



WORK SESSION DOCUMENT

JOINT INTERIM STANDING COMMITTEE ON JUDICIARY

(Nevada Revised Statutes [NRS] [218E.320](#))

August 12, 2022

(With Attachments)

INTRODUCTION

The chair and Legislative Counsel Bureau (LCB) staff of the Joint Interim Standing Committee on Judiciary have prepared this "Work Session Document" (WSD) to assist the Committee in determining which legislative measures it will request for the 2023 Session of the Nevada Legislature as well as other actions the Committee may endorse. The WSD contains a summary of recommendations presented during public hearings, through communication with individual Committee members, or through correspondence submitted to the Committee members or staff.

The members of the Committee do not necessarily support or oppose the recommendations in this WSD. Committee staff has compiled and organized the proposals so that Committee members can review them and decide whether they want to accept, reject, modify, or take no action on the recommendations. The WSD groups the proposals by topic and they are not preferentially ordered.

Pursuant to [NRS 218D.160](#), the Committee is allocated 15 legislative measures; 10 must relate to the judiciary generally, and 5 must relate to juvenile justice issues. These may include both bill draft requests (BDRs) and requests for the drafting of resolutions. The Committee may also vote to: (1) send as many statements or letters of recommendation or support as it chooses; and (2) include statements in its final report.

Committee members are advised that LCB staff, at the direction of the chair, may coordinate with interested parties to obtain additional information for drafting purposes or for information to be included in the Committee's final report.

RECOMMENDATIONS

A. THE NEVADA SENTENCING COMMISSION (NSC), DEPARTMENT OF SENTENCING POLICY (DSP)

(Unless otherwise noted, the recommendations under Item A were proposed by the DSP. See presentation materials for Agenda Item IV A, [May 13, 2022](#), and Agenda Item IV, [August 12, 2022](#).)

1. **Request Legislation (BDR)** to:

- a. Broaden the duties of the NSC (NRS [176.0134](#)) by requiring the Commission to advise the Legislature on proposed legislation and make recommendations with respect to all matters relating to the elements of this state's system of criminal justice which affect the sentences imposed, not just those imposed for felonies and gross misdemeanors;
- b. Revise the membership of the NSC to add a member who is a representative of the Central Repository for Nevada Records of Criminal History; and
- c. Require the NSC to conduct a comprehensive review of statutory misdemeanor provisions and report its findings and recommendations to the Joint Interim Standing Committee on Judiciary on or before July 1, 2024. (See **Attachment 1.**)

2. **Send a letter** requesting the technical assistance of The Council of State Governments Justice Center and the support of the Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice, to participate in the Justice Counts' founding states program and pledging to support the effort of Justice Counts, collaborate wherever needed to advance such efforts, and encourage other stakeholders to cooperate and support such efforts.

B. SEXUAL ASSAULT

*(Recommendations under Item B are derived from the report entitled "The Workgroup Studying Language and Statutes Relating to Sexual Assault [[Assembly Bill 214](#), 2021]" provided by the Nevada Coalition to End Domestic and Sexual Violence. See **Attachment 2.**)*

1. **Request legislation (BDR)** to revise the laws and penalties governing sexual assault in this state in a way that ensures that such laws are victim-centered and trauma-informed, including, without limitation, by amending the appropriate statute or statutes regarding the following:
 - a. Revise the definition of "sexual assault" to include nonpenetrative sexual contact;
 - b. Define "consent"; and
 - c. Define "use of force."

C. CIVIL INFRACTIONS

(Recommendations under Item C were developed by Chair Scheible and Committee staff in response to concerns raised in testimony regarding discrepancies between [Assembly Bill 116](#) [2021] and [Senate Bill 219](#) [2021], which may lead courts to interpret statute differently with regard to the circumstances under which a court is authorized to suspend a driver's license of a person.)

1. **Request legislation (BDR)** making a technical correction relating to the suspension of a driver's license by:
 - a. Removing paragraph (b) of subsection 3 of NRS [484A.7047](#); and

- b. Directing the Department of Motor Vehicles to reinstate the driver's license of a person whose license was suspended pursuant to subsection 3 of NRS [484A.7047](#) on or after January 1, 2023.

D. BAIL AND PRETRIAL RELEASE

*(The following recommendation was developed by Chair Scheible and Committee staff in response to concerns voiced by members of the judiciary and representatives of several of Nevada's rural counties regarding difficulties implementing certain provisions of [Assembly Bill 424](#) [2021]. See, for example, **Attachments 3 and 4**, and testimony provided under Item IV C at the [April 8, 2022](#), meeting.)*

1. **Request legislation (BDR)** to prescribe the circumstances under which a court may grant a good cause exemption to the requirement that an initial hearing must be conducted within 48 hours of arrest.

E. ELDER ABUSE/NEGLECT

*(Recommendations under Item E were developed by Chair Scheible and Committee staff in response to a submittal from Jennifer M. Richards, Chief Rights Attorney and State Legal Assistance Developer, Aging and Disability Services Division, Department of Health and Human Services [DHHS]. See **Attachment 5**.)*

1. **Request legislation (BDR)** to:
 - a. Create an Elder Fatality Review Committee to be housed within the Department of Health and Human Services;
 - b. Include a mechanism to refer cases to the Office of the Attorney General (OAG) for investigation; and
 - c. Require the OAG to report any findings on such cases to the Legislature annually.

F. CRISIS RESPONSE CALL CENTERS

(Recommendation F.1 was developed by Chair Scheible and Committee staff in response to testimony and exhibits provided at the [July 8, 2022](#), meeting. See Agenda Items IV A through C.)

1. **Request legislation (BDR)** establishing a pilot program relating to crisis response call centers.

G. NEVADA'S DEPARTMENT OF CORRECTIONS (NDOC)

*(Recommendations under Item G have been developed by Chair Scheible and Committee staff in response to submissions and testimony provided by several entities, including NDOC, DSP, FFJC, Return Strong, the ACLU of Nevada, public defenders, and others. See, for example, testimony and exhibits provided at the [July 8, 2022](#), and [August 12, 2022](#), meetings, as well as **Attachments 6 through 10**.)*

1. **Request legislation (BDR)** revising provisions relating to offenders by amending the appropriate statute or statutes as follows:

- a. Adopt requirements intended to ensure offenders, relatives of offenders, and other interested persons have access to information relating to the calculation of credits earned by offenders, including, without limitation by:
 - i. Requiring the DSP to compile, publish, and update a Nevada Sentence Credit Guide;
 - ii. Requiring the NDOC to post the Nevada Sentence Credit Guide on the Internet website maintained by the NDOC and provide a copy of the Nevada Sentence Credit Guide to each offender upon intake;
 - iii. Requiring the NDOC to make the Current Earned Expiration Date (CEXD) available to certain persons on an Internet website maintained by the NDOC; and
 - iv. Requiring the NDOC to develop and post on the Internet website maintained by the NDOC a clear, comprehensible disclaimer regarding certain dates relevant to when an offender may be eligible for release from prison.
- b. Revise provisions relating to credit for time served to ensure that courts award credit for time served in presentence confinement in a manner that comports with the Legislature's intent and existing Nevada court decisions;
- c. Require the NDOC to adopt and publish a policy regarding inmate visitation that includes, without limitation, an appeal process for the denial of an inmate visiting application; and
- d. Authorize the director of the NDOC, with the approval of the Board of State Prison Commissioners, to adopt regulations authorizing an offender to use certain telecommunications devices for certain purposes (legal, medical, educational, and reentry) (See NRS [209.417](#));
- e. Revise NRS to provide that the NDOC is subject to the Nevada Administrative Procedure Act ([Chapter 233B](#) of NRS); and
- f. Require that certain debts be discharged upon the release of an offender from prison and establish guidelines, procedures, and requirements relating to the fiscal activities of the NDOC including, without limitation, the markup of commissary items, fees related to inmate banking services, and medical co-pays. (See **Attachment 7**.)

H. JUVENILE JUSTICE

*(Recommendations H.1 and H.2 were submitted by the Juvenile Justice Program Office of the Division of Child and Family Services [DCFS], DHHS, [see **Attachment 11**], and were also contained in recommendations submitted by multiple public defender offices [see **Attachments 8 through 10**]. Recommendation H.3 was included as part of the presentation on juvenile justice given by Brigid Duffy, Chief, Juvenile Division, Clark County District Attorney's Office, see Agenda Item VII, [May 6, 2022](#). Recommendation H.4 was submitted by the Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children, DCFS, DHHS).*

1. **Request legislation (BDR)** to ensure standard and consistent statewide supervision of “dual custody youth” who are actively involved in both the child welfare system and the juvenile justice system in this state.
2. **Request legislation (BDR)** to revise provisions relating to the period of probation for juvenile offenders by:
 - a. Prescribing limitations on the duration of the period of probation for juvenile offenders; and
 - b. Authorizing the termination of probation for a person who is 18 years of age or older who has not paid any court-ordered restitution in full but who has otherwise complied with all terms of probation.
3. **Request legislation (BDR)** to expand competency and restoration services for children found to be incompetent pursuant to [Chapter 62D](#) of NRS.
4. **Request legislation (BDR)** to revise NRS [174.229](#) to authorize the videotaping of testimony under certain circumstances for child witnesses who are under 18 years of age, rather than under 14 years of age.

I. COMMERCIALLY SEXUALLY EXPLOITED CHILDREN (CSEC)

(Recommendation I.1 was submitted as part of a presentation addressing CSEC given by the Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children at the [February 2, 2022](#), meeting. See Agenda Item VI.)

1. **Request legislation (BDR)** requiring the use of trauma-informed CSEC screening measures to screen children at risk of sex trafficking.

To: Joint Interim Standing Committee on the Judiciary

From: Leisa Moseley & Nick Shepack
NV State Director and Deputy State Director, respectively
Fines and Fees Justice Center (FFJC)

RE: Recommendation for Misdemeanor Review

Why:

Misdemeanors are typically defined as minor crimes. But there is nothing minor about their impact on the individuals charged with and/or convicted of a misdemeanor, their families, particularly children, and their communities. A person charged with and convicted of a misdemeanor may spend time incarcerated, be subjected to probation supervision, charged hundreds of dollars of fines and fees, and be forced to live with a criminal record. People in the misdemeanor system often lose their jobs or, because they have a record, cannot find a job; they can lose their homes, vehicles, and even their children. Yet many misdemeanors have little to no impact on public safety and do not make our communities safer; rather, they trap individuals in cycles of poverty and extract valuable resources from impacted communities through fines, fees, and assessments that many are unable to pay.

While some behavior that results in misdemeanor offenses such as domestic violence and battery have clear public safety implications, other provisions of the misdemeanor codes target individuals who are poor, unsheltered, or struggling with addiction laws such as camping bans and misuse of a park bench, open container or possession of drug paraphernalia do not increase public safety nor do they solve the problems they are intended to address. Laws that criminalize poverty waste limited government resources, cost the taxpayer money, and fill jails, costing our states millions of dollars every year that could be put to better use.

In her book *Punishment Without Crime*, Professor Alexandra Natapoff writes that every year across the US, 13 million individuals are charged with misdemeanor crimes. In each of the last three years, between 72,000 and 82,000 individual misdemeanor cases were filed in Nevada, making up nearly 60% of all criminal filings. Natapoff found that by age twenty-three, 38% of white men, 44% of Latino men, and 50% of Black men can expect to be arrested at least once. While only 12.6% of the population is Black or African American, this population makes up 26.6% of all misdemeanor arrests in the country. Because Nevada does not consistently collect or store demographic data on misdemeanor arrests, it is difficult to determine the racial makeup of those charged with misdemeanors in the state.

The consequences of misdemeanors have long-term effects that can cause harm to individuals for years after they have been convicted of a misdemeanor. Through this process, individuals can lose their jobs, children, housing, health, money, and ultimately freedom. They can disqualify individuals from receiving social services and even prevent them from obtaining admission to medical or law school.

Misdemeanors don't just impact the individuals charged, their communities, and their families. Misdemeanors are part of a much larger system made up of courts, judges, prosecutors, public defenders, and law enforcement. Every misdemeanor charged and prosecuted costs taxpayers money.

It's time for Nevada to take a long hard look at this system and evaluate whether it is the most effective way to deal with the problems we are trying to address or whether the costs and consequences cause more harm than good.

What:

FFJC Nevada is asking for a complete and thoughtful review of the misdemeanor codes, similar to what the state of [Colorado](#) did in 2019. The review would be conducted by the Nevada Sentencing Commission. It would consist of analyzing all misdemeanors at the state and local levels to assess which misdemeanors could be decriminalized, legalized, or moved into a different category of criminal offenses. The Commission would then make recommendations to the Legislature for changes to the state's criminal codes, including whether some crimes we now define as misdemeanors should be reclassified as felonies.

As part of this comprehensive review, the Sentencing Commission would collect data, including which misdemeanors are most commonly charged; how many charges result in convictions; how many people are charged and convicted annually; how much the system costs taxpayers to enforce; and how much revenue is collected from fines and fees associated with misdemeanor convictions.

Who:

The Nevada Sentencing Commission is uniquely equipped to collect the data necessary for the review because it comprises a cross-section of justice system stakeholders uniquely qualified to engage in the review and make recommendations to the Legislature.

Timeline:

We expect this review to take a substantial amount of time to complete. The suggestion is that the review is conducted over the next regular legislative session in 2023 and continue through the next interim legislative session in 2024, with completion at the end of the 2024 interim legislative session. We believe that this is ample time for the Sentencing Commission to complete a full review and make any recommendations for implementation to the Legislature for possible legislation in the 2025 legislative session.

Leisa Moseley
NV State Director, FFJC

Nick Shepack
NV Deputy State Director, FFJC

The Workgroup Studying Language and Statutes Relating to Sexual Assault (Assembly Bill 214 [2021 Legislative Session])

July 2022

Joint Standing Interim Judiciary Committee

TABLE OF CONTENTS

Workgroup description and background 2

Participants..... 3

Nevada Sexual Assault Statutes..... 4

Understanding the Complexities of Sexual Violence 5

Sexual Assault State Laws Evaluation 6

 Conduct: Penetrative Crimes 7

 Conduct: Non-Penetrative Sexual Contact..... 7

 Use of Force: 8

 Consent:..... 8

 Consent: Special Considerations..... 9

Recommendations 9

WORKGROUP DESCRIPTION AND BACKGROUND

During the 2021 Nevada Legislative Session, [Assembly Bill 214](#) was passed requiring the Advisory Commission on the Administration of Justice (now the Joint Standing Interim Judiciary Committee) to conduct a study concerning sexual assault in Nevada and produce a report. The study and report was to include:

- (1) An evaluation of the laws governing sexual assault in Nevada and other states and territories;
- (2) Recommendations and input from attorneys, victims, and any other stakeholders concerning necessary changes to the laws governing sexual assault in Nevada.

Assemblywoman Elaine Marzola is the lead for the Interim Judiciary Committee on matters relating to domestic violence, sexual assault and human trafficking. Assemblywoman Marzola partnered with the Nevada Coalition to End Domestic and Sexual Violence (NCEDSV) to champion this workgroup and guide conversations surrounding sexual assault statutes and bring forward recommendations for the Interim Judiciary Committee to review.

Prior to Assembly Bill 214 passing during the 2021 Legislative Session, NCEDSV had been in conversations with advocates, victim-survivors, and agencies statewide about the current Nevada Revised Statute (NRS) language surrounding sexual assault and related crimes. In the summer of 2020, NCEDSV held a workgroup made up of sexual assault advocates across the state. During the workgroup, participants discussed the downfalls and benefits of the current sexual assault language and what enhanced language could look like for Nevada. Using that conversation as fuel, NCEDSV and previous legislators began pulling in additional collaborators and agencies in the hope of bringing forward legislation on this matter during the 2021 Legislative Session. The passage of Assembly Bill 214 has allowed this work to continue on a larger scale while offering the opportunity for better preparation and inclusion of diverse voices. Continuing this critical conversation and meeting the requirements of AB214, NCEDSV recruited workgroup participants and researched Nevada's and other jurisdictions' sexual assault statute language. This report includes NCEDSV's research and analysis.

PARTICIPANTS

Individuals from broad disciplines across the state were invited to participate in this discussion. To meet the goals of the legislation, collaborators from law enforcement, district attorneys, public defenders, and victim advocacy centers were recruited for this workgroup to ensure that their input was recorded. The following individuals participated in the study:

Serena Evans

Policy Coordinator
Nevada Coalition to End Domestic and Sexual Violence

Elaine Marzola

Assemblywoman for Nevada District 21
Nevada State Assembly

Sarah Slavenas

Communications and Policy Director
Nevada Coalition to End Domestic and Sexual Violence

Jennifer Noble (Washoe County)

John Jones (Clark County)
District Attorney's

Kendra Bertchy (Washoe County)

John Jones (Clark County)

Emilie Meyer (Washoe County)

Kate Hickaman (Washoe County)

Tegan Machnich (Clark County)

Patricia Doyle (Clark County)

Kara Gaston (Clark County)

Public Defender's Office

Christina Hall

Interim Executive Director
UNLV CARE Center

AJ Delap

Government Liaison
Las Vegas Metropolitan Police Department

Natalie Dailey

Victim Advocate
Army National Guard

Traci Trenoweth

SARA/Volunteer Coordinator
Advoates to End Domestic Violence

Kathy Serrano

Directory of Advocacy
Signs of HOPE

NEVADA SEXUAL ASSAULT STATUTES

Over the years, the Nevada State Legislature and many collaborators have worked hard to enhance the definitions surrounding sexual violence in Nevada. Below are the current laws associated with sexual violence and related crimes:

- [NRS 200.364 Sexual Assault Definitions](#)
- [NRS 200.366 Sexual Assault: Definition; Penalties; Exclusions](#)
- [NRS 200.368 Statutory Sexual Seduction; Penalties](#)
- [NRS 200.373 Sexual Assault of Spouse by Spouse](#)
- [NRS 200.400 Batter with Intent to Commit a Crime \(Sexual Assault\) – Definition; penalties.](#)
- [NRS 201.210 Open or Gross Lewdness; Penalty.](#)
- [NRS 201.220 Indecent or Obscene Exposure; Penalty.](#)
- [NRS 201.230 Lewdness with Child Under 16 Years; Penalties.](#)
- [NRS 201.465 Sexual Conduct with Arrestee or Detainee by Law Enforcement Officer Prohibited; Penalty.](#)
- [NRS 201.470 – NRS 201.550 Sexual Conduct with Pupils and Students.](#)
- [NRS 207.193 Coercion: Hearing to determine whether sexually motivated.](#)

There are many laws relating to sexual violence in current state statute; however, if a victim-survivor were to look up sexual assault in Nevada law, they would find that our sexual assault statute (NRS 200.366) only includes a definition of penetration. NRS 200.366 states that sexual assault is defined by subjecting another person to sexual penetration. NRS 200.364 defines sexual penetration as: “cunnilingus, fellatio, or any intrusion, however slight, of any part of a person’s body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning.” ¹

From a victim-survivor lens, they often do not know that other laws, such as open and gross lewdness, or indecent and obscene exposure, cover other acts of sexual violence. Victim-advocates across the state routinely hear from victim-survivors that they did not know they could report their sexual assault even though it did not meet the definition of

¹ Nevada State Legislature. NRS 200.364 Definitions. Retrieved from: <https://www.leg.state.nv.us/nrs/nrs-200.html#NRS200Sec364>

penetration. Sexual assault affects all genders and communities, and only recognizing penetration in our state statute is limiting and excludes male victim-survivors, gender non-conforming victim-survivors and victim-survivors from the LGBTQIA+ community.

Additionally, the NRS language surrounding consent is narrow. Consent is not specifically named in our state statute and rather is included in the definition of sexual assault. NRS 200.366 states that sexual assault occurs when penetration happens “against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of the perpetrator’s conduct.”² Clearly outlining and defining the key factors of consent will empower victim-survivors and create clear standards that perpetrators are held to.

UNDERSTANDING THE COMPLEXITIES OF SEXUAL VIOLENCE

Sexual violence is complex and every victim-survivor’s experience is unique and personal. There is no way to capture each individual’s experience in statute, but we have a duty to make our state language as victim-centered and trauma-informed as possible. “The disconnect between the law and the dynamics of rape and sexual assault can play a crucial role in individual victims’ perception of whether or not they were the victims of a crime, and whether they believe they will receive some measure of justice in the legal system.”³ Knowing that sexual violence is one of the most underreported violent crimes, enhancing our state statutes may encourage more victim-survivors to report their assault and provide an opportunity to hold perpetrators accountable through the criminal justice system.

Sexual violence and assault is far more than penetrative rape and is not limited to, but can include:

- Unwanted touching and/or contact;
- Unwanted fondling and/or groping;
- Sexual harassment;
- Forced masturbation;
- Forced touching of another;
- Exposing one’s genitals or naked body to another without consent;

² Nevada State Legislature. NRS 200.366 Sexual Assault: Definitions; penalties, exclusions. Retrieved from: <https://www.leg.state.nv.us/nrs/nrs-200.html#NRS200Sec366>

³ AEquitas and the Women’s Law Project. Rape and Sexual Assault Analyses and Laws: Part II. Retrieved from: [Rape-and-Sexual-Assault-Analyses-and-Laws-10.10.19.pdf](https://www.aequitas.org/sites/default/files/2019-10/Rape-and-Sexual-Assault-Analyses-and-Laws-10.10.19.pdf).

- Forcing another to watch pornography or sexual acts without their consent;
- Watching someone in a private act without their knowledge or permission;
- Unwanted removal of clothing;
- Dissemination of one's private photos or videos; and,
- Rape/penetration by genitals, mouth, digits or foreign objects.

One benefit of enhancing definitions of sexual assault includes allowing victim-survivors opportunities for recourse if their assault doesn't meet the limiting definition of penetration. Another is that by adding additional language, we can then add appropriate penalties to enhance degrees of sexual violence that will hold perpetrators accountable and offer early intervention which may prevent future acts of violence. Currently there is no easy way to intervene against inappropriate sexual behaviors. Many times, inappropriate actions are displayed by youth and young adults. With no proper intervention and redirection, they think of these acts and behaviors as acceptable. They may then go on to become serial sexual violence perpetrators and commit further and more harmful acts. ⁴

SEXUAL ASSAULT STATE LAWS EVALUATION

Sexual violence statutes across the nation vary wildly, but all aim to hold perpetrators accountable and offer criminal justice interventions for the victim-survivor. "Although some jurisdictions' laws have evolved to incorporate our ever-expanding knowledge of rape and sexual assault and offender behaviors, in other jurisdictions, the laws remain sadly outdated in either language or content." ⁵ AEquitas, a nonprofit organization committed to improving access to and the quality of justice in gender-based violence, conducted a study reviewing sex crime statutes in all 50 states, the District of Columbia, the U.S. Territories, federal jurisdictions and the Uniform Code of Military Justice (a total of 58 jurisdictions). The analyses revealed that the language used across jurisdictions varied widely. With the vast differences in language used, the review set out to analyze the individual elements of each statute and their definitions in order to be able to adequately compare statutes. Jurisdictions were analyzed and grouped together based on:

- The range of covered conduct;

⁴ Basile, Kathleen C. et al. 2016. Centers for Disease Control and Prevention. STOP SV: A Technical Package to Prevent Sexual Violence. Retrieved from: <https://www.cdc.gov/violenceprevention/pdf/SV-Prevention-Technical-Package.pdf>

⁵ AEquitas and the Women's Law Project. Rape and Sexual Assault Analyses and Laws: Part II. Retrieved from: <https://www.aequitas.org/ra-sa-analyses-and-laws-10.10.19.pdf>.

- Penetrative crimes
- Contact/non-penetrative crimes
- The use of force; and
- The definition of consent; and the victim's ability to consent (intoxication, age, mental capacity);

Below are the key summary points of the findings from the analyses of 58 jurisdictions:

CONDUCT: PENETRATIVE CRIMES

- Crimes that include forced penile penetration are the most seriously graded sex crimes in all jurisdictions.
- Each jurisdiction has a definition that defines penetration, although the wording varies from jurisdiction to jurisdiction. Common terminology may include: rape, sexual assault, sexual abuse, or sexual battery.
- Most jurisdictions have language that recognizes that any intrusion/penetration, however slight, meets the requirements of penetration.
- AEquitas found that there is persistent confusion among victim-survivors over what constitutes legal penetration, and they often do not report if their experience was not full penial penetration of the vagina as they mistakenly believe that their assault is not legally relevant.

CONDUCT: NON-PENETRATIVE SEXUAL CONTACT

- Across jurisdictions, sexual contact crimes involve direct or indirect touching or fondling of sexual or other intimate parts of a person.
- In some jurisdictions that define sexual contact, acts such as urinating, defecating, or ejaculating on a person are included.
- Of the states that define sexual conduct, many define it broadly.
- In 20 jurisdictions, sexual contact without consent and without force is recognized as a crime more frequently than sexual penetration without consent and without force or coercion.
- Sexual contact is typically charged as misdemeanors, but can rise to the level of a felony under circumstances such as when the crime is committed with actual or threatened force, or when the victim-survivor is incapable of consent due to physical or mental incapacitation.

- States that do not define sexual contact charge the exposure of genitals through indecent exposure crimes.
 - Indecent exposure crimes are usually categorized as moral crimes rather than as sex offenses.
 - Indecent exposure is a common method often used by perpetrators of child sexual assault to groom their victim-survivors.

USE OF FORCE:

- Jurisdictions vary widely in how they define and interpret force. However, how force is defined is crucial in order to determine the criminality of conduct.
- Some jurisdictions, Nevada included, overlap concepts of force and consent. This is not best practice as the use of force generally pertains to the perpetrator's conduct, and the issue of consent pertains to victim's conduct.
 - Additionally, the absence of force in a situation may preclude a charge if the circumstances of the assault do not satisfy other requirements under the statute. Most commonly it is then used as an attack of the victim-survivor's credibility.
- There are significant variations in how force is defined, but the three common definitions used are actual physical violence, threatened physical violence, and threatened force against third parties.
- Four jurisdictions (Idaho, Nebraska, West Virginia and the Virgin Islands) require resistance by some degree to prove the element of force. Nine jurisdictions (Alabama, Maine, Michigan, Montana, New Jersey, Ohio, Pennsylvania, and Guam) have clear language that no resistance is required.

CONSENT:

- Statutory definitions of consent generally identify two factors:
 - Whether the individual freely consented; and,
 - Whether the individual has the capacity to consent.
- The definition of consent is critical in determining whether the sexual conduct is criminal.
- A victim-survivor's consent to the conduct is defined by the specific circumstances surrounding the act.
- Freely given consent is categorized by giving permission, positive cooperation, free will and the knowledge of the nature of the act.

CONSENT: SPECIAL CONSIDERATIONS

- Consent includes variables such as age, mental capacity, physical capacity, unconsciousness, and/or drug/alcohol impairment.
 - All jurisdictions include language around providing special protection for victim-survivors with a developmental disability or mental incapacity due to an injury, condition, or disability and not because of intoxication.
 - Significantly though, in all jurisdictions, an individual with a developmental disability will not automatically be rendered incapable of giving consent.
- Age-related sex crimes fall into two categories: Per se age of consent laws and statutory sexual assault laws.
 - Per se laws prohibit any sexual contact with any child under the defined age. This is regardless of the age of the offender or whether the child consented.
 - Statutory sexual assault laws define the assault by the age of the perpetrator and the victim-survivor and a specified age difference between the two.
 - The majority of jurisdictions have a version of statutory sexual assault laws.
- The most common age of consent throughout the jurisdictions is 16 years of age.
- While statutory sexual seduction is intended to criminalize the exploitation of children, perpetrators of statutory sexual seduction are often graded less severely than other types of sexual assault. This is currently in practice in Nevada, as referenced above in the section [Nevada Sexual Assault Statutes](#).

RECOMMENDATIONS FROM WORKGROUP

Throughout this study, victim advocates, public defenders, district attorneys, and law enforcement all discussed the benefits and downfalls of Nevada's current sexual assault language. Each discipline and expertise bringing a unique perspective. At the end of the final workgroup, public defenders, district attorneys, and law enforcement chose not to submit final recommendations surrounding changing or enhancing Nevada's sexual assault language. Despite these recommendations coming directly from victim advocates, workgroup participants have agreed to engage in further conversations as specific language is drafted for Nevada.

The following recommendations come from victim advocates across the state and do not reflect any viewpoints or desires on behalf of public defenders, district attorney's or law enforcement:

- NRS Chapter 200 should clearly define consent, including specific language around freely given consent and the individual's capacity to consent (age, disability, intoxication) with specific language that developmental disabilities will not automatically render an individual incapable of giving consent.
- NRS should expand the definition of sexual assault to include penetration/rape and non-penetrative sexual contact.
 - It is important to categorize non-penetrative sexual contact as a sex crime.
 - The distinction between the two is a victim-centered and trauma-informed approach that will ensure that our definitions of sexual violence are inclusive of all victim-survivors including males and those within the LGBTQIA+ community.
 - This recommendation comes with the understanding that penalties will have to be differentiated amongst penetrative vs. non-penetrative conduct and that the requirements around sex offender registry will have to be re-visited.
- NRS Chapter 200 should clearly define what use of force means and should follow best practices of differentiating between actual physical violence, threatened physical violence, and threatened force against third parties.



Walker & Associates

661 Genoa Lane, Minden, Nevada 89423

ATTACHMENT 3

TO: Chair Scheible and Members of the Joint Interim Standing Committee on Judiciary

FROM: Mary Walker
Representing Lyon and Storey Counties

DATE: July 7, 2022

RE: Response to Solicitation of Recommendations to the Judiciary Committee

Chair Scheible and Members of the Committee, thank you for this opportunity to submit a recommendation to the Judiciary Committee for potential consideration during your August 12th final interim hearing.

I sincerely appreciated the discussions of the Committee at their April and May Committee hearings regarding the difficulty in the implementation of AB 424 Pretrial Release Hearing within 48 hours. I did listen with interest to the May 13th Committee hearing presentations by the NCSL and representative from the State of Kentucky. In light of this testimony, please find below a recommendation which more generally conforms to the Kentucky model without having a financial impact on the State of Nevada. I believe this recommendation will significantly reduce the difficulties in the implementation of AB 424, while hopefully, meeting the goals of the Committee to insure prompt release of defendants in jail.

Recommendation:

Delete NRS 178.4849 which requires a full pretrial release hearing to be held within 48 hours after a person is taken into custody and which requires the attendance of the public defender, district attorney, Judge, court staff, sheriff/police officers and potentially an interpreter 7 days a week, which is not sustainable from a staff perspective.

Instead, craft language requiring the release of defendants of nonviolent and low to moderate level misdemeanors and felonies within 48 hours of a person being taken into custody either through the Judge's determination or by a pretrial assessment administrator, thereby eliminating the pretrial release "hearing." This will eliminate the need for the attendance of the public defender, district attorney, court staff, sheriff/police officers and potentially an interpreter 7 days a week at pretrial release hearings.

If a pretrial assessment administrator is utilized by the jurisdiction and a defendant does not meet a nonviolent, low to moderate pretrial assessment risk score, the administrator shall contact the Judge within 48 hours of a person being taken into custody to make a determination whether the person can be released or hold a probable cause

determination (without anyone other than the Judge and the pretrial release administrator present). Future court dates will be decided by the court, as it always has.

REASON: During the May 13th Joint Interim Standing Committee on Judiciary, the Committee heard a presentation from the State of Kentucky which detailed the pretrial release process in Kentucky. The representative from Kentucky stated their system of releasing the defendant or having a probable cause determination made right away has been “critical to our success.” The State of Kentucky has funded a 24-hour pretrial release program which includes 220 staff in their Pretrial Services Department who work 24/7 in 3 shifts. The State of Nevada does not have the funding to implement this 24-hour time frame statewide, however, a 48-hour time frame requirement implemented in local courts to either release the defendant or to hold a probable cause determination could work well and would alleviate most of the implementation problems with AB 424 such as lack of time for the Public Defender or District Attorney to prepare within a 48-hour timeframe. However, this recommendation, hopefully, can still meet the goals of the Legislature to release a defendant or determine status in a quick and timely manner.

It is widely known that professionals are difficult to attract in rural Nevada including doctors, nurses and of utmost importance to this discussion, lawyers. There have been comments from various staff and elected officials serving the administration of Justice in rural Nevada that with the passage of AB 424 and the requirement many of these people have to work 7 days a week, that its time for them to retire or seek other employment. This is not sustainable because if they leave, who will replace them in rural Nevada?

The goals of the Judiciary Committee are laudable. However, perhaps a more practical way to meet these goals by utilizing the State of Kentucky general model, the goals may become more sustainable in its implementation.

Thank you, Chair Scheible and Committee Members for having these presentations which has shed a lot of light on a complex subject.

Please do not hesitate to contact me at any time if you have any questions, comments or direction.

Take care and I hope everyone is doing well.

Mary Walker

marywalker@gbis.com

775-771-5964



ATTACHMENT 4

Nevada Association of Counties
304 South Minnesota Street
Carson City, NV 89703
(775) 883-7863

www.nvnaco.org

July 8, 2022

The Joint Interim Standing Committee on Judiciary
Senator Melanie Scheible, Chair
401 South Carson Street
Carson City, NV 89701-4747

Dear Chair Scheible,

On behalf of the Nevada Association of Counties (NACO), thank you for your time and consideration of our recommendation to modify NRS 178.4849. As the statewide association representing Nevada's Counties, NACO often provides the County perspective on matters of importance to the State. This issue in particular is of great interest to counties.

As you are aware, Assembly Bill 424 (AB424) from the 2021 Legislative Session established a requirement for a pretrial release hearing to occur within 48 hours after an individual is taken into custody. While NACO along with other local government partners and judges, opposed AB 424 during the 2021 session, we appreciate having an open dialog with the sponsor of this bill on the challenges that counties face in implementing this requirement in their communities. Some counties began to implement a 48-hour hearing deadline ahead of the July 1, 2022, effective date, those counties encountered issues with technology, staffing and cost.

Judge Stephen Bishop of White Pine County testified before this committee on April 8, 2022, to provide some insight on the hurdles the county and the courts have faced since adhering to the 48-hour hearing deadline as of October of 2021. Judge Bishop informed the committee that technology in rural courts is not sufficient to conduct remote hearings or transmit the required paperwork. Personnel shortages were also mentioned, as most counties do not have the staff necessary to conduct hearings seven days a week. These two issues alone are drivers of cost, which fall on local governments to cover. Additionally, at the May 13, 2022, meeting of your committee the National Council of State Legislatures provided information on what other States require for pretrial release hearings, specifically how other states exclude weekends and holidays from the time frame required to hold a pretrial release hearing. As such, NACO is in support of amending NRS 178.4849 to add the exclusion of weekends and holidays from the 48-hour time-frame. This change may lessen the impact that AB 424 will have on all counties going forward.



ATTACHMENT 4

Nevada Association of Counties
304 South Minnesota Street
Carson City, NV 89703
(775) 883-7863

www.nvnaco.org

Again, thank you for your time and consideration of these issues, and we appreciate the opportunity to provide input. We stand ready to assist this Committee with any questions or resources that might be of assistance, and if you, or the committee members have any questions please do not hesitate to reach out to me directly.

Sincerely,

A handwritten signature in black ink that reads "Vinson W. Guthreau". The signature is written in a cursive style with a large, sweeping initial 'V'.

Vinson W. Guthreau
Executive Director

cc: Mary Walker, Lobbyist

Steve Sisolak
Governor



Richard
Whitley, MS
Director

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES DIVISION
Helping people. It's who we are and what we do.



Dena Schmidt
Administrator

July 8, 2022

Joint Interim Standing Committee on Judiciary
Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701-4747
JUDInterim@lcb.state.nv.us

Re: Solicitation of Recommendations

Senator Melanie Scheible, Chair, and Members of the Committee,

I am writing in my capacity as the gubernatorial appointee to the Office of Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability, or a Related Condition ("Rights Attorney"). For over 700,000¹ persons living with a disability or older adults in Nevada, the Rights Attorney works to advance systemic improvement in the aging and disability services network through legal and policy advocacy to ensure that all Nevadans can live independent, meaningful, and dignified lives. In addition, the office acts as the designated Legal Assistance Developer under the Older Americans Act. 42 U.S.C. § 3058j.

As Nevada's population continues to grow at a rapid pace, including those over 85 at double the national rate, it is necessary to ensure that legislative and policy recommendations will support healthy aging across the lifespan. Adult maltreatment continues to rise in Nevada, and it is necessary for the committee to consider legislation that improves system response.

Nationally, other states have laws that improve prevention through vulnerable adult protection orders, improve case investigation with access or specialized visitation warrants, and improve case evaluation and system response with Elder Abuse Fatality Review Teams (EAFRTs). A comprehensive presentation on Vulnerable Adult Protection Orders, Access Warrants, and Elder

¹ Centers for Disease Control, accessed on 6/6/2022 at [Disability and Health Data System Explore by Location | NCBDDD | CDC](#)

Abuse Fatality Review Teams was presented to the Legislative Committee on Senior Citizens, Veterans and Adult With Special Needs [on June 28, 2022](#).

Vulnerable Adult Protection Order

Older adults and adults with disabilities continue to face adult mistreatment and are victims of crime at higher rates than the general population. Since 2019, when Adult Protective Services was expanded to include adults 18-59 cases have increased by 27%. Importantly, abuse is not limited to physical threats of violence and harm but also includes mental and emotional abuse, abandonment, neglect, isolation, financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser due to fear of retaliation or inability to meet basic needs. Many vulnerable adults are unable to access the resources necessary to seek lasting safety options or meet their immediate care needs.

Existing law in Nevada defines a vulnerable adult under NRS 200. Existing state law also provides for several types of protection orders under NRS Chapter 33 such as domestic violence protection orders: stalking, harassment, sexual assault, protection of children and protection against harassment in the workplace. The behavior and specific relationship required to seek these types of orders is not typically present in cases of abuse, neglect, or exploitation of a vulnerable adult. Currently, 18 other states have standalone laws allowing protective orders specific to older adults and persons with disabilities.

An important characteristic of these protection orders is the ability of Adult Protective Services to act as the petitioner in certain circumstances. As the vulnerable adult population in Nevada continues to grow, it is necessary for individuals and agencies such as Adult Protective Services (APS) to have a speedy and immediate judicial process to seek relief.

The Committee on Seniors, Veterans, and Adults with Special Needs sponsored AB 407 last session to establish a vulnerable adult protection order, but it did not meet the initial deadline for passage out of committee.

Access Warrant

In Nevada, there is no current statute authorizing APS to petition for or obtain access warrants following denied entry to a private premises or access to an eligible adult. However, most jurisdictions have a mechanism for apply for and executing a warrant that allows APS to conduct investigations concerning reports about potential abuse, neglect, or exploitation. Nationally, most states use a probable cause standard for the access warrants. A.R.S. § 14-5310.01(a)(Arizona); Cal. Welf. & Inst. Code § 15755 (California); ID ST § 39-5305(5) (Idaho); KY Rev. Stat. Ann. § 209.030(6)(Kentucky); Me. Rev. Stat. Ann. Tit. 22 § 3483(1)(Maine); Miss. Code Ann. § 43-47-9(1)(Mississippi); Mo. Ann. Stat. § 660.270(Missouri); NDCC § 50-25.2-05(1)(North Dakota); G.S. 15-27.2 (North Carolina); S.C. Code § 43-35-45(A) (South Carolina). Based upon a survey of national practices, a law in Nevada would likely include the following:

1. APS has independent authority to apply for the warrant
2. Probable Cause Standard
3. Include language to enjoin the person in control of the premises from barring access or interfering in the investigation
4. Execution of the warrant is in partnership with Law Enforcement and/or Peace Officer

Access warrants in Nevada would promote early case intervention, maximize law enforcement response, and strengthen coordinated response between agencies.

Elder Abuse Fatality Review Teams

Nevada currently has fatality review teams for domestic violence, children, and a maternal mortality review committee. Nevada's older adult population is one of the fastest growing in the country and continues to grow. In addition, case data for Adult Protective Services continues to increase. The committee should assess the opportunity in Nevada to develop Elder Abuse Fatality Review Teams.

An Elder Abuse Fatality Review team reviews deaths resulting from or related to elder abuse to learn about and improve the responses of adult protective services, health care providers, law enforcement officers, prosecutors, victim assistance providers, and other stakeholders. The results can be used to promote policy changes in government and private agencies, identify gaps and barriers to service for victims prior to death, increase public awareness, and positively impact on the safety and health of Nevada residents. The team could also participate in other projects, such as an annual review of elder suicides, daily, real-time cross-reference efforts between the Medical Examiner and Adult Protective Services databases, and research studies.

The American Bar Association has additional materials on [Elder Abuse Fatality Review Teams](#).

Summary Evictions

In 2017 the Nevada Supreme Court conducted a civil legal needs study. At the time of the survey, housing was not listed in the top 5 civil legal issues for older adults. Currently, housing continues to be largest service type across the state for legal services providers with upwards of 30,000 eviction proceedings filed last year. From July 2022 to March of this year, the Nevada 211 program had over 75,000 contacts for housing and shelter needs.

As the Supreme Court study outlines, the access to justice barrier in Nevada continues to remain high with 76% of the need unmet in our state. Older adults and persons with disabilities are disproportionately impacted by evictions and represent the fast-growing segment of the homeless population, with nearly half of all older homeless people becoming homeless for the first time after

age 50.² In addition, the latest data from [Nevada's 2021 Elders Count](#), a partnership between the University of Nevada, Reno School of Medicine, the State of Nevada, Aging and Disability Services Division and the Office of Data Analytics indicates that the average rate of homelessness (when entering programs) is 27.7 people per 10,000 for individuals age 65 and older. Additionally, an average 46.8 individuals aged 65 and older per 10,000 are on the verge of homelessness. The rates of individuals on the verge of homelessness in northern urban Nevada is over three times that amount, at a rate of 173.2 individuals per 10,000.

For seniors and persons with disabilities, housing insecurity can have a devastating effect from which they may never recover. They may face loss of access to necessary medications, access to healthcare, and access to important documentation. They are also at a higher risk of being hospitalized and subsequently institutionalized.

For children with disabilities, our agency provides critical services to babies and toddlers through Nevada Early Intervention Services and children through our Autism Treatment Assistance Program. Our programs have had many families affected by housing instability and eviction. Program staff have indicated that many families are on the verge of homelessness and are moving from motel to motel or 'couch surfing' and it has impacted the continuity and efficacy of services for the child.

The current summary eviction process in our state puts the burden on the tenant to initiate court proceedings. For individuals that are already plugged into the service network, our social workers are not able to obtain information on the evictions or verify the filings. For clients that have cognitive deficits and disabilities, the inability of their social workers to access information and verify eviction filings undermines the safety net that is designed to help them. As outlined above, this process disproportionately harms older adults and persons with disabilities.

Conclusion

Thank you for your time and consideration of these initiatives to improve the lives of older adults and persons with disabilities in Nevada. Please contact me if there are additional questions or concerns at jrichards@adsd.nv.gov or 775-685-6584.

Jennifer M. Richards
Chief Rights Attorney
and State Legal Assistance Developer

² Kwok, Prunhuber, [Low-Income Older Adults Face Unaffordable Rents, Driving Housing Instability and Homelessness](#), February 2021.

Fines and Fees Justice Center Preliminary Report on Cost of Incarceration in Nevada

The Fines and Fees Justice Center (FFJC) in partnership with Return Strong! (RS) is working to fully understand the cost of incarceration in Nevada and its impacts on those housed in the Nevada Department of Corrections (NDOC) facilities and their families. This preliminary report utilizes public records requests, Nevada Governor's Finance Office Division of Internal Audits audit reports, NDOC administrative regulations and third party reporting to highlight some of the costs associated with incarceration in the state of Nevada. The goal of this preliminary report is to educate members of the Interim Judiciary Committee and the public on the cost of incarceration in Nevada. FFJC & RS along with a masters level intern from the UNR School of Public Health will continue this research in order to develop a more comprehensive report on the cost of incarceration and its effects on both the incarcerated and their families. Research is also being conducted on how other states approach these issues and that preliminary research will be made available prior to the August 12th meeting of the Intium Judiciary Committee.

This report is designed to be informative, our recommendations on how to address this issue will be presented to the July 8th meeting of the Joint Interim Judiciary Committee. Our recommendations will also be provided in writing prior to the meeting.

Overview

This preliminary report consists of five sections. Topline takeaways from each section can be found in this overview. More detailed information can be found on the following pages and source data has been made available in the attached exhibits.

Section 1. Commissary, Music & Package Program:

Information provided to FFJC by NDOC shows a commissary markup of 66% on the vast majority of nonreligious items, including necessary items such as tampons, menstrual pads, denture adhesive and food products. NDOC receives a flat 20% kick back on all bulk package sales and 10% on all MP3 song purchases. While NDOC has been subject to regulation of its commissary practices since 2010 which include developing regulations through the 233B process there remains no formal regulations or explanation of how commissary markup is decided. NDOC proffits 9% to 42% or an average of \$439,000 net profits monthly from \$14.2 million in gross sales annually. Most of this money comes from family deposits to incarcerated loved ones accounts.

Section 2. Debt Upon Release:

Incarcerated individuals may incur debt while incarcerated at NDOC. Often this debt is medical debt that results from injuries that occurred during recreation, altercations or self harm. According to NDOC AR 258 upon release a letter is sent to the forwarding address provided by the incarcerated individual prior to release advising them of the amount due and that it is to be paid in full immediately. Failure to pay may result in the debt being sent to collections. A review of records revealed NDOC has \$10.4 million in outstanding debt which includes \$1.7 million in collection and interest fees. Annual collection rates for this debt over the last three fiscal years range between .53% and 1.60%.

Upon release any money in an incarcerated individual's accounts not deducted to pay debt is placed on a prepaid debit card. These cards have a litany of fees including a weekly maintenance fee, inactivity fee, balance inquiry fee and ATM decline for non-sufficient funds fee. Money accessed with this debit card is held out of state by Cache Valley Bank in Logan, Utah.

Section 3. Medical Costs:

As mentioned above incarcerated individuals incur medical debt from recreational injuries, self harm and altercations. However even routine medical and dental visits come with an \$8.00 copay the highest in the country, over double the national average. Emergency medical attention costs an extra "man down fee". While NDOC provided data suggesting that "man down" fees are \$25.00 for a nurse and \$50.00 for a doctor, we have reports of people paying higher fees for emergency care.

Of the 8 contract summaries for medical providers we received in our public records request the only contract not funded 100% from the general fund was a contract with Integrity NV Funeral Services which receives 87% of its funding from the Inmate Welfare Account. Also of note, AR

245 indicates that incarcerated individuals may be held financially for stolen or damaged prosthetics and mental health unit time.

Section 4. Wages:

All wages earned by incarcerated individuals are subject to deductions up to 50%, 25% of which may be charged for room and board. Institutional job wages are inconsistent from facility to facility, law library employees at LCC receive \$30 a month while those doing the same work at HDSP only receive credits. From the information provided regarding Silver State Industries wages range from as low as \$0.35 an hour for an auto body recognition to as high as \$14.56 for an inspector at the garment factory.

In FY 2019 and 2020 non-payroll deposits to incarcerated individuals accounts, mostly from families, were more than double the amount paid for prison labor. In FY 2021 non-payroll deposits accounted for more than 11 times the amount paid for prison labor.

Section 5. Possible Savings found in Audits:

We reviewed the two most recent Fiscal Processes audits conducted by the executive branch, published January 28, 2021 and February 22, 2022. These audits projected a combined possible savings of \$31.6 million to the state if NDOC were to adopt their recommendations. It is unclear at this time where NDOC is in the process of implementing the recommendations.

Report Body

1. Commissary, Music & Package Program:

- Commissary Markup 66%. While the Division of Internal Audits stated a 40% markup in their February 22, 2022, documents provided to FFJC by NDOC show an over 66% mark up of most products sold in commissary.
 - Examples from NDOC provided data can be found on the attached spreadsheet (Exhibit 1: NDOC Markup Sample Spreadsheet)
- Price increase on bulk product (store items) as of 9/1/2014: (Exhibit 2: Keef Contract Amendment 2)
 - Taking effect September 1st of each year, price increase of 3% for 2014, 2015 & 2016; 2% for 2017 & 18; and 1% for 2019, 2020 and 2021 have been agreed to by both Keef and the NDOC.
- MP3 Music (Exhibit 2: Keef Contract Amendment 2)
 - Songs: Price per song: \$1.99; Commission per song: \$0.20 (10%)
 - The NDOC reserves the right to increase the price of the MP3 players at a date in the future to fund the additional storekeeper position. NDOC and Keefe will work together to increase song pricing on an as needed basis. Song price discussion will include a statement of goals and the expected impact to song sales.
- Inmate package program (Exhibit 2: Keef Contract Amendment 2)
 - Inmate Package Program (includes 22% commission).
- NDOC commissary funds have been subject to formal regulations since 2010 yet no regulations have ever been created. (Exhibit 3: Governor's Finance Office Audit Report 2/22/22)
- NDOC does not have documented criteria or legislatively approved regulations defining what constitutes a reasonable markup for goods or services sold to offenders, which allows for inconsistent and unreasonable markups. Review of internal monthly OSF profitability reports revealed unregulated commissary sales resulted in monthly profits ranging between 29% to 42% or an average of \$439,000 net profits monthly from \$14.2 million in gross sales annually. (Exhibit 3: Governor's Finance Office Audit Report 2/22/22)
- Low balances in offenders' accounts combined with average annual OSF. sales between \$1,100 and \$1,300 per offender create a significant financial burden for disadvantaged offenders. (Exhibit 3: Governor's Finance Office Audit Report 2/22/22)

2. Debt Upon Release:

- If the inmate owes Department charges (debt) after release, the following procedures will be performed by ISBS to contact the inmate to collect the money owed: (Exhibit 4: NDOC AR 258)

- ISBS will send a letter to the forwarding address provided by the inmate advising of the amount due and payable in full immediately. (Exhibit 4: NDOC AR 258)
- If not paid immediately and the amount owed is considered uncollectible by the Department, ISBS will report the inmate's information and the amount owed, to the State Controller's Office who may send the information to a contracted collection agency in accordance with NRS Chapter 353C. (Exhibit 4: NDOC AR 258)
- Review of records revealed NDOC has \$10.4 million in outstanding and uncollected offender debt for the fiscal quarter ending September 30, 2021, which includes \$1.7 million (16%) assessed to offenders in collection agency and interest fees in excess of principal balances. (Exhibit 3: Governor's Finance Office Audit Report 2/22/22)
 - For example, one account reviewed had an outstanding balance of about \$189,000. (Exhibit 3: Governor's Finance Office Audit Report 2/22/22)
- Collection Rates for offenders released with debt owed to NDOC: (Exhibit 5: NDOC Public Records Request Response)
 - FY 2019 - 1.02%
 - FY 2020 - 1.60%
 - FY 2021 - .53%
- Secure Release Prepaid Debit Card: (Exhibit 2: Keef Contract Amendment 2)
 - The Cards will be issued by and the funds will be held by Cache Valley Bank in Logan, Utah. All transactions are processed by a third-party processor - Rapid Financial Solutions. (Exhibit 2: Keef Contract Amendment 2)
 - Fees to use Prepaid Debit Cards Upon Release (Exhibit 2: Keef Contract Amendment 2)

| Fee Type | Fee | Fee Type | Fee |
|--|---------|---|---------|
| Weekly Maintenance Fee* | \$1.50 | ATM Decline for Non-Sufficient Funds Fee | \$2.75 |
| ATM Account Inquiry Fee | \$1.50 | International ATM Fees*** | \$3.75 |
| Inactivity Fee** | \$2.00 | ATM Decline International Fee | \$3.75 |
| Domestic ATM Fees*** | \$2.75 | Replacement of lost or stolen card | \$10.00 |
| Account Closure Fee/Request for Balance by Check | \$25.00 | * After 3 days / 72 hours of activation the card starts incurring weekly maintenance fees to cover the cost of the FDIC insured account. **After 90 days of no activity. ***Fees may also be imposed by the local ATM provider in addition to card fees. For a listing of surcharge-free ATM's, visit http:// | |

| | | | |
|--|--|---|--|
| | | /www.moneyrpass.com/ . ****The cardholder is subject to a \$25.00 returned processing fee for any returned or rejected ACH transfers for invalid banking information. | |
|--|--|---|--|

3. Medical Costs:

- AR 245 Inmate Medical Charges:
 - Inmates will be charged a fee for each visit to a medical provider for all non-exempt examinations or treatments. Voluntarily missed appointments will still incur a charge. (Exhibit 6: NDOC AR 245)
- Prosthetics: (Exhibit 6: NDOC AR 245)
 - Inmates will be charged a fee for each medically necessary prosthetic device or appliance received. A fee will also be charged to offset any repair costs. If the prosthetic device/appliance is lost, stolen, or abused, the inmate may be responsible for 100% of the replacement cost. (Exhibit 6: NDOC AR 245)
 - A. Inmates will be charged 100% in advance, and shall have the funds available in the Trust Accounts of their individual PPF, for the cost of any prosthetic device/appliance, which is not medically required, subject to the appropriate approvals. (Exhibit 6: NDOC AR 245)
- Medical Records and Review:
 - Inmates will be charged a fee for copies of their own medical records.
 - Inmates will be charged a fee for each case review, whenever a Department provider is involved in the review process. (Exhibit 6: NDOC AR 245)
- Indigent Inmates:
 - No inmate will be refused medical services for lack of financial resources to pay for medical examinations or treatments. (Exhibit 6: NDOC AR 245)
- Altercations, recreational and self harm:
 - Inmates will be charged for the cost for medical examination, diagnosis, or treatment for injuries which result from altercations, recreational injuries, or self-inflicted injuries. (Exhibit 6: NDOC AR 245)
 - Fees will be charged for all injury-related care provided inside the institution, including but not limited to, nurse visits, doctor visits, pharmaceuticals, infirmary time, and **mental health unit time**, not related to injuries related to a mental health condition. (Exhibit 6: NDOC AR 245)
 - Inmates will be charged for the cost of all other injury related expenses incurred by the Department outside the institution/facility such as, but not

limited to, ambulance service, hospitalization, pharmaceuticals, diagnostic, and surgical procedures. If the costs related to hospitalization are covered by Medicaid, the inmate would be responsible to pay for the portion payable by the Department. (Exhibit 6: NDOC AR 245)

- Charges for medical care from outside providers:
 - When a fiscal year financial shortfall is identified prior to the close of the fiscal year accounting, inmates will be charged a portion of the cost as defined in the Medical Operation Procedure of their own medical appointments with outside providers for medical or dental care, to include expenses for prescribed medicine and supplies to defray a portion of the costs when a financial shortfall in the Medical Division's budget occurs. The portion of the cost charged to the inmate must be a percentage equal to the percentage of the budget shortfall. (Exhibit 6: NDOC AR 245)
- Reimbursement of Medical Expenses:
 - The inmate's Trust Accounts of his or her individual PPF, through the Inmate Banking Section, will reimburse the Medical Division for all authorized inmate medical expenses (Exhibit 6: NDOC AR 245)
 - If an inmate has insufficient resources in his or her Trust Accounts at the time the medical costs are posted by the Inmate Banking Section, the costs will be posted as department charges. (Exhibit 6: NDOC AR 245)
- Medical Co-pay:
 - NDOC charges \$8.00 for a medical co-pay or 231% higher than the national average of \$3.47. (Exhibit 3: Governor's Finance Office Audit Report 2/22/22)
 - 12 States do not charge medical co-pay. (Exhibit 7: Prison Policy Initiative Report)
 - Nevada was the only state in the nation not to make changes to its medical co-pays policy during covid. They were also one of only five states that "did not respond to [the Prison Policy Initiative] survey or to repeated follow-up inquiries requesting updated medical co-pay information." (Exhibit 7: Prison Policy Initiative Report)
 - If emergency medical care is needed NDOC assesses what they call a "Man Down Fee" we have reports that these fees can be higher than reported: (Exhibit 5: NDOC Public Records Request Response)
 - Man Down Nurse - \$25.00
 - Man Down Physician - \$50.00
 - Medical copay assessed vs. collected: (Exhibit 5: NDOC Public Records Request Response)

| Fiscal Year | Assessed | Collected |
|-------------|--------------|--------------|
| 2019 | \$167,882.00 | \$122,325.32 |
| 2020 | \$193,398.00 | \$149,425.02 |

| | | |
|------|-------------|-------------|
| 2021 | \$73,193.00 | \$56,039.43 |
|------|-------------|-------------|

- **Contracts With Medical Providers:**
 - NDOC Provided FFJC with 8 contract summaries for medical providers that show how each contract is funded: (Exhibit 8: Contract Summaries)

| Contracting Provider | Funding | Contracting Provider | Funding |
|---------------------------------|--|-------------------------------|-------------------|
| Chardonnay Dialysis Inc | 100% General Fund | Tforce Final Mile LLC | 100% General Fund |
| Hometown Health 3rd party Admin | 100% General Fund | Hometown Health PPO | 100% General Fund |
| Washoe County Medical Examiner | 100% General Fund | Advanced Biomedical & Imaging | 100% General Fund |
| Giddens Medical Chapel | 100% General Fund | Compumed Inc | 100% General Fun |
| Integrity NV Funeral Services | 13% General Fund 87% Inmate Welfare Account | | |

4. Wages:

- **Institutional Jobs: (Exhibit 9: Institutional Wages)**
 - For institutional jobs wages are inconsistent from facility to facility.
 - Wages For institutional jobs are paid monthly.
 - Sample of institutional wages:

| Job | ESP | FMWCC | HDSP | LCC | NNCC |
|-------------|---------|---------|---------|---------|---------|
| Barber | \$15 | \$20 | Credits | Credits | \$15 |
| Laundry | \$15-35 | \$20-35 | \$25-40 | \$35-45 | \$40 |
| Porter | \$15-30 | \$10-30 | \$18-65 | \$45 | \$10-80 |
| Law Library | \$10-20 | \$20 | Credits | \$30 | \$15-35 |
| Canteen | \$50 | \$50 | \$50 | \$50 | \$50 |

- **Silver State Industries: (Exhibit 10: Silver State Industry Wages)**
 - Hourly wages range from \$0.50 to \$14.56. If subjected to the maximum deduction of 50% actual pay ranges from \$0.25 to \$7.28.
 - All Silver State Industry employees are subjected to 25% room and board deduction.
 - Sample of Silver State Industries wages:

| Job | Pay Range | Job | Pay Range |
|--------------------------------------|-----------------|-----------------------------------|-----------------|
| Inmate Clerk, Admin Mattress Factory | \$1.00 - \$7.50 | Inmate Auto Body Technician | \$0.35 - \$1.25 |
| Inmate Porter Mattress Factory | \$0.60 - \$3.50 | Production Lead - Screen Printing | \$1.00 - \$5.00 |
| Inmate Carpenter III | \$0.60 - \$3.50 | Inmate Horse Trainer | \$1.00 - \$2.50 |
| Inmate Sawyer | \$0.60 - \$3.00 | Inspector Garment Factory | \$14.56 |

- Annual Payroll Deposits Vs. Non-Payroll Deposits (Exhibit 5: NDOC Public Records Request Response)
 - While non-pay roll deposits may include money from sources such as court judgments, native american or veteran benefits the majority of this money is deposited by loved ones of the incarcerated.

| Year | Payroll Deposits | Non-payroll Deposits |
|---------|------------------|----------------------|
| FY 2019 | \$8,130,348.31 | \$17,261,288.56 |
| FY 2020 | \$7,281,218.99 | \$19,771,890.93 |
| FY 2021 | \$2,305,500.14 | \$25,833,183.50 |

5. Possible Savings Found it Audits:

- \$14.3 Million: Improving oversight of fiscal management and accounting practices will: increase transparency in the administrative rule making process and operations; ensure offenders can purchase basic necessities at a reasonable cost; ensure administrative accountability; and reduce cost to the state. These improvements could benefit Nevada up to \$14.3 million annually. (Exhibit 3: Governor's Finance Office Audit Report 2/22/22)
- 17.3 Million: Improving the accuracy of budgetary estimates and expenditure projections could benefit the state by \$13.6 million annually in reduced work programs and Contingency Account Funding Request. Improve oversight over personnel and payroll practices will increase transparency in operations and benefit the state up to \$3.7 million annually. (Exhibit 11: Governor's Finance Office Audit Report 1/28/21)

To: Joint Interim Standing Committee on the Judiciary
From: Leisa Moseley, Nick Shepack & Jodi Hocking
NV State Director FFJC, NV Deputy State Director FFJC & Executive Director Return Strong, respectively

Fines and Fees Justice Center (FFJC)

RE: Recommendation for Nevada Department of Corrections Financial Accountability Act
Why:

A lack of laws regulating NDOC financial practices has resulted in a system in which families and loved ones of incarcerated individuals are paying unusually high costs in order to support their incarcerated loved ones. The financial burden placed on families has a significant negative economic impact on these families and their communities. The current state of inflation has only exacerbated the financial stress on families of the incarcerated. With low, inconsistent wages and limited job opportunities for incarcerated individuals, families often support incarcerated individuals in purchasing everything from menstrual products to food to clothing to medical co-pays. Medical debt incurred from recreational injuries and self harm often follow incarcerated individuals back into society. While a recently released individual may have paid his debt to society they often remain in financial debt to NDOC placing continued financial strain on families, and hindering successful reentry.

During the 81st legislative session the legislature unanimously passed an amended version of SB22 with the intent of providing financial protections for families and loved ones of those incarcerated in Nevada. Research conducted by Fines and Fees Justice Center (FFJC) and Return Strong! has uncovered that deductions on deposits are only one of many ways NDOC extracts money from families. In order to fully financially protect those who supported incarcerated individuals and fully realize the goals of SB22, the legislature must regulate the totality of NDOC's financial practices.

Recent audits of NDOC financial practices have found gross fiscal mismanagement and possible savings to the state of over \$30 million. FFJC is working to establish possible cost savings and economic impact of regulation in this area.

Attached to this request is a preliminary report produced by FFJC that explains in detail the many costs faced by incarcerated individuals and their loved ones.

What:

FFJC Nevada and Return Strong! are asking for comprehensive regulation of NDOC financial practices that impact incarcerated individuals and their loved ones. We suggest eliminating kickbacks to the department and bringing cost inline with national averages and best practices. Clear regulations will ensure that families are financially protected, improve conditions for incarcerated individuals and increase transparency within the department.

Unless the costs associated with incarceration are addressed collectively we risk savings in one area shifting to costs in another. We hope to work with legislators and stakeholders in order to

develop these regulations. FFJC will work to collect evidence-based best practices from across the country in order to guide the creation of legislation.

The unanimous passage of SB22 during the 81st legislative session showed that there is bipartisan support for these types of regulations. NDOC's swift adoption of the regulations outlined in SB22 showed an ability and willingness on the part of the department to comply with such regulations. Clear and specific regulations of NDOC financial practices are needed to ensure equity in the system.

Leisa Moseley
NV State Director, FFJC
Nick Shepack
NV Deputy State Director, FFJC
Jodi Hocking
Executive Director, Return Strong



Office of the Public Defender

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Darin F. Imlay, Public Defender • F. Virginia Eihacker, Assistant Public Defender



Contact information:

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Clark County Public Defenders Office
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309 S Third Street
Las Vegas, NV 89101-2610

TO: Chair Scheible and Members of the Joint Interim Standing Committee on Judiciary

FROM: Clark County Public Defender (CCPD)

DATE: July 8, 2022

RE: CCPD's Recommendations for Bill Draft Requests

The CCPD respectfully asks the Joint Interim Standing Committee on Judiciary to consider the following areas of Nevada law for prospective bills in the upcoming 2023 Legislative Session:

1. Repeal Death Penalty or at the very least limit the aggravators allowed for seeking a death sentence.
2. Access to Police misconduct files in discovery like NY's Bill 50a that recently passed with the Innocence Project's help and guidance.
3. Fix Credit for time served issues so that people sentenced to prison get all of their credit for time served on all of their cases. This would address issues left open by the recent Nevada Supreme Court opinion *White-Hughley v. State*, 137 Nev. Adv. Op. 47.
4. Decriminalize biking without a headlight/tail-light and make it a civil fine only
5. Eliminate police officer ability to lie to juveniles: any statement to youth made in response to false statements deemed involuntary and inadmissible.

6. Juvenile Certification Changes:

- i. Increase minimum age for certifications
- ii. Limit the type of offense
- iii. Limit to the most serious offense

7. Create Juvenile Probation term limits similar to the term limits that passed in AB 236 from the 2019 Legislative Session.

We would also like to note that we support the Joint Recommendations put forward by CCPD, the Washoe County Public Defender, and Nevada Attorneys for Criminal Justice. Moreover, we are supportive of the individual recommendations each of those organizations put forward for consideration.

Sincerely,

John J. Piro,
Chief Deputy Public Defender
Clark County Public Defenders Office



WASHOE COUNTY

PUBLIC DEFENDER

ATTACHMENT 9

350 S Center St.
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(775) 337-4800
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www.washoecounty.gov/defender

July 8, 2022

Re: Solicitation of Recommendations

To the members of the Joint Interim Standing Committee on Judiciary:

Below please find recommendations for bill draft requests from the Washoe County Public Defender's Office.

