

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session
May 15, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 2:17 p.m. on Monday, May 15, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Assemblywoman Michelle Gorelow, Assembly District No. 35
Assemblyman Philip P.K. O'Neill, Assembly District No. 40

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Karly O'Krent, Counsel
Kelsey DeLozier, Counsel
Jan Brase, Committee Secretary

OTHERS PRESENT:

Jennifer Noble, Nevada District Attorneys Association
Rebecca Goff, Nevada Director, Humane Society of the United States

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Pamela DelPorto, Nevada Sheriffs' and Chiefs' Association
Adrian Hunt, Las Vegas Metropolitan Police Department
Andrew LePeilbet, Chair, United Veterans Legislative Council
Mary Sarah Kinner, Washoe County Sheriff's Office
Marc Ellis, President, Communication Workers of America Local 9413
Michael Ryan
Lisa Rasmussen
John J. Piro, Clark County Public Defender's Office
Nick Shepack, Fines and Fees Justice Center
Mark J. Krueger, Chief Deputy Attorney General, Office of the Attorney General
Susie Martinez, Executive Secretary, AFL-CIO Nevada

VICE CHAIR HARRIS:

I will open the hearing on Assembly Bill (A.B.) 159.

ASSEMBLY BILL 159: Revises provisions relating to cruelty to animals.
(BDR 16-71)

ASSEMBLYMAN PHILIP P.K. O'NEILL (Assembly District No. 40):

The impetus for A.B. 159 is the case of Jason Brown. In 2014, Mr. Brown tortured and killed small dogs in a Reno motel room. He bought the dogs on Craigslist. I will spare you further details unless you ask for them. It was one of the most disturbing cases of animal abuse ever reported in northern Nevada and has been well documented in various news reports. In 2015, Mr. Brown was convicted of 7 counts of torturing and killing an animal and sentenced to a minimum aggregate term of 11 years in prison. Unfortunately, in 2022, Mr. Brown was up for early parole because his crimes are classified under statute as nonviolent. Assembly Bill 159 seeks to change the classification for animal torture, killing or mutilation from a nonviolent offense to a crime of violence for purposes of early parole ineligibility.

JENNIFER NOBLE (Nevada District Attorneys Association):

I want to start by acknowledging this type of crime is undoubtedly underreported. Animals have no voice. Of course, they cannot call the police. They have no way to seek help when they are being abused. Quite simply they are at our mercy. No matter how statute reads, the malicious torture, maiming or killing of an animal is an act of violence. Many of the most infamous serial killers possessed histories of animal abuse. Past animal abuse is such a strong indicator of future violent behavior that the FBI uses it as a predictor

when they are profiling particularly dangerous and violent criminals. Studies have also shown that people who severely abuse animals are likely to harm human beings.

For example, there is a strong correlation between abuse of animals and the cycle of domestic violence. Companion animals can be a source of comfort to victims of domestic abuse. Abusers often exploit that weakness to manipulate, control and punish their victims. I want to make clear from the outset that A.B. 159 does not increase the penalty for this crime. Under statute, offenders can earn credits to reduce their minimum sentence and become eligible for early parole. Statute carves out a subset of offenders not eligible for those credits. The subset consists of felony sexual offenses; crimes of violence; and Category A and B felonies meaning sexual assault, murder, attempted murder, high-level drug possession and felony DUIs.

Section 1, subsection 8, paragraph (e) provides that the willful and malicious killing, torture or mutilation of an animal will be added to the list of offenses not eligible for early release credits.

Section 2, subsection 3, paragraph (b) would make persons who commit this crime ineligible for diversion and automatic record sealing that comes with it. That is important because people who commit these crimes are among the worst of the worst. Mr. Brown commented that he was really hoping to obtain a certain breed of dog. He said he looked for pugs because when they scream, they sound like children. This is the only particularly disturbing fact I will share unless you ask for specifics, but it underscores the fact that this is a violent offense.

Section 3, subsection 1, paragraph (e) adds the willful and malicious torture, killing or mutilation of an animal to the list of offenses not eligible for early termination of probation in the context of a specialty court setting.

