

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session  
May 25, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:46 p.m. on Tuesday, May 25, 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 James Ohrenschall  
Senator Dallas Harris  
Senator James A. Settelmeyer  
Senator Ira Hansen  
Senator Keith F. Pickard

**COMMITTEE MEMBERS ABSENT:**

Senator Nicole J. Cannizzaro, Vice Chair (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Rochelle T. Nguyen, Assembly District No. 10

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Cathy Kaplan, Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services  
Karen Cliffe, Director, Family Support Division, Clark County District Attorney's Office  
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence

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Chuck Callaway, Las Vegas Metropolitan Police Department  
Jennifer Noble, Nevada District Attorneys Association  
Corey Solferino, Nevada Sheriffs' and Chiefs' Association  
Kendra Bertschy, Washoe County Public Defender's Office  
Victoria Gonzalez, Executive Director, Department of Sentencing Policy  
Tom Lawson, Chief, Division of Parole and Probation, Department of Public Safety

CHAIR SCHEIBLE:

The Senate Judiciary hearing for today is now open, and we will start with Assembly Bill (A.B.) 37.

**ASSEMBLY BILL 37 (2nd Reprint)**: Revises provisions relating to the enforcement of obligations for the support of children. (BDR 3-301)

CATHY KAPLAN (Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services):  
The Child Support Program has over 83,500 open child support cases; of those cases, there are nearly 67,500 obligors in arrears with child support obligations. Statute allows past due support to be withheld from some, but not all lump-sum payments, as allowed by the federal Office of Child Support Enforcement. As a result, children and families are not receiving the full amount of support due.

One barrier to obtaining increased collections through lump-sum payments is the manner in which statute addresses employees and independent contractors. Although the definition of income under *Nevada Revised Statutes* (NRS) 31A includes compensation of an independent contractor, the garnishment of that income under NRS 31.295 is written in terms of employees. Amending statute to provide clarification on individuals subject to income withholding will result in obligors being treated equally whether they are employees or independent contractors.

Employers will be required to report lump-sum payments due an obligor who is under an income withholding order. They will withhold and remit payment for past due support upon receipt of written notice from the Child Support Program. Implementation of A.B. 37 will provide clear definitions for lump sums and allow for withholding of these payments from the earnings of independent contractors in the same manner as income earned by employees. It will establish

a reporting threshold of \$150 for employers and provide a mechanism process for employers to report lump-sum payments. The Program will be required to provide arrearage information to an employer within ten days of receiving notification that a lump-sum payment is due to an obligor. The bill provides a manner in which an employer must remit payment and allows for an obligor to contest the withholdings. Although many employers voluntarily report lump-sum payments, past legislation has proven that mandatory reporting increases support collection for Nevada families.

KAREN CLIFFE (Director, Family Support Division, Clark County District Attorney's Office):

We are in support of A.B. 37. Our Division manages over 45,000 cases and passage of this bill will positively impact a number of children. The bill treats all parents similarly, regardless of the type of employment.

SENATOR PICKARD:

Section 7, subsection 2, paragraph (b) requires a ten-day notice before a lump-sum payment goes out. How will this work for employees who are paid on an hourly basis and do not have a standard shift?

MS. KAPLAN:

The ten-day waiting period is just for a lump-sum payment—not the standard paycheck.

SENATOR PICKARD:

I do not see the distinction between the two in the bill. Are section 9, subsections 1 and 4 directly related to the difference in standard payroll and lump sums?

MS. KAPLAN:

Yes. Section 9 talks about income, not limited to wages and salaries. The next section talks about any lump-sum payment.

SENATOR PICKARD:

What type of lump-sum payments are contemplated if not in the form of standard payroll?

MS. KAPLAN:

Section 5 of A.B. 37 lists the definition of a lump sum.

SENATOR PICKARD:

What about bonuses and commissions paid on a regular basis with the standard payroll? Many compensation packages have more in the bonus structure which is typically paid quarterly, based on performance and over a period of time.

