

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session  
March 21, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:02 p.m. on Tuesday, March 21, 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:**

Sy Bernabei, Executive Director, Gender Justice Nevada  
Richard Saenz, Lambda Legal  
Amber Falgout, Northern Nevada Manager, Battle Born Progress  
Mathilda Guerrero, Battle Born Progress  
Jodi Hocking, Executive Director, Return Strong  
John J. Piro, Clark County Public Defender's Office  
Nicole Winckelmann, Nevada Coalition to End Domestic and Sexual Violence  
Annette Magnus, Executive Director, Battle Born Progress  
Tess Opferman, Nevada Women's Lobby  
Marlene Lockard, Service Employees International Union Local 1107

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Sabastian Alcala  
Hailey Lindsley  
Christine Saunders, Progressive Leadership Alliance of Nevada  
Erica Roth, Washoe County Public Defender's Office  
Barry Cole  
Briana Escamilla, Planned Parenthood Votes Nevada  
Ella Bassett  
Jessica Munger, Program Manager, Silver State Equality  
Calvin Bird  
Justin Time  
Katie Banuelos, Libertarian Party of Nevada  
Jim DeGraffenreid, Nevada Republican Party  
Kirk Widmar, Chief, Offender Management Division, Nevada Department of Corrections  
Benn Clark, Employee Development Manager, Office of Employee Development, Nevada Department of Corrections

CHAIR SCHEIBLE:

I will call the Senate Committee on Judiciary to order.

VICE CHAIR HARRIS:

We will open the hearing on Senate Bill (S.B.) 153.

**SENATE BILL 153**: Makes various changes relating to corrections. (BDR 16-126)

SENATOR MELANIE SCHEIBLE (Senatorial District 9):

Senate Bill 153 is modeled on S.B. No. 139 of the 81st Session, which did not pass. The bill requires regulations prescribing standards for the supervision, custody, care, security, housing, and medical and mental health treatment for offenders who are transgender, gender nonconforming, gender nonbinary and intersex within the Nevada Department of Corrections (DOC).

The DOC oversees our prisons and people serving sentences for felony cases of a year or more. The bill requires the DOC Director to add training in cultural competency—how to interact with members of the aforementioned populations—to existing training and courses DOC provides to staff at each of its institutions and facilities.

Why do we need this legislation? Offenders who are members of the populations addressed in S.B. 153 are as vulnerable in the corrections system as they are in everyday society. Transgender, other gender nonconforming and intersex people deserve the same rights, respect, care and opportunities as people who fit more comfortably into gender categories. This Legislature has worked on similar efforts for a while to ensure that wherever people are in the State and however they identify their gender identity, their sexual orientation is respected and they are treated with dignity.

One place Legislators still have work to do is within DOC and its broad requirement to create regulations governing the custody and care of offenders. Unfortunately, inmate populations are left behind, including transgender, gender nonconforming and nonbinary people.

I have been working with a group of advocates on this legislation for several years. We are thankful to be working with DOC Director James Dzurenda this Session to create more comprehensive policies to allow his Department to function in a respectful and fair manner for everybody. When I say we have seen problems with DOC, I want to be clear we consider it a partner in solving this problem. That is why S.B. 153 does not specifically spell out regulations but calls on DOC to develop them.

Today, you will hear testimony from incarcerated people who identify as trans, nonbinary or intersex about their experiences in DOC custody. The DOC is tasked with complying with the federal Prison Rape Elimination Act (PREA), which is vitally important to protecting offenders. However, the regulations prescribed in PREA are not enough to capture all the unique challenges that gender nonbinary and gender nonconforming people face in a correctional setting. The goal of S.B. 153 is to make clear in statute our commitment to protecting the same rights and protections of all offenders and to require our correctional system to carry out that mandate.

Sections 2 through 5 of S.B. 153 set forth the definitions of gender nonbinary, gender nonconforming, intersex and transgender for the purposes of the bill. Section 6 sets forth requirements for regulations that must be adopted by the Director with the approval of the Board of State Prison Commissioners. This is the standard procedure for DOC to approve any administrative regulations. Importantly, section 6 requires those regulations to apply to each institution and facility of DOC. They address the supervision, custody, care, security, housing,

medical and mental health treatment of offenders. We use the word “offenders” throughout *Nevada Revised Statutes* (NRS) as the term to identify incarcerated people in the State.

Section 6 also requires generally accepted standards of care and best practices be used, including respectful and up-to-date terminology that accounts for and protects these offenders’ rights and prohibits discrimination against them.

Section 8, subsection 3 provides for training in cultural competency for interacting with the populations listed in sections 2 through 5. It includes a list of items that must be included in any program of facility training for staff. Section 9 requires the new regulations be adopted no later than January 1, 2024. Section 10 makes the bill effective upon passage and approval.

SY BERNABEI (Executive Director, Gender Justice Nevada):

I am a proud transgender Nevadan. I have never been in prison, but I am scared to death of being incarcerated because I know trans people experience a much higher rate of violence because of their gender identity and expression. I would probably be continually misgendered and harassed and possibly experience horrendous acts of sexual violence.

The federal Bureau of Justice Statistics states 35 percent of trans and intersex inmates have reported sexual assault or abuse in the past year by another prisoner or staff. And that is just what has been reported. The Rape, Abuse and Incest National Network reports out of 1,000 assaults, only 300 are reported. Out of reported assaults, only one of six will lead to an arrest when transgender people experience violence.

Whether in public or private, we often do not have access to services designed to protect people from harm. Being incarcerated should not mean being subjected to more unnecessary danger just because you are in government custody. In *Farmer v. Brennan*, 511 U.S. 825 (1994), the U.S. Supreme Court ruled that failing to protect trans people in custody is unconstitutional on Eighth Amendment grounds because it qualifies as cruel and unusual punishment.

However, sometimes harm is caused unintentionally because of lack of knowledge about trans and intersex people when it comes to language, lived experience and lack of trauma-informed approaches. Bias creeps into these

spaces when prison staff believe your identity is invalid; it gives them license to abuse inmates or disregard reported abuse in the name of morality.

Even if you do not understand someone's identity, we can all agree we are all human. We all deserve basic human constitutional rights and hopefully believe everyone should be treated fairly and equally regardless of one's social status, race, gender, sexuality or gender identity.

In the last 25 years of doing this work, I have worked with hundreds of trans youth and adults who have had negative interactions with law enforcement because of their gender identity or presentation. I have heard stories of sexual assault that went unreported for fear of retribution, excessive violence while in detention, placement in solitary confinement and refusal to allow access to basic health needs and accommodations. These are not special rights or privileges but basic human rights. There is a long and well-documented history of brutality towards our community that creates fear and distrust.

I worked with a young trans girl in Los Angeles in the late 1990s. Her name was Christina after Christina Aguilera, her hero. She had been abused by both parents and an older sibling then kicked out because of who she was. She lived on the streets from the ages of 12 to 14. She was arrested for loitering and curfew. She endured endless violence at the hands of other inmates and guards during her three-month incarceration and after she was released into the care of a group home.

Christina attempted suicide twice in the first three months after her release because of post-traumatic stress disorder. Eventually, she succeeded in ending her life just six months after being released because her abuse reports were never investigated and she was never given post-release therapy.

I want to stress that when LGBTQ+ people attempt or succeed at suicide, it is not because of who they are but how society treats us. Christina was 15 when she ended her life. She would have been aged 38 this year. I think about her every day and what amazing things she would be doing in this world had that violence not happened. She wanted to go to college to become a therapist to help people whom society was hurting the way she was.

Christina's plight is something that needs to be addressed and fixed immediately in our society. A tenet of making our communities safer—including schools,

workplaces and prisons—is educating people in those spaces. The more we understand each other, the more we can create a more supportive space with fewer incidents of violence and discrimination.

Gender Justice Nevada conducts diversity and inclusion trainings annually for thousands of teachers, therapists, law enforcement agencies, medical providers, community members, business owners and others. It includes assessments in which we evaluate all aspects of an organization or business and provide best-practice ideas and tools to create a safer space for the clients, customers and employees.

Through our evaluation tools, we see that after having been trained, staff are more confident and empowered to work with marginalized communities like LGBTQ+. We must create protective environments, address risks and establish victim-centered and inclusive spaces. Changing policy is a necessary beginning to change systems for the better. However, if staff are not given tools to create that safe environment, lawsuits will continue. Inmates whose lives have been permanently broken by violence will continue to carry the burden of being victimized by a system meant to rehabilitate them.

SENATOR HANSEN:

Lovelock Correctional Center is in my Senatorial District. It is at 50 percent staffing now. How are we going to hire mental health providers if we cannot even hire guards?

Obviously, if passed, S.B. 153 would go to the Legislative Counsel Bureau's Fiscal Analysis Division. Is there a pool of people we can somehow hire as mental health counselors for the entire Nevada prison system if we cannot hire guards?

SENATOR SCHEIBLE:

I had a conversation with Director Dzurenda about hiring more mental health professionals in DOC. He has good and creative ideas to recruit people willing to work in Nevada prisons. The bill does not require DOC to provide particular counselors, staff members or even programming for gender-diverse people. However, the bill does require that DOC always have such a policy in place. The policy must be respectful toward gender-diverse people and ensure they will be treated with dignity.

SENATOR HANSEN:

If a biological male who identifies as female enters the prison system, is that something that is going to stay with them the entire time during their sentence? Is identity considered fluid so the inmate may at some point shift back to being a biological male? How does that work for the people running our prisons?

SENATOR SCHEIBLE:

Senate Bill 153 provides DOC must have a policy that informs guards and other workers what it means to be transgender or nonbinary. There have been many different cases of people with varying gender identities coming through the DOC system. The point of the bill is to ensure inmates are treated with respect and dignity throughout their stay and have an avenue to inform DOC about the treatment they are experiencing or accommodations they might need.

SENATOR HANSEN:

We have a lot of issues involving prison rape, typically male on male assaults. If I were a prisoner, I would tell staff my sexual orientation was whatever it would take to put me in the female side of a facility. If I were to be stuck there for several years, I would much rather be with women than men. How do you prevent something like that happening?

SENATOR SCHEIBLE:

Gender is not a test with a particular set of questions. It is not a contest people going into the prison system can enter to be assigned the place where they want to be assigned. The policy mandated by S.B. 153 is supposed to put in place a process during which the person who is being incarcerated undergoes evaluations and a series of discussions to determine the most appropriate place for the person to fit in. What you are referring to is gaming the system to be placed in the wrong housing facility. The DOC is smart enough to have a policy to prohibit that.

SENATOR HANSEN:

My concern is if we are worried about rape, having biological males in the women's prison would probably expand the number of rapes on the female side.

RICHARD SAENZ (Lambda Legal):

It is important to understand the context here. The PREA already requires DOC to take steps to perform assessments around safety and address marginalized

communities already at a higher risk of sexual assault, including transgender people—specifically transgender women housed in men's facilities.

It is inaccurate to state a transgender woman is a biological male; the science does not support that. If we are talking about the risk of housing a transgender woman in a woman's facility, there is no factual basis to say that is going to increase the risk of rape for other females in the facility.

In 2021, California enacted Senate Bill 132, "The Transgender Respect, Agency and Dignity Act." It requires the California Department of Corrections and Rehabilitation to ask inmates about their gender identity and house them accordingly, with "serious consideration" given to their sense of health and safety. Since then, the concern has not played out that men will pretend to be female or try to game the system to be housed in the women's facilities.

New York Senate Bill S6677A enacted the "gender identity respect, dignity and safety act," which requires assessments about the safety of people of any gender identity in the state prison and county jail system. Prison officials must look at the gender identity and safety of all people in custody. Again, the baseline is the federal law, PREA. The other baseline is the Eighth Amendment that requires there be an individualized assessment of the known risks and then the system must take steps to address it.

Having policies such as the ones proposed in S.B. 153 is a necessary and important step to reinforce respect and dignity for all. It also protects prison staff and officials, who will now know what the law requires. They will know which affirmative steps to take to ensure they are complying with federal and State laws. Lastly, the bill protects incarcerated persons' rights and guarantees there be a process to enforce them.

SENATOR HANSEN:

There is a huge pragmatic and practical application of S.B. 153 that is being overlooked.

SENATOR SCHEIBLE:

We have trans people in custody already; whether there is a policy or not, the practical and logistical implications of housing people who are trans do not go away. The question is do we want to address it or do we pretend that it does not exist and hope for the best?



SENATOR STONE:

I share some of Senator Hansen's concerns about the high vacancy among guards within our prisons. You mentioned you have had conversations with DOC Director Dzurenda and he is receptive to some of your concerns. Why do you feel we need to have this in statute when he is cooperating with you on addressing some of these issues?

You mentioned everyone deserves to be treated respectfully and that through education we can prevent disrespect of trans, etc., people. Is there anything within existing DOC policies saying prison guards must not promote disrespect of anyone, irrespective of their sexual status?

SENATOR SCHEIBLE:

You will hear testimony from people in support of the bill who will do a better job than I could of explaining why it is necessary to put these requirements into statute. Department of Correction's directors and statutes change. The bill's purpose is to ensure there is always a policy in place. Right now, we have cooperation with DOC in developing these policies. That has not always been the case; I hope that will be the case going forward.

When you hear stories of unfair treatment trans and nonbinary people have experienced in the DOC system, I hope you will agree passing a bill to ensure that a policy is developed and implemented is the least we can do to ensure their protection moving forward.

There is nothing in DOC staff training that encourages discrimination, disrespect or hateful behavior. However, there are missing sections in their training to ensure the ethos of respect extends to everybody. We have heard from members of the LGBTQ+ community, especially trans and nonbinary, who feel uncomfortable in law enforcement settings. I would love to see a correctional facility that employs trans people as corrections officers and in its reception area and administrative office. Whatever we can do to improve that culture of acceptance and respect would perhaps help with our understaffing problem.

SENATOR STONE:

You mentioned training in cultural competency. Who is going to define that and deliver such a service to DOC?

SENATOR SCHEIBLE:

Cultural competency would be defined within the regulations set forth, which would have to undergo a public review through the Board of State Prison Commissioners. Depending on other legislation this Session, the definition might undergo a different kind of review process. However, the regulations must go through the process of being developed and submitted to the Board before being adopted. During that process, cultural competency would be more thoroughly defined.

SENATOR STONE:

What are the current DOC practices concerning housing trans women? Do we have trans women bunking with biological females in any of our prison facilities?

SENATOR SCHEIBLE:

I am not the right person to answer that question.

SENATOR STONE:

Let us say a trans woman who has not undergone a vaginoplasty is bunking with a biological female. I am not suggesting Senator Hansen's scenario; I am suggesting somebody with male genitalia who identifies as female rooming with a person who has biological female characteristics. How does DOC address how they can shower and coexist in other ways with one another? Putting the sexual assault issue aside, there is the uncomfortableness of living with somebody who is not the same sex.

SENATOR SCHEIBLE:

Living with somebody in a prison setting is never comfortable. That is the purpose of developing a policy to determine guidelines for each facility in which transgender, gender nonconforming and nonbinary people are housed. We already house these people, so developing a more comprehensive policy to ensure they are in a safe place for them and other people in DOC custody is the smart thing to do.

SENATOR STONE:

We have family restrooms you can use no matter your sex or identity. It would not be impossible if S.B. 153 became law to have gender-neutral cells that would accommodate all people. That way we could avoid the kind of conflicts many of us are concerned about.

SENATOR SCHEIBLE:

Senate Bill 153 would not change statute to allow or disallow gender-neutral cells. I am unaware of any law preventing DOC from integrating the men's and women's sides of its prisons. There are very clear reasons why they do not do so, and this bill does not change that.

MR. SAENZ:

I do not know of any prison system with a gender-neutral cell facility. I agree that having clearer policies and training are a net positive. Again, the bill goes beyond the safety and protection of an incarcerated person and informing the individual of one's rights. It also protects prison staff by ensuring they know the requirements and what training and resources are available so they are able to do their jobs.

MX. BERNABEI:

The questions asked by Senators Stone and Hansen are not uncommon. As for housing people who identify as female in men's facilities, there is a rigorous set of guidelines governing the intake process. Just as if we were talking about gender-affirming health care, intake decisions are not made haphazardly. Surgery decisions are made by the individual, with counseling by caseworkers and therapists; it is the same in the prison system.

An inmate cannot simply say, "I want to be in this prison because it is safer." There is an involved process inmates must go through before intake. What Senator Scheible is alluding to when she talked about creating a policy concerns what could happen when somebody prefers to be in a bunking facility because it is safer.

Sexual assault in women's prisons is committed by other women; sexual assault in men's prisons is perpetrated by other men. What we are talking about is making prisons safer and the guards more aware by training them. When somebody has been put in prison, genitalia does not matter—sexual assaults still happen.

SENATOR HANSEN:

You mentioned we have a vigorous set of guidelines in place to deal with things like sexual assault. Are those federal guidelines, and if so, why do we need S.B. 153?

MX. BERNABEI:

There are trans people in prisons not placed in a particular bunkhouse just because they said they wanted to be there. That must be determined on a case-by-case basis. When they are being incarcerated, they sit down with a caseworker and prison staff who determine which facility is needed.

I understand what you are saying about people trying to game the system. However, that would not happen just because somebody says, "Oh, I was a man but now I am a woman. I feel safer here. This is where I am going to be placed." It is similar to how we follow guidelines to get health insurance. Prisoner placement would be a process created by the policy S.B. 153 would mandate.

SENATOR HANSEN:

Mr. Saenz also mentioned there are strict federal guidelines for dealing with these issues. Ms. Bernabei said there are vigorous federal guidelines and policies to protect transgender people in the prison system. Would S.B. 153 be redundant, replicating what already exists in federal guidelines? Would it expand protections beyond the federal policies?

SENATOR SCHEIBLE:

Part of the reason for the bill is the federal guidelines are not being followed consistently. Each facility has different PREA coordinators, with whom a person must meet with when coming through the prison system. Different PREA coordinators do not get the same training. Different staff members are not identifying members of the trans community who need to meet with the PREA coordinators or caseworkers.

Sometimes, there may be people who make it through the intake process, get all the individualized assessments and evaluations and then are properly housed with all of the attendant resources they need. Other times they are not placed in the correct facility and so lack proper resources. The purpose of implementing a policy is so we have a standard. We can say, "This person was supposed to meet with this caseworker and get this assessment," or maybe it is one person

whom this one caseworker was supposed to ask these ten questions. Do we know if the caseworker asked them?

As far as the policies and procedures, we are not reinventing the wheel here. We are not talking about being the first state to develop these kinds of guidelines; they would be based on PREA guidelines and probably drawn from other states. We would look to trans people who have gone through the experience of being incarcerated to develop our best practices.

AMBER FALGOUT (Northern Nevada Manager, Battle Born Progress):

I will read testimony ([Exhibit C](#)) on behalf of Daisy, a transgender woman held at Ely State Prison.

My name is Daisy Lynn Meadows, and I am a female inmate being housed in a cell with my sister Amber Renee Meadows. We are being held at Ely State Prison, the most secure and violent facility within the State of Nevada. We both have lawsuits against the State of Nevada for being forced to endure the most extreme and extensive horrors of the male prison environment. We believe that the refusal of NDOC to address our needs as transgender women has made NDOC party to our abuse. Amber and I have made several requests to be safely and appropriately housed at Florence McClure Women's Correctional Facility or Center. We are not a threat to anyone, especially not to other women, and DOC's unwillingness to protect us and instead choose to knowingly subject us to sexual abuse, brutal rape and violence—all occurring by the deliberate indifference of staff. Our voices which attempt to bring justice only result in our own retaliation. The ignorance and attitudes of staff creates an environment that allows transgender people and people identifying as part of the LGBTQ+ community to be harmed. Thank you for the legislation, and we hope that educating those that hold us captive will be a starting point to ensure our safety.

MATHILDA GUERRERO (Battle Born Progress):

I will paraphrase the testimony ([Exhibit D](#)) of a transgender woman who is incarcerated in the Lovelock Correctional Center.

... being transgender in prison is 100 times more difficult because our existence, our stories and our voices are constantly being preyed on without any oversight in prison. There's a saying you are either predator or prey. Folks assume that predators are other inmates and sometimes they are also correctional officers. There's no backing up once you come out as transgender in prison. We have never had anyone that was willing to advocate for us until now. It is great to see all the advances made. But the truth is, you'll never hear anything that is happening to trans folks in prison. It is hard being trans in prison every day. I experienced many aggressions from other inmates and officers. We are constantly reminded about our genitalia and told our experiences are meaningless. We are left voiceless. We have a whole community of transgender incarcerated folks in Lovelock. We urge you to support Senate Bill 153 and hope it helps create a community of respect and dignity for trans folks living within.

JODI HOCKING (Executive Director, Return Strong):

You have my written testimony ([Exhibit E](#)). Return Strong works predominantly with incarcerated people and their family members across the State. If we are ever going to see a world that does not need to hold human beings in cages, legislation like Senate Bill 153 is an important step in setting standards for how we, as humans, must treat all people equally, regardless of race, gender, identity, sexual orientation, ethnicity and criminal conviction history.

People in prison deserve the same dignity as all humans. This week, Legislators have been breaking records in demanding dignity for incarcerated women. Today you are bringing legislation taking the dignity of incarcerated people into account by creating a law to ensure prison staff are trained and held accountable for the way they treat LGBTQ+ people.

I recently heard there are only six transgender people housed in Nevada prisons. I want to make it clear while there may be six people who are open about their identity, there are entire communities of people who identify in a multitude of ways at Lovelock and High Desert State Prisons, Florence McClure Women's Correctional Center and each DOC correctional facility. For those people to feel safe enough to be officially open about their identity, we have to create safe spaces. That starts with staff and the culture of corrections.

I talk to those transgender people regularly. They are bullied, ostracized and mocked, mainly by staff. They are more accepted by other incarcerated people than they are by correctional staff. They repeatedly tell us there are risks for them in any yard due to their expression of gender identity. The culture that allows this originates with staff allowing, encouraging and participating in aggressions and microaggressions on a daily basis.

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

The Clark County Public Defender's Office supports S.B. 153. The tone set when a person is in custody translates to when they are released. Therefore, it is important we show respect for incarcerated people so when they come out, they are better off than when they went in.

NICOLE WINCKELMANN (Nevada Coalition to End Domestic and Sexual Violence):

The Nevada Coalition to End Domestic and Sexual Violence strongly supports S.B. 153. In general, trans people experience higher rates of violence; being incarcerated should not mean a sentence of increased violence.

The conversation about this bill has unfortunately gotten stuck on sexual assault by trans inmates. Senate Bill 153 aims to reduce sexual assault and violence, including against trans inmates. Looking at sexual assault statistics, the majority of assaults are committed by white cisgender men. The conversation about sexual assaults being committed by trans inmates is irrelevant, spreading harmful narratives and further fueling transphobia.

The Coalition advocates for education about and prevention and eradication of violence, regardless of the setting. The bill is an important step in the process of creating accountability and ensuring the safety and dignity of transgender and nonbinary offenders.

ANNETTE MAGNUS (Executive Director, Battle Born Progress):

Battle Born Progress strongly supports S.B. 153. You have my letter of personal support ([Exhibit F](#)). I admire the goal of better treatment for our incarcerated trans family members. For far too long and often, transgender, gender nonconforming, gender nonbinary and intersexual incarcerated persons have been treated with flagrant lack of care for their well-being.

The DOC often denies incarcerated gender nonconforming people their right to medically necessary treatment for gender dysphoria. This is unbelievably cruel;

these are human beings treated horrifically in custody. We support S.B. 153 to end inhumane treatment of trans incarcerated people and bring dignity to those who have long been denied it. The bill will reduce sexual victimization and other harm caused to incarcerated people.

