

Exhibit B

Item B

AB 579 - 2007

Introduced on: Mar 26, 2007

By Select Committee on Corrections, Parole, and Probation

Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

DECLARED EXEMPT

Fiscal Notes [View Fiscal Notes](#)

Effect on Local Government: *Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.*
Effect on State: Yes.

Most Recent History Action: Chapter 485.
(See full list below) **Effective July 1, 2008.**

Past Hearings

Assembly Select Committee on Corrections, Parole, and Probation	Apr-10-2007	No Action
Assembly Select Committee on Corrections, Parole, and Probation	Apr-12-2007	Amend, and do pass as amended
Assembly Ways and Means	May-15-2007	No Action
Assembly Ways and Means	May-17-2007	Amend, and do pass as amended
Senate Judiciary	May-24-2007	No Action
Senate Judiciary	May-30-2007	Do pass

Votes

Assembly Final Passage	May-22	Yea 42,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0
Senate Final Passage	May-30	Yea 21,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0

Bill Text (PDF)	As Introduced	1st Reprint	2nd Reprint	As Enrolled
Statutes of Nevada 2007	Chapter 485, Sec. 1-4;	Chapter 485, Sec. 4-57		
Amendments (PDF)	Amend. No. 379	Amend. No. 879		

Bill History

Mar 26, 2007	Read first time. Referred to Select Committee on Corrections, Parole, and Probation. To printer.
Mar 28, 2007	From printer. To committee.
Apr 09, 2007	Notice of eligibility for exemption.
Apr 20, 2007	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 379.) To printer.
Apr 23, 2007	From printer. To engrossment. Engrossed. First reprint. Taken from General File. Rereferred to Committee on Ways and Means. To committee. Exemption effective.
May 21, 2007	From committee: Amend, and do pass as amended. Placed on General File. Read third time. Amended. (Amend. No. 879.) To printer.
May 22, 2007	From printer. To reengrossment. Reengrossed. Second reprint. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 42, Nays: None.) To Senate.

Revised July 17, 2008

May 23, 2007	In Senate. Read first time. Referred to Committee on Judiciary. To committee.
May 30, 2007	From committee: Do pass. Declared an emergency measure under the Constitution. Read third time. Passed. Title approved. (Yeas: 21, Nays: None.) To Assembly.
May 31, 2007	In Assembly. To enrollment.
Jun 01, 2007	Enrolled and delivered to Governor.
Jun 13, 2007	Approved by the Governor.
Jun 14, 2007	Chapter 485.

Effective July 1, 2008.



PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

BILL SUMMARY
74th REGULAR SESSION
OF THE NEVADA STATE LEGISLATURE

ASSEMBLY BILL 579

Topic

Assembly Bill 579 relates to sex offenders and offenders of crimes against children.

Summary

Assembly Bill 579 provides for changes in State law regarding sex offenders and certain offenders convicted of crimes against children in conformance with the federal Adam Walsh Child Protection and Safety Act of 2006. The bill requires community notification for sex offenders within three tier levels assigned to offenders based upon the crime committed. All sex offenders and offenders who committed a crime against a child are subject to community notification regardless of tier classification. Offenders must personally register before local law enforcement every 90 days if a Tier III offender, 180 days if a Tier II offender, or every year if a Tier I offender. Offenders must register for the first time before release from prison or within three days after sentencing if the offender is not imprisoned. The bill expands the types of identifying information provided by the community notification Web site and certain juveniles are made subject to offender registration and notification requirements.

Finally, the bill provides a new criminal penalty for persons using information obtained from the Web site to commit a crime and repeals certain State laws inconsistent with the Adam Walsh Act.

Effective Date

This bill is effective on July 1, 2008.

Background Information

The Adam Walsh Act (*Public Law* 109-248, codified at 42 *United States Code* §§ 16901 et seq.) was signed into law on July 27, 2006. A state failing to substantially implement the act within three years of enactment may be subject to a 10 percent reduction in allocation of Edward Byrne Memorial Justice Administration Grant Program monies.

NOTE: After passage of A.B. 579, the Legislature passed Senate Bill 471 which, among other things, made changes relating to sex offender registration. See S.B. 471 for additional information.

LEGISLATIVE HEARINGS

MINUTES AND EXHIBITS

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND
PROBATION**

**Seventy-Fourth Session
April 10, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 4:07 p.m., on Tuesday, April 10, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David R. Parks, Chair
Assemblyman Bernie Anderson, Vice Chair
Assemblyman John C. Carpenter
Assemblyman William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Craig V. Hoffecker, Committee Policy Analyst
Mark Stevens, Fiscal Analyst, Legislative Counsel Bureau
Matt Nichols, Committee Counsel
Deanna Duncan, Committee Manager
Brooke Bishop, Committee Secretary
Olivia Lloyd, Committee Assistant

Minutes ID: 871



OTHERS PRESENT:

John Michela, Deputy Attorney General, Office of the Attorney General
Philip K. (P.K.) O'Neill, Captain, Records and Technology Division,
Department of Public Safety
Frank Adams, Executive Director, Sheriffs' and Chiefs' Association
Kristen Erickson, Chief Deputy District Attorney, Criminal Division,
Washoe County District Attorney's Office
Tonja Brown, Private Citizen, Carson City, Nevada
Jason Frierson, Attorney at Law, Clark County Office of the
Public Defender
Howard Skolnik, Director, Department of Corrections
Pam Del Porto, Supervisory Criminal Investigator, Office of the Inspector
General, Department of Corrections

Chair Parks:

[Roll called.] Today we will be introducing Assembly Bill 579. After we close the hearing on A.B. 579, we will have a work session on three Assembly bills previously introduced. Assembly Bill 574, introduced by the Sheriffs' and Chiefs' Association, has been withdrawn.

We will open the hearing on Assembly Bill 579.

Assembly Bill 579: Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

John Michela, Deputy Attorney General, Office of the Attorney General:

[Read from prepared testimony (Exhibit C) and proposed amendments (Exhibit D).]

Assemblyman Carpenter:

Does a charge of misdemeanor or gross misdemeanor determine the tier level of a sex offender?

John Michela:

The tier levels are based on the type of crime committed. Most misdemeanors and gross misdemeanors are a Tier 1, but there are some felonies included in that as well. The differences are set out in Sections 22 through 24 of A.B. 579.

Assemblyman Carpenter:

On page 17, lines 28 and 30 of the bill, where it mentions "parent of a child," could we add the word "guardian"?

John Michela:

I believe that would be a policy decision for this Committee, but I do not see the Attorney General's Office (AGO) having a problem with that.

Assemblyman Horne:

Do you know the approximate dollar amount of the grant you mentioned?

John Michela:

The amount is not set out in the Adam Walsh Act. There is mention of the grant in Section 126 of the Act, but no specific appropriation or amount is mentioned in that.

Assemblyman Horne:

We have a fiscal note so if the grant money is not there or is too low, our fiscal impact will be higher than the available funds.

Chair Parks:

I share that concern with you. It is a grant that has consistently declined in the amount of money available, similar to the Byrne Grant, which I know keeps declining every year.

John Michela:

I do have the figures for the Byrne Grant. In Fiscal Year (FY) 2006, Nevada received \$2,874,608, so 10 percent of that is a little less than \$300,000 per year if Nevada does not enact the Adam Walsh Act. I thought Mr. Horne was asking about the additional Sex Offender Management Assistance (SOMA) grant Nevada would be eligible for if it were in compliance with the Adam Walsh Act by 2008. This would be a new grant, under Section 126, subsection C of the Adam Walsh Act, which states a jurisdiction, as determined by the Attorney General, that has substantially implemented this title not later than two years after the enactment of this act, is eligible for this bonus payment.

Chair Parks:

Thank you for that explanation. Thank you also for providing us with your prepared testimony and amendments in advance. I would like further explanation of one amendment, under letter C, regarding loop-hole closure in Section 23.

John Michela:

The current language in the bill seems to flow in one direction. If a sex offender commits a crime and is classified as a Tier 1, and then commits a second crime which is a felony, they are automatically bumped up to a Tier 2. But if that same offender committed the felony crime first, and was classified as a Tier 1, then committed a misdemeanor crime second, he would remain a Tier 1. We do not feel that is correct, that is why we have submitted the amendment regarding the closure of this loop-hole. The offender who commits the felony first and then the misdemeanor second still should be bumped up to Tier 2.

Assemblyman Anderson:

Thank you, I understand now.

Assemblyman Horne:

Looking at Section 6 of the bill, paragraphs 3 and 5, dealing with lifetime supervision and those released from lifetime supervision posing no threat to society, what conviction can you get for mental abuse?

John Michela:

This section was taken from another section of the bill and there was no thought of policy from the Attorney General's (AGs) perspective, when including this section. If you wish to modify or remove it, we would have no objection. As far as the crimes encompassed in that section, I can do some research and get back to you.

Assemblyman Horne:

No, that is not necessary. But would our changing the language or content jeopardize Nevada's ability to qualify for the grant you mentioned earlier?

John Michela:

The Adam Walsh Act deals with sex offender registration and community notification. I am not aware of anything that Nevada could or could not do with regard to maintaining offenders under lifetime supervision that would have a negative effect when qualifying for the additional grant.

**Philip K. (P.K.) O'Neill, Captain, Records and Technology Division,
Department of Public Safety:**

I am here to notify you that the Legislative Counsel Bureau (LCB) has asked us to attach a fiscal note to A.B. 579. I wanted to make you aware of that, and let you know that the fiscal note attached to this bill, is mirrored in our Governor's Recommendation (Gov Rec) budget as well.

Assemblyman Anderson:

Can we anticipate that the Ways and Means Committee will reconcile this fiscal note with the Governor's Budget, or will it stand alone?

Chair Parks:

Sometimes we do hold bills, but I believe we will need to ask our fiscal analyst on that.

Mark Stevens, Fiscal Analyst, Legislative Counsel Bureau:

Sometimes bills are held and sometimes they are not. I am pulling up the fiscal note and will review it.

Assemblyman Anderson:

Can the policy portion still move forward if we do not move forward with the budgetary portion?

Chair Parks:

Yes, it looks like the Records and Technology Division is requesting \$165,000 the first year and \$161,000 the second year. We will consider this bill and then leave it for reconciliation with the Ways and Means Committee and the fiscal staff.

Frank Adams, Executive Director, Sheriffs' and Chiefs' Association:

We are in support of A.B. 579, and as you mentioned we have withdrawn our bill A.B. 574. Our one amendment has been included in A.B. 579, in Section 10.5, pertaining to the harassment of those on the registry, from people who have obtained their personal information from the website.

Kristen Erickson, Chief Deputy District Attorney, Criminal Division, Washoe County District Attorney's Office:

I simply wanted to put on the record that my office is in support of A.B. 579.

Tonja Brown, Private Citizen, Carson City, Nevada:

I have a couple of concerns with this bill. First of which is what classifies a Tier 1 offender? An example that comes to mind is urinating in public. If you are seen by a child while urinating in public and subsequently arrested, are you made to register every year for 15 years? I think something about that needs to be addressed. Another concern I have, is there was a case where a young girl, a 12-year-old, was molested and made to take three polygraph tests, which she passed. The District Attorney's (DA) office sat on this case for two years, and in the meantime the offender molested another young girl, this time she was under the age of eight. The new DA is finally charging this man in the first molestation, and I feel that if charges would have been brought against him

sooner there would not have been another little girl molested. The prior DA purposely sat on this case because of a vendetta with the little girl's mother. Can the sheriffs' office or police department step in and arrest this offender in order to keep the public safe? I do not see anything in this bill that specifically would allow another agency or department to do the job of the DA, if the DA does not or is not willing to do their job.

Chair Parks:

I will need to defer that question. Since it is not in this bill, I definitely think you have brought up some interesting points and we will look into them. I do have one question with regard to the act of urinating in public; can that be a sex offense?

John Michela:

I do not believe it is in the list of sex offenses. Ms. Brown is referring to the situation if a child saw a person urinating then they could possibly be charged with lewdness with a minor or a similar charge. Of course if the person truly had no sexual intent, the DA could plea it down.

Assemblyman Anderson:

It really is at the discretion of the DA as to what is or is not considered indecent exposure.

Jason Frierson, Attorney at Law, Clark County Office of the Public Defender:

We are taking a neutral stance on A.B. 579. We did have some questions about the definition of open and gross lewdness, because there are circumstances when the intent is not at all sexual in nature. The other concern would be including juveniles. If they are adjudicated delinquent, if charged as a juvenile, then they would still have a chance to be a kid, unless they commit another crime and are charged as an adult.

Chair Parks:

Those are some good points, thank you. We will go ahead and close the hearing on A.B. 579. We will start our work session with Assembly Bill 37.