I am concerned about the wording in the bill which may indicate a commission such as a real estate commission. That is one of many types of commissions paid once versus other commissions that may relate to performance or paid in pieces over time. I want to get the language right so we are not inadvertently excluding anything.

MS. CLIFFE:

You are correct in terms of the commissions and envisioning a real estate agent or broker where we might see lump-sums payments. The goal is to ensure that those types of employees are treated similar to someone who might work at a chain retail store where the garnishment is a smoother process because the employees are not independent contractors. We want to treat an independent contractor or a 1099 classified employee the same as other types of employees; this is our goal.

If a commission or bonus is included in a regular paycheck and if it is considered income as defined, we can garnish up to 50 percent of the total amount. Difficulties can occur with the lump-sum payouts. We do not want to create any inconsistencies in the language, but we are happy to amend the sections that require rewriting.

MS. KAPLAN:

Relocating bonuses and commissions under our definition was an attempt to stay consistent with the wording so it was not in two locations in the bill. We would be open to an amendment to clarify this section if needed.

SENATOR PICKARD:

What about the definition of gross income in *Nevada Administrative Code* 425.025? Do you know if there is any intent to get the Committee to adopt this, or is it intended to be separate from the regulations?

MS. CLIFFE:

The State has not brought this to my attention. The goal is not to alter the definition of income but to find a way to capture different types of employees

and support their ability to pay child support. Some employees want a garnishment, but due to the classification as a 1099 employee, it is difficult to enforce. A wage garnishment is something some obligors prefer because it is helpful and consistent. This is not to redefine anything, just find a way to support what is already in place.

SENATOR PICKARD:

I do like the expansion of the enumerated types of income included under the lump-sum category of A.B. 37. Most of the judges revert to the pre-commission language of any source of income, and that usually resolves itself. We can talk about this in more detail offline, why it might be problematic and look at language that might work better.

SENATOR OHRENSCHALL:

Is there any data for Clark County or Statewide as to how many people are in arrears or not making child support payments?

MS. KAPLAN:

There are 67,500 people who are in arrears on their child support payments, and about 44,000 of those people have not made any payments.

SERENA EVANS (Nevada Coalition to End Domestic and Sexual Violence):

Many victim survivors rely on child support to properly care for their children, and we are in favor of any measures that would expand the way for victim survivors and other parents throughout the State to receive child support. We urge support for A.B. 37.

CHAIR SCHEIBLE:

That concludes the hearing on A.B. 37. The hearing on A.B. 393 is now open and is being presented by Assemblywoman Rochelle Nguyen.

**ASSEMBLY BILL 393 (2nd Reprint)**: Makes various changes relating to criminal justice. (BDR 14-484)

ASSEMBLYWOMAN ROCHELLE T. NGUYEN (Assembly District No. 10):

We passed A.B. 236 of the 80th Session which was a broad criminal justice reinvestment bill. Assembly Bill 393 comes to you with recommendations from the Nevada Sentencing Commission and the Advisory Commission on the Administration of Justice as a cleanup bill for A.B. No. 236 of the 80th Session.

We took recommendations from the Interim committees and various agencies involved to draft clarifying language and make the implementation of A.B. No. 236 of the 80th Session more efficient and consistent.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

I am here in support of A.B. 393 as a member of the Advisory Commission on the Administration of Justice and the vice chair of the Sentencing Commission. This bill is important to clean up some of the language in A.B. No. 236 of the 80th Session. In particular, section 32 of A.B. 393 closes a loophole which was inadvertently created by A.B. No. 236 of the 80th Session regarding possession of marijuana over an ounce but less than 50 pounds. We are in full support of A.B. 393.

JENNIFER NOBLE (Nevada District Attorneys Association):

I am here in support of A.B. 393 on behalf of the Nevada District Attorneys Association.

COREY SOLFERINO (Nevada Sheriffs' and Chiefs' Association):

I am here in support of A.B. 393 as a member of the Advisory Commission on the Administration of Justice during the Interim representing Nevada Sheriffs' and Chiefs' Association.

KENDRA BERTSCHY (Washoe County Public Defender's Office):

I am here testifying on behalf of my office as well as the Clark County Public Defender's Office and the American Civil Liberties Union. We are proudly here to support A.B. 393. This bill is necessary in order to advance the policies that we implemented during the 2019 Session.

VICTORIA GONZALEZ (Executive Director, Department of Sentencing Policy):

We are in support of A.B. 393. This bill helps clarify the implementation policies enacted in A.B. No. 236 of the 80th Session and helps our Department in supporting the Commission.

TOM LAWSON (Chief, Division of Parole and Probation, Department of Public Safety):

We offer our full support of A.B. 393. I am also a member of the Advisory Commission on the Administration of Justice as well as the Nevada Sentencing Commission. Specific to the elements of the bill that relate to parole and probation, the cleanup language does a good job in clarifying information about

parole or probation to NRS 176A and deals with probation and suspension of sentence. Sections 8 and 21 of the bill are reintroduced into the proper NRS 176A so a member of the public, an offender or officers, attorneys and the court who are looking for rules that apply to parole or probation do not need to read the entire chapter to find the applicable statutes.

CHAIR SCHEIBLE:

That concludes the hearing on A.B. 393. I now open the work session for today, and we will start with A.B. 37. We do not need to go through the work session document ([Exhibit B](#)), so I will accept a motion.

SENATOR OHRENSCHALL MOVED TO DO PASS A.B. 37.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

That brings us to the work session on A.B. 116.

**ASSEMBLY BILL 116 (2nd Reprint)**: Revises provisions relating to traffic offenses. (BDR 43-491)

PATRICK GUINAN (Policy Analyst):

The work session document ([Exhibit C](#)) for A.B. 116 includes Proposed Amendment 3425 that incorporates Assemblywoman Nguyen's amendment and changes from the May 24 hearing in this Committee.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 116.

SENATOR PICKARD SECONDED THE MOTION.

SENATOR HANSEN:

I will be voting no on A.B. 116 due to concerns from some of the rural areas about the actual cost of implementation. I do support the policy however.

THE MOTION CARRIED. (SENATOR HANSEN VOTED NO.)

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CHAIR SCHEIBLE:

We can now move to A.B. 393 without walking through the work session document ([Exhibit D](#)). I have an additional amendment to propose for the Body to consider by adding NRS 228.177, in that a county or city officer, or employee would be covered under the statute. This falls within the Attorney General's oversight of law enforcement officers.

SENATOR PICKARD:

Are we adding that language to the other officer types in the bill?

CHAIR SCHEIBLE:

Yes.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 393.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

Our last item on the work session agenda for today is A.B. 404.

**ASSEMBLY BILL 404 (1st Reprint)**: Revises provisions relating to orders for protection against domestic violence. (BDR 3-1023)

MR. GUINAN:

The work session document ([Exhibit E](#)) for A.B. 404 has no amendments for this bill, which was heard on May 24.

SENATOR PICKARD:

I spoke with the presenter on A.B. 404 about the portion I struggled with which was the ability of the applicant to hear the case in a county other than where



the adverse party lived. This can present difficulties relating to due process which would include the ability to confront witnesses and produce evidence. I want to make it clear that this is permissive language; the court does not need to agree to issue the order in a different county if there is some question of veracity. The courts still have the ability to deny the venue change, and they can still require the case be heard in the adverse party's county of residence. In this way, we can preserve the adverse party's due process rights. With that, I can be in support of the bill.

CHAIR SCHEIBLE:

That does comport with what we heard during the hearing on A.B. 404.

SENATOR OHRENSCHALL MOVED TO DO PASS A.B. 404.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:

That concludes our work session for today. Seeing no further business before this Committee, we are adjourned at 2:38 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
A.B. 37	B	1	Patrick Guinan	Work Session Document
A.B. 116	C	1	Patrick Guinan	Work Session Document
A.B. 393	D	1	Patrick Guinan	Work Session Document
A.B. 404	E	1	Patrick Guinan	Work Session Document