MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-first Session
April 28, 2021

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:14 p.m. on Wednesday, April 28, 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

GUEST LEGISLATORS PRESENT:

Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Bailey Bortolin, Nevada Coalition of Legal Service Providers
Stephanie McDonald, Legal Aid Center of Southern Nevada
Tonja Brown, Advocates for the Inmates and the Innocent
John Piro, Office of the Public Defender, Clark County
Alex Falconi, Administrator, Our Nevada Judges
Heather Procter, Chief Deputy, Attorney General's Office
Lisa Rasmussen, Law Offices of Kristina Wildeveld, LLC
Annemarie Grant

Lerlene Roever
Keith Lee, Nevada Judges of Limited Jurisdiction
Valerie Carter, Analyst, Judicial Discipline Commission
Mandi Davis, Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services
Sue Meuschke, Executive Director, Nevada Coalition to End Domestic and Sexual Violence
John Jones, Nevada District Attorneys Association

CHAIR SCHEIBLE:
Today's hearing is now open. We will start with Assembly Bill A.B. 107, which is being presented by Assemblyman Steve Yeager.

ASSEMBLY BILL 107 (1st Reprint): Revises the procedure for determining whether a person may prosecute or defend a civil action without paying costs. (BDR 2-564)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):
This bill relates to access to justice. The inability to afford court filing costs should never serve as an impediment to having your day in court. Assembly Bill 107 will improve access to justice because it gives the court more guidance on how to determine whether a person should be relieved from having to pay costs.

BAILEY BORTOLIN (Nevada Coalition of Legal Service Providers):
The Nevada Coalition of Legal Service Providers (NCLSP) serves on the Statewide Access to Justice Commission with the judiciary, and this issue has often come up. Fee waiver statutes in place allow the courts to waive fees for someone who otherwise cannot afford to pay. In NCLSP's study, we found inconsistent Statewide results when it comes to the definition of what a reasonable fee waiver can be in different circumstances. Due to this inconsistency in definitions, a person might have court fees waived in one court but not in another. After conducting a 50-state survey, the appropriate guidelines in this bill will serve to ensure equal access to justice with Statewide consistency.

Assembly Bill 107 is particularly important for a variety of filing situations. There is a cost to defend yourself in the judicial process when a tenant needs to affirmatively respond to an eviction notice.

In domestic violence situations when the victim chooses to file for divorce but cannot afford the fees, it is usually put on hold until the victim can save up for the court fees, which can take a few months. The definitions we are adding into law with A.B. 107 will help in these types of situations to ensure access to justice.

We have removed some of the formality language in the bill at the request of the judiciary, which has now made it possible to streamline the process and no longer require a formal court order. Courts can continue to issue a formal order, but in order to automate the applications for fee waivers, we want to allow the courts to have the ability to streamline that process.

Section 2 covers what an applicant would qualify for in terms of a fee waiver. The first is if someone receives federal or State benefits for public assistance, this would show the person has already vetted the need for a fee waiver.

The second requirement is in setting a 150 percent poverty level. This is where we will have Statewide consistency as different courts have set different amounts. This would be a slight increase in some courts as to who is currently qualifying—the Las Vegas Justice Court has the requirement set at 138 percent. The Legal Aid of Southern Nevada is set at 150 percent in order to provide free legal services.

Sections 3 and 4 allow for an individual review of a case when someone may not have met the previous thresholds. Oftentimes, we have a parent whose child is experiencing a medical emergency, and that cost is taking up a significant portion of the family income. Typically, such a family would not qualify for a fee waiver, but when they lay out the factual and financial situation, the court can consider a fee waiver. This would be an example of case-by-case basis when determining qualification for a fee waiver.

The last one is an existing fee waiver that includes people who are already clients of legal aid. These individuals have already been vetted and would not be required to pay court fees.

SENATOR SETTELMEYER:
Do you know what percentage of individuals would qualify for this type of deferral in court fees?

MS. BORTOLIN:
During my conversations with the courts, they did not see it as a substantive change from the current fee collection system. It is just little pieces of uniformity we are trying to reach. I do not have a specific number or percentage. I do know that a certain percentage of these fees go to the legal aid providers to the extent that there is an offset.

SENATOR SETTELMEYER:
What percentage of legal aid clients would this apply to?

MS. BORTOLIN:
The legal aid clients would be 100 percent, as they are indigent—they are already qualified for fee waivers.

SENATOR HANSEN:
How are the sheriffs getting paid when they are required to serve legal documents?

STEPHANIE MCDONALD (Legal Aid Center of Southern Nevada):
No one absorbs the cost of the sheriffs, it is part of the budget within the sheriffs' operating expenses. This bill will not create a large difference in numbers when these fee waivers are being approved. The fees to serve papers in Clark County are determined by the amount of documents and average about $30 per document—mileage is also charged.

SENATOR HANSEN:
The concern I have when reading A.B. 107 is how we would deal with people who take advantage of the fee waiver and use frivolous, redundant and vindictive types of actions such as against landlords.

MS. BORTOLIN:
The language in A.B. 107 concerning sheriffs is pre-existing, and that is what Stephanie McDonald was referring to. As far as filing, the court has the ability to order costs once the case is open and the court discovers the fee waiver is not justified.

SENATOR HANSEN:
Are there situations where this could be abused or has it been abused? What prevents an individual from misusing the fee waiver and filing an unlimited number of civil actions to harass people or businesses?

MS. BORTOLIN:
Mechanisms in the law do address these types of unlawful filings by facetious litigants.

SENATOR OHRENSCHALL:
It is not easy for someone to proceed in pro se and jump through all the legal hoops involved in any civil action. I can appreciate A.B. 107 because it takes some of those barriers away from people who need access to justice and the court system.

SENATOR PICKARD:
What is the difference between the existing pro se filing and what this bill will do for the rural areas in Nevada, where there might not be legal aid for an indigent individual?

MS. BORTOLIN:
We have a legal aid provider that covers every county in Nevada. Also, section 1, subsection 1, paragraph (a) of A.B. 107, indicates that an indigent litigant can file an application which is a form provided by the court. This is the important part that makes this bill a Statewide law—the forms are provided by the court. Clark County courts do a good job in providing readily available court forms that every pro se person can use—this is what we want to be required Statewide.

We have successfully created Statewide forms for domestic violence protection orders. Our goal is to constantly increase the number of forms available Statewide, so we can include rural counties in terms of accessibility. The wording in A.B. 107 of "... on a form provided by the court" will assist in reaching Statewide uniformity and in helping people file their documents.

SENATOR PICKARD:
I presume we will be working with the Administrative Office of the Courts in order to get this accomplished because if we leave this part up to the courts, it might take too long—they are already too busy.

MS. BORTOLIN:
We can adapt to the forms being used in Clark County and work with the judicial system to make it a Statewide requirement.

SENATOR PICKARD:
Having uniformity Statewide is a good idea. Some judges might be reluctant to do this only because they may not want to place the burden on the county since the courts are inundated. This bill should give some additional guidance and incentive to get these people the access they require.

TONJA BROWN (Advocates for the Inmates and the Innocent):
We support this bill.

JOHN PIRO (Office of the Public Defender, Clark County):
We support A.B. 107.

ALEX FALCONI (Administrator, Our Nevada Judges):
I am testifying in neutral on A.B. 107. My experience with pro se has been heartening. When I was a college student, I could not afford to litigate. I have filed several cases in pro se and about half of them were free to file. One of the cases did publish, and this would not have happened without being able to file for free.

CHAIR SCHEIBLE:
This concludes the hearing on A.B. 107 which is now closed. The hearing on A.B. 104 is now open and is being presented by Assemblyman Steve Yeager.

ASSEMBLY BILL 104 (1st Reprint): Revises provisions relating to wrongful convictions. (BDR 3-586)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):
In order to understand A.B. 104, we need to go back to 2019 and look at A.B. No. 267 of the 80th Session. This bill provided compensation for individuals who had been wrongfully convicted and incarcerated in our State. In 2019, we heard testimony from DeMarlo Berry, who had been wrongfully incarcerated for nearly 22 years. He was full of grace and forgiveness when he testified, and his testimony to this day remains one of the most remarkable hearings I have ever been a part of in the Legislative Building. This bill had bipartisan cosponsors, passed in both Houses unanimously and was signed by

Governor Steve Sisolak. I am sharing this story because A.B. 104 makes changes to A.B. No. 267 of the 80th Session. These changes are a result of feedback from the Attorney General's (AG) Office, which defends or negotiates these lawsuits. The AG provided suggested changes to clarify the law and make it easier to administer.

With me today is Heather Procter, Chief Deputy of the Attorney General's Office. She will give the Committee additional background on how the AG has been handling A.B. No. 267 of the 80th Session since its passage in 2019.

HEATHER PROCTER (Chief Deputy, Attorney General's Office):
On June 17, 2019, the Legislature passed A.B. No. 267 of the 80th Session codified in *Nevada Revised Statutes* (NRS) 41, which authorizes a person not currently incarcerated for any offense who was wrongfully convicted and imprisoned in this State to bring an action for damages and other relief in any district state court. This bill became effective October 1, 2019. Since the enactment of the wrongful conviction compensation statutes, the AG's Office has worked with claimants in balancing the State's obligation to be fair and just with its responsibility to ensure that it is not overwhelmed with a large monetary liability. The AG's Office ensures that all claimants comply with NRS 41.900, and establish by the preponderance of the evidence that they did not commit the crime for which they were convicted. As with any new law, through enactment, the AG's Office discovered that the existing law required clarification, uniformity and certainty for the State and claimants. This leads to the proposed amendments in A.B. 104.

The intent of the wrongful conviction compensation statutes as addressed in the 2019 legislative history is to provide monetary support for persons recently released from incarceration so they could begin to rebuild their lives and reenter society, and doing what the State can in order to restore the individual's dignity and life after years lost while incarcerated. An award does not place blame or find fault. Rather, the person is provided a chance to live a normal life with a certificate of innocence, permitting the claimant to move forward without the wrongful felony conviction looming in the background and at any traffic stop. An individual is provided with money to restart his or her life with the necessary provisions for that life. This includes medical care, counseling and advanced education.

Some claimants are also seeking monetary compensation against a county or State agency through a 1983 civil rights action. These types of claims can typically take years to resolve. The law in A.B. No. 267 of the 80th Session includes an offset provision requiring a claimant to reimburse the State for the money paid for the length of incarceration.

There are three types of funds associated with wrongful conviction compensation cases: first, the statutory damages based on the time the claimant was incarcerated and/or on parole; second, the attorney's fees, which are capped at $25,000; third, the additional benefits.

Section 1 of A.B. 104 revises NRS 41.910 to clarify that the documents are to be sealed along with the confidential nature of the proceedings upon the issuance of a certificate of innocence.

Section 2 exempts the State from the restrictions of an offer of judgment as well as prejudgment and postjudgment interest.

The intent of A.B. 104 is to permit the claimants sufficient funds to restart their lives while they await larger settlement funds from civil rights actions without incurring unnecessary additional costs for the State.

Section 3 of A.B. 104 provides clarification for the claimant and the State in calculating the statutory damages based on the length of incarceration. In implementing this law, the AG determined that caps were necessary for the additional benefits a person could claim under the statutes. No caps currently exist for these additional benefits. We found for instance, a person wrongfully incarcerated for 5 years would be entitled to a lesser amount of statutory damages for the length of the incarceration—but the same amount of benefits in both monetary value and length of award as someone wrongfully convicted for 30 years.

A person should not receive benefits for a period that exceeds the original incarceration. The intent here is to give the individual assistance in returning to normal life. In addition, the State Board of Examiners (BOE) requested some certainty in the cost that would be sought from the Reserve for Statutory Contingency Account. This leads to the additional proposed caps in section 3 of A.B. 104. These serve to clarify the cost a claimant can pursue toward maintaining the assistance a claimant requires to return to normal life. This

creates certainty for BOE to budget for the additional expenses by providing a maximum potential cost for the benefits on a yearly basis.

During Committee hearings on A.B. No. 267 of the 80th Session, Assemblyman Yeager and the Innocence Project stressed that the payments under these new statutes were not intended as a double award. The intent was to permit the claimant to return to a normal life pending any civil rights action. It is possible for a claimant to commence a civil action in any state or federal court throughout the Country, not just in Nevada. It is impossible for the AG to track every claimant throughout the Country and in every potential state or federal court to determine when and if the claimant receives another settlement related to a wrongful conviction.

Section 4 of A.B. 104 clarifies the language of the offset provision to bring it in line with the original legislative intent. It clarifies what settlement funds are subject to the offset. It also establishes a timeframe for the claimant to notify the State of any subsequent settlements.

SENATOR HANSEN:
How many cases have been brought before the AG's Office since the law was passed?

MS. PROCTER:
We have eight cases. Three cases have been settled, and two are in settlement negotiations. The remaining three cases are in litigation.

SENATOR HANSEN:
Is there a certain jurisdiction? You seem to have a disproportionate number of cases.

MS. PROCTER:
Of the eight cases, one is in Washoe County and the other seven are in Clark County. The four individuals who were wrongfully convicted prior to 2019 still have until September of this year to file a claim.

SENATOR PICKARD:
Please explain how the trigger date of a wrongful claim would work if the person is incarcerated versus on parole?

MS. PROCTER:
Section 3, subsection 1, paragraph (a), subparagraphs (1) through (3) address the length of incarceration. Section 3, subsection 1, paragraph (b) addresses the length of time on parole. We take the length of actual incarceration and calculate that part first, depending on what category the individual is placed in; then the length of parole in years or months, using the $25,000 per year; and come up with the total amount of statutory damages.

SENATOR PICKARD:
With regard to the additional programs and counseling, are these considered to be in Nevada or out of state? Will these programs be available to an individual who relocates out of state to be with family?

MS. PROCTER:
The limitations only relate to additional education and medical coverage. This is because the education program is through the State of Nevada, and the medical coverage is through Medicare, Medicaid or through the Silver State Health Insurance Exchange.

SENATOR PICKARD:
My concern is anyone who needs to relocate out of state to be with family is foreclosed from obtaining additional education or receiving medical coverage. These important services are needed and could be received.

MS. PROCTER:
The restrictions on these two items were part of the original bill. So far, we have had one individual who has relocated out of state.

MS. BROWN:
We oppose A.B. 104. This bill has unintended consequences. It denies full compensation to those who have been wrongfully convicted by not including the jail time spent while awaiting trial.

The language in section 3, subsection 1, paragraph (a), subparagraphs (1) through (3), "... or the person was released from prison, whichever is earlier." To be released from prison, people must be paroled, their sentences expired or their lives have expired by means of natural death, lack of medical care or contraction of a contagious deadly disease or virus. If such a person has always maintained one's innocence and has an appeal pending, the appeal now

becomes moot. At this point, not only is it over for that individual, but it is over for his or her loved ones as well. Does this State not care about justice because a person has died before receiving that justice? These are some of the unintended consequences of A.B. 104. There is no other remedy to exonerate the names of people who have died under these circumstances.

In 2019, A.B. No. 356 of the 80th Session passed, which is a factual innocence bill. During that time, I provided a proposed amendment to allow the families of those who have been wrongfully convicted an opportunity to exonerate their loved one's name. This Committee chose not to place it on its work session.

In 2011, a Nevada Supreme Court decision to deny a petition for exoneration suggested the Legislature create a law to allow the courts to hear such petitions posthumously. As of today, this has not happened. However, with the 2020 passing of State Question No. 3, the State Board of Pardons Commission has been asked to consider setting aside one Pardons Board hearing per year to allow pardons on factual innocence until the laws change.

I would like this Committee to consider amending section 3 of A.B. 104 to include the suggestion of the Pardons Board, and the calculation of awarded money should be at the time of the arrest. Lastly, if he or she was given a life sentence with or without the possibility of parole and died prior to the threshold of 21 years in prison, the estate of the deceased should receive the wrongful conviction award at the maximum allowed by the State of $100,000 each year.

LISA RASMUSSEN (Law Offices of Kristina Wildeveld, LLC):
I am in opposition to A.B. 104. I have two of the cases mentioned in testimony, and one has been resolved. The other is being negotiated.

Most of the amendments are good, but I have an issue with section 3, subsection 1, paragraph (a), subparagraphs (1) through (3) where it is indicated, "... conviction was reversed or the person was released from prison, whichever is earlier." When I spoke with Assemblyman Yeager about this bill, the "whichever is earlier" part was not in the conceptual amendment. This part should not be in the amendment.

When the Nevada Supreme Court issues an order reversing a conviction, the prisoner is not released that same day. A remittitur is released within 40 days

after the order, and it could be held in abeyance thereafter. The prisoner is not released right away. What generally happens is the individual will be remanded back to local custody. I recommend that we remove the words "whichever is earlier" in A.B. 104. This is in fairness to the wrongfully convicted because they are not released on the date the judge orders the reversal. We are trying to pinpoint the date the prisoner is released and whether that includes when he or she is transported back to local custody or not. This is why those three words do not work in this bill and should be removed.

ANNEMARIE GRANT:
I am in opposition to A.B. 104. The wrongfully convicted have already suffered the ultimate injustice. Their nightmare began at Day 1 of the false arrest, and the compensation should begin that day.

Given the developments Ms. Brown mentioned in her testimony, it is possible the Pardons Board may entertain pardon hearings.

Governor Steve Sisolak asked me for the document that I mentioned at the last Committee meeting regarding the evidence I found in public records concerning the death of my brother, Thomas Purdy, by Reno police. These records can be considered newly discovered evidence.

The Legislature will not be back for two years. If these hearings happen at the Pardons Board, this bill may not protect all wrongfully convicted whether alive or dead. The families of the wrongfully convicted still fight on, even after death, but there is no compensation for that category. Justice is supposed to be for all.

LERLENE ROEVER:
I spent over 27 years in prison for a horrible crime I did not commit. Three years were spent in jail while going through three district court trials. When I finally made it to the federal court, I had no clue what to do. A friend helped me write a writ. This writ was so well done, the federal judge refused me counsel. By the time the AG responded to my writ, my friend had passed away. I had no idea what I was supposed to do and still do not.

I keep hoping to get help with forensic testing which was not completed during my trial. I cannot afford to do this on my own. By the time I do get help, I will probably be dead. It is important to me that my children receive compensation for the years without their mom who was stuck in the system for so long. By

the time my name is cleared, it will be too late for me—but not for my children. I am not insignificant or a useless nobody, nor are my children. My children deserve the compensation meant for me, but I most likely will not be alive to see it through. I have been on parole for two years and live in fear of being sent back to prison if I complain about my own circumstances or the unfairness that happened to me.

ASSEMBLYMAN YEAGER:
Some of the issues spoken today came up during the Assembly Judiciary meeting, and the first one is about compensating people for pretrial incarceration. As a policy of the State, we do not compensate for the time during pretrial. This bill is not the place for this topic.

The intent of A.B. 104 is to help the individual get back on his or her feet once released from prison. There is a lot of pain and suffering for the families of those individuals. This bill is aimed toward helping the wrongfully convicted. There are always opportunities in the future if we have these situations of posthumous exonerations to look at that policy and decide where we want to go. For now, it makes sense to keep everything where it is.

I respect Ms. Rasmussen's position on the bill and I will continue to work on that language because there may potentially be injustice when someone's conviction is overturned and he or she remains incarcerated for another year or so due to the process. I will get back to the Committee with any amendments in this regard.

SENATOR PICKARD:
Is this just the intermediate piece? Can civil damages still be awarded where there is the availability to pick up that time not captured?

ASSEMBLYMAN YEAGER:
That would be correct. Most of these individuals will file federal Section 1983 civil rights actions where the recovery is larger than State awards. The piece that I do not know is whether a family member can bring a Section 1983 claim on behalf of a deceased person on a wrongful conviction basis.

CHAIR SCHEIBLE:
That concludes and closes the hearing on A.B. 104. The hearing on A.B. 394 is now open.

ASSEMBLY BILL 394 (1st Reprint): Provides that behavioral health specialists performing mobile crisis intervention services are immune from civil liability under certain circumstances. (BDR 3-1046)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):
Before you is A.B. 394 in its first reprint, and there is a short amendment (Exhibit B).

During the Eightieth Session in 2019, we passed a provision in A.B. No. 236 of the 80th Session, which was the criminal justice reform bill. That provision directed the Peace Officers' Standards and Training Commission, subject to available funds, to develop and implement a behavioral health field response grant program. The purpose of A.B. 394 is to improve responses to people in crisis by allowing behavioral health professionals, by telephone or video, to assist law enforcement to de-escalate, stabilize and resolve behavioral crisis situations. This bill sets up and allows a program for mobile crisis teams to operate via video or phone.

In A.B. No. 236 of the 80th Session, we set up a program, but there was no funding specifically allocated. We have now identified a funder interested in investing in a program like this in Nevada through a multiyear grant. To prepare for the likelihood of securing this funding, we reviewed statutes, including immunity for mobile crisis response team members. Assembly Bill 394 would provide immunity from liability to encourage certain behavior of professionals to participate as members of a mobile crisis response team. We want them to be a part of the response team and not be concerned about any liability issues.

The amendment points out the professionals who will be potentially engaging in these services. We removed physicians as a generality; but we have psychiatrists, both of the MD and DO variety. Immunity in these cases would only expand to the situations where that person is acting in good faith and his or her actions are not considered gross, negligent or willful and intentional misconduct. This is not blanket immunity—it is narrowly tailored immunity.

There is no statutory definition for mobile crisis intervention services in our State. This bill makes clear what those services are by providing a definition of mobile crisis intervention services on page 2 of the bill, line 16. These services are important because they support law enforcement in complex behavioral health situations wherein they sometimes are not fully trained to handle. This

model can reduce the number of involuntary mental illness holds and hospitalizations, divert people from jail and promote voluntary participation in treatment services, which we want to encourage whenever possible. Having the help from a behavioral health professional can also reduce the degree of the crisis, and the crisis can result in fewer adversarial and confrontational episodes faced by law enforcement.

The details are still being worked out on this program. We envision a pilot program to do mobile crisis intervention mainly focused on our rural communities to start because the nearest behavioral health professional might be hundreds of miles away. The way this would work is the officer would arrive at the scene and have an iPad. The iPad will be used to connect the officer with a behavioral health professional, face to face, and allow that professional to make a recommendation on the spot whether that means the person in crisis should be taken to the hospital, is willing to go home or needs to go to jail. It is a good tool for the officer to not involve the person in the justice system or in the healthcare system.

The possibilities within this program are all positive, not to mention what it could mean for our State. I urge the Committee to pass A.B. 394 so we can have the accredited professionals who are willing to provide the behavioral health services this State desperately requires.

MS. BROWN:
We support A.B. 394. To de-escalate a situation would be a good example of controlling police brutality and avoiding someone being injured or dying. Social workers are better-equipped to handle these types of situations and not law enforcement.

CHAIR SCHEIBLE:
The hearing on A.B. 394 is now closed. The hearing on A.B. 43 is open.

ASSEMBLY BILL 43 (1st Reprint): Requests that the Nevada Supreme Court study certain issues relating to the Commission on Judicial Discipline. (BDR S-393)

KEITH LEE (Nevada Judges of Limited Jurisdiction):
This bill was sponsored by the Assembly Judiciary Committee on behalf of the Nevada Supreme Court at the request of the Nevada Judges of Limited Jurisdiction to address concerns the judges had with respect to some procedural aspects of the Nevada Commission on Judicial Discipline (NCJD).

Reprint one completely deletes the bill and requests the Supreme Court to study and make recommendations concerning the procedural substantive statutes and rules of the NCJD, gather statistics and report back to the Legislature.

During discussions with the Assembly Judiciary Chair and other stakeholders regarding A.B. 43, it became clear the bill was complex and had issues that needed to be resolved, which could not be completed within the time frame of the Legislative Session. Assemblyman Yeager, in consultation with Chief Justice James W. Hardesty and all stakeholders, has determined the best way to proceed is to ask the Supreme Court to study the bill, identify what is needed and report back to the Legislature. I urge the Committee to process the bill as is.

CHAIR SCHEIBLE:
I understand that the Supreme Court undertakes studies like this on a relatively regular basis. Can you describe the report that the Supreme Court produces for the Legislature; is there anything different in this report than other reports?

MR. LEE:
In 2006, former Justice Robert E. Rose convened what we now refer to as the Article 6 Study Commission that resulted in several suggestions adopted by the Legislature in 2009. The report would be the same, returning suggestions to the Legislature similar to the first Article 6 Commission report in 2009.

VALERIE CARTER (Analyst, Judicial Discipline Commission):
I am here today on behalf of the Executive Director and general counsel of the Commission on Judicial Discipline, Paul C. Deyhle. Mr. Deyhle could not attend but has submitted his written testimony (Exhibit C) in neutral on A.B. 43.

CHAIR SCHEIBLE:
The hearing on A.B. 43 is closed. I now open the hearing on A.B. 30.

ASSEMBLY BILL 30 (1st Reprint): Revises provisions relating to the Account for Aid for Victims of Domestic Violence. (BDR 16-260)

MANDI DAVIS (Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services):
Assembly Bill 30 revises some areas relating to the Account for Aid for Victims of Domestic Violence. The Account receives funding through a portion of the fees for marriage licenses sold throughout Nevada. The funds are used to support nonprofit community providers of services for victims of domestic violence. These funds are split between counties based on current population and then split between providers with more than one eligible provider through a review and scoring process of each provider's grant application.

This bill makes a few changes to the program that awards the funds within the eligibility requirements. One will require that a provider's services are exclusively for victims of domestic violence if in a county whose population is 100,000 or more. Another requirement will be that a provider's services are primarily for victims if in a county whose population is less than 100,000, which is the rural counties. This would allow providers that offer other services, not just for victims of domestic violence, to apply for the grants.

The law requires the allocation of 15 percent of all money granted from the Account to organizations in a county whose population is 700,000 or more, which encompasses Clark County, specifically to assist victims of sexual assault. Section 2 of this bill renames the Account as the Account for Aid for Victims of Domestic or Sexual Violence to reflect the authorized use of funds in the Account.

The bill also changes an eligibility requirement for entities to apply for a grant from the requirement that the nonprofit organization provide or make referrals for counseling for victims, spouses of victims and their children to the requirement to provide or make referrals for counseling for victims, partners and family members of victims.

In addition to the requirement that nonprofit organizations provide education and training, A.B. 30 adds the requirement to also provide prevention programs related to domestic violence.

Currently there is no limit to the number of awards that can be issued in each county or Statewide. Section 2.5 requires the Administrator of the Division of Child and Family Services to award grants to not more than one applicant in each county whose population is less than 100,000.

The Division of Child and Family Services will be able to implement the requirements of A.B. 30 without additional cost or resources.

SUE MEUSCHKE (Executive Director, Nevada Coalition to End Domestic and Sexual Violence):
I am here to support A.B. 30. This bill may look familiar to this Committee as changes within the bill are similar to S.B. 177. However, A.B. 30 does not have any fee increases—it is only changing some of the processes to make the programs better.

SENATE BILL 177: Revises provisions relating to the Account for Aid for Victims of Domestic Violence. (BDR 16-926)

I have submitted my written testimony (Exhibit D) for the record.

There are 14 domestic violence programs serving all 17 counties within Nevada and one stand-alone sexual violence service provider in Las Vegas. Each program relies on the grants from the Account which is funded by a surcharge on every marriage license sold in the State. Six of the 14 domestic violence programs also, to the extent able, provide sexual violence services but receive no State funding for that critically needed support.

The recipient organizations range from large multistaffed agencies in Clark and Washoe Counties to small 2 percent to 3 percent operations in communities like Elko, Fallon and Winnemucca. There is also an all-volunteer program in Battle Mountain. While each program is a private nonprofit organization, they are all dedicated to serving survivors of domestic and/or sexual violence in the communities. Programs from last year reported serving more than 21,000 individuals through hotlines, shelters, advocacy and support services. Even through the Covid-19 pandemic, services continued with significant increases in both hotline calls and shelter bed nights.

Importantly, the domestic violence response function in some of our rural communities is one portion of the local nonprofit that provides multiple social

services because it is the only game in town. For this reason, the Division approached providers several months ago about the need to change the statutory language from "exclusively" serving victims of domestic violence to "primarily," as listed in A.B. 30.

The large and small counties had different reactions to this language change. For programs in larger counties which receive enough funding to specialize in domestic and/or sexual violence, the exclusive language works. But there were concerns that the language change might have some detrimental impacts.

The broadened language in A.B. 30 might result in the Division receiving technically eligible applications from organizations providing some domestic violence services that do not specialize their focus on this population. This raises the concern about quality and depth of services but from a financial perspective, also endangers full-service programs already struggling to meet the needs of the communities.

For some rural programs, not making the change could jeopardize access to these funds. These organizations cannot deliver services that meet the exclusive statutory language though asked to be added on by the communities. Also, the cost efficiency of delivering a few services from one organization helps make up for the lack of economy of scale the rural programs experience.

We came to a consensus keeping the exclusive designation for counties with a population over 100,000 and changing to primarily designation for counties with a population under 100,000. Part of this agreement was based on limiting the number of programs funded in the smaller counties so as not to create a situation where several programs were vying for small amounts of money and essentially ending up with not enough money for any services.

After reviewing these sections of the NRS, several other changes were suggested that reflect a broader understanding of relationships and the need to address not only intervention services but prevention services as well. We now know that many of the individuals in need of counseling as a result of domestic violence may not be spouses, and that family members may extend beyond children. While we want to ensure that intervention services are available, we also want to encourage programs to develop and implement prevention programs so that someday, we will see the end to this epidemic.

SENATOR PICKARD:
I am supportive of the concept in A.B. 30. Can you explain why section 1 of the bill expands the Account to include sexual violence, but then in section 1, subsection 4, it is limited to domestic violence? This appears to defeat the purpose of expanding the title of the Account and then not expanding the services provided by that Account.

MS. MEUSCHKE:
Statute provides for funding for domestic violence services; in Clark County, 15 percent of the funding goes to sexual assault. The Division would like to add sexual violence into the title because the County is funding a sexual violence service. This particular bill does not change the fact that it will only fund one sexual violence program, or one county will receive funding. The rest of the counties will not receive any funding for sexual violence services because this bill does not increase any funding. We are adding sexual violence to account for what is in the statute and not expanding services without funding.

MS. DAVIS:
Ms. Meuschke is correct. We allocate 15 percent in Clark County to sexual violence programs, and this would just change the name of the Account to reflect this as well.

SENATOR PICKARD:
If this appears in a different section of statute that we are not amending in A.B. 30, I want to make sure that by changing the language in section 1, subsection 4, paragraph (a) to "exclusively for victims of domestic violence," we are not undoing that expenditure for the sexual violence piece.

JOHN JONES (Nevada District Attorneys Association):
We are in support of A.B. 30. Domestic violence programs throughout the State perform critical work on behalf of victims of domestic violence, and the Nevada District Attorneys Association appreciates all the efforts.

CHAIR SCHEIBLE:
That concludes the hearing on A.B. 30. We can now move to public comment.

MS. BROWN:
As an advocate, I try to get laws created that will help inmates and the innocent and seek for exonerations and anything that will better their lives. But I also do other things such as review cases. About two years ago, I provided Ms. Roever's case to the *Reasonable Doubt* television series. The show wanted to take on her case but for that to happen, a representative of the show had to speak directly with Ms. Roever. When the representative tried to contact her, she was already paroled. There is no doubt in my mind that Ms. Roever is innocent. Although she has had three trials, the information in Ms. Roever's case cries for resolution but has not been addressed—it has been overlooked and disregarded. The Attorney General's Office did file a motion, but Ms. Roever did not know how to answer the motion. The person who was assisting Ms. Roever with her appeal had passed away before her case could be heard.

Without a television show to exonerate Ms. Roever, such as *Reasonable Doubt*, she will never move forward.

MS. GRANT:
I am the sister of Thomas Purdy, who was murdered by the Reno police at the Washoe County Sheriff's Office. There are two more people killed by local law enforcement, and one is Jose Luis Dominguez. He was 47 years old when he was shot and killed by a Sparks police officer two years ago. The District Attorney, Chris Hicks, did not investigate properly and did not release his justification of the shooting until August 2020. The officers were in a vehicle when they shot and killed Mr. Dominguez. Those who knew him, loved him and were blessed with his generous spirit. Mr. Dominguez loved his family, and they were important to him. He enjoyed cooking, working around his home, playing horseshoes and watching sporting events.

Fifteen years ago, 36-year-old Aaron Jones was killed by Las Vegas Metropolitan Police Department. After being confronted by officers near Sahara and Durango, he allegedly tried to ram a police car and started driving toward the officers when he was shot. Questions were raised as to if the officers were in danger when they fired their weapons.

Officers are still killing community members. Please support bills that promote transparency and accountability, and if law enforcement opposes a bill, I ask you to support it.

CHAIR SCHEIBLE:
That concludes today's meeting, and we are adjourned at 2:47 p.m.

RESPECTFULLY SUBMITTED:

_____
Gina LaCascia,
Committee Secretary

APPROVED BY:

_____
Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A	1		Agenda
A.B. 394	B	1	Assemblyman Steve Yeager	Proposed Conceptual Amendment
A.B. 43	C	1	Paul C. Deyhle / Commission on Judicial Discipline	Support Statement
A.B. 30	D	1	Sue Meuschke / Nevada Coalition to End Domestic and Sexual Violence	Support Statement