MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-third Session
March 4, 2025

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Tuesday, March 4, 2025, in Room 1214 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 6 of the Nevada Legislature Hearing Rooms, 7120 Amigo Street, 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 Edgar Flores, Vice Chair
Senator James Ohrenschall
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator John Ellison

COMMITTEE MEMBERS ABSENT:

Senator Roberta Lange (Excused)

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Michael Scully, Committee Counsel
Jan Brase, Committee Secretary

OTHERS PRESENT:

Jaimie Stilz, Senior Deputy Attorney, Office of the Attorney General
Tonja Brown, Advocates for the Inmates and the Innocent
Chris Mazur

Denise Bolaños Heredia, Return Strong!
Annemarie Grant, Advocates for the Inmates and the Innocent
Jason Gibson

CHAIR SCHEIBLE:
We will open the hearing with Senate Bill (S.B.) 66.

SENATE BILL 66: Revises provisions governing certain postconviction petitions for a writ of habeas corpus. (BDR 3-441)

JAIMIE STILZ (Senior Deputy Attorney, Office of the Attorney General):
Senate Bill 66 is a proposed change to Nevada statute that governs venue for habeas petitions. There are two types of state habeas petitions. The first is when an individual challenges their criminal conviction and sentence. The second is when an individual challenges the computation of time served in the Department of Corrections such as the time they must serve on their minimum parole eligibility before they are eligible for a parole hearing or the time they must serve on their maximum sentence to complete that sentence. *Nevada Revised Statutes* (NRS) 34.738 dictates the county in which each type of petition must be filed.

Senate Bill 66 only addresses computation of time petitions. Under existing law, the individual must file a time computation petition in the county of incarceration or, if incarcerated outside of Nevada, in the First Judicial District Court in Carson City. The proposed amendment [bill] addresses when the petitioner is no longer in the Department's custody such as parolees.

We have seen an increase in the number of parolees challenging the calculation of their maximum sentence which impacts when their sentence will expire. However, because these petitioners are no longer incarcerated, there is no provision under existing law as to where they must file their petitions. This leads to confusion for both the petitioners and the courts regarding how and where to file their time computation petitions. Senate Bill 66 provides that those no longer incarcerated will file their petitions in the county in which they reside or in the First Judicial District Court if they no longer live in Nevada. We hope this proposed amendment [bill] will serve to address all situations in which a petitioner seeks to file a credit calculation petition.

TONJA BROWN (Advocates for the Inmates and the Innocent):
The way the bill stands, we are in opposition. We have provided a proposed amendment, and I want to apologize up front. There was some situation over the weekend. I accidentally sent the wrong one, but I have corrected that, and I am hoping that you will add our proposed amendment to S.B. 66. The amendment deals with factual innocence posthumous petitions and allows for the decedent's representative—who is the administrator/executor, the descendant's relatives, spouse or attorney who becomes aware of newly discovered evidence just prior to or after the decedent's death and is in possession of that evidence—to know where the evidence can be found. We are asking that the family members be allowed to exonerate their loved ones after death.

I have provided you with our proposed amendment. I do not know how much time you'll give me to briefly go through it. I will just hit the highlighted areas. Under the summary, we have established a factual innocence posthumous petition. The second page, first paragraph, section 3 reads "to establish a petition for factual innocence posthumously." The third page under NRS 34.911 [*sic*] reads "bona fide issue of factual innocence." We have included "posthumously." A bona fide issue of factual innocence posthumously means any newly discovered evidence that could be presented by the petitioner decedent that could clearly establish the factual innocence of the decedent as defined in NRS 34.921 [*sic*].

We propose adding the following language to NRS 34.931 [*sic*]: Prior to the decedent's death, the decedent had become aware of newly discovered evidence that had been withheld by the prosecuting agency but due to the decedent's failing health and untimely death, he or she was unable to file motions for a new trial or petition for factual innocence. The decedent's representative who is the administrator, executor, decedent's relative(s), spouse or attorney becomes aware of the newly discovered evidence just prior to or after the decedent's death and is in possession of that evidence or knows where that evidence can be found.

This is evidence that was subsequently found that supports the decedent's claims of innocence within a Nevada Supreme Court appeal, oral argument proceeding on appeal, postconviction petition, a writ of habeas corpus petition or a writ of mandamus petition that had been pending at the time of the decedent's death or when the decedent was unable to file the petitions due to

the decedent's untimely death or whose position had been exhausted, procedurally barred by the statute of limitations or had any statutory limitation prior to the discovery of the newly discovered evidence that would have supported the petitioner/decedent's petitions of claims of innocence.

We request the addition of language in NRS 34.960, section 1 to state that a person who has been convicted of a felony "or the representative of his or her estate if he or she is deceased" may petition the district court in the county in which the person was convicted for a hearing to establish the factual innocence of the person based on newly discovered evidence.

Additionally, we request the addition of sub-subparagraph IV to NRS 34.960, subsection 4, paragraph (b), subparagraph (2). The requested language is as follows "or the petition was denied and the Nevada Supreme Court 'noted a potential jurisdictional defect.'" This is the effect in *Wilkinson v. State*, [373 P. 3d 973 (2011)]. The Supreme Court case addressed a petition for exoneration. The Court could not rule because no laws exist.

On behalf of the Inmates and the Innocent, we respectfully submit our letter of intent proposed amendment to S.B. 66 being sponsored by the Nevada Attorney General (AG), Aaron Ford.

The proposed amendment language will set forth the future for Nevada as they strive and achieve their goal in true criminal justice reform. When dealing with wrongful convictions, Nevada will set the precedent for other states to follow. Nevada will be the first in the country to say, "We are going to do whatever it takes to correct an injustice that has been perpetrated against the wrongfully convicted and their families. Nevada will stand for transparency in government and will continue to correct the miscarriage of justice brought against the innocent by way of a wrongful conviction. Nevada will continue to correct an injustice and not just stop because an innocent person has passed away prior to being judicially exonerated through the courts."

Today, DNA technology has become so advanced compared to just a few years ago. Forensic testing has evolved over the years, leading to exonerations. We now have investigative genetic genealogy that did not exist decades ago that is leading the way to exonerations. However, as time passes, so do the years that these innocent men and women continue to wait for their freedom. You may ask a person who has been on death row waiting for his freedom and getting it.

They will tell you that they are the lucky ones because they made it out alive. They understand and feel the pain of those who died while incarcerated for a crime they did not commit. They understand the sacrifices their families made for them while they were incarcerated. They understand how some families were torn apart because a family member had the mentality that they do not send innocent people to prison, so that they must have done it. They understand the hell their families went through during their incarceration. Even after death, it never stopped for the families. Even after death, unless there is a posthumous exoneration and compensation for the deceased loved ones as well. If our amendment passes and becomes law, Nevada will be the first in the nation moving forward and pursuing justice reform for the families of those who have been wrongfully convicted. Nevada thus far has taken steps in the right direction, moving forward on criminal justice reform. However, Nevada is lacking in areas of achieving true justice reform. Nevada has not considered all the five components needed to secure justice reform when dealing with wrongful convictions. We believe there are five components in total in making true justice reform for the wrongfully convicted. These requirements must be fulfilled to ensure the individuals wrongfully convicted of crimes are afforded the chance to pursue exoneration through all legal avenues, including posthumous opportunities if the family of the deceased meets the necessary criteria set out in NRS 34.900 through NRS 34.990—Petition to Establish Factual Innocence.

The five essential components are: (1) A.B. No. 510 of the 74th Session determined the State Parole Board could no longer consider whether an inmate was appealing their conviction and the Parole Board's decision to grant parole. Back then, if you were maintaining your innocence and fighting your conviction, you were denied a parole to the streets. You would never be released. (2) A.B. No. 268 of the 79th Session concerned DNA testing after conviction. The bill was passed, making way to justice reform on wrongful convictions that were allowing DNA testing after conviction. (3) A.B. No. 356 of the 80th Session concerned petitions to establish factual innocence. (4) A.B. No. 267 of the 80th Session concerned compensation to people who are wrongfully convicted.

In order to complete the justice reform for the wrongfully convicted, what is left is the fifth component, which is to establish a factual innocence posthumous petition. It will allow the families of those who've been wrongfully convicted the opportunity to continue to clear their loved one's name if they have the evidence or evidence is being found. Look at all this technology that is coming

about. People who have passed away, people are submitting their DNA through genealogy, and it is coming back. We are hearing stories about finding the real perpetrators of these crimes through DNA that family members submit. We are asking that you consider our proposed amendment. Let's make Nevada number one in the country, lead the country and allow families such as mine and others—We do not know if there are any others, but we do know that prior to my brother's death, all the exculpatory evidence was found in the District Attorney's file. We know after his death, I found the real perpetrator of the crime. I also know that we put in a petition for exoneration in 2011. The Supreme Court could not do anything because there are no laws. Until we can fix this, people like me and possibly others in Nevada will never know the truth. Let us open up the door and have this discussion. Let us move forward and become the first in the country.

CHAIR SCHEIBLE:
I think we may have a question or two, but first, I want to turn it over to our committee counsel and ask whether this amendment would be germane to the bill or if it would be even possible to add to this bill.

BRAD WILKINSON (Committee Counsel):
It would not be germane. Joint Standing Rule No. 14.7 provides that the Legislative Counsel Bureau should not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution. For the purposes of this rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.

In this case, you do not get to the second part of that inquiry because the general single subject of the bill is writ of habeas corpus, and a posthumous petition to establish factual innocence does not relate to that general single subject.

SENATOR FLORES:
It sounds like you are not in opposition to any language that is being proposed by S.B. 66. You were just hoping that they could consider adding some

additional concerns, and I appreciate that. The only thing I will say is I am comfortable working with you offline on this particular issue. I think there's a lot of merit to the conversation to be had. I am more than happy to engage with you and to see if there's a way that we can have this conversation now or two years from now.

MS. BROWN:
Would this proposed amendment be germane to Assembly Bill (A.B.) 63, which deals with compensation for the wrongfully convicted? I have a proposed amendment on that one which deals with wrongfully convicted who are exonerated posthumously. Would it be possible? Would this be germane to that bill?

ASSEMBLY BILL 63: Revises provisions relating to civil actions for wrongful conviction. (BDR 3-440)

CHAIR SCHEIBLE:
I am not going to ask our counsel to weigh in because he is not tasked with knowing all of the Assembly's bills in addition to ours. I'll let the Assembly counsel weigh in on that. I agree with my colleagues who appreciate your willingness to be here and to answer our questions.

CHRIS MAZUR:
I am here in opposition to S.B. 66. Thank you, Senator Flores, for the positive response. I encourage you to be positive with this woman.

DENISE BOLAÑOS HEREDIA (Return Strong!):
We oppose S.B. 66 because it creates unnecessary barriers for incarcerated people challenging sentencing errors, especially given frequent prison transfers. Most people in prisons have been moved multiple times. I know people that have been housed at every single facility in Nevada. That means multiple counties, and some even get sent out of state. Senate Bill 66 would require them to file these petitions in the county where they are currently incarcerated rather than where they were convicted, which makes it more difficult to access legal support and obtain critical case records that the county they were convicted in already has. For those recently released, housing and stability can also make these filing requirements even more difficult. We should be making justice more accessible and not less.

ANNEMARIE GRANT (Advocates for the Inmates and the Innocent):
I am calling in opposition to S.B. 66 solely for the fact that we had a proposed amendment that can't go through. We do need a factual innocence posthumously bill, and hopefully that will come sooner rather than later.

JASON GIBSON:
I would like to oppose this bill. We've had a recent experience with the process of writ of habeas corpus in Douglas County. We'd like to bring to your attention that the original intent behind habeas corpus has been circumnavigated by false authority. This is a writ that provides judicial relief challenging the unlawful arrest of the defendant being used as an appellate writ by which to appeal wrongful convictions. We find here in the Nevada Office of the Attorney General's website, in terms of his conviction integrity unit, that most of the things that they are claiming that they do to review cases after wrongful convictions are too late. We need audits prior to convictions. We need the courts and the stakeholders to follow the law and to respect due process.

We do not have to bring it to your attention because you are well aware that a recent compensation of $34 million was awarded to a certain Kirstin Blaise who was falsely accused by the Las Vegas Police Department. It cost her about 20-some-odd years in prison and should show you that you have a very sick society and a very misguided judicial system. It ranks forty-eighth in the nation according to a public institute of integrity and government in 2015 [*sic*], including a rating of "F" for judicial accountability. We have a constitutional crisis.

We're opposed to anything that Aaron Ford would do under the auspice of his priorities to protect our constitutional rights and criminal justice reform. We informed Mr. Ford that I was being targeted a year before they falsely arrested me. We informed his agency for two years of what they were going to do to me as a result of running for a public office. He's done absolutely nothing. They will not respond to public information requests. It usually takes two years for a very simple complaint to be brought to their attention.

CHAIR SCHEIBLE:
We do not allow personal attacks. We do not allow personal criticism of anybody in this committee. Please go ahead and wrap up your comments.

MR. GIBSON:
I am talking about the role and the responsibility of the AG to protect us in our persons, places, properties and effects. Now, if Aaron Ford is the head of that institution, it is his responsibility to honor his oath and his pledge.

CHAIR SCHEIBLE:
The committee received one letter (Exhibit C) in support of S.B. 66. I will close the hearing on S.B. 66.

MS. BROWN:
I know that many years ago when petitions were filed, they changed the law. If you were convicted in the county, your petitions were filed within that county. Then they changed it to where the person was incarcerated. You had to file your petitions within that county. So if you were in Ely State Prison, White Pine County would get the petitions. Then the court would get bombarded with all these petitions. If I recall, they changed it back to where you were convicted within the district court. I wanted to bring that up because it sounds as though there might be an issue.

MR. GIBSON:
I want to use this opportunity to convey to this board what they are actually doing and what they did to me in taking me off the ballot. At a political peaceful assembly, I was falsely accused of assault and battery by an ex-law enforcement officer who had me arrested for assault and battery.

Four months later after my public defender committed suicide, I was rodeoed into a mental illness claim by Mary Brown at the Tahoe [Township] Justice Court in front of Michael Johnson. They used the mental illness claim to have me diagnosed by two forensic psychiatrists who were paid well over $5,000 to mischaracterize and misinform me before the court. I was ambushed on August 5 and falsely arrested without proper notification of an obligation that I had to check into an outpatient treatment. I had already done that. The fact of the matter is that they poorly administrated the situation so they could find me in contempt of the court order.

I was ambushed by the Ninth [Judicial] District Court and by other stakeholders at the jail institution, incarcerated for 42 days in 23/7 lockdown. I was subject to taking pharmaceuticals to obtain my release. I filed my writ of habeas corpus and informed my attorney that my house was in danger, which it was. It was

burglarized. My public defender said that my writ of habeas corpus had no merit because it was an appellate instrument. It is not an appellate instrument. It is an instrument to be used if you are wrongfully incarcerated without conviction.

When we talk about Aaron Ford and his responsibilities and his website—you know that he is running for governor now—his priority areas are constitutional rights, criminal justice reform, client service and community engagement. Well, we got news for you. It is not happening.

MS. GRANT:
When a person dies in prison while maintaining their innocence, the nightmare does not end for the family members who remain. They deserve the same opportunity as the living to make sure justice is truly served. In Washoe County, they like to claim that they have a conviction integrity committee to make sure that happens. That does not happen.

In 2022, I was with Ms. Brown, and we took all documents gathered and filed a complaint online with the Sparks Police Department and in person at the Washoe County Sheriff's Office regarding the Washoe County District Attorney's pattern and practice of withholding exculpatory evidence. The information was submitted to the Office of the Attorney General to review in 2022 by the Sparks Police Department.

In 2023, the Washoe County Sheriff's Office submitted their documents to the AG's Office to investigate the Washoe County Conviction Integrity Committee (CIC) Unit's pattern and practice of their own policies and people's constitutional rights. Their policy states newly discovered exculpatory evidence would be reviewed. The Washoe County CIC Unit had two cases for Tyrone Wells, whose cases both got a fair review. Nolan Kline did not get a fair review because Brady violations were alleged. Those Brady violations had been presented to the CIC Unit, and they chose not to review them.

In 2024, Ms. Brown filed a complaint with the pattern-and-practice division regarding these Brady violations. To this very moment, there's been no response or movement on that. I think there needs to be some legislation made with some time frames because open meeting law complaints should not take precedent over patterns-and-practice complaints.

CHAIR SCHEIBLE:
Having nothing further to come before the Senate Committee on Judiciary, we are adjourned at 1:35 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
S.B. 66	C	9	Senator Melanie Scheible	Letter in Support