.B. 23. We do understand that these reports are comprehensive and need additional time beyond the normal guidelines set forth for other evaluations. Our clients need to have consistency, especially for this subset of individuals who have additional challenges. This bill has the appropriate balance to ensure our clients are not languishing in custody, but the court has the information it needs to proceed appropriately. We agree with the timeframe set forth as it will also provide for judicial efficiency so we are not continuously going into court for hearings because an evaluation has not been completed.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):

We support A.B. 23. The ideal preference would be to keep the seven-day deadline, but in a practical sense, we understand this takes a lot of work from the Division, with the current level of funding, it is simply not practical to complete the reports on such a short turnaround. On the assumption the

Legislature does not find any new sources of funding, 40 days is an acceptable compromise. I echo the previous testimony in saying we appreciate Dr. Neighbors and her staff for working with us through extensive discussions.

CHAIR SCHEIBLE:

We will now close the hearing on A.B. 23 and open the hearing on A.B. 25.

**ASSEMBLY BILL 25 (1st Reprint)**: Revises provisions relating to the conditional release of certain persons found to be incompetent. (BDR 14-295)

MS. NEIGHBORS:

This bill changes several aspects of the provisions when returning an individual back to a forensic facility who has violated the conditions of his or her release under NRS 178.464. I remind this Committee that NRS 178.461 allows for the long-term commitment of incompetent, incapacitated and dangerous individuals to a forensic facility for up to ten years. The individual may, when committed under this statute, petition annually for a conditional release from the facility if the person has recovered through treatment to the degree the court considers safe for supervised placement in the community. The Division can petition for these individuals on their behalf as well.

The process of placement in the community includes a carefully crafted treatment plan and specific conditions of release approved by and overseen by the court that committed the individual. The individual would remain in the court of criminal venue and continue under the supervision by the forensic facility in a structured setting within the community.

This bill addresses the circumstances of an individual who has been committed to placement but may have a mental health crisis in that placement. If the individual is in a situation where there is probable cause of imminent danger to self or others, he or she may have violated the conditions of release. Current requirements necessitate the court be notified, and the Division is required to start the process of speaking with all parties involved in the case before being able to obtain a court order that would return the individual to the forensic facility. For obvious reasons, this requirement takes too much time.

Assembly Bill 25 would allow us to respond to the crisis without going through the process of getting a court order, and we would avoid the delay in responding to the crisis. It would also allow the forensic facility to request

assistance from law enforcement if the situation appears it would be necessary to preserve the safety of the individual and/or others.

The bill also addresses the need of the court to determine whether the conditional release will continue, be suspended or be revoked within three days from the return of the individual to the facility. Statute allows for ten days. Given the complexities of docketing and evidence, with the agreement of all parties, the hearing can be extended up to ten days.

The goal of A.B. 25 is to improve the safety of this process and to respond quickly when there is an incident with an individual who we have placed in the community. Of course, we hope our facility has done a good enough job so these types of incidents do not happen. Nonetheless, these events do occur, and we need to respond quickly. We have spoken with all stakeholders and have had a good experience crafting the language of this bill.

SENATOR OHRENSCHALL:

Under the present statutory framework, have there been difficulties when someone you are supervising has a crisis? I want to understand why we need this change in the law. What difficulties have you encountered with the current system?

MS. NEIGHBORS:

The population placed in the community comes from a small pool of people. We have had some situations when trying to get a court order to bring a person back under pressured circumstances, such as when a person was being violent in a facility and risk of injury to self or others was imminent.

Having to incorporate all of the information into orders that we get from the court each time we place somebody is one way to accommodate this, but it would be preferable in statute, making it clear for everyone. Everyone would be following the same rules.

MR. PIRO:

The Clark County Public Defender's Office supports A.B. 25.

MR. HOFFMAN:

Nevada Attorneys for Criminal Justice supports A.B. 25. The bill as amended does a good job of balancing the practical needs of the Division with the constitutional rights of the defendant.

MS. BERTSCHY:

The Washoe County Public Defender's Office echoes our support and appreciation to Dr. Neighbors and her staff for discussing and addressing our concerns with the amended version of A.B. 25.

In our conversations, the events described by Dr. Neighbors would only apply to fewer than 20 individuals. To answer Senator Ohrenschall's question, these events are currently handled and processed by returning our clients back to Washoe County Jail or back in custody. This bill will help all parties involved in getting the individual directly to the treatment center that recognizes a mental health crisis as a public health crisis and not a police matter. Because of this, we urge your support of A.B. 25.

CHAIR SCHEIBLE:

The hearing on A.B. 25 is closed and the hearing on A.B. 406 is now open.

**ASSEMBLY BILL 406 (1st Reprint)**: Revises provisions relating to the collection of child support. (BDR 3-138)

CATHY KAPLAN (Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services):

The Child Support Enforcement (CSE) Program has over 83,500 open cases. Of that number, over 68,000 obligors are in arrears with their child support obligation. Statute allows for the withholding for child support from any money due an obligor from a judgment, settlement or from a prize of a contest or lottery. Assembly Bill 406 as amended seeks the authority to provide gambling winnings as a qualifying source of money to be withheld for child support—whether payable periodically or in a lump sum. Gambling winnings are defined as winnings at a licensed gaming establishment which are required to be reported to the Internal Revenue Service (IRS) on Form W-2G.

Additional collections from gambling winnings distributed to custodial parents will increase the self-sufficiency of children and families while reducing the burden on State resources in the form of public assistance programs. As with

other enforcement tools utilized by the program, procedural due justice will be applied and obligors will be provided with the opportunity to contest the withholding.

SENATOR HARRIS:

Tourism is a major factor for Las Vegas, and I would imagine any big winners of large amounts are probably from out of State and not within our jurisdiction to collect any part of those winnings. However, since many locals participate in gambling, can you talk about how much the CSE anticipates A.B. 406 will assist in recovering during this biennium?

MS. KAPLAN:

We do not have a specific projection of what the recoveries would total. This bill with the amendment is the first step in giving us the ability to place a withholding on gambling establishments. It is difficult to predict how many gambling establishments will report large payouts to CSE.

SENATOR HARRIS:

I would encourage you to reach out to the Nevada Gaming Control Board to see if any regulations can assist the CSE in requiring gambling establishments to report these winnings.

SENATOR OHRENSCHALL:

If A.B. 406 passes and a custodial parent informs CSE that the noncustodial parent frequents a certain gambling establishment or is a member of any given players club, would you simply submit an order to that establishment and be able to monitor the noncustodial's winnings, no matter the amount of the winnings? How do you intend to implement these withholdings? The bill is a great idea. I would like to see it implemented effectively.

MS. KAPLAN:

For the next couple of years, we plan on working with our stakeholders to implement this process and make it effective. Assembly Bill 406 will lay the foundation which will allow us to move forward in requesting a withholding order and then have the order served on the precise gambling establishment. We are attempting to shadow the IRS, as someone who wins money from gambling is required to file a W-2G Form.

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DASHUN JACKSON (Director, Children's Advocacy Alliance):  
We support A.B. 406.

KIMBERLY SURRATT (Nevada Justice Association):  
We support A.B. 406.

JENNIFER NOBLE (Office of the District Attorney, Washoe County):  
We support A.B. 406.

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CHAIR SCHEIBLE:

The hearing on A.B. 406 is now closed. We are adjourned at 1:38 p.m.

RESPECTFULLY SUBMITTED:

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Gina LaCascia,  
Committee Secretary

APPROVED BY:

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Senator Melanie Scheible, Chair

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

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda