

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session  
March 1, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:02 p.m. on Wednesday, March 1, 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

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Pat Devereux, Committee Secretary

**OTHERS PRESENT:**

John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court  
Tonja Brown, Advocates for the Inmates and the Innocent

CHAIR SCHEIBLE:

We will open the hearing on Senate Bill (S.B.) 63.

**SENATE BILL 63:** Revises provisions relating to the Judicial Department of State Government. (BDR 1-435)

JOHN R. MCCORMICK (Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court):

Section 1 of S.B. 63 requires the contact information for courts to be made public. The section modernizes language to include contact information rather than just the telephone numbers of courts.

Section 2 modernizes the language around holding the court hearings during emergency conditions. Section 3, for clarity's sake, specifies where court can be held.

Section 4 clarifies language concerning who can be excluded from a court proceeding. Previously, *Nevada Revised Statutes* (NRS) 1.090 read that a minor on trial could not be excluded nor if the minor were a law student preparing to apply for a license to practice law. The bill proposes to remove the reference to a minor studying to be a lawyer because that does not happen anymore.

Section 5 modernizes language around electronic filing (e-filing) rules. At the Administrative Office of the Courts (AOC), we are working on a Statewide e-filing system. Section 6 replaces "telephone" with "electronic" communications to acknowledge that we now do work beyond just using the telephone. That would pertain to issuance of a temporary order or an emergency protection order.

Section 7 cleans up requirements for courts to have seals affixed to documents and requires that each court of justice in the State shall have a seal. The Supreme Court shall adopt rules regarding those seals.

Section 8 removes the statutory procedure for disqualification of a judge to be put in the purview of Court rules. Section 9 modernizes language regarding the AOC, removing examination of docket books of the State courts and determining if justices needed assistance.

Seven S.B. 63 sections replace the word "regulations" with "rules" because the Court promulgates rules, not regulations. That is a one-word change in sections 10, 12 through 15, 33 and 34.

Section 11 modernizes language regarding the payment of court interpreters. It specifies fees "the court determines are reasonable and necessary" paid for interpreters, rather than the courts by whom they are employed. The Court shall

certify what is just compensation. In the AOC guidelines for the court interpreter program, there is a governing document. Within the last year, the AOC increased the recommended hourly rate for interpreters from \$25 to \$49 after surveying pay in a number of states. That pay rate puts Nevada in the neighborhood with the majority of states.

Section 12 makes the “rules” versus “regulations” replacement. It changes the language regarding the interpreter program to indicate it operates pursuant to Legislative appropriation. Section 13 changes “regulations” to “rules” and “regulation” to “rule.”

Section 14 involves the composition of the Nevada Certified Court Interpreter Program advisory committee. It removes the NRS 1.530 reference in subsection 1, paragraphs (b) and (d) to “in any county whose population is less than 100,000.” This makes it easier for a county to have a representative on the advisory committee. Section 14 also provides the Court Administrator may designate a vice chair from among the members of the committee. Language is changed to the preferred nomenclature of “persons with limited English proficiency” in these sections.

Section 15 changes “regulation” to “rule.” Section 16 replaces the statutory procedure for requesting review of a background check results with the Court Administrator guidelines. It updates that procedure to conform with AOC rulemaking authority.

Section 17 clarifies language regarding the appointment of a justice when there is a vacancy on the Supreme Court. It clarifies existing caselaw related to those terms and when the appointed term expires: “the first Monday of January following the next general election.”

There is a requirement that after the Supreme Court promulgates rules, the rules cannot go into effect less than 30 days after the entry of the order. In the event of emergency rules, this can be problematic. Generally, the Court tends to give people longer than 30 days to become familiar with rules. Section 18 removes that requirement so rules can become effective when necessary and proper.

Sections 19 and 27 pertain to the provision of facilities, staff, budget, materials and technological resources for the Supreme Court in section 19 or district courts in section 27. The AOC has worked with Clark and Washoe Counties and

various interested parties on the language. We want to marry the language in sections 19 and 27 so they are the same across the board.

Section 20 talks about the use of digital signatures, providing the Court will promulgate rules about them if necessary. Section 21 deals with the appointment of the Clerk of the Supreme Court. It removes old language from the statute dating maybe from the 1950s. The changes indicate the Clerk will be selected by the Court, which is standard nationwide.

In sections 22, 23 and 24, "or a majority thereof" is removed. Statute currently reads "the Supreme Court, or a majority thereof, is authorized to" appoint or designate or employ any employee. "Or a majority thereof" seems unnecessary because the Court operates on majority vote. I do not know if AOC is contemplating unanimous versus majority, but this is simply a language cleanup.

Section 24 modernizes language about why the Court can have necessary employees for its operation, maintenance and improvement and throughout the State court system. Secretarial support positions were in the original language in statute.

Section 25 updates and removes language regarding regulation of the Supreme Court Law Library. Since the Supreme Court only promulgates rules, sections 26, 29 and 30 remove "or regulations."

Section 31 provides more language modernization by removing "telephone," acknowledging electronic communication means, including the Internet. Sections 32, 33 and 34 replace "regulations" with "rules."

Section 35 came about after a random discovery in NRS 281 that referred to having five justices on the Court. We are changing the language to "justices of the Supreme Court" because the Legislature has the discretion to increase the number of judges. There have been seven judges for a while. The section also provides updates to references to *State ex rel. Harvey v. Second Judicial District Court*, 117 Nev. 754, 32 P.3d 1263 (2001), which asserted the county clerk is the sole person designated in the Nevada Constitution as responsible for performing the duties associated with that position.

Section 36 provides the sunset provisions and the legislative report statute do not apply to statutes that give rise to the annual report.

Section 37 repeals several sections of NRS 1.060, including an antiquated provision about sheriffs adjourning court if a judge does not show up and the judge needing to send a telegram or letter. *Nevada Revised Statutes* 1.115 requires courts to recycle to an extent that is reasonable and practical. That does not have to be in statute. *Nevada Revised Statutes* 1.116 specifies any discarded electronic waste needs to be stripped of data before being donated.

*Nevada Revised Statutes* 1.150 requires the court to have a seal and prescribes what it can be used for within judicial business. *Nevada Revised Statutes* 1.170 prescribes who has custody of the seal. *Nevada Revised Statutes* 1.180 indicates documents that must have the court seal applied; again, this is unnecessary to ensure in statute.

*Nevada Revised Statutes* 1.270 provides a sitting judge cannot have a partner who is practicing in a State court. Sitting court justices cannot be part of a law firm with partners who practice in the State, except at small part-time firms. *Nevada Revised Statutes* 2.210 provides that qualifications of the Clerk of the Supreme Court are set by justices.

*Nevada Revised Statutes* 2.230 was enacted in 1973. It allows the Supreme Court to appoint deputy clerks within the inherent authority of the Court, pursuant to existing caselaw. *Nevada Revised Statutes* 2.240 is another employee-authorization statute.

*Nevada Revised Statutes* 2.255 provides if there is a mistake with Court fees or unauthorized fees, the Clerk of the Supreme Court can no longer be fined \$1,000.

*Nevada Revised Statutes* 2.270 provides the Court Clerk can destroy exhibits pursuant to its records-retention schedule. Generally, that happens in appellate courts. The Court does not have many exhibits it is holding onto, but if it did, it would manage them pursuant to the records-retention schedule.

*Nevada Revised Statutes* 2.420 provides the Court designates when the Supreme Court Law Library is open. *Nevada Revised Statutes* 2.440 sets qualifications for the Supreme Court Law Librarian. *Nevada Revised Statutes* 2.450 requires the Court Law Librarian to report once a year to the justices about what is going on with the library.

SENATOR NGUYEN:

All of section 8—excepting the final sentence—of S.B. 63 is removed. It is the court ethics section. Who would ethics enforcement fall upon? Are we going to a system of complete self-regulation in which the judges determine what is or is not ethical and establish rules they must follow?

MR. MCCORMICK:

The idea in removing that language from statute is because ethics enforcement is a procedural issue which should be set by Court rule. The justices would promulgate rules regarding disqualification.

SENATOR NGUYEN:

Are there problems with the current system? Do justices not have ethics rules, or they are not following them? Why does the section need to be removed?

MR. MCCORMICK:

A problem AOC has with the current scheme is we have people who file frivolous or repeated disqualification requests. Being that disqualification is a Court procedural rule, we thought it would be more appropriate for the Court to promulgate the rules.

SENATOR NGUYEN:

Would it be up to the justices to determine what is ethical or unethical and determine what disqualifies a person from being a judge? Would they have sole discretion to make those decisions?