Assembly Bill 37: Revises provisions relating to the administration of the Department of Corrections (BDR No. 16-615).

Craig V. Hoffecker, Committee Policy Analyst:

[Read directly from work session document (Exhibit E).]

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Attorney General

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Assistant Attorney General

April 10, 2007

Chairman David Parks and Members
Assembly Select Committee on Corrections, Parole and Probation
401 South Carson Street
Carson City, Nevada 89701

RE: A.B. 579

Dear Chairman Parks and Committee Members:

On behalf of Attorney General Catherine Cortez Masto, I appear before the Committee to testify in support of A.B. 579, a bill drafted by the Office of the Attorney General to help Nevada come into compliance with the Adam Walsh Child Protection and Safety Act ("Adam Walsh Act") and to make Nevada's determination of the level to which the community receives notification of a sex offender more objective.

The Adam Walsh Act was enacted during the Second Session of the 109th Congress (2006), and it set forth several standards for community notification regarding sex offenders. The Adam Walsh Act is one of the first steps to establishing uniformity among the states, as well as creating a national database, concerning sex offender registration and community notification. A state's failure to implement the Adam Walsh Act within three years of its passage will result in a 10 percent reduction in funds received from the Edward Byrne Memorial Justice Administration Grant Program. States that comply with the requirements of the Adam Walsh Act within two years are eligible for some bonus federal funds.

There are four major differences between the requirements of the Adam Walsh Act and current Nevada law. First, the Adam Walsh Act requires web-based community notification concerning Tier 1 sex offenders who committed a sex offense against a minor. Currently, under Nevada law, only local law enforcement is notified of Tier 1 sex offenders. Second, the Adam Walsh Act requires expanding the information available to the public concerning sex offenders listed on Nevada's sex offender community notification web site to include vehicle descriptions and license plate numbers, supervision status (i.e., parole or probation status), and outstanding warrants. Third, the Adam Walsh Act specifies that sex offenders are required to periodically verify their information in person. Under current Nevada law, sex offenders may verify their

Chairman David Parks and Members
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information through the postal system. Fourth, the Adam Walsh Act sets out specific time periods for which offenders are subject to registration. Current Nevada law does not set out specific time periods for which a sex offender is subject to registration. A.B. 579 brings Nevada law into conformity with these requirements of the Adam Walsh Act.

In line with the requirements of the Adam Walsh Act, A.B. 579 makes the process by which a sex offender is assigned a level of community notification more objective. Presently, a case worker for the Central Repository assigns a community notification level to a sex offender after assessing the sex offender under a 20 item assessment scale. The sex offender is then able to appeal the assessment to a reconsideration assessment panel. Often the panel adjusts the points assigned by the case worker through the assessment scale to the sex offender, and, sometimes, the panel will adjust the level of community notification assigned to a sex offender. If A.B. 579 is passed, the factors that determine the level of community notification to which a sex offender is subject will be reduced to one objective factor: number and type of convictions.

The Attorney General respectfully requests the passage of A.B. 579 so that Nevada is in compliance with the requirements of the Adam Walsh Act and so that determinations concerning the level of notification the community receives concerning a sex offender are made more objective.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By: 
JOHN S. MICHELA
Deputy Attorney General
(775)850-4153

JSM:mkm

Proposed Amendment to A.B. 579
Office of the Attorney General

[All Proposed Amendatory Language is Underlined]

A. Sheriffs' and Chiefs' A.B. 574 Merger into A.B. 579

Explanation: The Office of the Attorney General's A.B. 579 and the Sheriffs' and Chiefs' Association's A.B. 574 are very similar. As such, the two intend to merge these two bills into A.B. 579. To complete this merger, a section from A.B. 574 needs to be added to A.B. 579. This amendment to A.B. 579 is set out below.

Section 10.5: Chapter 179B of NRS is hereby amended by adding thereto a new section to read as follows:

In addition to any civil liability provided pursuant to NRS 179B.280, if any person uses information obtained from the community notification website to commit a crime punishable as:

1. A misdemeanor, the person is guilty of a gross misdemeanor.
2. A gross misdemeanor ~~for felony~~, the person is guilty of a category ~~[C]~~ E felony and shall be punished as provided in NRS 193.130.

B. Required Changes to Comply with Adam Walsh Act:

Explanation: Adds "United States" in front of "Attorney General" to subsection 3 of section 41 as it is the United States Attorney General that should be referenced here pursuant to the Adam Walsh Act.

Adds a requirement that an offender not be convicted of any sex offense to the list of requirements for reducing the registrations period to subsection 3 of section 41. This is a registration period reduction requirement from the Adam Walsh Act.

Section 41: NRS 179D.490 is hereby amended to read as follows:
179D.490 1. ~~[A]~~ An offender convicted of a crime against a child or a sex offender shall comply with the provisions for registration for as long as the offender or sex offender resides or is present within this State or is a nonresident offender or sex offender who is a student or worker within this State, unless the period of time during which the offender or sex offender has the duty ~~[of the sex offender]~~ to register is ~~[terminated]~~ reduced pursuant to the provisions of this section.
2. Except as otherwise provided in subsection ~~[5, if a]~~ 3, the full period of registration is:
(a) Fifteen years, if the offender or sex offender is a Tier I offender;
(b) Twenty-five years, if the offender or sex offender is a Tier II offender; and

Assembly committee: Corrections, Parole, and Probation
Exhibit D P. 1 of 5 Date 4/10/07
Submitted by: John Michela

(c) The life of the offender or sex offender, if the offender or sex offender is a Tier III offender,

→ exclusive of any time during which the offender or sex offender is incarcerated or confined.

3. If an offender or sex offender complies with the provisions for registration ~~[for]~~:

(a) For an interval of at least ~~[15]~~ 10 consecutive years, if the offender or sex offender is a Tier I offender; or

(b) For an interval of at least 25 consecutive years, if the offender or sex offender is a Tier III offender adjudicated delinquent for the offense which required registration as an offender or sex offender,

→ during which he is not convicted of an offense ~~[that poses a threat to the safety or well-being of others,]~~ for which imprisonment for more than 1 year may be imposed, is not convicted of a sex offense, successfully completes any periods of supervised release, probation or parole, and successfully completes a sex offender treatment program certified by the State or by the United States Attorney General, the offender or sex offender may file a petition to ~~[terminate his]~~ reduce the period of time during which the offender or sex offender has a duty to register with the district court in whose jurisdiction he resides or, if he is a nonresident offender or sex offender, in whose jurisdiction he is a student or worker. For the purposes of this subsection, registration begins on the date that the Central Repository establishes a record of registration for the offender or sex offender or the date that the offender or sex offender is released, whichever occurs later.

~~[3.]~~ 4. If the offender or sex offender satisfies the requirements of subsection ~~[2,]~~ 3, the court shall hold a hearing on the petition at which the offender or sex offender and any other interested person may present witnesses and other evidence. If the court determines from the evidence presented at the hearing that the offender or sex offender ~~[is not likely to pose a threat to the safety of others,]~~ satisfies the requirements of subsection 3, the court shall ~~[terminate the duty of]~~:

(a) If the offender or sex offender is a Tier I offender, reduce the period of time during which the offender or sex offender is required to register ~~[-]~~.

~~4. If the court does not terminate the duty of the sex offender to register after a petition is heard pursuant to subsections 2 and 3, the sex offender may file another petition after each succeeding interval of 5 consecutive years if the sex offender is not convicted of an offense that poses a threat to the safety or well-being of others.~~

~~5. A sex offender may not file a petition to terminate his duty to register pursuant to this section if the sex offender:~~

~~(a) Is subject to community notification or to lifetime supervision pursuant to NRS 176.0931;~~

~~(b) Has been declared to be a sexually violent predator; or~~

~~(c) Has been convicted of:~~

~~(1) One or more sexually violent offenses;~~

~~(2) Two or more sexual offenses against persons less than 18 years of age;~~

~~(3) Two or more crimes against a child, as defined in NRS 179D.210; or~~

~~(4) At least one of each offense listed in subparagraphs (2) and (3).] by 5 years; and~~

(b) If the offender or sex offender is a Tier III offender adjudicated delinquent for the offense which required registration as an offender or sex offender, reduce the period of time during which the offender or sex offender is required to register from the life of the offender or sex offender to that period of time for which the offender or sex offender meets the requirements of subsection 3.

C. Loophole Closure for Section 23

As written, Section 23 would make an offender who became a Tier I by committing a misdemeanor or gross misdemeanor sex offense (i.e., gross misdemeanor open or gross lewdness) a Tier II offender if the offender were subsequently convicted of a felony sex offense (i.e., incest). However, Section 23 would leave an offender who became a Tier I by committing the same felony (incest) a Tier I if the offender subsequently committed the same misdemeanor or gross misdemeanor sex offense (gross misdemeanor open or gross lewdness) mentioned in the previous example. The below changes to Section 23 would close this loophole.

Section 23: *"Tier II offender" means an offender convicted of a crime against a child or a sex offender, other than a Tier III offender, who is convicted of a crime against a child, which is punishable by imprisonment for more than 1 year, or is convicted of any sexual offense [whose crime against a child or sexual offense is punishable by imprisonment for more than 1 year] and:*

1. If committed against a child, constitutes:

(a) Luring a child pursuant to NRS 201.560, if punishable as a felony;

(b) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;

(c) An offense involving pandering or prostitution pursuant to NRS 201.300 to 201.340, inclusive;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive; or

(e) Any other offense that is comparable to or more severe than the offenses described in 42 U.S.C. § 16911(3);

2. Involves an attempt or conspiracy to commit any offense described in subsection 1;

3. If committed in another jurisdiction, is an offense that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:

(a) A tribal court; or

(b) A court of the United States or the Armed Forces of the United States; or

4. The crime against the child or sexual offense [O]ccurs after the person becomes a Tier I offender if the crime for which the person became a Tier I offender or the offense that is the subject of this section is an offense punishable by imprisonment for more than 1 year.

D. Local Law Enforcement Community Notification

Explanation: A.B. 579, as it is currently written, places the entire responsibility of community notification on the Central Repository. However, current law provides that local law enforcement agencies share some of the responsibilities of community notification. As such, section 29 of A.B. 579 should be amended to reflect the current shared responsibility for community notification. In addition, section 29 of A.B. 579 should be amended to allow local law enforcement agencies discretion to do community notification in addition to the community notification as set out in section 29 as amended.

Section 29: 1. *Except as otherwise provided in subsection ~~[2]~~ 3, the Central Repository shall immediately provide all updated information obtained pursuant to NRS 179D.460 or 179D.480 or section 27 or 28 of this act to:*

- (a) The Attorney General of the United States;*
- (b) The appropriate local law enforcement agencies for each jurisdiction in which the offender or sex offender resides or is a student or worker;*
- (c) ~~[Each school and public housing authority in each jurisdiction in which the offender or sex offender resides or is a student or worker;~~*
- ~~(d)]~~ Each jurisdiction in which the offender or sex offender now resides or is a student or worker and the jurisdiction in which he most recently resided or was a student or worker, if he changes the address at which he resides or is a student or worker;*
- ~~[(e)]~~ (d) Any agency responsible for conducting employment-related background checks pursuant to 42 U.S.C. § 5119a;*
- ~~[(f)]~~ Each agency which provides child welfare services as defined in NRS 432B.030;*
- ~~(g) Volunteer organizations in which contact with children or other vulnerable persons might occur;~~ and*
- ~~[(h)]~~ (e) Any organization, company or person who requests such notification.*

2. *Except as otherwise provided in subsection 3, local law enforcement agencies shall immediately provide all updated information obtained from the Central Repository under subsection 1 to:*

- (a) Each school, religious youth organization, and public housing authority in the local law enforcement agency's jurisdiction;*
 - (b) Each agency which provides child welfare services as defined in NRS 432B.030;*
 - (c) Volunteer organizations in which contact with children or other vulnerable persons might occur; and,*
 - (d) If the offender or sex offender is a Tier III offender or sex offender, to members of the public likely to encounter the offender or sex offender.*
- A local law enforcement agency may provide updated information received from the Central Repository to additional persons and entities, if, in its discretion, the local law enforcement agency determines additional notification is warranted.*

3. An entity or person described in paragraphs (g) and (h) (e) of subsection 1 or paragraph (a) of subsection 2 may request to receive the updated information obtained pursuant to subsection 1 not less frequently than once every 5 business days.