Section 4, subsection 1, paragraph (e) removes the division's mandatory obligation to seek early discharge of these offenders. I emphasize the bill does not increase penalties. Offenders are still eligible for probation, but when they are sentenced to prison or revoked, it prevents these offenders from being released prior to the minimum end of their sentence. It also prevents them from benefiting from diversion statutes, because with that diversion, records are automatically sealed. Nothing in these offenders' records would prevent them

from working with animals or children. The automatic sealing option means people like Jason Brown could get out of prison and work with vulnerable populations. Nevadans want to prevent this outcome.

When someone willfully and maliciously kills, mutilates or tortures an animal, our statutes should recognize the seriousness of the crime and reconsider early parole, probation and sealing. That is what A.B. 159 seeks to do. *Nevada Revised Statutes* (NRS) 574.100 concerning cruelty to animals is referenced throughout the bill. The section specifies a person shall not torture or unjustifiably maim, mutilate or kill animals. These are people who should not be eligible for diversion or early release. Mr. Brown was eligible for early release, which is why aside from the grisly facts underlying his crime, this case continued to capture the media's attention.

ASSEMBLYMAN O'NEILL:

During my 40 years in law enforcement, mainly in violent crimes and homicide, I encountered individuals who killed more than one person. Without exception, they had a history of animal abuse. Mr. Brown's actions may have been the impetus for A.B. 159, but I was also responding to telephone calls, emails and in-person visits from Nevadans who were deeply disturbed by media reports of the case.

SENATOR HANSEN:

During the Seventy-sixth Legislative Session, we heard a bill making animal cruelty a felony, and the law enforcement community was overwhelming against it at the time. I remember having conversations with fellow Legislators who agreed with law enforcement officers until we were shown photographs of a horribly abused dog. Some guy on drugs was convinced his dog was possessed by Satan and killed the dog with a razor blade. The bill passed and the offense was elevated to a felony. If the provisions of A.B. 159 had been in place when Mr. Brown was convicted, how much longer would he serve? What were the terms of his sentence?

MS. NOBLE:

As a member of the law enforcement community, I do not recall testifying against any bill that would make this type of crime a felony. Our office vigorously pursued prosecution of Mr. Brown who was convicted of seven counts of a Category D felony, which is a violation of NRS 574.100,

subsection 6, paragraph (a). In 2015, he was sentenced to 11 years in prison as a minimum aggregate term. By 2022, he was eligible for early parole.

VICE CHAIR HARRIS:

Obviously, this is a horrible crime. We should not take it easy on anyone who commits this offense. Is the bill a reaction to one specific decision that a parole board may make that we do not agree with? Why should we eliminate an offender's ability to go before the parole board as opposed to allowing the parole board to continue to make these decisions? It is not a guaranteed release. The parole board heard his case and decided to release him. Am I correct?

MS. NOBLE:

That is correct. Prior legislatures have made the decision as a matter of policy that certain offenses should not have this type of eligibility, including sexual offenses and crimes of violence. It is difficult to argue that violation of statute against the willful and malicious torture of animals is not a crime of violence. Data and studies connect those dots. We know that people who commit this type of offense are particularly dangerous. We know it is an underreported crime.

Someone walked into the motel and discovered what Jason Brown had done. It is fortunate he was detected and apprehended. When we are able to detect these types of offenders, I do not think they should be afforded the possibility of early release. Remember, they are still eligible for probation. If they do not get probation at the trial level from the trial judge, it must be a serious offense. They should not be released early. Their offenses should be categorized as crimes of violence like these other crimes. Because it does not affect many people does not mean that it is not good policy.

ASSEMBLYMAN O'NEILL:

I need to drive home my earlier comment. I worked on violent crimes and homicides for years. One man liked to spray lighter fluid on a cat at night. When he lit the cat on fire, he enjoyed watching the sparks fly off the cat's fur. He said it looked like firecrackers. That gentleman ended up killing four people. I could relate many similar stories of terrible violence committed against animals by people who killed multiple victims, but the point is clear—animal abuse is a violent crime. As a prosecutor, I wondered which human will be the next in line?

VICE CHAIR HARRIS:

I am not necessarily opposed to the idea that this is a violent crime. Is there some reason we cannot make it clear that this fits as a violent crime? Statute states any crime that is punishable as a felony involves the use or threatened use of force or violence against the victim. Is the problem that the victim must be a person?