MR. MCCORMICK:

The Court already follows the *Revised Nevada Code of Judicial Conduct*, so those canons would inform it. Justices could create a rule for disqualification. The process to develop that rule would potentially have a committee or commission work on it. Getting a draft rule filed with the Court under its administrative docket would entail a public hearing, an opportunity for public comment and review of the rule before the Court took any action.

SENATOR NGUYEN:

I feel uncomfortable removing the ethics disqualification procedure in statute without having something set up that would give our constituents comfort in knowing there are protections against unethical behavior.

SENATOR OHRENSCHALL:

As a followup to Senator Nguyen's questions, I have concerns about the deletions in section 8 and of NRS 1.235 regarding the procedure for disqualifying judges. Other than Supreme Court justices or judges of the Court of Appeals, would S.B. 63 leave it to Court rules and remove it from NRS?

*Nevada Revised Statutes* 1.225 deals with grounds and procedures for disqualifying a Supreme Court justice or a Court of Appeals judge. Would that remain in statute and not be affected by this bill? If S.B. 63 passes with section 8, would disqualification of every other judge in the State—justice of the peace, district court judges, municipal judges—be promulgated by Court rule?

MR. MCCORMICK:

Yes.

SENATOR OHRENSCHALL:

I would prefer disqualifications to be either entirely up to Court rule or specified in statute. *Nevada Revised Statutes* 2.420 dictates the hours of public use at the Supreme Court Law Library. In this day and age, most of our constituents have access to the Internet and can look up Court cases and NRS online. However, we still have constituents without reliable Internet who go to law libraries, whether it is the Clark County Law Library or the Supreme Court Law Library. If S.B. 63 passes, can we be assured there will still be hours open to the public at the Court's Law Library?

MR. MCCORMICK:

Yes, the Law Library is open when the Supreme Court is open for business: 8 a.m. to 5 p.m., Monday through Friday. The AOC works with people who want to come in during different hours.

SENATOR HANSEN:

I share my colleagues' concerns about section 8. I am uncomfortable allowing seven members of the Court to determine disqualification rules, versus 63 Legislators ensuring oversight from a different branch of government.

Section 14 of S.B. 63 eliminates the requirement to have at least one judge or justice court interpreter committee member from a county with a population under 100,000. Why would you remove representation from essentially all our

rural counties? Now, it is guaranteed there is at least one or two committee members from a smaller jurisdiction. Why remove the 100,000 population cap?

MR. MCCORMICK:

It has been challenging to open the committee to justice of the peace members. Currently, the only justice of the peace on the committee is Judge Dee Primeaux, Carlin Township Justice Court, Elko County; before that, it was Chief Judge Kevin Higgins, Sparks Township Justice Court, Department 2, Washoe County. The idea was to remove the population cap caveat to provide greater flexibility in filling those seats.

SENATOR HANSEN:

You have had difficulties getting a limited number of justices of the peace on the committee. That makes sense.

SENATOR STONE:

Section 8 of S.B. 63 is a case of the fox guarding the henhouse. Who would govern the ethics of court justices in the event of malfeasance?

MR. MCCORMICK:

Section 8 deals with disqualification procedures and the ethical obligations of Supreme Court judges, district court judges, justices of the peace and municipal court judges. The rules are in the Code of Judicial Conduct, so it is a Court rule. The oversight body—for lack of a better term—is the Nevada Commission on Judicial Discipline. The bill would not impact any of that; it simply deals with motions to disqualify.

SENATOR STONE:

Regarding section 35, you said there are seven Court justices and they can increase that number. Can the justices do that themselves? What is the formula with which they could make that decision?

MR. MCCORMICK:

I misspoke. The decision to increase members on the Court is within the purview of the Legislature, pursuant to Article 6, section 2 of the Nevada Constitution. There must be a minimum of three justices, and the Legislature has made it seven.



SENATOR DONDERO LOOP:

Regarding section 14 and the makeup of the advisory committee for the certification of court interpreters, why is there a representative from the Nevada System of Higher Education? Do members not have to be attorneys? Aside from the justices of the peace, the district judges are lawyers. Members do not all seem to be people who would know that venue.

