

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session
March 22, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:01 p.m. on Monday, March 22, 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
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Senator Carrie A. Buck, Senatorial District No. 5

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Pat Devereux, Committee Secretary

OTHERS PRESENT:

Nadia Krall, District Judge, Department 4, Eighth Judicial District
Edward Bevilacqua, Director, Education, Novum-U
Michael Hartman, Research Analyst, Criminal Justice, National Conference of State Legislatures
Jude Hurin, Deputy Director, Department of Motor Vehicles
Nick Shepack, American Civil Liberties Union of Nevada
Kendra Bertschy, Office of the Public Defender, Washoe County
Sean Sever, Deputy Administrator, Research and Project Management, Department of Motor Vehicles

Victoria Gonzalez, Executive Director, Sentencing Commission, Department of Sentencing Policy

David Callen, Supervisor, Re-Entry Unit, Division of Parole and Probation, Department of Public Safety

Elizabeth Dixon-Coleman, Statewide Administrator, Re-Entry Unit, Division of Parole and Probation, Department of Public Safety

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.) 136.

SENATE BILL 136: Revises provisions relating to offenders. (BDR 16-625)

SENATOR CARRIE A. BUCK (Senatorial District No. 5):

Senate Bill 136 will provide much-needed assistance to prisoners reentering society so they may become productive citizens. The bill would streamline the process by which Department of Corrections (DOC) inmates may get valid Nevada identification (ID) cards or driver's licenses issued by the Department of Motor Vehicles (DMV) prior to their release.

Having people get ID cards issued while they are still incarcerated provides the best assurance the person applying for the card is who he or she claims to be. The DOC cannot be totally assured that the inmate's identity is valid. The Legislature passed S.B. No. 423 of the 77th Session, which prompted DOC to issue prison identification cards to inmates prior to release. A person must present the card and other acceptable proofs of identity to DMV to get an ID card or license. A prisoner released with little more than the clothes on his or her back is expected to get a job with a prison identification card. However, you cannot even cash a check with the card, let alone enter the workforce.

While S.B. No. 423 of the 77th Session was well-intentioned, the DOC cards are inadequate compared to the ID card. The DOC card does nothing to help a released inmate find work and housing or open a bank account. These simple

activities most of us take for granted are virtually impossible for someone who has just left prison.

Being able to reenter society quickly with as few hurdles as possible is vital to a former inmate's success. Every day a person spends without the ability to work legally or open a bank account pushes him or her toward old criminal habits, hopelessness and recidivism. A person who has paid his or her debt to society should have the chance to reestablish a productive, fulfilling life and become a contributing community member. Senate Bill 136 would provide a first step on that pathway.

Obtaining employment is the primary goal of released inmates, few of whom have a valid identification card to show prospective legal employers. Past legislation aimed to create a new form of legal identification via the white card with a green stripe issued to most departing inmates. That card provides few benefits.

The DOC was opposed to S.B. 136 as written, misconstruing it to be another Band-Aid on the defective approach of creating a new form of identification versus the bill's true goal of enabling ID cards. The proposed amendment ([Exhibit B](#)) addresses DOC's concerns.

During incarceration, some inmates lose their ID cards, have the cards expire or stolen or have their driver's licenses revoked. As per the amendment, [Exhibit B](#), inmates already in the DMV system will qualify for ID cards. This applies to about one-third to one-half of inmates.

I would like S.B. 136 to be implemented through what I call the "crawl, walk, run" model. The DMV can begin issuing ID cards and driver's licenses to those in its system whose identities and ages can be easily verified. The program would apply to people who have valid driver's licenses, expired driver's licenses or ID cards—a renewal for people with intact chains of custody and no possibility of identity theft—and suspended or revoked driver's licenses who have had their licenses reclassified into ID cards.

Once that system is in place, we can assist those unqualified to obtain ID cards: people who have out-of-state identification; who are ineligible for ID, such as noncitizens; and who are in the system but have questionable identity status within DOC.

Senate Bill 136 would create a mechanism within DMV, working with DOC, to enable qualified inmates to obtain ID cards or driver's licenses immediately upon release. Section 3 lists the requirements offenders must meet and what information each must provide to DMV for a photo ID to be created. Once the application is complete, DOC must immediately transmit it to DMV for processing. The DMV must then issue the ID card and transmit it to DOC to be given to the applicant.