Ms. NOBLE:

Animal abuse does not fall under the definition of crimes of violence under the statutes now. That is part of what A.B. 159 seeks to do. Our other concern is under statute, offenders committing this crime are eligible for diversion and automatic record sealing. In discussing a violation of that specific subsection of NRS 574.100, to allay concerns of some Committee members, we want to state we do not want to inadvertently include people who may have unintentionally caused harm to an animal. We would have to prove malice. What we are looking for is an acknowledgement that malicious animal abusers are committing crimes of violence.

VICE CHAIR HARRIS:

Why not amend NRS 202.876, which defines violent or sexual offenses and add this offense?

Ms. NOBLE:

This was the simplest way we could accomplish our goals. The bill is straightforward. Section 1 categorizes cruelty to animals as among the list of offenses not eligible for early release credits. Section 2 makes offenders ineligible for diversion and automatic sealing. Section 3 add offenders to the list of those not eligible for early parole termination. Section 4 states there should be no mandatory obligation to seek early discharge of these offenders. Existing law requires the Division of Parole and Probation to petition a court to recommend the early discharge of a person from probation unless the person has been convicted of certain violent or sexual offenses.

SENATOR NGUYEN:

I am generally supportive of the bill. Clearly, these offenders have mental health issues. Would enactment of A.B. 159 prevent their inclusion in diversion programs geared toward mental health? Some specialty court programs do not allow violent offenders' participation. Exceptions are made with the mental health piece. Would this prevent those people from getting those treatments?

The mental health court program is three years long which is longer than most Category D felony sentences.

MS. NOBLE:

It would prevent offenders from participating in diversion court unless it was a condition of probation. We are concerned about the automatic sealing of records. Psychiatric care is available through the Nevada Department of Corrections. It may not be a popular view, but there are mental health conditions and there are evil acts. They can co-occur in one person.

SENATOR NGUYEN:

I understand what you are trying to accomplish.

REBECCA GOFF (Nevada Director, Humane Society of the United States):

We support A.B. 159. Crimes against animals must be taken seriously because they are crimes against society. The relationship between harm to animals and harm to others is well established. Because of this connection between human violence and animal cruelty, the FBI began collecting data on animal cruelty crimes through its National Incident-Based Reporting System in 2016. Torture is tracked and classified as a crime against society, which is the same category as rape and murder.

Animal cruelty can range from unintentional neglect to premeditated violence. The latter can be a predictor of harm to the most vulnerable—children, intimate partners and elders. Studies from the United States Secret Service link animal abuse to mass attacks in public spaces. Most animal crimes do not receive sentences that include incarceration. When they do, it typically involves the most heinous acts or defendants who are habitual offenders. I appreciate the Committee's attention to protecting the most vulnerable in our State including our animals and respectfully ask you to support A.B. 159.

PAMELA DELPORTO (Nevada Sheriffs' and Chiefs' Association):

We support A.B. 159.

ADRIAN HUNT (Las Vegas Metropolitan Police Department):

We support A.B. 159 to solidify the penalties for animal cruelty. This is the appropriate measure for the crimes against society when voiceless animals are abused and tortured.

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ANDREW LEPEILBET (Chair, United Veterans Legislative Council):

I represent 279,000 veterans, their families, the National Guard and active military in Nevada. We support A.B. 159. We are experiencing a shortage of service dogs for our veterans who value their pets. These crimes should be dealt with appropriately.

MARY SARAH KINNER (Washoe County Sheriff's Office):
We support A.B. 159.

MARC ELLIS (President, Communication Workers of America Local 9413):
I support A.B. 159.

MICHAEL RYAN:

I am a long-time resident of Nevada and a Marine Corps veteran. Please support A.B. 159. This is a bipartisan bill that would prevent people who abuse animals from walking free. There is no reason to hurt defenseless animals. When I read about the Jason Brown case, I was appalled and horrified. We can all agree that our pets deserve our protection.

VICE CHAIR HARRIS:

We have received a letter ([Exhibit C](#)) from R. Lee Sterrett in support of A.B. 159. I will close the hearing on A.B. 159 and open the hearing on A.B. 350.

ASSEMBLY BILL 350: Revises provisions governing forfeiture of property.
(BDR 14-472)

LISA RASMUSSEN:

Assembly Bill 350 provides revisions to annual forfeiture reporting. I have submitted a presentation ([Exhibit D](#)) outlining issues involved in forfeiture reporting. Forfeiture occurs after seizure. If a person is stopped while driving a car and law enforcement takes \$20,000 from the driver, this is the seizure part. A lawsuit will be filed by the law enforcement agency seeking to keep the funds. That is the forfeiture part. The average seizure and forfeiture case in Nevada amounts to \$912.

Most law enforcement agencies in the State report forfeitures using a law enforcement case number which looks like an event number. Most agencies

are providing information about the reasons items were seized. Finally, most agencies provide accurate information about the items forfeited.

Assembly Bill 350 adds as reporting requirements under section 1, subsection 1, paragraph (a), subparagraph (4) the place of the seizure. Section 1, subsection 1, paragraph (b), subparagraphs (1) through (9) require the type of crimes associated with the seizure. The bill expands reporting requirements to include whether a crime was actually charged against the person whose property was seized, the court in which the case was filed, the case number, the outcome of the criminal proceeding, whether the forfeiture action was completed as a criminal or civil case, and whether the claimant claimed an interest in the property. In other words, did the claimant assert ownership of the property and request it be returned? The section requires reporting of the outcome of the civil case if one was filed, whether there was a stipulated agreement between the parties and the final disposition. Reports should be provided in OCR readable format.

The goals of A.B. 350 are to provide an opportunity for greater tracking and as a result, greater accountability of the disposition of the property seized. Another goal is to allow law enforcement agencies to better track the disposition of seized property, cash or assets and to permit improved public access to information about law enforcement seizure and forfeiture activity. It is almost impossible to establish what happens when something was seized. Reporting is annual and without an event number, there is no way to determine whether a lawsuit was filed. Finally, the goal of the bill is to inform all branches of government in Nevada as to future policy and best practices, including Legislators.

The presentation, [Exhibit D](#), includes annual reports from the Nevada Attorney General's aggregate report. The report lists property seized alphabetically and amounts to \$5.6 million across all agencies from July 1, 2020, through June 30, 2021. For the same reporting period, forfeitures were \$2.8 million. In part, the difference reflects lag time following seizures, legal action or other issues. The reporting system does not reflect or explain the \$3 million difference between seizures and forfeitures, which is one of the reasons for bringing A.B. 350.

The presentation, [Exhibit D](#), includes examples of reports from various jurisdictions across the State. Carson City details event numbers, date seized,

associated crime and market values. Property seized was \$35,535.62 and property forfeited was \$41,215.70. Our reporting system does not require explanations of discrepancies or inclusion of case numbers.

During the reporting period, Churchill County seized \$44,489.01 and reported zero dollars in forfeitures. Fallon seized \$39,299.00 and filed incomplete data on forfeitures. Henderson seized \$245,091.37 and reported \$258,267.99 in forfeitures. Las Vegas Metropolitan Police Department seized \$3.8 million and reported forfeitures of \$1.9 million. There are any number of explanations for the discrepancies. Because reporting requirements are unclear and inconsistent, it is impossible to analyze and evaluate the program.

The presentation includes a sample complaint of when a forfeiture is filed. The complaint generates a civil case that is filed in district court, never in justice court. The process is complex, and without a case number, there is no method for accurately tracking forfeitures. The presentation concludes with a summary of NRS 179.1187 explaining the distribution and duties required relating to forfeiture.

SENATOR NGUYEN:

This is typically a piece of legislation brought by Republican members, and I am in complete agreement. This is a good start to what I hope will be a complete overhaul of forfeiture reporting. Assembly Bill 350 will build a system for data and information we need to make informed decisions.

SENATOR HANSEN:

Forfeiture is a crime in and of itself which should be completely eliminated. Failing that, regulatory control will provide data for informed decisions and may lead to eliminating the forfeiture system.

JOHN J. PIRO (Clark County Public Defender's Office):

We have been working to establish some form of asset forfeiture reform. Collecting data and not being able to ignore complete data may finally push us toward reform in the future. This is a good first step.

NICK SHEPACK (Fines and Fees Justice Center):

We are interested any time an individual comes in contact with the criminal justice system and there is an exchange of money. This is a good

first step. With a collection of complete data, it may be possible to effect a broad change to the forfeiture system. We urge your support of A.B. 350.

MS. DELPORTO:

Nevada Sheriffs' and Chiefs' Association takes a neutral position on A.B. 350.

MS. RASMUSSEN:

Assembly Bill 350 received unanimous support in the Assembly, and I look forward to similar results in the Senate.

CHAIR SCHEIBLE:

We received a letter ([Exhibit E](#)) in support of A.B. 350 from Marcos Lopez of the Nevada Policy Research Institute. I will close the hearing on A.B. 350 and open the hearing on A.B. 373.

ASSEMBLY BILL 373 (1st Reprint): Revises provisions relating to deceptive trade practices. (BDR 52-773)

ASSEMBLYWOMAN MICHELLE GORELOW (Assembly District No. 35):

Assembly Bill 373 increases penalties for those who target elderly persons with deceptive trade practices. They take advantage of vulnerabilities and exploit the elderly for personal gain. Our elderly population is more vulnerable to scams and frauds due to factors such as the sophistication of the perpetrators, declining cognitive abilities, social isolation and limited financial resources.

According to the Federal Trade Commission in 2020, consumers 60 years of age or older filed for over 334,000 fraud reports with reported losses of more than \$600 million. Because the vast majority of fraud cases are not reported, these numbers include only a fraction of older adults harmed by fraud. Romance scams, prizes, sweepstakes, lottery and business impersonation scams cause the highest aggregated reported losses for older adults. Increasing the civil and criminal penalties for engaging in deceptive trade directed toward the elderly in A.B. 373 will help to protect the vulnerable population from financial harm.

MARK J. KRUEGER (Chief Deputy Attorney General, Office of the Attorney General):

Assembly Bill 373 and the proposed amendment ([Exhibit F](#)) set up some additional information on penalties and cause of action. The cause of action

language is already in unfair trade practices, and it makes sense to include the language in deceptive trade practices in NRS 598 under the cause of action of *parens patriae*. Section 1.5 addresses protections for older adults. It creates a penalty of \$25,000 for each violation. It addresses an increase in the penalty when victims are persons with disabilities.

We have researched penalties in other states and found many are higher than those in Nevada. Assembly Bill 373 provides an opportunity to increase categorical civil penalties from \$5,000 to \$15,000. The bill addresses some of the criminal sanctions for the older adults violations. The final provision is an addition of protections for juveniles who are vulnerable to scams especially on social media platforms.

SENATOR HANSEN:
What is disgorgement?

MR. KRUEGER:
Disgorgement is when laws are enforced against companies and others who have made financial gains through deceptive practices. The authorities will disgorge their profits.

SENATOR HANSEN:
Can you define *parens patriae*?

MR. KRUEGER:
Parens patriae comes from a Latin term meaning parent or father of the people and is a cause of action. It exists in unfair trade practices, also known as antitrust. It allows bringing a cause of action for deceptive trade practices to protect the people.

SUSIE MARTINEZ (Executive Secretary, AFL-CIO Nevada):
On behalf of 150,000 members in 220 unions, we support A.B. 373. I am aware of a senior citizen who was convinced to buy a \$200 gift card and give the number to the caller. The caller told the man it was not enough money and asked for more. The senior citizen complied because he is vulnerable. This is a good bill, and we appreciate your support.

MR. ELLIS:
The Communication Workers of America Local 9413 supports A.B. 373.

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ASSEMBLYWOMAN GORELOW:

A constituent's husband who was in the beginning stages of Alzheimer's Disease went to a car dealership. The dealership sold him a car for \$80,000 even though his driver's license had been revoked because of his condition. Thankfully, his daughter was able to return the car and cancel the loan. These are the people we want to protect.

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CHAIR SCHEIBLE:

We have received a letter ([Exhibit G](#)) from the Henderson Chamber of Commerce in opposition to A.B. 373. I will close the hearing on A.B. 373 and adjourn the meeting at 3:11 p.m.

RESPECTFULLY SUBMITTED:

Jan Brase,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
A.B. 159	C	8	Senator Dallas Harris	Letter in Support / R. Lee Sterrett
A.B. 350	D	8	Lisa Rasmussen	Presentation / Revisions to Forfeiture Reporting
A.B. 350	E	11	Senator Melanie Scheible	Letter in Support / Marcos Lopez / Nevada Policy Research Institute
A.B. 373	F	11	Mark J. Krueger / Office of the Attorney General	Proposed Amendment
A.B. 373	G	14	Senator Melanie Scheible	Letter in Opposition / Henderson Chamber of Commerce