- Eliminate the Felony Murder Rule
- Eliminate mandatory \$20 pretrial supervision fee for misdemeanors: **NRS 211A.130**
- Amend S.B. 369 (2021) (NRS 178.4851)
 - During the Conference Committee for S.B. 369, the stakeholders noticed that there were issues with the language that had been corrected in A.B. 424 but not in S.B. 369. The amendments should include requiring notice and a hearing before an arrest on an alleged violation of a condition of release and the ability for the court to modify a condition of release
- Allow alternative providers to provide treatment for individuals to return them to competency, funded by the Division of Child and Family Services
- Modify probation terms for misdemeanors to conform with probation terms for felony and gross misdemeanors as set forth in A.B. 236 (2019).
- Bail Modification: Prohibit the consideration of arrests without convictions during bail hearings
- Currently, judges are permitted to order a flat time of 364 days in jail as a condition of probation, even for mandatory probation and diversion cases (Category E charges). This potential punishment does not comply with the legislative intent set for in A.B. 236. We are requesting to prohibit its use for Category E felonies.
- Probation/Parole revocations:
 - Specifically include the discretion to impose a sentence of up to 30 days for the violation
 - Specific ability for a person to receive credit for the time they served in custody prior to the hearing
- Require a study of the category for all criminal offenses
- Eliminate the use of "mug shots" by law enforcement in publications about an arrested individual
- Provide for the ability of defense counsel to access police misconduct files



- Amend NRS 174.315(6) to permit the Defense attorney to have the ability to issue subpoenas prior to a preliminary hearing to the same abilities as a prosecuting attorney.
- Require the disclosure of witnesses for misdemeanor jury trials
- Require jury trials for driving under the influence charges
- Specify a probable cause standard for reverse NRS 404(b) motions
- Clarify the factors for the court's determination for NRS 404(b)(6) motions and prohibit the use of allegations from when the accused was a juvenile.
- Amend NRS 178.494 to appoint an attorney for a material witness who is alleged as a victim of sexual assault or domestic violence upon the issuance of a material witness
- Juvenile changes (as requested in the legislative hearing):
 - Eliminate a police officer's ability to lie to juveniles: any statement to youth made in response to false statements deemed involuntary and inadmissible
 - Modify S.B. 7 (2021) to a standard that is easier for the parties to understand and permit an invited conduct defense for violations of temporary and extended orders
 - Amend A.B.158 (2021) to specify that it applies to all types of marijuana, including vape pens
 - Stop allowing inclusion of juvenile charges in Presentence Investigation Reports for all adults
 - Amend consent decrees, pursuant to NRS 62C.200.1B, to allow for these to occur at the discretion of the Court.
 - Specify probation term limits for juvenile offenses
- Amend Senate Bill 341 (2005 Legislative Session).
 - In 2005, the Nevada Legislature passed Senate Bill 341, the primary purpose of which was to strengthen Nevada's sex-offender registration laws. In addition to adding multiple sex-offender registration requirements, the bill also changed a number of sex offenses from category B felonies to category A felonies, adding a life tail for these offenses. The way these statutes are now written, they do not provide for a definite term of incarceration, which is the typical sentence for other charge with a life sentence.

Thank you for your consideration of our requests for recommendations for possibly bill draft request for the 2023 Session. Please reach out to us if you have any questions.

John L. Arrascada,
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July 8, 2022

Re: Solicitation of Recommendations

To the members of the Joint Interim Standing Committee on Judiciary:

Below please find the joint recommendations for bill draft requests from the above Public Defender agencies:

- Repeal the Death Penalty – A.B. 395 (2021)
- Amend Challenge to Fight for murder: Modify it back to the pre 1995 amendment (1-10 year sentence)
- Sentencing: Include a presumption of concurrent time for all transactionally related charges resulting from the same incident
- Stipulated Sentences: For stipulated sentences, include a requirement for the court to indicate at Entry of Plea if will not follow negotiations. If court will not follow negotiations, the Defendant is permitted to not enter the plea and the Court must provide written findings why not following the stipulated negotiation.
- Pre-bail discovery (requirement that PC sheet, criminal history, or anything else relied upon by the District Attorney is provided to the defense attorney)

- Discovery for Police misconduct records: Permit the ability for the defense attorney to access to Police misconduct files
- Codify Miranda for adults
- Parole/Probation Revocation hearings: Discretion to impose a term of up to 30 days for a violation and ability to get credit for time served prior to the hearing

Thank you for your consideration of our requests for recommendations for possibly bill draft request for the 2023 Session. Please reach out to us if you have any questions.

Steve Sisolak
Governor

Richard Whitley, MS
Director



DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF CHILD AND FAMILY SERVICES
Helping people. It's who we are and what we do.



Cindy Pitlock, DNP
Administrator

July 8, 2022

Senator Melanie Scheible, Chair
Joint Interim Standing Committee on Judiciary
JUDInterim@lcb.state.nv.gov

RE: BDR Recommendations from the Division of Child and Family Services (DCFS)

Dear Chair Scheible,

Please see attached document from the Division of Child and Family Services (DCFS) outlining two (2) recommendations for changes in Nevada Revised Statutes (NRS) that require a Bill Draft or multiple Bill Drafts. These concepts came forward as a result of new administration changes at DCFS. Due to the internal deadlines having passed for submitting bill drafts, we are submitting these recommendations to the Committee for your consideration.

The recommendations include:

- 1) A juvenile justice definition of custody and a definition of dual custody to differentiate the roles of juvenile justice and child welfare
- 2) A mechanism to release youth from community supervision when all requirements are met, with exception of restitution owed

There are two central reasons for these recommendations.

- 1) The confusion for juvenile justice and child welfare field staff on their roles/responsibilities for working with dual custody youth. Child welfare staff are hesitant to get involved with a juvenile justice involved youth as they are under the impression that juvenile justice staff have the same level of authority.
- 2) Restitution owed increases the time on community supervision by roughly six (6) months longer than what best practice which is six (6) months. Further, this disproportionately affects youth of color.

DCFS believes that these recommendations will improve outcomes for the youth we serve.

Should there be any questions, I can be reached at (775) 546-8051 or sanderson@dcfs.nv.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'S Anderson', with a long horizontal stroke extending to the right.

Sharon Anderson

Deputy Administrator, DCFS

cc: Richard Whitley, Director, Department of Health and Human Services
Cindy Pitlock, Administrator

**BDR Recommendations: Juvenile Justice
Division of Child and Family Services**

1. New recommended definitions of 1) custody (specific to juvenile justice) and 2) dual custody in NRS 62A.

Justification: Many youths find themselves involved in *both* the juvenile justice system and the child welfare system at some point in their lives. These youth tend to face a greater number of risk factors than youth involved in just one system, and those risk factors are typically more complex and paired with fewer protective factors than those of single-system youth. When youth find themselves with open cases in both the dependency and delinquency systems, they are '**dual custody**'.

Further, there is little understanding of what the "other" side does, due to these systems being highly specialized. One area of confusion is the term '**custody**'. Rather than child welfare staff and juvenile justice staff working together for a dual custody youth, there is often confusion as to the roles and responsibilities of the other system. A clear delineation of both systems must be established as well as a mechanism for them to work together. The first step to this is a to define and differentiate what "custody" means for both systems.

- a. *Custody (specific to juvenile justice): Being in the care of a criminal or juvenile justice agency or official or being taken into custody by a law enforcement officer pursuant to the laws of arrest if the juvenile were an adult and the offense is criminal in nature. (Does not mean that a juvenile justice agency or law enforcement agency is the "Custodian" as defined in NRS 432B.060). → Refer to NRS 62C.010.*
- b. *Dual Custody: A juvenile who is simultaneously in the custody of a child welfare agency, as well as ward of the juvenile justice system. When a court orders a commitment because of a delinquency adjudication, this does not affect a child welfare agency's legal rights and responsibilities to provide child welfare services to the child as required in the child welfare case. Therefore, the child welfare agency is the person responsible for the child's welfare. Child welfare is responsible for the juvenile, and juvenile justice would be considered facility supervision who maintains placement services and care while in a facility.*

2. Update to NRS 62E.560: Restitution owed by child parolees.

Justification: Evidence recommends 6 months on community supervision and anything greater is more harmful than good. Restitution ordered and unpaid is a barrier to releasing children from

community supervision at the recommend 6-month mark. Evidence shows that outstanding restitution increases community supervision by months and/or years, with the average length of parole at 11.97 months.

DCFS Juvenile Justice Youth Parole Exits in SFY 21 by Race/Ethnicity and Average, Minimum, and Maximum Length of Stay on Parole

| Race - Ethnicity | Count of Youth | Average of Length of Youth Parole in Months | Min of Length of Youth Parole in Months | Max of Length of Youth Parole in Months |
|--|----------------|---|---|---|
| African American – Non-Hispanic | 121 | 12.6 | 1.2 | 43.5 |
| Hispanic | 79 | 11.0 | 2.4 | 34.9 |
| White – Non-Hispanic | 66 | 10.7 | 1.7 | 55.6 |
| Mixed – Hispanic | 31 | 14.2 | 1.5 | 37.9 |
| Mixed – Non-Hispanic | 17 | 11.4 | 2.0 | 29.7 |
| Native Hawaiian or Pacific Islander – Non-Hispanic | 5 | 12.8 | 8.5 | 20.8 |
| Asian – Non-Hispanic | 2 | 11.1 | 5.1 | 17.2 |
| Grand Total | 321 | 11.97 | 3.2 | 34.22 |

Note: Minimum lengths of stays are mostly due to revocations.

Based on an internal DCFS study regarding length of stay on parole, it was discovered that youth are staying longer on parole due to restitution, and that it is mostly affects minority youth. Changing how restitution is ordered or methods to make victims whole is as step in the right direction to eliminate disparities in parole length of stay and to reduce the overall length of stay to close to 6 months.

NRS 62E.560 Duty of juvenile court to order restitution for certain unlawful acts; responsibilities of parent or guardian of child; community service in lieu of restitution.

1. If a delinquent child has committed an unlawful act that causes physical injury to a victim of the act, the juvenile court shall order the child to provide restitution to the victim for medical expenses incurred as a result of the act.
2. If a delinquent child has committed an unlawful act that damaged or destroyed property owned or possessed by another person, the juvenile court shall order the child to provide restitution to the person who owns or possesses the property.
3. If the child is not able to provide restitution pursuant to this section, the juvenile court shall order the parent or guardian of the child to provide restitution, unless the juvenile court determines that extenuating circumstances exist.

4. If, because of financial hardship, a delinquent child or the parent or guardian of the child, or both, are unable to provide restitution pursuant to this section, the juvenile court shall order the child or the parent or guardian of the child, or both, to perform community service.

5. If the child has met all requirements (except restitution) for release from community supervision, the release shall not be held up for unpaid restitution. The juvenile court shall:

a. For a child under the age of 18, the court shall provide court supervision until the restitution is paid in full, or

b. For a child who reaches the age of majority, prior to their 18th birthday, the court shall order a civil judgment for any unpaid restitution.