Section 3 of S.B. 136 states if the application cannot be processed before the inmate's release, DMV must mail the ID card to the applicant or, if no address is available, the applicant may schedule an appointment with DMV to get the ID card after release. Any ID card issued under the bill must clearly indicate whether DMV has verified the full legal name and age of the offender.

Section 5, subsection 2 of the proposed amendment, [Exhibit B](#), to S.B. 136 requires DMV to provide assistance with obtaining an ID card or driver's license no later than six months before an offender's projected release date by providing the application described in section 3. It also requires DMV to take a color photo of the offender for use on the ID card no later than three months before release. The remaining sections are technical and make conforming changes to statute.

Currently, inmates are issued a voucher for an ID card renewal upon release; however, if their ID has expired or was lost or stolen while they were incarcerated, they cannot use the voucher.

As for the fiscal impacts of S.B. 136, it will help reduce recidivism, which costs the State between \$20,000 and \$30,000 per inmate annually. This savings would be more if costs for reincarceration and Division of Parole and Probation (P&P), Department of Public Safety, are included. Unemployed people sometimes turn to crime. When they are legally working, P&P supervision is more effective. Employees and employers pay taxes, social security and employment insurance. Employed people feel better about themselves since they no longer operate in the shadows.

The fiscal impact is based on a financial model that shows inmates who do not return to prison for lack of an ID card or job will better reintegrate into society, thus saving the State incarceration costs. One hundred inmates can receive ID cards for the cost of one or two people who do not return to prison.

Having a legal ID card is an essential step in empowering people to make correct choices. Our system is fraught with barriers for released prisoners to stay on the right path. This small investment of time and money will make a difference for those who deserve a second chance.

NADIA KRALL (District Judge, Department 4, Eighth Judicial District):
Senate Bill 136 could reduce homelessness, which is a huge problem in the State, especially in Clark County. People who leave prison without ID cards cannot get jobs. The first thing they do is become homeless after they leave transitional housing and are unable to find employment. The bill will enable people to get jobs, which means they are less like to commit crimes.

Senate Bill 136 may make our economy more vibrant, which benefits people within the legal system and our communities. No one knows the identity of a person better than the prison system, so there would be no fraud involved with who is issued an ID card. The bill is tailored to benefit inmates who are already in the DMV system with ID cards or driver's licenses.

EDWARD BEVILACQUA (Director of Education, Novum-U):
Novum-U provides various services to more than 1,000 Nevada inmates returning to society. Senate Bill 136 is a simple, much-needed improvement to assist former inmates by streamlining the process of obtaining an ID card. There is a lot of talk about giving people second chances and helping them reintegrate; the bill can help turn that talk into reality.

Without valid identification, no working-age adult can properly function in society. Virtually every ex-felon cannot get a job, which means no money, credit, housing, cell phone or car. It means a lack of self-sufficiency and anger, frustration and contempt for society; it means people are headed back to prison.

The best way to help returning citizens to hit the ground running is to provide them with ID cards. It is important to determine if the person is the actual one who needs the ID card. It eliminates the need for returning citizens to steal or borrow someone else's identification. Proper identification upon release empowers people to believe success is possible.

Studies show stable and meaningful employment is the best antidote to recidivism. A lack of marketable job skills is a barrier to such employment. What

is the point of having skills without valid identification or having to spend weeks to obtain it? Senate Bill 136 would remove that complication.

I will describe a typical first day for inmates returning to society. In late morning, Novum-U gets a call from P&P headquarters instructing us to come get the inmate. He or she is wearing a prison uniform and carrying the few possessions in a cardboard box or a laundry or garbage bag. The inmate has been up since 4 a.m., so we get him or her something to eat, then buy some clothes. We present the inmate with a cell phone with unlimited data and minutes so he or she can download any apps needed. At around 5 p.m., we take the inmate to a motel as a condition of parole; without our assistance, this person could not legally check in without proper identification instead of the white card with the green stripe. However, not every inmate even has that identification.

Over the next four weeks, Novum-U prepares inmates for their first jobs, which fill the work-history gaps on their resumes. Because they have been out of the workforce for so long, the position acts as a practice job to generate cash. It is difficult to properly prepare ex-felons for stable and meaningful employment in only four weeks. It is unnecessarily complicated when we also must have them obtain their ID cards. Obtaining cards postrelease is difficult because people must provide proof of identity and because of delays due to Covid-19. That difficulty is manifested when seeds of doubt are planted in inmates' minds, which interferes with their learning process. Our students express gratitude for finally being able to obtain ID cards.

