

NEVADA LEGISLATURE
Thirty-second Special Session, 2020

SENATE DAILY JOURNAL

THE SECOND DAY

CARSON CITY (Saturday), August 1, 2020

Senate called to order at 11:50 a.m.

President Marshall presiding.

Roll called.

All present.

Prayer by the Senator Pat Spearman.

Let us pray. Lord, make me an instrument of Your peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

O Divine Creator, grant that I may not so much seek to be consoled as to console; to be understood, as understand; to be loved, as to love. For it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to Eternal Life. Prayer of Saint Francis of Assis.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

MOTIONS, RESOLUTIONS AND NOTICES

Pursuant to Senate Standing Rule No. 52, Senate Majority Leader Cannizzaro has authorized Senator Harris to use remote-technology systems to attend, participate, vote and take any other action in the proceedings of the Senate and the Committee of the Whole.

Senator Cannizzaro moved that the following person be accepted as an accredited press representative, and that he be allowed the use of appropriate media facilities: KRNV-TV; Ben Margiott.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 1.

Bill read second time and ordered to third reading.

Assembly Bill No. 1.

Bill read second time and ordered to third reading.

Assembly Bill No. 2.

Bill read second time and ordered to third reading.

Assembly Bill No. 4.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Joint Resolution No. 1.

Resolution read.

Remarks by Senators Brooks, Kieckhefer, Hansen, Pickard, Goicoechea, Settelmeyer, Hardy, Hammond, Ratti, Spearman and Seevers Gansert.

SENATOR BROOKS:

(To be entered at a later date.)

SENATOR KIECKHEFER:

(To be entered at a later date.)

SENATOR HANSEN:

(To be entered at a later date.)

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:03 p.m.

SENATE IN SESSION

At 12:06 p.m.

President Marshall presiding.

Quorum present.

SENATOR PICKARD:

(To be entered at a later date.)

SENATOR GOICOECHEA:

(To be entered at a later date.)

SENATOR SETTELMAYER:

(To be entered at a later date.)

SENATOR HARDY:

(To be entered at a later date.)

SENATOR HAMMOND:

(To be entered at a later date.)

SENATOR RATTI:

(To be entered at a later date.)

SENATOR SPEARMAN:

(To be entered at a later date.)

SENATOR BROOKS:

(To be entered at a later date.)

SENATOR SEEVERS GANSERT:
(To be entered at a later date.)

Roll call on Senate Joint Resolution No. 1:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Joint Resolution No. 1 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 12:43 p.m.

SENATE IN SESSION

At 3:41 p.m.

President Marshall presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Senate Bill No. 2—AN ACT relating to peace officers; eliminating the prohibition on the use of a peace officer's compelled statement in a civil case; revising provisions regarding when a law enforcement agency may initiate an investigation into the alleged misconduct of a peace officer; revising provisions relating to the reassignment of a peace officer who is under investigation; authorizing a peace officer or representative to inspect certain evidence and submit a response after the conclusion of an investigation; revising provisions requiring the dismissal of civil and administrative proceedings against a peace officer under certain circumstances; and providing other matters properly relating thereto.

Senator Cannizzaro moved that the bill be referred to the Committee on the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bill No. 2 and any other matters as outlined in the Governor's Proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

Senator Ratti presiding.

Senate Bill No. 2 and any other matters as outlined in the Governor's Proclamation considered.

The Committee of the Whole was addressed by Senator Cannizzaro; Senator Pickard; Senator Settelmeyer; Senator Hardy; Gary Peck; William Lebfort; Steve Grammas; Holly Welborn; Shannon Williams; Sergeant Troy; Leslie Turner; Holly Ramella; Wesley Juhl; Maria Nieco; J.D. Klippenstein; Nissa Tzun; Carol Luke; Ron Drecre; Aluna Feffler; Cera Miller; Emma Gore; Erika Minaberry; Lilith Baran; Mark Nash; Shyla Summers; Brandon Cassienlli; Lalo Montoya; Marie Haaf; Nia Banks; Randy Case; Liliana Terjovanejas; Annette Magnus; Madeleine Williams; Annemarie Erant; Marcos Polez:

SENATOR RATTI:

We will open the hearing on Senate Bill No. 2.

SENATOR CANNIZZARO:

The bill before you today, Senate Bill No. 2, is a critical measure relating to peace officers. Nevada is fortunate to have some of the most professional, compassionate and hard-working law enforcement and first responders in the country. Our tourism-based economy requires our law enforcement community to be true ambassadors of our State, and they are tasked with many challenges as both outside visitors and members of our own communities rely on their quick and professional response.

Nevada, and at least 15 other states, include in their statutes a “Peace Officer Bill of Rights,” which provide much-needed protections for members of law enforcement to successfully do their jobs. We have recognized these rights in Nevada since the early 1980s and have built upon them over the years. These provisions are an acknowledgement of our appreciation and gratitude for the wonderful work of our first responders. They also shield our peace officers from unreasonable treatment and accusations.

To provide some context for this bill, I sponsored Senate Bill No. 242 of the 2019 Legislative Session, which received considerable attention and endured many long hearings and negotiations before we honed in on agreeable language that appropriately revised certain rights of peace officers. The need for Senate Bill No. 242 Last Session first came to my attention by a request from Las Vegas Police Protective Association to address some of the concerns they were having when their officers were disciplined by management. In substance, the bill addressed some general management and labor relations concerns so peace officers could be treated fairly through the process of any employment issues. A lot of work went in to Senate Bill No. 242, and it was only intended to get at labor disputes with officers and their management; it was in no way intended to be some “work-around” of anything else or impact other protections we already have in law for the citizens in our communities.

Since the 2019 Legislative Session, we have identified the need to revisit some of the provisions in Senate Bill No. 242 and to make timely and appropriate adjustments that reflect not only the needs of our hard-working peace officers, but also the public for whom they protect.

What does Senate Bill No. 2 do? First, Section 1 of this bill eliminates the prohibition on the use of a peace officer’s compelled statement in a civil case against the peace officer without his or her consent. As you know, existing law authorizes a law enforcement agency to conduct an investigation of a peace officer in certain instances. This includes investigating a complaint or allegation that the peace officer has engaged in activities which could result in punitive action. Unless this alleged misconduct would be a crime punishable pursuant to state or federal law, a law enforcement agency is prohibited from conducting such an investigation if the activities of the peace officer occurred more than 1 year before the date of the filing of the complaint or allegation. Senate Bill No. 2 proposes that an investigation must be commenced by the law enforcement within a reasonable period of time after the date of the filing of the complaint or allegation with the law enforcement agency. The bill also prohibits a law enforcement agency from conducting an investigation if the complaint or investigation is filed more than 5 years after the activities of the peace officer occurred. The bill eliminates the prohibition on a law enforcement agency from reopening an investigation unless the agency discovers new material evidence, and it also

eliminates the prohibition on reassigning a peace officer during an investigation without the peace officer's consent.

Currently, a law enforcement agency must allow a representative of a peace officer who is the subject of an investigation to inspect certain evidence in the possession of the law enforcement agency. After the conclusion of the investigation, if the peace officer appeals a recommendation to impose punitive action, the peace officer, or his or her representative, may review and copy the entire file concerning the internal investigation.

Senate Bill No. 2 modifies this practice to provide that after the conclusion of an investigation, if a law enforcement agency intends to recommend that punitive action be imposed, the agency must notify the peace officer and give him or her a reasonable opportunity to inspect any evidence in the possession of the agency and submit a response. The agency must consider this response before making a recommendation for punitive action. If the agency does recommend punitive action and the peace officer appeals this recommendation, the peace officer or his or her representative may review and copy the entire file concerning the internal investigation.

Finally, current law provides that if an arbitrator or court determines that evidence obtained during an investigation of a peace officer was done so in violation of the rights of peace officers, the arbitrator or court is required to dismiss, with prejudice, the administrative proceeding or civil action. Section 4 of Senate Bill No. 2 instead requires the arbitrator or court to exclude such evidence if it may be prejudicial to the peace officer and dismiss the administrative proceeding or civil action, with prejudice, if the evidence was obtained by a law enforcement agency in bad faith.

My fellow colleagues, I urge your support of this critical bill. This bill is straight-forward, timely and much-needed in these ever-changing times. The bill is reasonable, provides an appropriate level of accountability and affords protections for both our citizens and our hard-working peace officers.

(Names and remarks to be entered at a later date.)

Senator Brooks moved to do pass Senate Bill No. 2.

Senator Cancela seconded the motion.

Remarks by Senators Schieble, Hansen and Ratti.

SENATOR SCHIEBLE:

(To be entered at a later date.)

SENATOR HANSEN:

(To be entered at a later date.)

SENATOR RATTI:

(To be entered at a later date.)

Motion carried. Senators Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert and Settlemeyer voted no.

On the motion of Senator Woodhouse, seconded by Senator Parks, the Committee did rise and report back to the Senate.

Senator Ratti moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 5:17 p.m.

SENATE IN SESSION

At 5:22 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee of the Whole, to which was referred Senate Bill No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

NICOLE J. CANNIZZARO, *Chair*

Senator Cannizzaro moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 5:23 p.m.

SENATE IN SESSION

At 6:07 p.m.

President Marshall presiding.

Quorum present.

MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, August 1, 2020

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 3.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 3.

Senator Ratti moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 3 and any other matters as outlined in the Governor's Proclamation, with Senator Cannizzaro as Chair and Senator Ratti as Vice Chair.

Motion carried.

IN COMMITTEE OF THE WHOLE

Senator Cannizzaro presiding.

Assembly Bill No. 3 and any other matters as outlined in the Governor's Proclamation considered.

The Committee of the Whole was addressed by Yvette Williams, Caucus Chair:

(Names and remarks to be entered at a later date.)

Senator Cannizzaro opened the hearing on Assembly Bill No. 3.

(Remarks to be entered at a later date.)

August 1, 2020

MAJORITY CANNIZZARO AND MEMBERS OF THE NEVADA SENATE

RE: AB3 Public Comment

DEAR MAJORITY LEADER CANNIZZARO AND MEMBERS OF THE SENATE,

With the introduction of AB3, we can all acknowledge the systemic racism that infects our justice system in Nevada. We appreciate the efforts of AB3 but believe it does not go far enough and would like to respectfully make the following recommendations for the committee's consideration, in hopes that if they cannot be addressed during this special session, that more reforms that dig deep into the root of the problems will be addressed during the upcoming 2021 session.

1. Officers using chokeholds and ignore the prohibition, should be put on immediate suspension without pay pending an internal affairs investigation. Departments must provide an escalated discipline process that results in termination or prosecution. Anything less does not go far enough in addressing this problem and reasonable consequences.
2. Amend reporting by intervening peace officer from 10 days to 48 hours in writing and offer more protections of that officer against potential discipline. There should be NO reason why an officer of the law does not intervene and maintain the appropriate climate of justice and protection of all citizens regardless of race.
3. Convene a Justice Commission through the Attorney Generals Office to provide oversight and accountability to law enforcement that protect the rights of Nevadans.
4. Data Collection – Require medical facilities providing care to victims of police violence (in custody or not) be required reporting to the proposed Justice Commission (see above). We believe police violence should be treated as a public health issue.
5. Qualified Immunity – Law enforcement must be held accountable for their actions.
6. Public access to body cam footage should be made available to the public at no cost, as publicly supported agencies.

Finally, we believe there was a very big missed opportunity for more justice and community based policing. We realize time is extremely limited during a special session. However, we recommend that the provisions introduced in the 2019 session by Assemblyman Ozzie Fumo's (AB292) be reconsidered by Committee, regarding criminal procedures that address qualified immunity, law enforcement misconduct, data collection, public access, etc.

In closing, we recognize that this is a very difficult task before you, and ask that the decisions you make are through a lens of racial equality and justice, and mindful to the commitments made to the Black community leading up to this special session.

Respectfully,
YVETTE WILLIAMS
Caucus Chair

Senator Brooks moved to do pass Assembly Bill No. 3.

Senator Cancela seconded the motion.

Remarks by Senators Hansen and Pickard.

SENATOR HANSEN:

(To be entered at a later date.)

SENATOR PICKARD:

(To be entered at a later date.)

Motion carried. Senator Hansen voted no.

On the motion of Senator Woodhouse, seconded by Senator Parks, the Committee did rise and report back to the Senate.

Senator Cannizzaro moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 8:34 p.m.

SENATE IN SESSION

At 8:36 p.m.
President Marshall presiding.
Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee of the Whole, to which was referred Assembly Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

NICOLE J. CANNIZZARO, *Chair*

Senator Cannizzaro moved that the Senate adjourn until Sunday, August 2, 2020, at 9:00 a.m.

Motion carried.

Senate adjourned at 8:38 p.m.

Approved:

KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate