

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session
March 4, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:01 p.m. on Thursday, March 4, 2021, Online. [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

COMMITTEE MEMBERS ABSENT:

Senator Keith F. Pickard (Excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Pat Devereux, Committee Secretary

OTHERS PRESENT:

Charles Daniels, Director, Department of Corrections
James Jones, Acting Deputy Director, Support Services, Department of Corrections
Venus Fajota, Chief, Purchasing and Inmate Services, Department of Corrections
Jennifer Rey, Victim Services Officer, Department of Corrections
Harold Wickham, Deputy Director, Operations, Department of Corrections
Joseph Chorak
Jennifer Noble, Nevada District Attorneys Association
Julie Kim
Nick Shepack, American Civil Liberties Union of Nevada

Senate Committee on Judiciary
March 4, 2021
Page 2

Will Pregman, Battle Born Progress
Denise Bolanos
Jim Hoffman, Nevada Attorneys for Criminal Justice
Amanda Candelaria
Jena Chatman
Lavina Wagoner
Nicole Tate
Jennifer Henry
Ashley White
Lauren Meek
Adrian Lowry
Tami Irvine
Ayanna Simmons
Jody Hocking, Return Strong
Valerie O'Neill
Charrise Lothamer
Nicole Williams
Areli Rodriguez
Christine Saunders, Progressive Leadership of Nevada
Amber Cannon

CHAIR SCHEIBLE:

Anyone intending to testify today may submit written comments. Each person will have two minutes to testify; you may also simply state you agree with a former testifier. When the hearings for the bills are concluded, there will be time for public comment. To submit written testimony during or after the meeting, the email address is SenJUD@sen.state.nv.us.

We will open the hearing on Senate Bill (S.B) 22.

SENATE BILL 22: Revises provisions governing deductions from the individual account and wages of an offender. (BDR 16-262)

We have an amendment from the ACLU of Nevada ([Exhibit B](#)) that will be presented by Nick Shepack during testimony in opposition to S.B. 22.

CHARLES DANIELS (Director, Department of Corrections):

Nevada Revised Statutes (NRS) requires inmate account deductions in a priority sequence that conflict with the sequence stipulated by the Nevada Constitution,

as amended by Marsy's Law, State Question No. 1 on the November 2018 ballot. Senate Bill 22 amends NRS 209.247 to allow Nevada Department of Corrections (DOC) to implement mandatory compliance with both NRS and the Constitution.

JAMES JONES (Acting Deputy Director, Support Services, Department of Corrections):

Section 1, subsection 1 of S.B. 22 gives the Director of DOC the authority to determine a reasonable amount to be applied to an offender's account and payroll. *Nevada Revised Statutes* 209.247 defines the priority deductions, including deposits by offenders, families and friends. *Nevada Revised Statutes* 209.463 identifies the priority of deductions from inmate wages.

One of the deductions in section 1, subsection 2 of S.B. 22 is the responsibility to "meet an existing obligation of the offender for restitution to a victim of his or her crime." Senate Joint Resolution No. 17 of the 78th Session, Marsy's Law, passed in two Sessions. After a vote of the people in November 2018, the Constitution was amended to provide restitution to crime victims. Article 1, section 8a of the Constitution states each person who is a victim of crime is entitled to all due rights, including "full and timely restitution." Victims have the right "To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim." Senate Bill 22 reprioritizes NRS 209.247 to comply with that constitutional mandate.

SENATOR HARRIS:

What is the difference between restitution paid to a victim and the amount an offender must pay to the Fund for the Compensation of Victims of Crime? Why must both payments be made?

VENUS FAJOTA (Chief, Purchasing and Inmate Services, Department of Corrections):

Restitution is paid to a specific victim. The Fund is managed so victims can apply to have payments reimbursed.

SENATOR HARRIS:

Why are offenders not simply compensating their victims? Does DOC need the additional general Fund that offenders must contribute to for victims harmed by other offenders? This seems like double-dipping.

JENNIFER REY (Victim Services Officer, Department of Corrections):

Most victims do not realize DOC has an additional resource to pay their bills. The Fund receives most of its money through the federal government. It acts as a de facto insurance company. Say I am the victim of a DUI accident that hospitalized me. Those medical bills will come due, regardless of whether the offender has paid the restitution payments. I can apply to the Fund for partial reimbursement of my bills. If they are paid, they are not presented in the presentence investigation report to be addressed through recompense by the offender. I will not get restitution for bills funded by the Fund. That said, there is a limit to what is paid by the Fund. If my medical bills are \$1 million, the Fund will not guarantee payout for the full amount. Only \$5,000 to \$10,000 may be paid above a cap.

SENATOR HARRIS:

Essentially, offenders pay restitution to their victims. If a victim taps into the Fund, the offenders' additional payments go there. Is that correct?

MS. REY:

If a victim cannot provide a receipt for a bill, a court will not order the offender to pay restitution for it. A court-ordered, capped dollar amount is always paid.

SENATOR CANNIZZARO:

Language in S.B. 22 realigns how restitution must be paid before other payments. The bill glosses over some inherent issues. The language retains the word "reasonable"; however, many conversations have revolved around what that deduction amount means. It was 80 percent, then reduced to 50 percent in October 2020. We all agree victims are entitled to prompt restitution under the Constitution, and the reordering of priorities makes sense.

There are two issues with how much is deducted from offenders' accounts. That money deducted from prison wages is different from money sent by family so their loved ones may have better food, postage or hygiene options. There is little objection to family money going toward restitution. What is the origin of the reasonable amount standard of 80 percent versus 50 percent? What is the goal of DOC here?

MR. DANIELS:

The authority to make that deduction adjustment falls within the Director's discretion. The Director's decision is subject to review by the Board of State

Prison Commissioners, who can approve it or present options for the final deduction figure. Payment of victim restitution was decided by two bills passed by the Legislature then twice by the vote of the people. Restitution was deemed a priority.

My agency realized it needed to comply with the November 2018 vote, so we developed a deduction of 80 percent. Inmates would keep the first 20 percent of their wages; other costs, including restitution, would come out of the remaining 80 percent. After the Board approved that figure, objections arose, and it was deemed a better option to drop the deduction to 50 percent.

The Board put that figure out for discussion and reconfiguration and is working on a more suitable solution. The Board is holding hearings and meeting with two constituent groups: families of offenders and victim advocates.

The process works well. As Director, I am authorized to comply with statute and the Eighth Amendment of the U.S. Constitution. If DOC makes an internal policy change, the Board will approve, deny or modify it. People with an interest in the process have met with the Board. Senate Bill 22 complies with how the process is supposed to work.

SENATOR CANNIZZARO:

I understand Marsy's Law and have significant contact with crime victims in my job as a prosecutor. I am not saying there should be a reprioritization based on the Law that restitution should be paid in a different order mandated by statute. The argument is not offenders should pay for other things before restitution. The issue is the Director's authority in NRS 209.247 based on what is "reasonable." What was the percentage before 80 percent?

Ms. FAJOTA:

Before the 80 percent decision, there was no deduction for restitution.

SENATOR CANNIZZARO:

Why change the percentage instead of the policies on how the deductions are applied? What prompted the decision that it would be 80 percent? The Law does not dictate a compensation figure, just timely payment. Many statutes use the words "timely" and "prompt," depending on the situation.

MS. REY:

We looked at the question, "What makes something fair?" The only way DOC could compare its percentage to other "fair" statutes was to look at those of other states. Of the 13 states with Marsy's Law statutes, Nevada and California are the only ones with 2 restitution dictates: it must be paid before anything else, and the victim is entitled to full and timely restitution. California takes 50 percent plus a 5 percent administrative fee. We do not charge that fee, but given our statute is so similar to that of California, it is something to consider. Other states without the Law have higher restitution deductions than Nevada. Arizona has a subsection in *Arizona Revised Statutes* 13-804 that states restitution must be paid prior to other financial obligations, and the court—not the Arizona Department of Corrections—will determine how it will be paid.

SENATOR CANNIZZARO:

Nothing about the Law statutorily prohibits the Legislature from establishing a particular deduction percentage. Is that correct?

MS. REY:

The Law does not limit the way a state implements it, including which branch of government does so. It is simply a bill of rights for victims enshrined in our Constitution. Yes, the Legislature could establish the deduction percentage.

SENATOR CANNIZZARO:

That begs the question of, when we discuss why 80 percent versus 50 percent, the understanding is the Law dictates restitution must be paid foremost. As long as we are establishing procedures to pay restitution in a timely manner, the issue of the amount remains. There is a difference between families providing restitution and garnishing offenders' wages. Would it be more prudent to put something in statute that does not give the Director discretion? The Law is not why the percentage changes.

SENATOR OHRENSCHALL:

It is a fine balance between making victims whole and trying not to dissuade inmates in work programs with families endeavoring to help them financially. Section 1, subsection 10 of the proposed amendment, [Exhibit B](#), to [S.B. 22](#) outlines a quarterly package program. What is that, and how was the \$300 maximum amount of package contents determined? Is the restriction in section 1, subsection 10, subparagraph (e) on who may take part in the program being implemented, or would that be new under the bill?

MS. FAJOTA:

There is a quarterly package program under which inmates and outside parties may purchase food, clothing and hygiene items. The proposed amendment, [Exhibit B](#), would be more restrictive than our program. The DOC allows a \$425 quarterly limit for most locations; there is a monthly limit at Casa Grande Transitional Housing Facility.

HAROLD WICKHAM (Deputy Director, Operations, Department of Corrections):
Disciplinary segregation disallows an inmate from receiving amenities under the package program. We also do not allow packages in our Medical Division in case an inmate is sent foodstuff that contradicts his or her care. The prohibition also involves a lack of storage space in what is considered temporary housing.

SENATOR OHRENSCHALL:

Other than the \$300 versus \$425 per quarter package value limit, does the language in section 1, subsection 10 of the proposed amendment, [Exhibit B](#), reflect current DOC practices?

MS. FAJOTA:

Yes.

CHAIR SCHEIBLE:

Without the proposed amendment, [Exhibit B](#), will DOC continue its package programs?

MS. FAJOTA:

Yes.

JOSEPH CHORAK:

I support S.B. 22 as a family member of the victim of violent crime. My son was almost murdered by two brutal people who stabbed him in the throat and back. Ten years later, my son has scars and has screaming nightmares. The perpetrators are in prison and have refused to pay restitution. My son was victimized both during the attempted murder and now. He has well over \$80,000 in medical bills, yet has received less than \$1,000 in restitution. The perpetrators were sentenced to 34 years but are out on parole and have left the State. One has violated parole and is back in custody.

Medical providers could not find my son's pulse, but he survived after receiving eight pints of blood. It is unconscionable that he is still being victimized. Put yourself in my shoes: if he were your child, what would you want? Forget about the rights of criminals who think nothing of taking lives. This was not stealing a pack of gum; this was attempted murder. To give these criminal a free pass is an insult to everyone who obeys the law.

JENNIFER NOBLE (Nevada District Attorneys Association):
The Nevada District Attorneys Association supports S.B. 22.

JULIE KIM:

I support S.B. 22 because there is no amount of compensation to ease victims' suffering. Restitution should be 100 percent, not 80 percent. In the 15 years since I was victimized, I have received \$120 in restitution. I cannot begin to tell you how my suffering will last my lifetime.

NICK SHEPACK (American Civil Liberties Union of Nevada):

I will present the proposed amendment, [Exhibit B](#), to S.B. 22 from American Civil Liberties Union (ACLU) of Nevada. In September 2020, without warning inmates or their families, DOC began garnishing 80 percent of family deposit funds and money in inmates' accounts for restitution. I have 77 pages of letters of opposition to S.B. 22 ([Exhibit C](#)) from inmates collected by Return Strong Families United for Justice for the Incarcerated. The garnishment change generated a large outcry from families and a lot of media attention.

The 80 percent deduction was struck down October 8, 2020, by the Board of State Prison Commissioners. The DOC was instructed by the Governor to work with the Office of the Secretary of State to develop a more acceptable deduction rate and revert to the preexisting administrative regulation (AR) gift coupon program limits and to meet with impacted families. The DOC refused to meet with families and reinstitute the gift coupon program while working on the revised AR 258. Despite many attempts by ACLU of Nevada and other organizations, no advocacy organization or impacted person was part of the conversation.

The Board revisited the issue on January 25. There were no documents available to view before that meeting; the deadline for written comments was noon six days before the meeting. The Board decided to cap deductions at

50 percent while DOC prepared a revision of AR 258 to reflect that. Without warning, the deductions began a few days ago.

The ACLU of Nevada met with NDOC to seek common ground on the proposed amendment, [Exhibit B](#), to S.B. 22. However, it was not willing to work with us. It is evident the DOC legal team believes the gift coupon program is unconstitutional while the package program is not. That is why we included the package program in the amendment, [Exhibit B](#), to ensure it remains robust.

WILL PREGMAN (Battle Born Progress):

Battle Born Progress opposes S.B. 22 as written but supports the proposed amendment, [Exhibit B](#). Without statutory protection, families of inmates are in a stressful situation in which they are unsure if they can provide for their loved ones. We urge DOC to work with families, advocate organizations and Legislators to find a balance to protect families and victims owed restitution. Families need clarity on how much will be deducted from deposits into inmate accounts, and deduction caps will ensure that. We all agree victims deserve restitution; however, the burden of paying it should not be on families.

DENISE BOLANOS:

I oppose S.B. 22 because there are ways to make the deductions more fair to families. However it is worded, it is our money being garnished. I send money to my incarcerated husband to buy toothpaste, soap and detergent, which help maintain good hygiene. During the Covid-19 pandemic, such items are even more important.

It is inconceivable the \$100 I barely manage to send to him monthly may no longer be enough. I work a full-time and a part-time job to provide for six children. Living from paycheck to paycheck is hard enough, yet I am lucky to have even one job during the pandemic. Imagine being in my situation while facing housing and job insecurity, in addition to having an incarcerated family member. Regardless of their crimes, they are still our daughters, sons, brothers, sisters, husbands and wives—still human beings. I am both a crime victim and the wife of an incarcerated criminal. I realize victims are entitled to restitution, but I do not believe anyone but the person responsible for the crime should be held accountable for it. I do not expect the wife and adult children of my victimizer to pay my medical expenses by garnishing his account.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):

Nevada Attorneys for Criminal Justice opposes S.B. 22 for the same reasons as Mr. Shepack. We would support it if the proposed amendment, [Exhibit B](#), were adopted. The goal of the amendment is to establish a predictable, transparent process so victims and inmates know how things work while not preventing families from helping loved ones to rehabilitate.

The amendment, [Exhibit B](#), makes four changes. It would cap wage deductions at 50 percent, putting a DOC AR into NRS. It would cap family deposit deductions at 25 percent. It would allow families to deposit up to \$300 quarterly without deductions. Families would be able to pay for a minimum amount of food, postage and Covid-19-prevention cleaning supplies without their deposits being garnished. The amendment would require DOC to give what are essentially bank statements to inmates. These changes would strike an appropriate balance between the needs of inmates, families and victims and the administrative interests of DOC.

AMANDA CANDELARIA:

You have my written opposition statement ([Exhibit D](#)). My loved one is incarcerated at Northern Nevada Correctional Center (NNCC). His mother and I have supported him financially when we can; however, due to Covid-19, his mother lost her job and is on a fixed income. I work full time while supporting my children and grandchildren.

Even the 50 percent deduction of our contributions is too much of a burden. Our loved one needs to use his money for healthier food choices and basic hygiene items not provided by DOC. Would it not make more sense to lower the deductions to 25 percent so some restitution could be taken out, rather than 50 percent or higher, and he sends nothing? In California, families can order commissary items for loved ones online weekly. Before DOC extends inmates' obligation to pay restitution, please understand it is their obligation, not that of the families.

JENA CHATMAN:

My husband is incarcerated by DOC. He was brought to the State for the parole violation of failing to submit his new address. Right before he was imprisoned, he was diagnosed with prostate cancer. In addition for food and hygiene products, families also send money for medical treatment. Nevada is the only state that has not made medical copays for inmates during the Covid-19

pandemic. They are charged \$8 for medical bills, and if they do not have it, families must pay it one way or another. If you are indigent and your medical condition worsens and authorities have to call 911, you will be charged \$85. Unlike most states, during Covid-19, DOC medical staff has not made many remedies readily available or charged for them. At Jean Conservation Camp, women who were coughing were told it would cost \$10 for six to eight cough drops.

When the DOC Director deemed it necessary to drop the restitution deduction from 80 percent to 50 percent, it reflected the reality of survival. When questioned by the Nevada Sentencing Commission, the Board and Legislators, the Director never tells the whole story or he lies. He is out of step with or lax about the reality of inmate care. What happened in September and what is happening now is unreasonable. I understand the definitions of reasonable and timely are subjective. The Director should not have the power to make such decisions without someone providing oversight. Our very lives depend on you to protect us from the whims of the Director.

LAVINA WAGONER:

My loved one in DOC has been impacted by the deductions, which put an additional burden on families. We are already living without his income. Now, to make sure he is okay, we will need to send extra money, which we simply cannot do. Senate Bill 22 would create a disaster for inmates and their families. We received a letter from a woman at Jean Conservation Camp, who is trying to rebuild her life by working for the Nevada Division of Forestry (DF). She writes:

I think it is just wrong to take money from more families and put it on our backs to help us. I understand that our victims deserve restitution and understand fines and fees should be taken from any prison-earned wages, but not from the money our families send. This is not their responsibility, and they already pay the cost financially and do the time emotionally right up with us. It is hard to understand when you aren't living it. At the Camp, we have multiple sets of various overpriced clothing items to work for and be out[side]. In addition at Camp, we pay for room and board, fire packs and other random things. We make almost no money working for [Division of Forestry] and can't get a job with them once we are free. But now even the money my family sent to allow

me to purchase these work-related items is gone. I am basically forced to work and hustle around the Camp to obtain what my family already tried to provide for me. I am doing everything in my power to get my life together, but it feels like a fruitless endeavor. It feels hopeless. Was this the point of Marsy's Law? I don't think it was. I'm asking you today for all the reasons I mentioned to protect us any way you can from the Director deciding what is reasonable. He has proven that he cannot have power.

NICOLE TATE:

The addition of Marsy's Law to the Constitution was said to have inspired the changes to NRS 209.247; however, the Law merely states victims receive "full and timely restitution." The definition of timely does not exist in NRS. When a person is incarcerated, the most appropriate time to start collecting restitution is when he or she is employed, making slave wages at best. The only funds inmates can use are sent by family members. Once an inmate is released to the Division of Parole and Probation, Department of Public Safety, and restitution is still owed, NRS 176A.430 allows someone in danger of failing to pay restitution to have a financial hardship hearing. This is for someone out of prison and paid at least minimum wage. How is it determined someone who does not have the ability to earn that wage be held to a higher standard in prison with no possibility of a financial hardship hearing? This is during the pandemic, when many families are suffering financially yet wish to send funds for the hygiene and food needs of loved ones. The spirit of the Law did not mean for families to be responsible to pay restitution.

I have dealt with similar financial transgressions by DOC concerning medical bills from injuries incurred by my incarcerated husband. For every \$100 I sent, he received about \$30. Packages are not always available for every inmate, even those not in segregation. The price of packages is substantially higher here than in California.

JENNIFER HENRY:

My loved one is in NNCC. We are begging Legislators to listen to the harm the deductions have caused to inmates, families and our communities. The letter I will read is from a family who sacrificed to help their son turn over a new leaf and redeem himself from his choices. Those choices were never intentionally criminal but due to drug abuse. The mother writes:

I am writing this letter under much distress due to the decision to deduct funds from my son's account. It is unreasonable to believe that this decision does not victimize families. The way the deductions were taken—[inaudible testimony] and now it's 50 percent—without warning, blindsides families. I understand there are victims who have not received restitution for the crimes committed against them. I am not insensitive to their pain. However, the [inaudible testimony] and begin the process of restoring what is required of him or her. I send money for my son's restitution. It has been an investment in my child to help him find a new direction when he is released. In taking these funds this way, DOC is robbing him of the opportunity to voluntarily restore what he broke and robbing me of the ability to provide a foundation for a different direction for him. Families were never meant to pay "full and timely" restitution. The state of Illinois—also a Marsy's Law state—has created a system that holds the offender responsible for restitution. They allow a person five years after release to repay their restitution. I am in opposition of S.B. 22. The Director has not been responsible in his decisions. He has not been reasonable, and I fear the power that is given him in this bill.

ASHLEY WHITE:

The past several months have been a rollercoaster as I try to deal with why the Director decided to take 80 percent of inmates' money. It was bad enough trying to deal with the pandemic without wondering what will happen to my imprisoned loved one who has Covid-19. I have two young children, one of whom is severely autistic. I literally put all of my money into sending packages to my inmate, including \$275 to buy soap, deodorant and lotion as stores ran out of stock. I was terrified about what could go wrong if he did not maintain his hygiene. He is diabetic and aged 57. It was crazy, and I was filled with fear and panic. I sent him the rest of my money then lost my job due to the pandemic.

At that point, the Director began taking 80 percent of the money I sent, as families struggled to pay. I felt like I was caught in a landslide or drowning. My children were out of school, and we did not have what we needed. However, he was even worse off, and I always thought about what would happen if we lost him.

What if his sentence becomes a death sentence due to Covid-19? Families must sacrifice, even if that means we hit bottom. We can survive out here, but what will he do with a hotel-size bar of soap, a roll of toilet paper and a threadbare mattress that must last four months? All of this creates anxiety that some days makes life barely functional. The Director has ripped the rug out from under families.

LAUREN MEEK:

I will read a letter from an inmate impacted by the new deduction amount:

The persistent problem that DOC has been unwilling to acknowledge, which is the problem with accounting when it comes to restitution. People have money taken through deductions that never reflects correctly Parole and Probation [records] at DOC. Consequently, people end up continuing to pay off what has long since been paid off. And for the record, incarcerated people have little ability to get that corrected, if any. This month, out of the \$400 sent to me, I am able to spend \$59.17 on canteen. This is for restitution that I do not believe I even still owe and have received no response [to my inquiries]. It is from an expired case in 2007. My family doesn't owe restitution; they never did. I'm currently out of most supplies to write my family, such as stamps and envelopes. I can't get them for free because if I get money, even though the deductions leave me in indigent status, I'm not considered indigent. I haven't been able to afford phone time to call my five-year-old son. It's crazy because I heard about the Director saying that families who need phone minutes can ask to call him, which is true. What isn't true is that my ex isn't going to buy phone minutes for me to talk to my son. I budget that out of money that I have coming in. Tell the whole story, Director Daniels. This policy is devastating my family because they love me and want to make sure I'm okay. I am not proud of my crime, and I think of my victim often and I want to pay restitution. No one needs to force me to do it, but give me the chance to fulfill my responsibilities. Don't allow DOC to take it off the backs of the people who love me.

I stand with the families of the incarcerated in opposing S.B. 22. Two truths can be true: we can care about victims and about inmates and their families. It does not have to be one or the other.

ADRIAN LOWRY:

I will read a letter from an incarcerated person hidden from society because he is on death row. He writes:

The crime I committed I believe was horrible, and I deserve the consequences that come with it. What bothers me about my sentence, however, is how it affects my family, who love me. For they are innocent, law-abiding people with love and compassion in their hearts. It seems unjust to punish them by association for my crime. I've already seen firsthand how much pain is spread exponentially by one murder. The restitution I am ordered to pay is confusing because I am legally forbidden from earning a wage by default because I am on death row. I will live in isolation due to that status until the day I am executed. I'm not allowed to participate in activities in general population or in rehabilitative programs. I am condemned to death without hope or expectation of rehabilitation. You can't have it both ways. Either you want me to pay for my crimes voluntarily or you want me to pay with my life. But I can't do both, and Marsy's Law's implementation doesn't account for any of that. On death row, it is lonely, and the State does not provide for any way out of my isolation. The love of my family provides me the finances for clothes to wear and stamps to communicate with them. I have only a handful of devices so I don't lose my mind and humanity altogether. Under normal circumstances, conditions at Ely's [State Prison] death row are deplorable. But the pandemic is even more intense. The pandemic has affected my family with illness and job loss. And then there's AR 268 and its deductions. Senate Bill 22 is not about deductions. It is about power, and the Director doesn't need a bill to order deductions, and we all know it. He needs it to maintain unchecked power.

TAMI IRVINE:

My loved one is incarcerated in High Desert State Prison. I will read a letter from an inmate's wife regarding the effects of the increased restitution deductions:

My name is Laura, and I am writing in regards to an experience last fall when money was taken from the main account. My husband is incarcerated in Nevada. He wasn't personally impacted [by the increased deductions], but the truth is, we are all in a horrible position. This decision impacts us all, inside the prison and outside, inmates who have money and who don't. My husband immediately noticed a shift in the dynamic on the tier. Inmates who no longer have money are pressuring other inmates who do to purchase for them. Because survival kicks in, in order to achieve their highest level of humanity, they must have their basic human needs met. The deductions, partnered with the impact of the pandemic, extended lockdown, no contact with their families because visits have been stopped for a whole year, along with the aftermath of destructive Covid outbreaks. It has been traumatic for both people inside the prison and families outside. We can't continue this way. As a concerned wife, citizen and voter who actually supported Marsy's Law when it was on the ballot, this is not what I believed it would be. This is an abuse of power, and the only opportunity to stop it is to stop the passing of S.B. 22.

Speaking for myself, I am concerned the Director is implementing the higher deduction because even 50 percent is outrageous. What would you do if you woke up and 80 percent of everything your mother owned was gone, and she had to live on 50 percent of her income? Would you find any means necessary to help support her? Our families do not have a choice; we will be pressured to do this for our loved ones. I oppose Senate Bill 22 for the sake of the fairness of basic human needs.

AYANNA SIMMONS:

My husband and brother are in the DOC system. Like so many others, our family has been adversely affected by the garnishment of their accounts. Director Daniels deemed it reasonable to deduct up to 80 percent of the money to pay restitution. Now, the figure is 50 percent, but at no point in the process did the Director do what was asked of him by the Governor and the Board of State Prison Commissioners. This included sitting down with families of victims and of inmates and key stakeholders to find an equitable solution while meeting the requirements of Marsy's Law.

Director Daniels said AR 268 only impacts 1,800 people who owe restitution. However, the cost of incarceration is high, and ultimately families pay for the needs of our fathers, mothers, grandparents and children with packages, phone minutes and money in their accounts. Wage garnishments fall on families; we and our children are paying the price.

When the process began, my family had no idea what was happening. I could not afford to lose what little money I had. I sent my inmate \$20, of which he received \$4. The State made him indigent, with less than \$10 in his account. The money families send is not for luxuries, rather for basic necessities, hygiene products and food, which are insufficient in quality or quantity. Before the Covid-19 pandemic, the Director received multiple letters from different DOC facilities complaining of inadequate food and other things: a hardboiled egg and a slice of bread for breakfast, a slice of baloney with mayonnaise and a packet of salt and pepper for a bag lunch, oatmeal with maggots at NNCC. Regardless of their crime and culpability, our loved ones are human before they are inmates. They are worthy of being loved, thought of and cared for. The money we send is how we convey that message, especially in times like this when we cannot see or touch them. In these trying times, we are struggling financially, emotionally or physically, and the garnishment adds a burden.

JODY HOCKING (Return Strong):

My husband is in DOC and has been impacted by paying restitution. I have been living the price since September 1, 2020, when the deductions began. I could have just paid my husband's restitution and call it a day, but something about it feels wrong. It is wrong for the burden to be placed on me even though I love my husband and forgave him for what landed him back in prison. His restitution is purely his; I own no part of that.

I began to think about the injustices that are part of this system. Incarceration does not mean justice was served. There is a fine moral line between victim and offender, which does not always equate to right or wrong. It just means one person owes a debt to another. For months, I thought about this and came to focus on two words: reasonable and timely. In the dictionary, reasonable means having sound judgment, fair and sensible and what is appropriate or moderate. The way the Director decided on inmate deductions did not follow those criteria, so it simply was not reasonable. The Director's explanation for his decision was random and lacked sound judgment. Timely is defined as occurring

at a favorable or useful time. How can that be applied to inmates trying to pay restitution while unable to work?

The DOC continually refers to states with more robust Marsy's Law requirements; not mentioned are states whose Law processes are more fair. South Dakota allows offenders to pay on a sliding fee scale and create a budget with caseworkers. In Ohio, inmates pay 25 percent only from work program wages. In Illinois, inmates have five years after release to pay restitution. To truly deem what is reasonable, we need to hear the whole truth about other states from DOC. The proposed amendment to S.B. 22, [Exhibit B](#), would double the gift package fund to \$300 quarterly.

VALERIE O'NEILL:

My son is in DOC. There are things you may not understand about the lives of prison families. I will read a letter from a female inmate who works for DF and in prison jobs. She is not given the equipment she needs to do her job. She was saving for thermal underwear, a coat and gloves to stay warm while working alongside highways. On September 1, 2020, she discovered her savings were gone without notice. Her family has lost jobs during the pandemic so are unable to help her. She has to send them money for her grandchildren out of her minimal wages. Her letter states:

Most of their money goes for children, grandchildren, rent, gas, food. Do you see where this is going? Because of this, I cannot even afford hygiene. If my family could send \$100, DOC would take 10 percent for the savings then the 80 percent that is now 50 percent for restitution. That leaves us \$10 to buy 1 box of tampons. DOC gives us seven [menstrual] pads per month. Can you imagine making it through your cycle on seven pads? I would love to be able to wash with real soap, not the lye they give us, even one pill, not to mention food, coffee or ibu-'effin'-profen. What would you sacrifice for your loved one? How would it feel to know you had to choose between your mother eating or your child eating? These decisions have consequences on real live people and families. And you just can't separate them by when they hit the "send" button on money; it doesn't work that way. I am in opposition to S.B. 22 as presented as it is dangerous and reckless for families and incarcerated people. Help us have some degree of

certainty that we won't wake up on July 1 and be back in the position we were in on September 1.

CHARRISE LOTHAMER:

My loved one is in Warm Springs Correctional Center. While he and I are not directly impacted by the Director's decision, it is ludicrous to think we would not all be impacted. We stand against S.B. 22 and the power it would give the Director. The DOC is implementing Marsy's Law, but nowhere does the Law require 80 percent to 100 percent deductions or eliminating the gift coupon program to ensure the Director can rape families and inmates at every point.

In a letter, an inmate in Ely State Prison says he is deeply sorry for the impacts his choices have had on his family and that of his victim. He acknowledges he owes restitution, and given the opportunity, he will take responsibility for it. However, he does not have an actual income in prison. Even if he were working, he could not earn a living wage—and life in prison is not free.

Allow me to briefly touch on my family situation. My wife is essentially a single parent living with my poor choices. She is not working full time and is overseeing remote learning for our four youngest children due to the pandemic. She is struggling to keep her job and put food on the table. Our oldest child lost her job and moved home due to Covid-19. Needless to say, there isn't much left over. This summer, [my wife] managed to send me \$20, and that was difficult to come by. She was charged a hefty fee to send me the money: \$8 to send \$20. By the time DOC takes the deduction, of the \$20, I received \$12.25.

No one is denying that victims deserve restitution. Arguably, many of the women and inmates from whom you have heard today are crime victims. Our concern is how restitution is garnished and those whom that impacts.

NICOLE WILLIAMS:

I will share a letter from a DOC inmate impacted by the September 1, 2020, decision:

To take 80 percent, or even 50 percent, of people's earnings, as well as gifts sent to them by their families, says to that person, "You are less than nothing, and we can and will take from you

whatever we choose." Obviously, that is a really horrible feeling to know that because of your past, you will be crushed at every opportunity. Under no circumstances can you call it fair or reasonable. We are already being punished for a crime by the loss of our freedom. Restitution is technically not a punishment for the crime. Restitution is repaying, restoring or compensating. While the deductions aren't intended to be punishment, the way they have been implemented has clearly resulted in that anyway. Then there's the impact on families. I only have my mother. If I tell my elderly mother I need deodorant, and the deodorant is \$2.50 and she has to pay another fee to send me the \$2.50—let's say \$5—and then to offset the deduction, she has to spend \$12 plus the fee, she has to send \$17 for me to get a \$2.50 deodorant. How is that reasonable? My mother is a law-abiding, tax-paying citizen who is just trying to help me because she loves me, regardless of what brought me to prison. We have people who care about us and only want the best for us, even if that only means a new deodorant. Justice in its purest form is about balance. That's why the scales of justice, right? The balance between crime and punishment and my rehabilitation—these decisions do not have balance, balancing the needs of the victims with those of an offender. There is no balance, and the Director has proven that he has no interest in finding balance.

ARELI RODRIGUEZ:

I will read a letter from a DOC inmate about the deductions' impact on her family:

My hope in writing is to bring attention to the effects that the change to inmate deductions brings not only to inmates but to our families as well. First, I understand the reasoning behind Marsy's Law and agree that victims deserve restitution. But I am the one that caused the pain, and only I should be the one that makes these payments for restitution. If someone pays that for me, I lose my consequences. It allows me to avoid the consequences myself. Taking care of your own obligations is a part of a restorative process that heals people. I also understand from my mother's perspective she is the only person that has remained supportive of me through my incarceration. She also now cares for my

seven-year-old daughter and consequently rarely can give me financial support. I have survived in prison on \$20 per month I make for working within the facility. Even from that, I send \$5 home every month to help my mom, even if it only pays for a field trip, I gave what I could. I know I can't change my poor choices that I've made or heal the wounds that I have inflicted on my victim, my mother or my daughter. But I can take responsibility on my own for my own mistakes. These deductions aren't only about the money that now I can't afford sometimes to call my mother and daughter and try to maintain a relationship with both of them. I know the Director said that our families can buy items for us, and that is half true. But that is only true if they have the money to purchase it in the first place. The biggest indicator of my success when I return home is maintaining community and family connections, but that has now become impossible. I understand there are many factors to consider, but I hope my letter serves its purpose in broadening your perspective.

The Director has not been 100 percent truthful, and families have not had a seat at the table.

CHRISTINE SAUNDERS (Progressive Leadership of Nevada):
Progressive Leadership of Nevada opposes S.B. 22 and asks you to adopt the proposed amendment, [Exhibit B](#).

AMBER CANNON:

My loved one is in Warm Springs Correctional Center. I am a victim owed restitution. I will read a letter on behalf of an impacted family member:

I am writing in regards to the struggles myself and other families are having due to the revisions to AR 258 and our fear of that power of Director Daniels and the DOC to be called off. I have four children to support as well as rent and bills to pay. I do my best to send money to my incarcerated family for personal items and food. Although I work, I don't make as much, and the pandemic has made that inconsistent. It's not fair to the families that DOC is taking our hard-earned money to pay restitution. I understand that they owe restitution and their victims need to be paid. But they are already at the lowest point of their lives, and

these revisions and restitutions steal the last shred of dignity that they have. Their last hope is to be seen as a human being. Even taking it from their wages, which is basically slavery anyway, let's be honest about that. It is not humane to take what little else they have to hold onto. Do we continue to tear down people and kick them while they're still down? Do we never even use grace or mercy? Eventually, most of them return to our communities—our fathers, sons, mothers, sisters and neighbors. Do we want them to be a shell of the person that they were when they went in? We all need to survive. Everybody makes mistakes, and they are paying for theirs with their loss of freedom, and they should be held responsible for restitution. But I do not believe that that was the purpose of Marsy's Law to force inmates and their families to break their spirits. S.B. 22 basically legalizes the oppression that DOC has instituted with its revisions to the AR. It is not reasonable; it is abuse and it was never required by Marsy's Law—no excuses. It is time for us to do the right thing. Please do not let the Director have such unchecked power.

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Senate Committee on Judiciary
March 4, 2021
Page 23

CHAIR SCHEIBLE:

I will close the hearing on S.B. 22. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 1:43 p.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 22	B	1	Nick Shepack / ACLU of Nevada	Proposed Amendment
S.B. 22	C	1	Nick Shepack / ACLU of Nevada	Opposition Letters
S.B. 22	D	1	Amanda Candelaria	Opposition Statement