Imagine the challenges for those who are not in a program that provides housing, clothing, food, phones, hygiene or transportation in those first critical days. The prison environment basically warehouses people, especially in the past year when almost all programs were shut down due to the pandemic. Providing ID cards for people already in the DMV system could be a simple yet huge step forward. The technology is in place, and S.B. 136 would require it. Lack of identification sets people up to return to crime and prison. The DMV enables the public with internet access to obtain duplicate or renewed ID cards without a need for photos in mere minutes. Let us do the same for inmates before they leave prison.

MICHAEL HARTMAN (Research Analyst, Criminal Justice, National Conference of State Legislatures):

I will give an overview of national legislation regarding photo identification before inmate release. Not all states have legislated the topic; however, that does not mean they do not issue identity cards through other agencies, such as state departments of motor vehicles or corrections.

Colorado Department of Corrections reviews every individual on intake and release to determine if he or she needs a Colorado ID card. Approximately 13 states have legislation to help offenders get identification at or immediately following release. Only West Virginia has a program to stay unpaid court costs, a common barrier to obtaining identification cards. The state allows people to apply for cards as if they do not owe a fee so long as they continue to honor a payment plan.

The remaining 12 states have statutes addressing the opportunity or provision for either temporary or permanent identification cards. Utah, New York and Arizona provide for temporary cards; nine other states are focused on permanent cards. Nebraska is the only state that provides the opportunity to apply for a card versus providing assistance with the application. Only Mississippi, North Carolina and Wisconsin explicitly provide for driver's licenses.

Many states' statutes leave the time frame to apply for identification cards open to discretion, providing statements such as "soon to be released individuals may apply quarterly." In Hawaii, inmates with less than a year remaining to serve get assistance with the application; in North Carolina, it is within six months of release. South Dakota helps inmates within 120 days of release; Indiana refers inmates to its motor vehicle department unit 365 days prior to release. Identification card application costs vary between no fee, paid fees for the indigent and help with the application but no paid fee.

SENATOR HANSEN:

In five out of my six sessions serving on the Committee on Judiciary in both Houses, Legislators have dealt with S.B. 136's issues. This is not a partisan issue. With this bill, we are not attempting to bite the whole apple, just take a tiny bite. Over the years, DOC has run into many obstacles when it attempted to get ID cards for inmates. No one disputes the idea that we do not want inmates to return to prison. Something as simple as an ID card that could reduce recidivism should receive full support by Legislators. Senator Buck and I

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met with DMV Director Julie Butler, who assured us DMV will implement the bill's provisions.

SENATOR PICKARD:

I agree with Senator Hansen that S.B. 136 is long overdue. District Judge Krall, an objection to issuing ID cards I have heard in the past is DOC did not have verifiable identities for inmates. Have you ever seen an unidentified person convicted?

DISTRICT JUDGE KRALL:
No.

SENATOR PICKARD:

Can we say a person positively identified in a court of law was convicted, and there is no mistake about who is now behind bars?

DISTRICT JUDGE KRALL:

Yes. Once a case has gone to trial and a defendant convicted, his or her identity has been verified.

CHAIR SCHEIBLE:

How many criminal trials have you presided over as a judge?

DISTRICT JUDGE KRALL:

None. I only judge civil cases, but I have been a criminal attorney. I view criminal records regularly and have had countless criminal record-sealing cases.

SENATOR PICKARD:

I need clarity that in this State, there is never any doubt as to the identity of defendants. Many constitutional problems would otherwise be created. One of the earliest questions in any case is, "Who is this individual sitting in the defendant's chair?" There is never equivocation as to who is convicted. Is that correct?

DISTRICT JUDGE KRALL:
Yes.

SENATOR PICKARD:

Mr. Bevilacqua, do any inmates leave prison with government-issued identification cards they can use? Is it every inmate or a select few?

MR. BEVILACQUA:

A small number of people leave prison and enter parole with valid ID cards. If someone without identification or fingerprints in the system is arrested, he or she could be using a fictitious name. A person could go to prison under an assumed name but would not receive an ID card under S.B. 136 because he or she is not in the DMV system.

SENATOR PICKARD:

If we are talking about people who will get ID cards eventually, would the cost for DMV to provide the cards be raised? Once applications are filed, DMV must provide the cards, right?

MR. BEVILACQUA:

If DOC is funding the worthless white cards with the green stripe, then people must get the official ID card and there is no cost savings.

CHAIR SCHEIBLE:

We have heard that DMV will cooperate with the provisions of S.B. 136 and is working on the ID card process. Working with DOC, why not have DMV get ID cards for inmates without the bill?

SENATOR BUCK:

We have been waiting since the Seventy-seventh Session for that to happen. I want to put the issue into a clear policy so it is finally done.

SENATOR CANNIZZARO:

We have heard testimony that S.B. 136 will save the State money. Have you done the math or had confirmation on that from DOC and DMV? It will cost the State to provide ID cards.

SENATOR BUCK:

Senate Bill 136 would clarify the law requiring DOC and DMV to provide ID cards. This has been avoided since 2013. If you look at the entire picture of inmates reentering the prison system, there is a savings to the State. Inmates

are issued vouchers for ID cards but still must go to the DMV after their release. The bill would allow inmates to use the vouchers before their release.

SENATOR CANNIZZARO:

That does not exactly indicate a cost savings, contrary to testimony today. If an inmate is qualified to receive a voucher, he or she may go to DMV and get an ID card or driver's license. Is that correct?

SENATOR BUCK:

I did not say there would be a savings between DOC and DMV. If DOC does not issue prison IDs, that cost would be saved. About 500 people per month leave the DOC system; about 150 of them would qualify for ID cards.

SENATOR CANNIZZARO:

The cost-savings testimony came from one of the bill presenters. The Committee needs to know exactly how that savings could be achieved. Is the voucher given to inmates for assistance in obtaining ID cards through DMV?

MR. BEVILACQUA:

The cost savings I mentioned is from not having to process, print and tabulate two identifications: the prison one and the ID card.

SENATOR CANNIZZARO:

Do individuals who qualify for an ID card or a driver's license ask DMV for the voucher? Besides the prison ID, is the other ID the voucher to obtain State-issued identification?

MR. BEVILACQUA:

I am describing the DOC white card with the green stripe. The other card to which I referred is the ID card. The extra cost comes from producing the prison card. The real cost saving is when people do not return to prison. The State pays \$20,000 per year for returning inmates who could not get jobs without proper identification.

SENATOR CANNIZZARO:

My understanding is individuals who are eligible for ID cards or driver's licenses are given vouchers to take to the DMV. Is that correct?

MR. BEVILACQUA:

The voucher provides a duplicate ID card or license for people with valid cards or licenses already in the DMV system. It is not a renewal or reclassification of identification.

SENATOR CANNIZZARO:

Would the proposed amendment, [Exhibit B](#), only allow issuance of cards to a limited number of people who are otherwise eligible for DMV cards?

MR. BEVILACQUA:

Yes, people who are already in the DMV system are eligible. To answer Chair Schieble's question as to why S.B. 136 is necessary, it will correct the problem mentioned by Senators Hansen and Pickard: bills from past sessions did not provide for identification because the approach was global. The new bill has a limited approach, only attempting to provide ID cards for those already in the DMV system.

SENATOR CANNIZZARO:

Some prisoners do not have things like notarized birth certificates or other forms of identification or documents verifying their residences. While we know who they are, sometimes they cannot get official documentation to get ID cards.

MR. BEVILACQUA:

That is correct. As Senator Buck said, the bill is a crawl, walk, run approach. We will pluck the low-hanging fruit of inmates properly identified in prison who can get ID cards so they will be able to work after release.

SENATOR CANNIZZARO:

The issue is not whether people have proper identification; it is whether they can produce the requisite official documents to meet the DMV's ID card standards. We have heard about a program DOC and DMV have attempted to set up to enable people to get ID cards and licenses. What is that program and who does it target?

JUDE HURIN (Deputy Director, Department of Motor Vehicles):

In February 2020, DMV met with DOC and representatives of city and county jail systems to tackle the long-standing issues in S.B. 136. We created a subcommittee geared to enacting the bill's provisions. Before the onset of Covid-19, DMV worked with DOC's inmate Re-Entry Program to create a

system for duplicates of expired ID cards or licenses to replace suspended or revoked credentials. These are standard cards, not REAL ID cards. The goal of DMV is to reinstate our subcommittee to restart the process.

Because of timing of this Session's DMV transformation budget bill, when we look at the behind-the-scenes process of creating ID cards, we do not want to allocate too many IT resources toward it. We want to create a part-electronic/part-manual system because over the next four years, DMV's operations will become 100 percent electronic.

In March 2020, we sent DOC an internal proposal for rectifying inmates' duplicate or expired licenses—then Covid-19 hit. With S.B. 136, we are back on track with issuing ID cards to inmates in our system. We will work with DOC on the regulatory process, logistics, validating who is in the DOC system, sending the cards to the right administrator in DOC to give to inmates, etc. The fiscal impact of programming to create the cards would be minimal.

SENATOR SETTELMAYER:

In previous renditions of S.B. 136 and what is in statute, required information was difficult to find, as Senator Cannizzaro indicated. If an inmate was from out of state, trying to find the birth certificate or social security number was essentially impossible. I appreciate the language in the proposed amendment, [Exhibit B](#), to narrow the list of eligible inmates. Trying to provide REAL ID cards is a different set of hoops to jump through and expensive. The bill's provisions for providing ID cards is a reasonable alternative.

MR. HURIN:

The DMV would provide the standard ID card or driver's license, not REAL ID licenses. When released inmates try to find employment or housing or open banking accounts, if their ID cards or licenses have been suspended or revoked, they will have new versions. REAL ID licenses involve federal requirements. Implementation of S.B. 136 will enable DMV to eventually process ID cards and licenses for nonresident or noncitizen inmates with improved technology.

SENATOR SETTELMAYER:

I am glad the proposed amendment, [Exhibit B](#), delays the bill implementation date from October 1, 2021, to June 1, 2022, because, due to Covid-19 restrictions, DMV needs more time to create the new system.

NICK SHEPACK (American Civil Liberties Union of Nevada):

American Civil Liberties Union of Nevada (ACLUN) supports S.B. 136 with the proposed amendment, [Exhibit B](#). Anyone on record with DMV should leave prison with a State-issued ID card; that should be the law, not a subject of debate. The only ACLUN objection to the original bill is it created a loophole for people whose original identity could not be verified. It is absurd we have incarcerated people whose identities we do not know. People like that need to leave prison with an ID card that can at least be used for hotel rooms or prescription medications. Navigating the DMV can be challenging for all of us, especially during the pandemic. A lower recidivism rate due to the ID cards will save the State money and help keep our communities safe.

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

The Office of the Public Defender, Washoe County, and John Piro, Office of the Public Defender, Clark County, support S.B. 136. We agree with ACLUN the proposed amendment, [Exhibit B](#), corrects a potential loophole. Housing and employment are important components of successful inmate reentry and are virtually impossible to obtain without proper identification. An ID card may mean a second chance: stable housing; a better job; access to social services, medication and education; and the ability to open a bank account.

SEAN SEVER (Deputy Administrator, Research and Project Management, Department of Motor Vehicles):

The DMV is neutral on S.B. 136. Our original concerns were assuaged by the proposed amendment, [Exhibit B](#). We want to work on the ID card process through the regulatory process. The fiscal note DMV submitted on the original bill can be adjusted accordingly.

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

The Department of Sentencing Policy is neutral on S.B. 136. One way the Department assists the Nevada Sentencing Commission is with oversight of justice reinvestment. We collect data from and assess savings and costs for all areas of the criminal justice system. We will help DOC and DMV track costs related to reentry and recidivism resulting from the enactment of S.B. 136.

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DAVID CALLEN (Supervisor, Re-Entry Unit, Division of Parole and Probation, Department of Public Safety):

The Division of Parole and Probation is neutral on S.B. 136. Allowing inmates to obtain an ID card before release would greatly benefit parolees and the mission of P&P.

ELIZABETH DIXON-COLEMAN (Statewide Administrator, Re-Entry Unit, Division of Parole and Probation, Department of Public Safety):

The Re-Entry Unit, Division of Parole and Probation, is working with DMV to implement S.B. 136.

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CHAIR SCHEIBLE:

We will close the hearing on S.B. 136. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 2:16 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. 136	B	1	Senator Carrie A. Buck	Proposed Amendment