MR. MCCORMICK:

Section 14 determines the makeup of advisory committee for the certification of court interpreters. The section, to a certain extent, is more about the interpreter function and making sure we have the interpreters we need who meet the minimum standards promulgated by the National Center for State Courts. The inclusion of a member of the Nevada System of Higher Education was a statutory decision made by the Legislature.

SENATOR DONDERO LOOP:

Section 37 deletes NRS 1.270, which provides a sitting judge cannot have a partner who is practicing in courts in the State, except at small part-time firms. Could you elaborate upon that?

MR. MCCORMICK:

Section 37 deletes the provision that a sitting judge cannot have a law firm partner practicing in the State. Basically, judges cannot be a part of a law firm because that is contrary to the Code of Judicial Conduct. The way NRS 1.270 was written seems anachronistic and unnecessary.

CHAIR SCHEIBLE:

Why would we delete the disqualification of judges who have partners practicing in the State, according to NRS 1.270?

MR. MCCORMICK:

Because it is already prohibited by the Code of Judicial Conduct for judges to be a part of a law firm, it did not need to be duplicated in the old-fashioned language of NRS 1.270.

CHAIR SCHEIBLE:

In section 37, why are we deleting NRS 1.115, which requires the Court to recycle?

MR. MCCORMICK:

The idea is from the perspective of recycling as a Court function which it manages. This felt like the statutory requirement was unnecessary.

CHAIR SCHEIBLE:

*Nevada Revised Statutes* 1.115 was added after the Eightieth Session.

MR. MCCORMICK:

The statute has been there for a while, but it was amended in 2019.

CHAIR SCHEIBLE:

Why would we take the qualifications of the Supreme Court Law Librarian out of NRS 2.440?

MR. MCCORMICK:

Since the librarian is an employee of the Court, the justices should set those qualifications. To be any kind of librarian, a person must possess certain qualifications.

CHAIR SCHEIBLE:

Is there something wrong with NRS 2.440? Is it outdated or insufficient? Is there a new certification process for law librarians? It is important the librarian of the Law Library be appropriately qualified so the position does not become politicized. Someone overseeing the library must only have a degree in library sciences, which is how I read NRS 2.440.

MR. MCCORMICK:

The deletion intent was not to modify the qualifications, simply to not prescribe them in statute.

CHAIR SCHEIBLE:

Regarding section 8 of S.B. 63, you mentioned a problem with parties to actions who are filing duplicative or unwarranted requests for judges to be recused or dismissed. What would the solution be to that problem using rules, not regulations? Is there a reason we cannot just discuss what that solution could be and put it into statute?

MR. MCCORMICK:

We are happy to have that discussion. The preference was to set it in court rules.

CHAIR SCHEIBLE:

Has that discussion already been started?

MR. MCCORMICK:

Yes, we have been tossing around ideas on a potential fix.

TONJA BROWN (Advocates for the Inmates and the Innocent):

Advocates for the Inmates and the Innocent disagrees with the provisions of section 8 of S.B. 63. In the discussion of judges being members of law firms, I have not heard the words "senior judge." A senior retired justice can oversee cases in any court that he or she wants. I would estimate those with 20 to 30 years' experience probably have done thousands of cases. They may not remember every one.

The Washoe County Courthouse and Supreme Court Building filing offices have problems with cases that may not be up to date. They have not been scanned into computers. Who is to say if a sitting judge is going to be assigned a case? He or she may not remember the case, and the party to action may not want him or her to hear it. If the Court tries to look online for the case, it cannot be found. People will have to go to the Law Library and pull up the microfilm. That brings up the issue of the qualifications for the law librarian.

If you must retain the language, at least include the phrase "senior judge" because if there is a sitting judge and a senior judge, the person can pick one or two cases per year. Because the judge may be party to all of this, he or she could be biased and prejudicial in the case.

When I went to the Nevada Supreme Court to look up a case, I had to use microfilm. I spoke to the librarian about this, and she said all cases a party looks up and the decisions thereon are put into the casebooks. There were a couple of cases that Advocates for the Inmates and the Innocent listed in the books, but other cases were not. It makes it more difficult for people find their cases on microfilm when they should be in the books. In the Supreme Court, there is a wall with all the blue casebooks, and there are cases missing from them.

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CHAIR SCHEIBLE:

We will close the hearing on S.B. 63. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 1:40 p.m.

RESPECTFULLY SUBMITTED:

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Pat Devereux,  
Committee Secretary

APPROVED BY:

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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