I want to talk brass tacks: it is a huge legal risk for our State to lack standards for this issue. If we want to talk about the liability of DOC, we must have rules and consistency—an operating policy for prison staff. If we do not get this right, we are putting everyone at risk. We have seen lawsuits brought on these issues in other states.

TESS OPFERMAN (Nevada Women's Lobby):

Nevada Women's Lobby supports S.B. 153 as an important safety measure for trans, nonbinary, gender nonconforming and intersex incarcerated people. Senator Scheible clearly explained we already have trans and nonbinary individuals in prison. This is a simple bill to ensure prison staff have appropriate policies, regulations and training to address trans and nonbinary populations' issues. It will ultimately ensure our prison system is safer for these populations as well as all other inmates.

MARLENE LOCKARD (Service Employees International Union Local 1107):

Service Employees International Union believes correctional facilities must adopt regulations to protect the rights and well-being of transgender inmates. They are often subjected to discrimination, harassment and violence in correctional facilities, which can have a severe negative impact on their mental and physical health.

By implementing regulations that ensure transgender inmates are treated with respect and dignity, correctional facilities can help reduce the harm caused by these experiences. Such regulations might include providing hormone therapy and other medically necessary treatments, ensuring transgender inmates are housed in safe and appropriate facilities and training staff to understand and respect their needs.

Ultimately, protecting the rights of transgender inmates is not only a matter of basic human decency but also of ensuring our correctional system is fair and just for all individuals. I strongly urge our correctional facilities to adopt regulations that protect the rights and well-being of trans inmates and work toward creating an environment that is safe and inclusive for all.



SABASTIAN ALCALA:

I support S.B. 153. As a formerly incarcerated person, I can attest to the subhuman standard of care received by inmates as a whole just for being inmates. With the care outlined in the bill in place, we will alleviate some of the trauma people go through simply by being incarcerated. The bill will raise the standard of care for trans and nonbinary individuals so they may be better off when they are released from prison.

HAILEY LINDSLEY:

I urge you to support S.B. 153. Transgender incarcerated persons have clearly established constitutional rights with regard to treatment for gender dysphoria. Treatment decisions regarding transgender incarcerated persons must be based on individual medical needs, not what the institution sees fit. A facility cannot have a blanket policy that prohibits specific types of treatments such as an absolute ban on hormone therapy or surgery.

Failure to provide appropriate treatments can have serious implications for incarcerated patients' physical and mental health. Denial of this medically necessary health care is cruel and unusual punishment in violation of the Eighth Amendment.

CHRISTINE SAUNDERS (Progressive Leadership Alliance of Nevada):

The Progressive Leadership Alliance of Nevada supports S.B. 153 because the Eighth Amendment prohibits cruel and unusual punishment. The U.S. Supreme Court has upheld ignoring incarcerated persons' medical needs can violate that prohibition. That could only be upheld when every incarcerated individual, regardless of gender identity, is able to receive accurate and medically necessary care.

According to the American Medical Association, medically necessary services include gender-affirming hormone therapy and surgery, nonmedical social transition and mental health support. Although DOC has updated its medical directive, it continues to suggest that at any time it may discontinue or refuse to initiate hormone therapy during a person's incarceration, regardless of the medical need.

Senate Bill 153 is a necessary piece of legislation to ensure DOC maintains regulations that comport with prevailing standards of care and ensure all

transgender and gender nonconforming incarcerated people have access to appropriate medical care.

ERICA ROTH (Washoe County Public Defender's Office):

The Washoe County Public Defender's Office supports S.B. 153. We have heard many stories today of incarcerated people directly impacted by DOC policies. My client was a trans woman charged with battery with a deadly weapon after she successfully fought off her rapist. When she was booked into jail, she was placed in solitary confinement after she was threatened by other inmates. This was—quote—for her safety as a transgender woman.

I saw firsthand how solitary confinement degraded her mental health and ultimately forced her into a misdemeanor plea negotiation, despite having a strong case. She had to decide her mental health at the time was the most important determination and not her innocence. When I was working to get her out of solitary confinement, I had a lot of conversations with empathetic deputies who did not harbor ill will but simply lacked the tools or training to adequately serve the trans population.

This story gets to the reality that transgender people are already in our criminal legal system and enforces the need to provide training to police deputies and prison officers. It is necessary to ensure transgender people in the criminal legal system are treated with dignity and respect. Our transgender friends, neighbors, family members and partners deserve to live with dignity and respect regardless of their involvement with the criminal legal system. This bill is the first step in that direction.

BARRY COLE:

I have been a psychiatrist in Nevada for about 40 years. I support S.B. 153 because of its emphasis on mental health treatment of offenders with transgender, gender nonconforming, gender nonbinary and intersex issues.

Yesterday, Director Dzurenda testified regarding Assembly Bill 292, called the Dignity For Incarcerated Women Act.

**ASSEMBLY BILL 292**: Revises provisions governing offenders. (BDR 16-252)

As part of the preadmission assessment for housing in our prison system, there is a medical examination. The determination of whether someone is assigned to

the male or female prison is based on 51 percent preponderance of sexual characteristics, which must be biological, not psychological.

Senator Hansen said people may be choosing women's housing units as safer than men's units. This bill is philosophical. It talks about standards of care, best practices and respect. It prohibits discrimination and mandates cultural competency training. The Nevada Psychiatric Association takes the concept seriously: all State mental health practitioners are required to obtain cultural competency training. We provided eight hours of such training in Las Vegas in February.

BRIANA ESCAMILLA (Planned Parenthood Votes Nevada):

Planned Parenthood Votes Nevada supports S.B. 153 because we believe all people deserve access to the medical and mental health care they need. The DOC's policies fail to recognize incarcerated people who are transgender or gender nonconforming have a right under current caselaw and the Eighth Amendment to medically necessary treatment for gender dysphoria. Failure to provide appropriate treatment can have serious implications for incarcerated patients' physical and mental health. The bill requires DOC to adopt regulations that align with medical best practices and the current state of the law.

ELLA BASSETT:

I support S.B. 153 because I am a trans woman. It is important to understand what gender dysphoria can do to you. I came out as trans last year after a decade of dysphoria. The ailment deteriorated my mental health into constant suicidal thoughts, anxiety, rabid depression, you name it. Sadness blocked much of my ability to live my real life and progress.

After more than ten years, I am receiving the best medical practices for gender dysphoria. I am happy to exist and no longer have suicidal thoughts. My depression now comes maybe once in a blue moon. It is important people get medical best practices even if they are offenders.

JESSICA MUNGER (Program Manager, Silver State Equality):

Silver State Equality, a LGBTQ+ civil rights organization, supports S.B. 153 and the proper treatment of incarcerated trans and gender-diverse people.

CALVIN BIRD:

I am the founder of a group working toward suicide and isolation prevention for trans men. I support S.B. 153.

JUSTIN TIME:

I support S.B. 153.

KATIE BANUELOS (Libertarian Party of Nevada):

The Libertarian Party of Nevada opposes S.B. 153 because it does not clearly prohibit biological men from being housed in women's prisons. The bill would require transgender prisoners be housed according to generally accepted best practices, which is too vague.

Decisions about how to house violent criminals must be made with physical safety as the top priority. Legislators must not leave the door open to gender self-identity being used as a basis for prisoner housing. It is widely acknowledged sexual predators will game any system and take advantage of any opportunity to access victims. People who are psychologically capable of violent rape will not draw the line at lying about their gender identity. Prison officials should not be in the position of trying to evaluate prisoners' sincerity.

We would like the bill to be amended to specify biological men may not be housed in women's facilities and vice versa. Advocates for the bill argue it is unsafe for trans-identified prisoners to be housed in accordance with their biological sex. That is true for the same reasons it is dangerous to allow self-identification. It is reasonable to make accommodations to protect the physical safety of prisoners who may be at higher risk of violent assault. However, those accommodations should not include an option for transfer to facilities intended for the opposite sex.

Any legislation on this issue needs to be absolutely clear in its language. There is a reason separate facilities for men and women exist. In this situation, biology and anatomy matter more than subjective gender identity. No person with a penis should be incarcerated with women, and the law should reflect that.

JIM DEGRAFFENREID (Nevada Republican Party):

The Nevada Republican Party opposes S.B. 153 because it attempts to deny reality. Science does not allow you to actually change your gender, no matter what surgery you have. Regardless, individuals can usually identify and present

as whatever gender they choose without a problem. However, there are places such as the military, sports activities and prisons where doing so may infringe others' rights and could actually be dangerous.

Senate Bill 153 puts DOC staff and gender conforming prisoners in danger and may open the State up to litigation risk on a number of fronts. In states where transgender inmates are housed with inmates with the same gender identification, sexual assault and harassment are rampant, as seen in New Jersey prisons. A transgender prisoner in New York's Rikers Island Correctional Facility received a seven-year sentence for raping a female inmate while he was housed in the women's jail. California allows male sex offenders to transfer to women's prisons—with predictable outcomes, including HIV-AIDS outbreaks due to sexual assault. Secondary prisons also have unresolved serious problems. Convicted Luxor Hotel and Casino bomber Porfirio Duarte-Herrera escaped from the Southern Desert Correctional Center and was on the run for four days before the prison even noticed he was gone.

Perhaps instead of focusing on pronouns and the cultural competency training prescribed in section 8 of S.B. 153, our prison system should be focused on keeping convicted felons locked up. We already have a shortage of prison guards and difficulty recruiting new ones. How much harder will it be to recruit and retain qualified correctional officers when they must worry about prisoners suddenly deciding to change their pronouns? How many lawsuits will be filed against hardworking correctional officers? Why is there more concern about how an inmate chooses to self-identify than about the officers who put their lives on the line every day to keep dangerous felons off Nevada streets?

Transgender felons can easily protect themselves in prison simply by identifying as their actual biological gender, without endangering the majority of other prisoners and staff. We urge the Committee to protect the majority of felons, correctional officers and Nevada citizens by opposing this dangerous bill.

KIRK WIDMAR (Chief, Offender Management Division, Nevada Department of Corrections):

The DOC is neutral on S.B. 153. Since 2013, DOC has complied explicitly with PREA, which covers many if not all topics in the bill. All DOC facilities are required to be audited for PREA compliance every three years. Annual audits are conducted by U.S. Department of Justice-trained certified auditors. The DOC has been 100 percent compliant in the final report in each audit. Codification of

the bill's provisions will support the continued efforts of DOC's compliance with PREA.

BENN CLARK (Employee Development Manager, Office of Employee Development, Nevada Department of Corrections):

The DOC provides and will continue to provide training on cultural competency for all offenders, not just those who are LGBTQ+ or gender nonconforming. Over the last year, we did in-person training of every DOC staff member, including topics such as sexual orientation and gender identity expression, as well as how to communicate effectively with all offenders, including those who are LGBTQ+.

The DOC will continue to adapt these programs as appropriate. We have a policy whereby we refer to all offenders in general-neutral terms. Basically, that means is that we refer to all offenders by their surnames, either as "offender Smith" or just "Smith." We have tried to get rid of all pronouns to avoid confusion and intentionally or unintentionally misgendering offenders.

SENATOR HANSEN:

We are talking about the entire public prison system. You said DOC has complied with PREA since 2013. You already comply with the cultural competency training provisions of the bill; all it will do is, in effect, reinforce the vigorous guidelines you already follow. Is there anything in the bill you are not actually doing?

MR. WIDMAR:

The PREA consists of 43 standards and approximately 250 subsections that require 100 percent compliance each year as verified by an audit. That includes everything defined in sections 6 and 8 of S.B. 153, as contained within the PREA standards.

SENATOR HANSEN:

That is the answer to my question: DOC is already doing what is in the bill.

SENATOR SCHEIBLE:

Speaking as an attorney, it is important to codify established standards in writing. That is part of the purpose of bringing forth S.B. 153: to develop a regulation, even if it is redundant with some PREA requirements.

Since PREA is a federal requirement, it does not provide protections in State courts. Every person who is incarcerated in the State should be able to refer to an NRS or policy that describes how they are entitled to be treated while incarcerated. So even if the words are exactly the same, we often do that in NRS. We have statutes that mirror federal statutes or State regulations or vice versa. Sometimes we are repetitive to ensure people have protections at both the State and federal levels.

I want to thank the American Civil Liberties Union of Nevada (ACLUN) for its years-long help with S.B. 153. There is the legal aspect of the bill's requirements. The ACLUN sued DOC and the State. The national ACLU told us departments of corrections in other states have been sued for failing to provide adequate protection and care for transgender and gender nonconforming individuals in their care. I do not want Nevada on that list.

I am not interested in suing the State or DOC for the way they treat gender nonconforming and nonbinary people. I am interested in working proactively to ensure we have a statutory policy to prevent mistreatment and ensure we are all on the same page—treating people with dignity, treating people with respect, protecting their rights, protecting their freedoms and protecting their liberties even while they are incarcerated after being convicted of a crime.

Our powers as a State are limited. We can take things away like people's freedom, we can take away their property, we can control who they are allowed to talk to, we can control when they go to the prison yard. However, one thing none of us has the right to do is tell somebody who they are. That is the purpose of S.B. 153: to allow people to tell us who they are.

VICE CHAIR HARRIS:

We will close the hearing on S.B. 153.

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CHAIR SCHEIBLE:

The Committee has received six letters of support ([Exhibit G](#)) and five letters of opposition ([Exhibit H](#)) to S.B. 153. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 2:18 p.m.

RESPECTFULLY SUBMITTED:

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Pat Devereux,  
Committee Secretary

APPROVED BY:

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Senator Melanie Scheible, Chair

DATE: \_\_\_\_\_



<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit Letter</b>	<b>Introduced on Minute Report Page No.</b>	<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	1		Attendance Roster
S.B. 153	C	13	Amber Falgout / Battle Born Progress	Support Testimony From Daisy
S.B. 153	D	13	Mathilda Guerrero / Battle Born Progress	Support Testimony From Deirdre
S.B. 153	E	14	Jodi Hocking / Return Strong	Support Testimony
S.B. 153	F	15	Annette Magnus / Battle Born Progress	Support Testimony
S.B. 153	G	24	Senator Melanie Scheible	Six support letters
S.B. 153	H	24	Senator Melanie Scheible	Five opposition letters