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND
PROBATION**

**Seventy-Fourth Session
April 12, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:59 p.m., on Thursday, April 12, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David R. Parks, Chair
Assemblyman Bernie Anderson, Vice Chair
Assemblyman John C. Carpenter
Assemblyman William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Mark Stevens, Fiscal Analyst
Craig Hoffecker, Committee Policy Analyst
Matt Nichols, Committee Counsel
Deanna Duncan, Committee Manager
Brooke Bishop, Committee Secretary
Olivia Lloyd, Committee Assistant



OTHERS PRESENT:

Philip K. (P.K.) O'Neill, Captain, Records and Technology Division,
Department of Public Safety
John Michela, Deputy Attorney General, Office of the Attorney General

**Assembly Bill 361: Providing for the establishment of certain standards for
state correctional institutions and facilities. (BDR 16-1014)**

Chair Parks:

We have one bill today, A.B. 361, that I would request be rereferred to Ways and Means without a recommendation. It does have a fiscal note attached to it.

ASSEMBLYWOMAN WEBER MOVED TO REREFER
ASSEMBLY BILL 361 TO THE COMMITTEE ON WAYS AND
MEANS WITHOUT RECOMMENDATION.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

THE MOTION CARRIED (ASSEMBLYMAN ANDERSON WAS
ABSENT FOR THE VOTE.)

Chair Parks:

We will start our work session (Exhibit C) with Assembly Bill 579.

**Assembly Bill 579: Makes certain changes to provisions relating to sex
offenders and certain offenders convicted of a crime against a child.
(BDR 14-499)**

Craig Hoffercker, Committee Policy Analyst:

This bill makes changes in Nevada law regarding sex offenders and certain offenders convicted of crimes against a child in conformance with the federal Adam Walsh Child Protection and Safety Act of 2006. The bill requires that such offenders register with law enforcement prior to release from prison or within three days after sentencing if not imprisoned. It also requires offenders to notify law enforcement of changes of name, residence, employment, or student status within three days of the change.

The measure also revises the classification of tier levels for community notification for all sex offenders and offenders convicted of a crime against a child, based upon the specific crime committed by the offender. It requires an

offender to personally register before local law enforcement every year for a tier I offender, every 180 days for a tier II offender, or every 90 days for a tier III offender. The bill extends the full period of registration for offenders, requires offenders of all tier levels to be subject to community notification, and excludes certain consensual sexual conduct from registration and community notification requirements. The bill also revises the community notification website in compliance with the Adam Walsh Act and repeals certain laws inconsistent with federal provisions requiring uniform registration and community notification for juveniles at least 14 years of age adjudicated as delinquent for committing certain sexual offenses.

We have several amendments which were proposed (Exhibit C). The first, submitted by Assemblyman Carpenter, amends Section 16, subsections 1 and 2. It adds "or guardian" after "parent" in each instance. The second amendment would amend the bill to provide that a person using information from the community notification website to commit a misdemeanor is guilty of a gross misdemeanor and to commit a gross misdemeanor is guilty of a category E felony.

The third amendment is to amend the bill to add "United States" before Attorney General in Section 41, subsection 3. It would also add a requirement that an offender not be convicted of a sex offense to the list of requirements for reducing the registration period outlined in subsection 3.

The fourth amendment is to amend Section 41, subsection 3 of the bill to begin counting of registration time of the date of initial offender registration, whether in Nevada or the appropriate agency in another jurisdiction with offender registration requirements.

The fifth amendment is to amend Section 23 of the bill to close the loophole where the order and time of committing the sex crimes has changed the tier level assigned to the offender.

The sixth amendment, which was to amend Section 29 of the bill, reflects shared responsibility of community notification between the Central Repository and local law enforcement and allows local law enforcement discretion to engage in additional community notification.

Chair Parks:

There were some additional proposed amendments. The first one was submitted by Patricia Hines, a private citizen, from Yerington, Nevada (Exhibit D). She had several recommendations.

Craig Hoffecker:

As I understand the proposed amendments, they would, for the most part, keep current statute in effect and would make Nevada no longer in substantial compliance with the Adam Walsh Act. Would legal counsel like to elaborate on that?

Matt Nichols, Committee Counsel:

The proposed amendment language would keep current law in effect. In place of the provisions in A. B. 579, Ms. Hines would like to create a committee to study the need to enact the federal law and then have that committee report back to the 2009 Legislature.

The problem I see with the language is that in order to be in substantial compliance with the Adam Walsh Act, specifically Section 126, and for Nevada to be eligible for Sex Offender Management Assistance (SOMA) grant money, we need to be in compliance within two years of the enactment of the federal law. That bill was signed into law on July 26, 2006. So, the timing alone makes the amendments problematic if we want to be in compliance and also be eligible for the grant money.

Chair Parks:

Ms. Hines asked the question, "Are we moving too fast?" As legal counsel pointed out, I do not think we have very much discretion on this. There is a timeline already in place within the Adam Walsh Act. I would like to thank Ms. Hines for her amendment but we will not be able to pursue it at this time.

There was a second amendment to A.B. 579, submitted by the Department of Public Safety (DPS) (Exhibit E).

Philip K. (P.K.) O'Neill, Captain, Records and Technology Division, Department of Public Safety:

The Records and Technology Division of DPS contains the Sex Offenders Unit (SOU). The SOU currently monitors over 6,000 active registered sex offenders in the state of Nevada. After consultation with SOU employees, it has become clear that to truly reassess tier assignments and to make sure they are properly given under the Adam Walsh Act, we need to delay implementation of A.B. 579 until July 1, 2008 (Exhibit E).

This is similar to what happened during the 2005 Legislative Session. The SOU was given a year in which to do sex offender modifications and reassessments. They did say they could accomplish it sooner, but the cost in overtime was substantial, costing over \$92,000. It took a substantial amount of hours to get the project done within the October 1, 2005, deadline. This bill

would have that enacting date, as well, unless you add the amendment language.

According to the DPS fiscal staff, due to staff restraints and the estimated cost, we would not be able to absorb the expense. There are also modifications that need to be done to the website regarding the tier level assignments before it can go online. If we delay implementation until July 1, 2008, we would still be within the two-year time frame for compliance with the federal Adam Walsh Act. We would have no problems with our SOMA grant money.

Assemblyman Anderson:

Obviously, we are concerned about the ability of the Central Repository to carry out its function in a timely fashion and as cheaply as we can possibly get by with, which seems to be the bottom line, most of the time. Although our legal counsel agrees that the effective date change would still keep Nevada in compliance, are there parts of the bill that we could enact immediately? Or is the whole thing predicated upon the availability of the information through the appropriate site?

P.K. O'Neill:

I will admit that Mr. Michela probably has the best concept of the bill and its intent. I do not have the language fully memorized, like he has. My concerns with enacting parts of it, however, are that it would cause problems in the tier assignments of new people as they came into the system or as they renewed their registration. Which tier of assignment do we place them in on the website if they are a tier I, which is in the bill? We would be creating a little confusion for my staff and also for law enforcement. I would acquiesce, naturally, to whatever the Committee decides or what Mr. Michela suggests.

John Michela, Deputy Attorney General, Office of the Nevada Attorney General:

I have reviewed the Adam Walsh Act, and I think it would cause more problems than benefits to enact different pieces at different times. All of the sex offenders currently have tier levels. Implementing A.B. 579 in phases would be creating two different tier systems for different offenders. The website is based on tier levels as well as the durational requirements for registration. All of that is based on tier levels. I think in order to move forward on that, the SOU would have to reassess all the offenders as to where they belong on the new tier scheme.

Chair Parks:

Our legal counsel concurs.

Assemblywoman Weber:

I just wanted to determine if the Attorney General's Office and DPS have considered arrangements in their budget to be able to handle this. Were there conversations as it was moving forward to plan ahead, so that the requirements could be met, because of the three-year window to be able to enact it?

P.K. O'Neill:

The Legislative Counsel Bureau (LCB) requested we attach a fiscal note to A.B. 579, which we did. We do have a request in the Governor's recommended budget of additional staffing to the SOU. With that additional staffing we can meet the requirements of this bill or any of the other bills that are currently before the Legislature on sex offender modifications. So, the answer would be "yes" under what we have requested being in the Governor's recommended budget. If we lost that for some reason, then it would post a hardship on meeting and maintaining the dictates of the bill.

Assemblyman Anderson:

I suggest we amend and do pass the bill and accept the recommendations as outlined in the Work Session Document (Exhibit C) as well as change the effective date to July 1, 2008, as suggested by Mr. O'Neil. This would give the State the opportunity to put together the materials to carry out the intent of the federal legislation.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 579.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Parks:

We will now move to Assembly Bill 508.

**Assembly Bill 508: Makes various changes to provisions concerning the
Advisory Commission on Sentencing. (BDR 14-1378)**

Craig Hoffercker:

This bill revises provisions related to the current Advisory Commission on Sentencing. Currently, this is chaired by the Attorney General. This bill removes the designation of the Attorney General as chairman of the Commission and provides for the members of the Commission to elect a chairman at the first meeting of each calendar year. The Commission must

DISCLAIMER

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Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

This measure may be considered for action during today's work session.

Assembly Bill 579

Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

Sponsored by: Select Committee on Corrections, Parole, and Probation
Date Heard: April 10, 2007
Fiscal Impact: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility
 Effect on the State: Yes

Assembly Bill 579 makes changes to Nevada law regarding sex offenders and certain offenders convicted of crimes against a child in conformance with the federal Adam Walsh Child Protection and Safety Act of 2006. Assembly Bill 579 requires that such offenders register with law enforcement prior to release from prison or within three days after sentencing if not imprisoned; requires offenders to notify law enforcement of changes in name, residence, employment, or student status within three days of the change; revises classification of tier levels for community notification for all sex offenders and offenders convicted of a crime against a child based upon the specific crime committed by the offender; requires an offender to personally register before local law enforcement every year if a Tier I offender, every 180 days if a Tier II offender, or every 90 days if a Tier III offender; extends the full period of registration for offenders; requires offenders at all tier levels be subject to community notification; excludes certain consensual sexual conduct from registration and community notification requirements; revises the community notification Web site in compliance with the Adam Walsh Act; and repeals certain law inconsistent with federal provisions requiring uniform registration and community notification for juveniles at least 14 years of age adjudicated as delinquent for committing certain sexual offenses.

Amendments: The following conceptual amendments were proposed. A copy of the submitted amendment from the Office of the Attorney General is attached for reference.

1. Crimes Against a Child Defined – Amend Section 16, subsection 1 and subsection 2 to add “or guardian” after parent in each instance.
(Proposed by Assemblyman John Carpenter.)

2. Using Web site to Commit Crime – Amend the bill to provide that a person using information from the community notification Web site to commit a misdemeanor is guilty of a gross misdemeanor and to commit a gross misdemeanor is guilty of a category E felony.
(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

3. Compliance with Adam Walsh Act – Amend the bill to add “United States” before Attorney General in Section 41, subsection 3 and add a requirement that an offender not be convicted of any sex offense to the list of requirements for reducing the registration period in subsection 3.

(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

4. Registration Period – Amend Section 41, subsection 3 of the bill to begin counting of registration time with the date of initial offender registration whether in Nevada or the appropriate agency in another jurisdiction with offender registration requirements.

(Proposed by Chairman David Parks.)

5. Tier Classification for Offenses – Amend Section 23 of the bill to close the “loophole” where the order in time of committing the sex crimes was changing the tier level assigned to the offender.

(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

6. Community Notification of Offenders – Amend Section 29 of the bill to reflect shared responsibility of community notification between the Central Repository and local law enforcement and to allow local law enforcement discretion to engage in additional community notification.

(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

Special Note: The Adam Walsh Act is codified at 42 U.S.C. §§ 16901 et. seq.

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

This measure may be considered for action during today's work session.

Assembly Bill 579

Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

Sponsored by: Select Committee on Corrections, Parole, and Probation
Date Heard: April 10, 2007
Fiscal Impact: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility
Effect on the State: Yes

Assembly Bill 579 makes changes to Nevada law regarding sex offenders and certain offenders convicted of crimes against a child in conformance with the federal Adam Walsh Child Protection and Safety Act of 2006. Assembly Bill 579 requires that such offenders register with law enforcement prior to release from prison or within three days after sentencing if not imprisoned; requires offenders to notify law enforcement of changes in name, residence, employment, or student status within three days of the change; revises classification of tier levels for community notification for all sex offenders and offenders convicted of a crime against a child based upon the specific crime committed by the offender; requires an offender to personally register before local law enforcement every year if a Tier I offender, every 180 days if a Tier II offender, or every 90 days if a Tier III offender; extends the full period of registration for offenders; requires offenders at all tier levels be subject to community notification; excludes certain consensual sexual conduct from registration and community notification requirements; revises the community notification Web site in compliance with the Adam Walsh Act; and repeals certain law inconsistent with federal provisions requiring uniform registration and community notification for juveniles at least 14 years of age adjudicated as delinquent for committing certain sexual offenses.

Amendments: The following conceptual amendments were proposed. A copy of the submitted amendment from the Office of the Attorney General is attached for reference.

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(Proposed by Assemblyman John Carpenter.)

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(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

3. Compliance with Adam Walsh Act – Amend the bill to add “United States” before Attorney General in Section 41, subsection 3 and add a requirement that an offender not be convicted of any sex offense to the list of requirements for reducing the registration period in subsection 3.

(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

4. Registration Period – Amend Section 41, subsection 3 of the bill to begin counting of registration time with the date of initial offender registration whether in Nevada or the appropriate agency in another jurisdiction with offender registration requirements.

(Proposed by Chairman David Parks.)

5. Tier Classification for Offenses – Amend Section 23 of the bill to close the “loophole” where the order in time of committing the sex crimes was changing the tier level assigned to the offender.

(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

6. Community Notification of Offenders – Amend Section 29 of the bill to reflect shared responsibility of community notification between the Central Repository and local law enforcement and to allow local law enforcement discretion to engage in additional community notification.

(Proposed by John Michela, Deputy A.G., Office of the Attorney General.)

Special Note: The Adam Walsh Act is codified at 42 U.S.C. §§ 16901 et. seq.

Proposed Amendment to A.B. 579
Including the Amendment Requested by Chairman Parks

Office of the Attorney General

[All Proposed Amendatory Language is Underlined]
[Chairman Parks' Amendment is **Underlined and in Bold**]

A. Sheriffs' and Chiefs' A.B. 574 Merger into A.B. 579

Explanation: The Office of the Attorney General's A.B. 579 and the Sheriffs' and Chiefs' Association's A.B. 574 are very similar. As such, the two intend to merge these two bills into A.B. 579. To complete this merger, a section from A.B. 574 needs to be added to A.B. 579. This amendment to A.B. 579 is set out below.

Section 10.5: *Chapter 179B of NRS is hereby amended by adding thereto a new section to read as follows:*

In addition to any civil liability provided pursuant to NRS 179B.280, if any person uses information obtained from the community notification website to commit a crime punishable as:

- 1. A misdemeanor, the person is guilty of a gross misdemeanor.*
- 2. A gross misdemeanor ~~for felony~~, the person is guilty of a category [C] E felony and shall be punished as provided in NRS 193.130.*

B. Changes to Section 41(3) of A.B. 579

(1) Chairman Parks' Requested Amendment

Explanation: Recognizes that an offender may have become subject to registration and community notification in another jurisdiction and, as such, establishes an offender's registration date as the date on which he registered with the Central Repository or the appropriate entity in another state.

(2) Required Changes to Comply with Adam Walsh Act:

Explanation: Adds "United States" in front of "Attorney General" to subsection 3 of section 41 as it is the United States Attorney General that should be referenced here pursuant to the Adam Walsh Act.

Adds a requirement that an offender not be convicted of any sex offense to the list of requirements for reducing the registrations period to subsection 3 of section 41. This is a registration period reduction requirement from the Adam Walsh Act.

Section 41: NRS 179D.490 is hereby amended to read as follows:

179D.490 1. ~~[A]~~ An offender convicted of a crime against a child or a sex offender shall comply with the provisions for registration for as long as the offender or sex offender resides or is present within this State or is a nonresident offender or sex offender who is a student or worker within this State, unless the period of time during which the offender or sex offender has the duty ~~[of the sex offender]~~ to register is ~~[terminated]~~ reduced pursuant to the provisions of this section.

2. Except as otherwise provided in subsection ~~[5, if a]~~ 3, the full period of registration is:

- (a) Fifteen years, if the offender or sex offender is a Tier I offender;
- (b) Twenty-five years, if the offender or sex offender is a Tier II offender; and
- (c) The life of the offender or sex offender, if the offender or sex offender is a Tier III offender,

→ exclusive of any time during which the offender or sex offender is incarcerated or confined.

3. If an offender or sex offender complies with the provisions for registration ~~[for]~~:

- (a) For an interval of at least ~~[15]~~ 10 consecutive years, if the offender or sex offender is a Tier I offender; or
- (b) For an interval of at least 25 consecutive years, if the offender or sex offender is a Tier III offender adjudicated delinquent for the offense which required registration as an offender or sex offender,

→ during which he is not convicted of an offense ~~[that poses a threat to the safety or well-being of others,]~~ for which imprisonment for more than 1 year may be imposed, is not convicted of a sex offense, successfully completes any periods of supervised release, probation or parole, and successfully completes a sex offender treatment program certified by the State or by the United States Attorney General, the offender or sex offender may file a petition to ~~[terminate his]~~ reduce the period of time during which the offender or sex offender has a duty to register with the district court in whose jurisdiction he resides or, if he is a nonresident offender or sex offender, in whose jurisdiction he is a student or worker. For the purposes of this subsection, registration begins on the date that the Central Repository, or the appropriate agency in another jurisdiction, establishes a record of registration for the offender or sex offender or the date that the offender or sex offender is released, whichever occurs later.

~~[3.]~~ 4. If the offender or sex offender satisfies the requirements of subsection ~~[2,]~~

3, the court shall hold a hearing on the petition at which the offender or sex offender and any other interested person may present witnesses and other evidence. If the court determines from the evidence presented at the hearing that the offender or sex offender ~~[is not likely to pose a threat to the safety of others,]~~ satisfies the requirements of subsection 3, the court shall ~~[terminate the duty of]~~:

- (a) If the offender or sex offender is a Tier I offender, reduce the period of time during which the offender or sex offender is required to register ~~[~~

4. If the court does not terminate the duty of the sex offender to register after a petition is heard pursuant to subsections 2 and 3, the sex offender may file another petition after each succeeding interval of 5 consecutive years if the sex

~~offender is not convicted of an offense that poses a threat to the safety or well-being of others.~~

~~5. A sex offender may not file a petition to terminate his duty to register pursuant to this section if the sex offender:~~

~~(a) Is subject to community notification or to lifetime supervision pursuant to NRS 176.0931;~~

~~(b) Has been declared to be a sexually violent predator; or~~

~~(c) Has been convicted of:~~

~~(1) One or more sexually violent offenses;~~

~~(2) Two or more sexual offenses against persons less than 18 years of age;~~

~~(3) Two or more crimes against a child, as defined in NRS 179D.210; or~~

~~(4) At least one of each offense listed in subparagraphs (2) and (3).] by 5 years; and~~

~~(b) If the offender or sex offender is a Tier III offender adjudicated delinquent for the offense which required registration as an offender or sex offender, reduce the period of time during which the offender or sex offender is required to register from the life of the offender or sex offender to that period of time for which the offender or sex offender meets the requirements of subsection 3.~~

C. Loophole Closure for Section 23

As written, Section 23 would make an offender who became a Tier I by committing a misdemeanor or gross misdemeanor sex offense (i.e., gross misdemeanor open or gross lewdness) a Tier II offender if the offender were subsequently convicted of a felony sex offense (i.e., incest). However, Section 23 would leave an offender who became a Tier I by committing the same felony (incest) a Tier I if the offender subsequently committed the same misdemeanor or gross misdemeanor sex offense (gross misdemeanor open or gross lewdness) mentioned in the previous example. The below changes to Section 23 would close this loophole.

Section 23: *"Tier II offender" means an offender convicted of a crime against a child or a sex offender, other than a Tier III offender, who is convicted of a crime against a child, which is punishable by imprisonment for more than 1 year, or is convicted of any sexual offense [whose crime against a child or sexual offense is punishable by imprisonment for more than 1 year] and:*

1. If committed against a child, constitutes:

(a) Luring a child pursuant to NRS 201.560, if punishable as a felony;

(b) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;

(c) An offense involving pandering or prostitution pursuant to NRS 201.300 to 201.340, inclusive;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive; or

(e) Any other offense that is comparable to or more severe than the offenses described in 42 U.S.C. § 16911(3);

C7

2. Involves an attempt or conspiracy to commit any offense described in subsection 1;

3. If committed in another jurisdiction, is an offense that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:

(a) A tribal court; or

(b) A court of the United States or the Armed Forces of the United States; or

4. The crime against the child or sexual offense [Q] occurs after the person becomes a Tier I offender if the crime for which the person became a Tier I offender or the offense that is the subject of this section is an offense punishable by imprisonment for more than 1 year.

D. Local Law Enforcement Community Notification

Explanation: A.B. 579, as it is currently written, places the entire responsibility of community notification on the Central Repository. However, current law provides that local law enforcement agencies share some of the responsibilities of community notification. As such, section 29 of A.B. 579 should be amended to reflect the current shared responsibility for community notification. In addition, section 29 of A.B. 579 should be amended to allow local law enforcement agencies discretion to do community notification in addition to the community notification as set out in section 29 as amended.

Section 29: 1. Except as otherwise provided in subsection ~~[2]~~ 3, the Central Repository shall immediately provide all updated information obtained pursuant to NRS 179D.460 or 179D.480 or section 27 or 28 of this act to:

(a) The Attorney General of the United States;

(b) The appropriate local law enforcement agencies for each jurisdiction in which the offender or sex offender resides or is a student or worker;

~~(c) [Each school and public housing authority in each jurisdiction in which the offender or sex offender resides or is a student or worker;~~

~~(d)]~~ Each jurisdiction in which the offender or sex offender now resides or is a student or worker and the jurisdiction in which he most recently resided or was a student or worker, if he changes the address at which he resides or is a student or worker;

~~[(e)]~~ (d) Any agency responsible for conducting employment-related background checks pursuant to 42 U.S.C. § 5119a;

~~[(f)]~~ Each agency which provides child welfare services as defined in NRS 432B.030;

~~(g) Volunteer organizations in which contact with children or other vulnerable persons might occur;]~~ and

~~[(h)]~~ (e) Any organization, company or person who requests such notification.

2. Except as otherwise provided in subsection 3, local law enforcement agencies shall immediately provide all updated information obtained from the Central Repository under subsection 1 to:

(a) Each school, religious youth organization, and public housing authority in the local law enforcement agency's jurisdiction;

(b) Each agency which provides child welfare services as defined in NRS 432B.030;

(c) Volunteer organizations in which contact with children or other vulnerable persons might occur; and,

(d) If the offender or sex offender is a Tier III offender or sex offender, to members of the public likely to encounter the offender or sex offender.

→ A local law enforcement agency may provide updated information received from the Central Repository to additional persons and entities, if, in its discretion, the local law enforcement agency determines additional notification is warranted.

3. An entity or person described in paragraph~~s (g) and (h)~~ (e) of subsection 1 or paragraph (a) of subsection 2 may request to receive the updated information obtained pursuant to subsection 1 not less frequently than once every 5 business days.

AB 579

Parks, David Assemblyman

From: JPHINES854@aol.com
 Sent: Thursday, April 12, 2007 11:29 AM
 To: Parks, David Assemblyman
 Subject: For 4-12-07 Meeting Amendment to 579

(not accepting
amendments)

Patricia A Hines
 21 Shirley Lane
 Yerington NV 89447
 Jphines854aol.com
 702 375- 2402

April 12, 2007

To: Members of the Select Committee on Corrections, Parole and Probation
 Re: Amendments to AB 579

PROPOSED AMENDMENTS

1. Withhold the elimination of NRS 1790 until the next legislative session, allowing the new requirements to be put in place as quickly as the Nevada entities can handle the load.
2. Request that a transition commission be activated
 - a. to be a contact lesion with the federal assistance people who will be set up.
 - b. to act as a facilitating point with involved agencies, including local law enforcements and the general public. The commission would hold regularly scheduled meetings (bimonthly suggested) for communication, and coordination of problems. Membership representation should include but not be limited to: Criminal History Repository, Probation and Parole, Sheriff and Chiefs Association, Department of Correction , Judges
 - c. to make a report early on in the next legislative session.

RATIONALE

Are we trying to do something with a major impact on our state too fast? Something with this fiscal magnitude and lack of specifics from Federal powers should have been one of the first bills out for consideration this legislative session. Due to it not having a BDR until March 26th there was insufficient time for the bill to be heard, digested and discussed properly.

. Even the AG representative could not answer some of the committee member questions. Many issues requiring procedures at the state level are not spelled out or worded in a manner that our law enforcement can

4/12/2007

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Assembly committee: Corrections, Parole, and Probation
 Exhibit 0 P. 1 of 2 Date 4/12/07
 Submitted by: Patricia Hines

continue there effective efforts to make a smooth transition to all the federal requirements.

The AG presentation for support of the bill did not cover many complex issues. I suspect he and I were part of a few present who had even seen Public Law 109-248 Nevada has three years to be in compliance with the federal regulation before our state would be docked a 10 percent monetary penalty from grants, many of which must be applied for and awarded. We must remember that most special grants funds are time limited.. Remember Casa Grande and Going Home Prepared problems when the federal funding ran out.

See what's free at AOL.com.

AB579

Hoffecker, Craig

From: Parks, David Assemblyman
Sent: Thursday, April 12, 2007 2:41 PM
To: 'PK O'Neill'
Cc: Hoffecker, Craig
Subject: RE: AB 579 Requested amendment

PK,

Staff is reviewing.

Dave

From: PK O'Neill [mailto:pkoneill@dps.state.nv.us]
Sent: Thursday, April 12, 2007 2:11 PM
To: Parks, David Assemblyman; Anderson, Bernie Assemblyman; Horne, William Assemblyman; McClain, Kathy Assemblywoman; Carpenter, John Assemblyman; Weber, Valerie Assemblywoman
Cc: Lisa Young; Julie Butler; Diane McCord; Catherine Krause; Kathy Comba; Kathalie Koche; jsmichel@ag.state.nv.us; PK O'Neill
Subject: AB 579 Requested amendment

Chairman Parks,

The Department of Public Safety, Records and Technology Division most respectfully requests an amendment to the Attorney Generals "Adam Walsh" bill, AB 579, changes to sex offender registration. It is our request to have the effective date of the bill to become law as July 1, 2008.

The bill will require the re-assessment of all 6,000 plus active registered sex offenders managed by the Division's Sex Offender Unit to ensure appropriate tier assignment and inclusion on the State's Sex Offender web page. Additionally some programming modifications will be required to the web site to meet the bill's intent. I have spoken with Deputy Attorney General John Michela about our proposal for implementation date change. He does not see any down fall to the delay as the State will still be within the desired two year compliance to the Federal Adam Walsh Act.

The bill is scheduled for work session today in our Select Committee on Corrections, Parole and Probation. I will be present during the meeting to answer any questions the committee members might have.

Thank you,
 PK O'Neill

Capt. Philip K. O'Neill
 Nevada DPS, Records and Technology Division
 808 W. Nye Lane
 Carson City, NV 89703
 Ofc: 775-684-6222
 Fax: 775-684-6265
pkoneill@dps.state.nv.us

4/12/2007

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Assembly committee: Corrections, Parole, and Probation
 Exhibit E P. 1 of 1 Date 4/12/07
 Submitted by: Phillip K. O'Neill

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Fourth Session
May 15, 2007**

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 1:43 p.m., on Tuesday, May 15, 2007, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblyman John W. Marvel
Assemblywoman Kathy McClain
Assemblyman David R. Parks
Assemblywoman Debbie Smith
Assemblywoman Valerie E. Weber

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Assembly District No. 31
Assemblywoman Bonnie Parnell, Assembly District No. 40

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Larry Peri, Principal Deputy Fiscal Analyst
Jeff Ferguson, Program Analyst
Eric King, Program Analyst
Joi Davis, Program Analyst
Linda Blevins, Committee Secretary
Patti Adams, Committee Assistant

Chairman Arberry called the meeting to order and opened the hearing on Assembly Bill (A.B.) 161 (R1).



associated with the administrative duties of the Commission. In the opinion of Mr. Parks, the bill was an important part of addressing the overall concerns regarding the prison population and the operation of the criminal justice system.

Assemblywoman Buckley agreed with the concept of the bill but believed it possible to perform the responsibilities for less than the \$50,000 requested.

Mr. Parks stated the Sentencing Commission could probably perform most of the functions required without the \$50,000; however, the Commission would be considerably more effective by hiring a consultant.

Responding to a concern voiced by Chairman Arberry, Ms. Buckley clarified that there would not be a conflict with the Parole Board as the duties of the Commission would be to evaluate sentencing structure for inequities, study recidivism concerns, and consider other relevant issues.

Mr. Parks envisioned a number of recommendations coming forth from the Sentencing Commission to the next legislative session.

Mr. Larry Struve, representing the Religious Alliance in Nevada (RAIN), supported A.B. 508 (R1) and commended the Select Committee on Corrections, Parole, and Probation for their work preparing this and other bills. Mr. Struve believed that reestablishment of the Advisory Commission on Sentencing focused on the critical problem of prison overcrowding. The RAIN was concerned about three main issues: (1) 97 percent of the prisoners would eventually be released; (2) there was a high recidivism rate; and (3) the projection of \$1.9 billion for new prison construction over the next ten years was unacceptable.

Ms. Pat Hines, private citizen, expressed support for A.B. 508 (R1). Ms. Hines believed a member of the Parole Board should be a member of the proposed Commission and that the Commission would be better served by the formation of subcommittees to study the issues.

There being no further questions or comments, Chairman Arberry closed the hearing on A.B. 508 (R1) and opened the hearing on A.B. 579 (R1).

Assembly Bill 579 (1st Reprint): Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

Mr. John S. Michela, Deputy Attorney General, Gaming Division, presented the Committee with an overview of Assembly Bill (A.B.) 579 (R1). Mr. Michela submitted prepared testimony (Exhibit P) which he summarized for the Committee. Mr. Michela noted that the bill had been drafted by the Office of the Attorney General to bring Nevada into compliance with the Adam Walsh Child Protection and Safety Act (Adam Walsh Act), the first step toward a nationwide sex offender registry.

According to Mr. Michela, a state's failure to implement the Adam Walsh Act would result in a 10 percent reduction in funds received from the Edward Byrne Memorial Justice Assistance Grant (JAG). If Nevada was in compliance with the requirements of the Adam Walsh Act by 2008, it would be eligible for bonus federal funds created by the Adam Walsh Act.

Mr. Michela proposed an amendment (Exhibit Q) for A.B. 579 (R1). The original amendment as drafted did not contain language to close the loophole contained

in the original bill that would have allowed offenders convicted of the same crimes to be subject to different levels of community notification. Also, the original amendment as drafted inadvertently deleted a portion of Section 29 that should not have been deleted.

Responding to Chairman Arberry's question, Captain P. K. O'Neill, Department of Public Safety (DPS), Records and Technology Division, explained that although the fiscal note was attached, it was included in the Records and Technology Division budget which was passed earlier. Therefore, the fiscal note should be removed from the bill.

Mr. Frank Adams, Executive Director, Nevada Sheriff and Chief's Association, expressed support for A.B. 579 (R1) but acknowledged there were local minimal costs dealing with incarceration addressed in Section 10.5, and the Association was willing to accept those costs.

Ms. Pat Hines, private citizen, spoke in opposition to A.B. 579 (R1) because the bill repealed Sections 62F and 179D. Ms. Hines submitted prepared testimony (Exhibit R) to the Committee supporting her position.

Assemblywoman Buckley noticed Section 21 covered statutory sexual seduction pursuant to *Nevada Revised Statutes* (NRS) 200.368, but she was uncertain whether the protection was the same as under previous state law.

Mr. Michela noted that protection of statutory sexual seduction offenders who committed their offense against someone within four to five years of their age range and whether or not they would be put on the sexual offender registry website was addressed in the bill. He was not able to immediately quote the relevant section of the proposed legislation but stated he would research the issue and provide the information to Ms. Buckley.

There being no further comments or questions, Chairman Arberry closed the hearing on A.B. 579 (R1) and open the hearing on A.B. 586.

Assembly Bill 586: Revises certain provisions governing the regulation and taxation of the sales and use of cigarettes and other tobacco products. (BDR 32-515)

Ms. Victoria Thimmesch Oldenburg, Senior Deputy Attorney General, presented a brief overview of Assembly Bill (A.B.) 586 which had no fiscal note. A proposed amendment (Exhibit S) removed a provision requiring other tobacco products to be treated the same as cigarettes for purposes of age verification for internet sales. Ms. Oldenburg pointed out that Section 5 brought other tobacco products into the definition of contraband counterfeit products. The purpose of the bill was to allow the Department of Justice and its agents to seize contraband and counterfeit other tobacco products.

Ms. Oldenburg further noted Sections 6 and 7 of the bill criminalized the possession and sale of contraband and counterfeit other tobacco products. Section 8 regarded inspections and gave the Department and the Attorney General's Office the authority to inspect for believed violations regarding contraband and counterfeit other tobacco products. Section 9 expressly allowed for the seizure of such product and provided a mechanism for the seizure and disposition of the seized product.

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STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

CATHERINE CORTEZ MASTO
Attorney General

RANDAL R. MUNN
Assistant Attorney General

May 15, 2007

Chairman Morse Arberry and Members
Assembly Ways and Means
401 South Carson Street
Carson City, Nevada 89701

RE: A.B. 579

Dear Chairman Arberry and Committee Members:

On behalf of Attorney General Catherine Cortez Masto, I appear before the Committee to testify in support of A.B. 579, a bill drafted by the Office of the Attorney General to help Nevada come into compliance with the Adam Walsh Child Protection and Safety Act ("Adam Walsh Act") and to make Nevada's determination of the level to which the community receives notification of a sex offender more objective.

The Adam Walsh Act was enacted during the Second Session of the 109th Congress (2006), and it set forth several standards for community notification regarding sex offenders. The Adam Walsh Act is one of the first steps to establishing uniformity among the states, as well as creating a national database, concerning sex offender registration and community notification. A state's failure to implement the Adam Walsh Act within three years of its passage will result in a 10 percent reduction in funds received from the Edward Byrne Memorial Justice Administration Grant Program. For federal fiscal year 2006, Nevada state and local entities received \$2,874,608 in Byrne Grant funds. States that comply with the requirements of the Adam Walsh Act within two years are eligible for some bonus federal funds.

There are four major differences between the requirements of the Adam Walsh Act and current Nevada law. First, the Adam Walsh Act requires web-based community notification concerning Tier 1 sex offenders who committed a sex offense against a minor. Currently, under Nevada law, only local law enforcement is notified of Tier 1 sex offenders. Second, the Adam Walsh Act requires expanding the information available to the public concerning sex offenders listed on Nevada's sex offender community notification web site to include vehicle descriptions and license plate numbers, supervision status (i.e., parole or probation status), and outstanding warrants. Third, the Adam Walsh Act specifies that sex offenders are required to periodically verify their

information in person. Under current Nevada law, sex offenders may verify their information through the postal system. Fourth, the Adam Walsh Act sets out specific time periods for which offenders are subject to registration. Current Nevada law does not set out specific time periods for which a sex offender is subject to registration. A.B. 579 brings Nevada law into conformity with these requirements of the Adam Walsh Act.

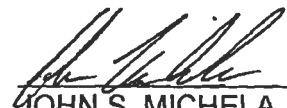
In line with the requirements of the Adam Walsh Act, A.B. 579 makes the process by which a sex offender is assigned a level of community notification more objective. Presently, a case worker for the Central Repository assigns a community notification level to a sex offender after assessing the sex offender under a 20 item assessment scale. The sex offender is then able to appeal the assessment to a reconsideration assessment panel. Often the panel adjusts the points assigned by the case worker through the assessment scale to the sex offender, and, sometimes, the panel will adjust the level of community notification assigned to a sex offender. If A.B. 579 is passed, the factors that determine the level of community notification to which a sex offender is subject will be reduced to one objective factor: number and type of convictions.

The Attorney General respectfully requests the passage of A.B. 579 so that Nevada is in compliance with the requirements of the Adam Walsh Act and so that determinations concerning the level of notification the community receives concerning a sex offender are made more objective.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:


JOHN S. MICHELA
Deputy Attorney General
(775)850-4153

JSM:mkm

Corrections for Previously Adopted Attorney General Proposed
Amendment to A.B. 579 Sections 23 and 29

Office of the Attorney General

[All Proposed Amendatory Language is Underlined]

Sec. 23. "Tier II offender" means an offender convicted of a crime against a child or a sex offender, other than a Tier III offender, whose crime against a child is punishable by imprisonment for more than 1 year or whose sexual offense:

1. If committed against a child, constitutes:

(a) Luring a child pursuant to NRS 201.560, if punishable as a felony;

(b) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;

(c) An offense involving pandering or prostitution pursuant to NRS 201.300 to 201.340, inclusive;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive; or

(e) Any other offense that is comparable to or more severe than the offenses described in 42 U.S.C. § 16911(3);

2. Involves an attempt or conspiracy to commit any offense described in subsection 1;

3. If committed in another jurisdiction, is an offense that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:

(a) A tribal court; or

(b) A court of the United States or the Armed Forces of the United States; or

4. Is committed after the person becomes a Tier I offender if any of the person's sexual offenses constitute [the crime committed by the person for which he became a Tier I offender is] an offense punishable by imprisonment for more than 1 year.

Sec. 29. 1. Except as otherwise provided in subsection ~~[2,]~~ 3, the Central Repository shall immediately provide all updated information obtained pursuant to NRS 179D.460 or 179D.480 or section 27 or 28 of this act to:

(a) The Attorney General of the United States;

(b) The appropriate local law enforcement agencies for each jurisdiction in which the offender or sex offender resides or is a student or worker;

(c) Each jurisdiction in which the offender or sex offender now resides or is a student or worker and the jurisdiction in which he most recently resided or was a student or worker, if he changes the address at which he resides or is a student or worker, ~~[and]~~

(d) Any agency responsible for conducting employment-related background checks pursuant to 42 U.S.C. § 5119a; and

(e) Any organization, company or person who requests such notification.

2. Except as otherwise provided in subsection 3, a local law enforcement agency:

(a) Shall immediately provide all updated information obtained from the Central Repository pursuant to subsection 1 to:

(1) Each school, religious organization, youth organization and public housing authority in which the offender or sex offender resides or is a student or worker;

(2) Each agency which provides child welfare services as defined in NRS 432B.030;

(3) Volunteer organizations in which contact with children or other vulnerable persons might occur; and

(4) If the offender or sex offender is a Tier III offender, members of the public who are likely to encounter the offender or sex offender; and

(b) May provide any updated information obtained from the Central Repository pursuant to subsection 1 to any other person or entity whom the law enforcement agency determines warrants such notification.

3. An entity or person described in paragraph ~~(d)~~(e) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 may request to receive the updated information obtained pursuant to subsection 1 not less frequently than once every 5 business days.

Patricia A. Hines
21 Shirley Lane
Yerington NV. 89447
Jphines854@aol.com
702 375-2402

May 10, 2007

To: Assembly Ways and Means Committee

Re: Concerns and Recommendations for AB 579

I understand that your primary task today is probably to look at this bill from a fiscal aspect. Considering the magnitude of the bill your projection for a dollar amount seems almost unsurmountable at this time because all of the needed federal requirements not being in place. My educated guess is that less than six of us in this room have actually looked at the 63 loaded pages of PL 109-248, the Adam Walsh Child Protection and Safety Act of 2006, which was approved July 27, 2006. Then there is NRS 579 to be ingrained with the new public law. I have a complete copy of PL 109-248.

Why was this his bill not been brought forward earlier in this session? Certainly more time for discussion would have helped in appropriate decision making.

In researching articles and talking to individuals in Washington D.C. and other states on PL 109-248 it seems there are two major components that should be in place before the states can begin much of their work toward compliance. The first component is that the federal standardized standards and procedures for reevaluating all the Community Notification Tier Levels in the country need to be compiled, approved, and distributed. Seeing no specific stipulation for a change I am assuming that our Central Criminal Repository will have sufficient staff to do an unrushed and just assignment to the over 11,000 sex offenders in our state. Sex offenders will still come and go during this transition period until the goal of a comprehensive national system for registration of sex offenders is fully in place. States are required to pass laws regarding registration and community notification, but laws based on what criteria and standards right now is the question.

The second component needed by the states is software for countrywide internet connection. A fear is that the federal grant money for this will not be accessible for all states and jurisdictions needing financial help and that the bulk of the cost will fall to states.

The Wetterling Act of 1994 is the forerunner on registration and community notification of sex offenders at the Federal level. It will remain in effect, not being repealed until July 27, 2009. This allows 3 years for a transition period with procedures and guidelines in place. Yet we in Nevada are being asked in AB 579 to repeal Nevada's current standards and procedures on this subject during this legislative session. Fortunately an effective date for this bill is currently not place.

I am requesting an effective date be included in the bill that most of the laws listed in Section 56, namely, NRS 62A, 62F and 179D not be repealed until July 27, 2009 taking the action of Congress as our model.

Kindly attach this correspondence to the meeting minutes.

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R-1

Committee on Ways & Means

Date: 5-15-07 Exhibit: R

Submitted By: P. Hines, artizer

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Fourth Session
May 17, 2007**

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:06 a.m., on Thursday, May 17, 2007, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblyman John W. Marvel
Assemblywoman Kathy McClain
Assemblyman David R. Parks
Assemblywoman Debbie Smith
Assemblywoman Valerie E. Weber

STAFF MEMBERS PRESENT:

Mark W. Stevens, Assembly Fiscal Analyst
Barron Brooks, Committee Secretary
Patricia Adams, Committee Assistant



Assemblyman Parks mentioned the possibility of providing the \$50,000 during the interim. There was another recommendation made to include a member of the Board of Parole Commissioners.

ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 508 (R1), WITH THE INCLUSION OF THE REPRESENTATIVE FOR THE BOARD OF PAROLE COMMISSIONERS.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYWOMAN BUCKLEY WAS NOT PRESENT FOR THE VOTE.)

* * * * *

Assembly Bill 579 (1st Reprint): Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

Mr. Stevens explained that the bill amended the *Nevada Revised Statutes* to comply with the "Adam Walsh Child Protection and Safety Act of 2006." If the State did not pass the bill, federal grant funding of approximately \$2.9 million per year may be at risk. Pat Hines, a Yerington resident, wished to move the effective date past the current biennium. There were also technical amendments proposed by the Attorney General which had been provided to the Committee. There had been a question to the Criminal History Repository, whether there was sufficient funding in their budget to comply with the provisions in the bill. The repository had now indicated that they had sufficient funding.

Assemblyman Parks agreed with the technical amendments submitted by the Attorney General's Office.

ASSEMBLYWOMAN LESLIE MOTIONED TO AMEND AND DO PASS AS AMENDED A.B. 579 (R1) WITH THE ATTORNEY GENERAL'S AMENDMENTS.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (ASSEMBLYWOMAN BUCKLEY WAS NOT PRESENT FOR THE VOTE.)

* * * * *

Assembly Bill 586: Revises certain provisions governing the regulation and taxation of the sales and use of cigarettes and other tobacco products. (BDR 32-515)

Mr. Stevens stated the bill had been submitted by the Attorney General and related to the enforcement of tobacco products. The amendments that had been offered substantially shortened the bill. The bill would still add the language "cigarettes and other tobacco products" to the NRS, to allow for enforcement of "other tobacco products."

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 24, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:19 a.m. on Thursday, May 24, 2007, in Room 2149 of the Legislative Building, Carson City, 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 Mark E. Amodei, Chair
Senator Mike McGinness
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)
Senator Dennis Nolan (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Kathy McClain, Assembly District No. 15
Assemblyman David R. Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

Nancy K. Ford, Administrator, Division of Welfare and Supportive Services,
Department of Health and Human Services
John S. Michela, Deputy Attorney General, Office of the Attorney General
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association

Senate Committee on Judiciary
May 24, 2007
Page 3

assistance. Our anticipated liabilities are approximately \$750,000 a year and the state's share is approximately \$495,000 a year.

CHAIR AMODEI:
Was A.B. 596 sent to the Assembly Committee on Ways and Means?

MS. FORD:
The Assembly amended A.B. 596 to have the noncustodial parent pay the fee, which created a fiscal impact. It went to the Assembly Committee on Ways and Means where it was re-amended back to the custodial parent as introduced in the original bill. There is a sunset provision; therefore, if Congress should repeal this particular provision of the Deficit Reduction Act, A.B. 596 would also sunset.

SENATOR CARE MOVED TO DO PASS A.B. 596.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

* * * * *

CHAIR AMODEI:
The hearing is opened on A.B. 579.

ASSEMBLY BILL 579 (2nd Reprint): Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

JOHN S. MICHELA (Deputy Attorney General, Office of the Attorney General):
I will read my prepared testimony (Exhibit D).

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):
The Nevada Sheriffs' and Chiefs' Association brought A.B. 574 and realized it duplicated A.B. 579; therefore, A.B. 574 was withdrawn.

Senate Committee on Judiciary
May 24, 2007
Page 4

ASSEMBLY BILL 574: Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-328)

Assembly Bill 574 was the result of a meeting of investigators throughout the state involved in monitoring and tracking sex offenders. There was a lot of concern about it. The Adam Walsh Child Protection and Safety Act came from the federal government which met our requirements for tracking, monitoring and tiering systems; therefore, we support A.B. 579 as it came out of the Assembly.

P. K. O'NEILL (Chief, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety):

We support A.B. 579. The attached fiscal note (Exhibit E) has been addressed in the Governor's recommended budget and approved by the money committees in the Legislature. Additional personnel were requested to address our increasing workload of sex offenders. We receive approximately 1,000 additional offenders each year. We currently track approximately 6,000 inactive sex offenders; active means they are registered and tracked. They may be in custody, out of state, in hospitals or in some other capacity of a controlled nature; however, they are still tracked.

SENATOR MCGINNESS:

Are the proposed increases covered in your budget?

MR. O'NEILL:

Yes.

SENATOR HORSFORD:

Although I support A.B. 579, I am working with Mr. Wilkinson to obtain additional information regarding registration of sex offenders in general. I request not moving on this bill until I have an opportunity to review more closely the information coming from the Legal Division of the Legislative Counsel Bureau. I need to be comfortable with all aspects and understand exactly how I will vote.

CHAIR AMODEI:

Due to the time frame and with the support of the Committee, I would prefer to move A.B. 579 with a proviso that you reserve the right to amend it later.

Senate Committee on Judiciary
May 24, 2007
Page 5

SENATOR HORSFORD:

I respect that, Mr. Chair. I do not want to delay or not support the bill's provisions; however, if there are other issues to be addressed, I would hope there would first be a discussion within the Committee, not on the Senate Floor.

CHAIR AMODEI:

We will meet tomorrow morning at the Bar on the Senate Floor to take a motion on A.B. 579. Mr. Wilkinson, will Senator Horsford have his requested information by that time?

BRAD WILKINSON (Chief Deputy Legislative Counsel):
I will take care of it.

ASSEMBLYMAN DAVID R. PARKS (Assembly District No. 41):

I am Chair of the Assembly Select Committee on Corrections, Parole and Probation and support A.B. 579.

CHAIR AMODEI:

Would you confer with Senator Horsford to ascertain whether his concerns were covered by your Committee?

ASSEMBLYMAN PARKS:

We have been attempting to meet for several days; I will contact him as soon as possible.

PATRICIA A. HINES:

I will read my prepared testimony (Exhibit F) in opposition to A.B. 579. I appreciate Senator Horsford's comments because some areas need more review and information before a decision is made on this bill.

CHAIR AMODEI:

The hearing is closed on A.B. 579 and opened on A.B. 226.

ASSEMBLY BILL 226 (2nd Reprint): Makes various changes relating to crimes against older persons. (BDR 18-162)

ASSEMBLYWOMAN KATHY MCCLAIN (Assembly District No. 15):

I will read my prepared testimony (Exhibit G) in support of A.B. 226. The original bill mandated certain positions in the Attorney General's Office. We met

Senate Committee on Judiciary
May 24, 2007
Page 6

with the Attorney General's Office and they agreed if certain positions were not mandated, they would work with existing staff which would help get A.B. 226 going, even on a limited basis at the present time.

RANDAL MUNN (First Assistant Attorney General and Legislative Liaison, Office of the Attorney General):

On behalf of Attorney General Catherine Cortez Masto, we want to express our support for A.B. 226. The protection of our seniors is one of the highest priorities of the Attorney General. We see a growing need as the population shifts to baby boomers entering that aging stage. We take this area of the law seriously and support any enhancements that will bring necessary resources. We are reevaluating the priorities of our Office and this will be one of them.

SENATOR WIENER MOVED TO DO PASS A.B. 226.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

CHAIR AMODEI:

I would like to report that A.B. 579 is exempt; therefore, the Committee does not have to act on it by tomorrow. Senator Horsford, obtain the information needed to make you comfortable and the Committee will act on A.B. 579 by Monday or Tuesday next week. If you feel it would be better to convene the Committee rather than meet at the Bar on the Senate Floor, please let me know; otherwise, we will meet at the Bar.

The hearing is opened on A.B. 508.

ASSEMBLY BILL 508 (2nd Reprint): Makes various changes to provisions concerning the Advisory Commission on Sentencing. (BDR 14-1378)

LINDA J. EISSMANN (Committee Policy Analyst):

I forwarded some questions to the Fiscal Division of the Legislative Counsel Bureau and have not yet heard from them. With regard to the sentencing specifics in A.B. 510, the bill is in the Assembly Committee on Ways and

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STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

CATHERINE CORTEZ MASTO
Attorney General

RANDAL R. MUNN
Assistant Attorney General

May 24, 2006

Chairman Mark Amodei and Members
Senate Judiciary
401 South Carson Street
Carson City, Nevada 89701

RE: A.B. 579

Dear Chairman Amodei and Committee Members:

On behalf of Attorney General Catherine Cortez Masto, I appear before the Committee to testify in support of A.B. 579, a bill drafted by the Office of the Attorney General to help Nevada come into compliance with the Adam Walsh Child Protection and Safety Act ("Adam Walsh Act") and to make Nevada's determination of the level to which the community receives notification of a sex offender more objective.

The Adam Walsh Act was enacted during the Second Session of the 109th Congress (2006), and it set forth several standards for community notification regarding sex offenders. The Adam Walsh Act is one of the first steps to establishing uniformity among the states, as well as creating a national database, concerning sex offender registration and community notification. A state's failure to implement the Adam Walsh Act within three years of its passage will result in a 10 percent reduction in funds received from the Edward Byrne Memorial Justice Administration Grant Program. For federal fiscal year 2006, Nevada state and local entities received \$2,874,608 in Byrne Grant funds. States that comply with the requirements of the Adam Walsh Act within two years are eligible for some bonus federal funds.

There are four major differences between the requirements of the Adam Walsh Act and current Nevada law. First, the Adam Walsh Act requires web-based community notification concerning Tier 1 sex offenders who committed a sex offense against a minor. Currently, under Nevada law, only local law enforcement is notified of Tier 1 sex offenders. Second, the Adam Walsh Act requires expanding the information available to the public concerning sex offenders listed on Nevada's sex offender community notification web site to include vehicle descriptions and license plate numbers, supervision status (i.e., parole or probation status), and outstanding warrants. Third, the Adam Walsh Act specifies that sex offenders are required to periodically verify their information in person. Under current Nevada law, sex offenders may verify their

Chairman Mark Amodei and Members
Page 2

information through the postal system. Fourth, the Adam Walsh Act sets out specific time periods for which offenders are subject to registration. Current Nevada law does not set out specific time periods for which a sex offender is subject to registration. A.B. 579 brings Nevada law into conformity with these requirements of the Adam Walsh Act.


In line with the requirements of the Adam Walsh Act, A.B. 579 makes the process by which a sex offender is assigned a level of community notification more objective. Presently, a case worker for the Central Repository assigns a community notification level to a sex offender after assessing the sex offender under a 20 item assessment scale. The sex offender is then able to appeal the assessment to a reconsideration assessment panel. Often the panel adjusts the points assigned by the case worker through the assessment scale to the sex offender, and, sometimes, the panel will adjust the level of community notification assigned to a sex offender. If A.B. 579 is passed, the factors that determine the level of community notification to which a sex offender is subject will be reduced to one objective factor: number and type of convictions.

The Attorney General respectfully requests the passage of A.B. 579 so that Nevada is in compliance with the requirements of the Adam Walsh Act and so that determinations concerning the level of notification the community receives concerning a sex offender are made more objective.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:


JOHN S. MICHELA
Deputy Attorney General
(775)850-4153

JSM:mkm

BDR 14-499
AB 579

EXECUTIVE AGENCY
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: April 4, 2007

Agency Submitting: Records & Technology, Public Safety

Items of Revenue or Expense, or Both	Fiscal Year 2006-07	Fiscal Year 2007-08	Fiscal Year 2008-09	Effect on Future Biennia
CAT 01-Personnel Services (Expense)		\$144,644	\$157,785	\$315,570
CAT 04 - Operating Expenses (Expense)		\$3,741	\$1,872	\$3,744
CAT 04 - Operating Expenses (Expense)		\$962	\$962	\$1,924
CAT 05 - Equipment (Expense)		\$5,991		
CAT 26 - Information Services (Expense)		\$10,126	\$954	\$1,908
Total		\$165,464	\$161,573	\$323,146

Explanation

(Use Additional Sheets of Attachments, if required)

All costs associated with this fiscal note are included in the Governor recommended budget. This bill is intended to bring the State of Nevada into compliance with the Federal Adam Walsh Act.

Section 40 of this bill requires the Central Repository's Sex Offender Unit to increase offender registration verifications depending on the offender's tier level designation. Increasing the reporting will increase the number of staff hours required to complete these verifications. The Governor recommended budget includes decision unit E-253 in Budget Account 4709, which proposes three additional staff for the Sex Offender Registry Unit. The expenses associated with that decision unit are outlined in this fiscal note.

In addition, office supply and postal charges related to these verifications would be increased. This has been estimated to be \$962 per year.

Name Lisa Young
Title ASO I

DEPARTMENT OF ADMINISTRATION'S COMMENTS

Agency's response appears reasonable.

Date Monday, April 02, 2007

Name Elizabeth L. Barber
Title Deputy Director Administration

FN 6122

EXHIBIT E Senate/Committee on Judiciary

Date: 5/24/07 Page 1 of 1
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Patricia A. Hines

Yerington NV 89447
jphines854@aol.com
702 375-2402

May 24, 2007

To: Members of the Senate Judiciary Committee

Re: Concerns and Recommendations for AB 579

I presume I am one of very few in this room who has reviewed and studied the 63 pages of PL 109-248, the Adam Walsh Child Protection and Safety Act approved July 27, 2006. This law was codified to provide a national system for registration, community notification, and tracking of sex offenders & offenders against children. There are good points to the bill. As written I am in opposition to AB 579.

In researching articles and talking to individuals in Washington and other states on PL 109-248 it appears there are two major components that should be in place before the states can begin much of their work toward compliance. The first vital component lacking is the federal standards and procedures for reevaluating ALL those in the country with a Community Notification Tier Level convicted of a sexual assault and for offenders against children. The standards are in the compiling stage, yet to be approved and distributed to all the states. Rescinding all of Nevada's current standards and procedures for Tier Level notification assessments prior to the new comprehensive national ones being in useable form does not seem realistic. States are required to pass laws regarding registration and community notification but to do so they must have the criteria for compliance in place before they can proceed toward the goal.

Apparently the federal decision makers considered this factor. The Wetterling Act of 1994, the forerunner of PL 109-248 will remain in effect, not being repealed, until July 27, 2009. We Nevadans are being asked in AB579 to repeal the majority of Nevada's current standards and procedures on this subject during this legislative session. This would not prevent Nevada from working toward compliance before July 2009. Just leave the Nevada laws on the subject in place until we actually have the criteria and have the new federally compliant laws workable.

The second component needed for states to work toward compliance is the software for countrywide internet connection. Judging from past experience with federal grants, when they are offered, it is for a short time and seldom available to all jurisdictions who need the fiscal help for this type of large undertaking. One can and should anticipate that a bulk of the cost will fall to states.

It is unfortunate that this bill was not presented to our legislators earlier in the session than late March. There just has not been time to review, compile and discuss possible amendments from a variety of perspectives to set procedures for a smooth transition into compliance of PL 109-248.

I doubt there are many, if any, others that like NV require registration of sex offenders go back to sexual assault convictions from July 1, 1956. PL 109-248 offers some options for states to include or omit from their website information to the public. None are suggested as omissions for Nevada. Had more individuals reviewed the PL, the name of employers of sex offenders would not be included.

I am requesting that the NF
not be repealed until July

EXHIBIT F Senate Committee on Judiciary
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RS 62A, 62B, and 179D

ss.

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 30, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:14 a.m. on Wednesday, May 30, 2007, in Room 2149 of the Legislative Building, Carson City, 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 Mark E. Amodei, Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington, Vice Chair (Excused)
Senator Terry Care (Excused)

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

John S. Michela, Deputy Attorney General, Office of the Attorney General
P.K. O'Neill, Chief, Records and Technology Division, Central Repository for
Nevada Records of Criminal History, Department of Public Safety
Cotter C. Conway, Washoe County Public Defender
Jason M. Frierson, Clark County Public Defender's Office

CHAIR AMODEI:

The hearing is opened on Assembly Bill (A.B.) 579.

Senate Committee on Judiciary
May 30, 2007
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ASSEMBLY BILL 579 (2nd Reprint): Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)

SENATOR HORSFORD:

In reference to page 39, section 46, subsection 2 of A.B. 579, constituents in my district asked:

- What was the need for the provision?
- How can an individual remove his name from the Nevada Sex Offender Registry if it is put there in error?

JOHN S. MICHELA (Deputy Attorney General, Office of the Attorney General):
Section 46, subsection 2 of A.B. 579 defines a person who commits a consensual sexual act against an individual at least 13 years of age when the offender is not more than four years older than the victim as not committing a sexual offense. This comes from two sources. The main source is from the Adam Walsh Child Protection and Safety Act of 2006, which defines it as not a sexual offense.

During the sex offender summit, held October 2005 with local law enforcement agencies, there was concern regarding a situation in which an 18-year-old convicted of statutory sexual seduction against a 15-year-old married the victim, was married for a significant amount of time, had a family but was still subject to the stigma of being on the Nevada Sex Offender Registry and community notification, as well as having their children subject to that stigma. That concern is also reflected in the federal Adam Walsh Act.

A person listed on the Nevada Sex Offender Registry who believes he does not belong there can have his name removed by contacting the Registry and explaining the reason. The Registry will look into the matter; if they feel competent in their analysis of the law's response to that individual, they will either remove him from the Registry or explain why he should remain on it.

If the Registry does not feel competent in its legal analysis, the request is forwarded to the Registry's counsel for analysis. The counsel will contact the individual directly or the Registry will respond after it confers with counsel. The

Senate Committee on Judiciary
May 30, 2007
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individual will then be removed from the Registry or receive an explanation as to the reason he must remain on it.

SENATOR HORSFORD:

Is a record kept of individuals who request or petition to remove their name from the Nevada Sex Offender Registry if it is there due to an error? Is there also a record kept of the reason their name must remain on the Nevada Sex Offender Registry?

P.K. O'NEILL (Chief, Records and Technology Division, Central Repository for Nevada Records of Criminal History, Department of Public Safety):

Files are kept on all former and current sex offenders. There are over 12,000 files. When a person is removed from the Nevada Sex Offender Registry, the file is inactive and no longer tracked.

SENATOR HORSFORD:

Is the Central Repository for Nevada Records of Criminal History required to keep a separate log of complaints or petitions of individuals who have requested their names be removed from the Registry because they feel they are on it erroneously? Does the log also indicate which names have been removed and which names have remained and the reason they have remained?

MR. O'NEILL:

There is no such log.

SENATOR HORSFORD:

What is the appeal process for individuals who have requested their name be removed from the Nevada Sex Offender Registry and the Central Repository does not agree?

MR. O'NEILL:

Let me explain how an individual is put on the Nevada Sex Offender Registry. The Nevada Sex Offender Registry is based on a person voluntarily going to their local law enforcement office and reporting that as a convicted sex offender, he is there to register. If an individual comes from out of state and is unsure whether or not to register, local agencies have them fill out the registry and forward the information to the Central Repository. The Central Repository then does an evaluation, which includes their tier level assessment before their name goes on the site or is included in the Registry.

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Individuals usually argue they are improperly tiered. There is an appeal process including a reassessment hearing which is part of the Open Meeting Law and conducted monthly. There are usually 8 to 12 hearings a month. The individual can go to the court process if they still feel their issue needs to be readdressed. I have never heard of an individual voluntarily registering as a sex offender who was not a sex offender. That would be an anomaly rather than the norm. Normally, an individual argues their tier assessment is incorrect and their name does not belong in the file.

SENATOR HORSFORD:

There is confusion among the general public as to whether this law refers to offenders, advocates of offenders or family members of offenders. The question comes up frequently. Due to new laws being enacted for registration of offenders, residency requirements and where sex offenders are allowed to congregate, it is important to understand what tier they belong to in order to avoid a serious violation if they are not in compliance. Therefore, I will take it upon myself to accept your invitation to visit the Central Repository to educate myself in order to explain to my constituents who brought their concerns to me.

CHAIR AMODEI:

If any Committee members wish to request a Committee bill draft request for the 2009 Legislative Session before the end of this Legislative Session, we will meet at the Bar on the Senate Floor for that purpose.

SENATOR NOLAN MOVED TO DO PASS A.B. 579.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE AND WASHINGTON WERE ABSENT FOR THE VOTE.)

* * * * *

CHAIR AMODEI:

The hearing is opened on A.B. 510.

ASSEMBLY BILL 510 (2nd Reprint): Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

FLOOR ACTIONS

AMENDMENTS ON SECOND READING FLOOR VOTES AND STATEMENTS OTHER ACTIONS

NOTE: THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS* ([HTTP://WWW.LEG.STATE.NV.US/SESSION/74TH2007/JOURNAL/](http://www.leg.state.nv.us/session/74th2007/journal/)), WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

ASSEMBLY DAILY JOURNAL

THE SEVENTY-FIFTH DAY

CARSON CITY (Friday), April 20, 2007

Assembly called to order at 11:10 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rabbi Jacob Benzaquen.

Our Lord, God and Rock of all Ages, who rules all universes, infinite and awesome beyond praise and description; source of all blessing, bless our great country and the great state of Nevada—for its government, legislature, leaders, and for all who exercise just and rightful authority.

Creator of all and who renews creation day after day, revive and renew our spirits and souls as they have been sorely tested these last few days. Grant peace to the families and friends who lost their loved ones in Virginia, who passed like grass which flourished for a day. Heal us, O Lord, and we shall be healed, God of healing. Be merciful to us, O God, for it is only with You where we can truly take refuge. We shall take shelter under your wings until calamities have passed. You are good to all and compassionate to all creatures. Teach us to use all of our days that we may attain a heart of wisdom

Psalm 15: "O Lord, who shall dwell in your sanctuary? Who shall abide upon Your holy mountain? He who lives integrity, does what is right, and speaks the truth in his heart; who has no slander upon their tongue, who does no evil to his fellow man, and bitterness he not places on his neighbor. In his eyes, a vile person is abhorred, but he honors those who revere the Lord. He takes an oath, even to his own harm and does not change. He does not lend money at usurious interest; he does not take a bribe against the innocent. Whoever does these, shall stand firm forever. And let us say:

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Ocegüera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

~~[4.]~~ 5. Any other person or establishment that is licensed to engage in wagering pursuant to title 41 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering.

~~[Sec. 20.]~~ Sec. 26. 1. This section and section ~~[18]~~ 24 of this act become effective upon passage and approval.

2. Sections 1 to ~~[17]~~ 23, inclusive, and ~~[19]~~ 25 of this act become effective on July 1, 2007.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 579.

Bill read second time.

The following amendment was proposed by the Select Committee on Corrections, Parole, and Probation:

Amendment No. 379.

“SUMMARY—Makes certain changes to provisions relating to sex offenders and certain offenders convicted of a crime against a child. (BDR 14-499)”

“AN ACT relating to crimes; revising provisions relating to the registration of and community notification concerning sex offenders and certain offenders convicted of a crime against a child; providing a penalty; and providing other matters properly relating thereto.”

Legislative Counsel’s Digest:

In 2006, the federal “Adam Walsh Child Protection and Safety Act of 2006” (“the Act”) was enacted to protect the public by establishing a comprehensive national system for the registration of sex offenders and offenders against children which includes, without limitation, the establishment of a uniform nationwide system for the registration of and community notification concerning such offenders. (42 U.S.C. §§ 16901 et seq.) In furtherance of this purpose, the Act requires each state to enact laws regarding the registration of and community notification concerning sex offenders and offenders convicted of a crime against a child which conform to the provisions of the Act. (42 U.S.C. § 16912) States which do not enact such laws by the date provided in the Act may not receive certain federal funds. (42 U.S.C. §§ 16924-16925)

Existing law requires all sex offenders and offenders convicted of a crime against a child to register with certain local law enforcement agencies. (NRS 179D.230, 179D.240, 179D.450, 179D.460) Section 27 of this bill adds a new requirement that each such offender register for the first time before he is released from prison or, if he is not imprisoned for the offense, within 3

days after he is sentenced for the offense. Existing law requires an offender to appear in person at a local law enforcement agency to notify the appropriate agencies of any change in his address and to provide updated information to certain agencies. (NRS 179D.250, 179D.470) Section 28 of this bill expands this duty to apply when there is a change to certain other information contained in an offender's registration record. Existing law requires each offender to mail a verification form to the Central Repository for Nevada Records of Criminal History each year to verify the information in his registration record. (NRS 179D.260, 179D.480) Section 40 of this bill removes this annual requirement and instead requires each offender to appear in person at a local law enforcement agency to register at least once every 90 days, every 180 days or every year, depending on whether the offender is designated as a Tier I, Tier II or Tier III offender.

Existing law provides that, under certain circumstances, an offender may petition for termination of his duty to register. (NRS 179D.270, 179D.490) Section 41 of this bill revises existing law to further restrict which offenders may petition for termination of the duty to register.

Existing law provides for community notification of sex offenders depending upon whether the sex offender is designated as a Tier 1, Tier 2 or Tier 3 sex offender. (NRS 179D.600-179D.800) Such designation is based upon an assessment of the sex offender's risk of recidivism, with Tier 1 sex offenders being the least likely to reoffend and Tier 3 sex offenders being the most likely to reoffend. (NRS 179D.720, 179D.730) The assessment must be conducted in compliance with the guidelines and procedures for community notification established by the Attorney General. Sections 31-42 of this bill revise existing law to require that all sex offenders and offenders convicted of a crime against a child be subject to community notification regardless of their designated tier level. Section 56 of this bill repeals the existing tier levels and the existing laws concerning the guidelines and procedures for community notification established by the Attorney General. (NRS 179D.710, 179D.720, 179D.730) Sections 22-24 of this bill establish three new tiers for registration and community notification for all sex offenders and offenders convicted of a crime against a child. The determination as to which tier level an offender is assigned is based upon the specific crime committed by the offender.

Section 13 of this bill revises provisions regarding the content and format of the community notification website maintained by the Department of Public Safety to ensure compliance with the requirements of federal law. (NRS 179B.250) Section 10.5 of this bill provides a new criminal penalty, not required by the Act, for any person who uses information obtained from the community notification website to commit a crime.

The Act provides that the new uniform system of registration and community notification does not apply to certain offenses which involve consensual sexual conduct. Section 46 of this bill amends existing law to exclude such offenses from the new registration and community notification requirements.

The Act prospectively repeals certain provisions of federal law concerning sex offenders who are designated “sexually violent predators.” For consistency with the Act, section 56 of this bill repeals existing state laws which apply to sexually violent predators. (NRS 179D.055, 179D.060, 179D.360, 179D.370, 179D.380, 179D.420, 179D.430, 179D.510, 179D.530) The Act also provides that the new uniform system of registration and community notification applies to juveniles who are at least 14 years of age and who have been adjudicated delinquent for committing certain sexual offenses. Section 56 of this bill repeals certain existing state laws which are inconsistent with such provisions of the federal law. (NRS 62A.050, 62F.210, 62F.230, 62F.240, 62F.250, 179D.800) Sections 16-21 of this bill reenact certain provisions of existing law to restructure chapter 179D of NRS as a result of the changes to the chapter as a result of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4, the court, at sentencing, shall order that:

(a) The name, social security number, date of birth and any other information identifying the defendant be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) A biological specimen be obtained from the defendant pursuant to the provisions of this section and that the specimen be used for an analysis to determine the genetic markers of the specimen.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the biological specimen to be obtained from the defendant. The Division shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917. Any cost that is incurred to obtain a

biological specimen from a defendant pursuant to this subsection is a charge against the county in which the defendant was convicted and must be paid as provided in NRS 176.0915.

4. Except as otherwise provided in subsection 5, the provisions of subsection 1 apply to a defendant who is convicted of:

- (a) A category A felony;
- (b) A category B felony;
- (c) A category C felony involving the use or threatened use of force or violence against the victim;
- (d) A crime against a child as defined in ~~[NRS 179D.210;]~~ section 16 of this act;
- (e) A sexual offense as defined in ~~[NRS 179D.410;]~~ section 21 of this act;
- (f) Abuse or neglect of an older person or a vulnerable person pursuant to NRS 200.5099;
- (g) A second or subsequent offense for stalking pursuant to NRS 200.575;
- (h) An attempt or conspiracy to commit an offense listed in paragraphs (a) to (g), inclusive;
- (i) Failing to register with a local law enforcement agency as a convicted person as required pursuant to NRS 179C.100, if the defendant previously was:
 - (1) Convicted in this State of committing an offense listed in paragraph (a), (b), (c), (f), (g) or (h); or
 - (2) Convicted in another jurisdiction of committing an offense that would constitute an offense listed in paragraph (a), (b), (c), (f), (g) or (h) if committed in this State;
- (j) Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS ~~[179D.240;]~~ 179D.450; or
- (k) Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. A court shall not order a biological specimen to be obtained from a defendant who has previously submitted such a specimen for conviction of a prior offense unless the court determines that an additional sample is necessary.

Sec. 2. NRS 176.0923 is hereby amended to read as follows:

176.0923 "Crime against a child" has the meaning ascribed to it in ~~[NRS 179D.210;]~~ section 16 of this act.

Sec. 3. NRS 176.0925 is hereby amended to read as follows:

176.0925 "Sexual offense" has the meaning ascribed to it in ~~[NRS 179D.410;]~~ section 21 of this act.

Sec. 4. NRS 176.0926 is hereby amended to read as follows:

176.0926 1. If a defendant is convicted of a crime against a child, the court shall, following the imposition of a sentence:

(a) Notify the Central Repository of the conviction of the defendant, so the Central Repository may carry out the provisions for registration of the defendant pursuant to NRS ~~[179D.230.]~~ 179D.450.

(b) Inform the defendant of the requirements for registration, including, but not limited to:

(1) The duty to register initially pursuant to section 27 of this act;

(2) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS ~~[179D.240.]~~ 179D.450;

~~[(2)]~~ (3) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

~~[(3)]~~ (4) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

~~[(4)]~~ (5) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

~~[(5)]~~ (6) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form ~~[confirming]~~ stating that the requirements for registration have been explained to him ~~[-]~~ and that he understands the requirements for registration.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS ~~[179D.200 to 179D.290, inclusive.]~~ 179D.010 to 179D.550, inclusive, and sections 16 to 30, inclusive, of this act.

Sec. 5. NRS 176.0927 is hereby amended to read as follows:

176.0927 1. If a defendant is convicted of a sexual offense, the court shall, following the imposition of a sentence:

(a) Notify the Central Repository of the conviction of the defendant, so the Central Repository may carry out the provisions for registration of the defendant pursuant to NRS 179D.450.

(b) Inform the defendant of the requirements for registration, including, ~~{but not limited to:}~~ without limitation:

(1) The duty to register initially pursuant to section 27 of this act;

(2) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.460;

~~{{2}}~~ (3) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

~~{{3}}~~ (4) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

~~{{4}}~~ (5) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

~~{{5}}~~ (6) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form stating that the requirements for registration have been explained to him ~~{-}~~ and that he understands the requirements for registration.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS ~~{179D.350}~~ 179D.010 to 179D.550, inclusive ~~{-}~~, and sections 16 to 30, inclusive, of this act.

Sec. 6. NRS 176.0931 is hereby amended to read as follows:

176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.

3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall grant a petition for release from a special sentence of lifetime supervision if:

(a) The person has complied with the requirements of the provisions of NRS ~~[179D.350]~~ 179D.010 to 179D.550, inclusive ~~[;]~~, and sections 16 to 30, inclusive, of this act;

(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least 10 consecutive years after his last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a person professionally qualified to conduct psychosexual evaluations, if released from lifetime supervision.

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless he is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS ~~[179D.350 to 179D.800, inclusive.]~~ 179D.010 to 179D.550, inclusive, and sections 16 to 30, inclusive, of this act.

5. As used in this section:

(a) "Offense that poses a threat to the safety or well-being of others" ~~[has the meaning ascribed to it in NRS 179D.060.]~~ includes, without limitation:

(1) An offense that involves:

(I) A victim less than 18 years of age;

(II) A crime against a child as defined in section 16 of this act;

(III) A sexual offense as defined in section 21 of this act;

(IV) A deadly weapon, explosives or a firearm;

(V) The use or threatened use of force or violence;

(VI) Physical or mental abuse;

(VII) Death or bodily injury;

(VIII) An act of domestic violence;

(IX) Harassment, stalking, threats of any kind or other similar acts;

(X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or

(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.

(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(b) "Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.

(c) "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(2) An attempt to commit an offense listed in subparagraph (1); or

(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

Sec. 7. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 3, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime;

(b) Reside at a location only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of his current address;

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer;

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant;

(e) Participate in and complete a program of professional counseling approved by the Division;

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance;

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant;

(h) Abstain from consuming, possessing or having under his control any alcohol;

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 2;

(j) Not use aliases or fictitious names;

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant;

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact;

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend;

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication;

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant;

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant;

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant; and

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his

enrollment at an institution of higher education. As used in this paragraph, “institution of higher education” has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

4. As used in this section, “sexual offense” has the meaning ascribed to it in ~~[NRS 179D.410.]~~ section 21 of this act.

Sec. 8. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

- (a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (c) A category E felony after 7 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;
- (d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;
- (e) A violation of NRS 484.379 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or
- (f) Any other misdemeanor after 2 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;

(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

➤ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section: