

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-Second Session  
April 7, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 9:01 a.m. on Friday, April 7, 2023, in Room 3138 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/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Brittney Miller, Chair  
Assemblywoman Elaine Marzola, Vice Chair  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblywoman Lesley E. Cohen  
Assemblywoman Venicia Considine  
Assemblywoman Danielle Gallant  
Assemblyman Ken Gray  
Assemblywoman Alexis Hansen  
Assemblywoman Melissa Hardy  
Assemblywoman Selena La Rue Hatch  
Assemblywoman Erica Mosca  
Assemblywoman Sabra Newby  
Assemblyman David Orentlicher  
Assemblywoman Shondra Summers-Armstrong  
Assemblyman Toby Yurek

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None



**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Bradley A. Wilkinson, Committee Counsel  
Devon Kajatt, Committee Manager  
Aaron Klatt, Committee Secretary  
Ashley Torres, Committee Secretary

**OTHERS PRESENT:**

Nick Shepack, State Deputy Director, Fines and Fees Justice Center  
Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada  
James E. Dzurenda, Director, Department of Corrections  
Tonja Brown, Private Citizen, Carson City, Nevada  
Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County  
Public Defender's Office  
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public  
Defender's Office  
Sonya Williams, Private Citizen, Las Vegas, Nevada  
Jaselyn Newman, Private Citizen, Las Vegas, Nevada  
Ashley Gaddis, Private Citizen, Carson City, Nevada  
Denise Bolanos, Private Citizen, Carson City, Nevada  
Darrol Brown, Private Citizen, Carson City, Nevada  
Harold Wickham, Deputy Director, Programs, Department of Corrections

**Chair Miller:**

[Roll was called. Committee rules and protocol were explained.] Good morning, everyone. Welcome to Assembly Judiciary. Today, we have scheduled one bill hearing and six work session items. There were seven, however, A.B. 160 had to be pulled because of a last-minute amendment that got submitted.

**Assembly Bill 160: Revises provisions governing the sealing of certain criminal records.**  
**(BDR 14-634)**

[Assembly Bill 160 was not considered.]

For everyone out there in the world concerned about bills, please make sure you are getting these amendments in well before they are posted for work session. This is because it is difficult for members to get an amendment, digest it, review it, and possibly reconsider bills when amendment submissions are last minute.

With that, we will begin with our work session. Ms. Diane Thornton, our policy analyst, will walk us through the first bill of our work session, Assembly Bill 49.

**Assembly Bill 49: Revises provisions relating to criminal procedure. (BDR 3-419)**

**Diane C. Thornton, Committee Policy Analyst:**

Our first bill on work session today is Assembly Bill 49, sponsored by the Assembly Committee on Judiciary on behalf of the Attorney General and heard in Committee on February 22, 2023 [[Exhibit C](#)].

This bill prescribes separate and distinct forms for a petition for a writ of habeas corpus that challenges the computation of time that a person has served pursuant to a judgment of conviction and a petition for a writ of habeas corpus that challenges the validity of a judgment of conviction. The bill also repeals the requirement that the respondent on a postconviction petition for a writ of habeas corpus file a return with the court.

There is one proposed amendment to the bill. Heather Proctor from the Office of the Attorney General proposed the following:

1. Amend sections 2, 4, 6, 7, 9 through 12, 15, and 19 to clarify "judgment of conviction" rather than "conviction" throughout the bill;
2. Amend section 2 to provide a definition of "prosecuting attorney";
3. Amend section 3 to provide additional instructions to clarify that the form should be used if an offender is seeking relief based upon the computation of time served, a forfeiture of credit, or the denial of parole;
4. Amend section 3 to clarify that the form is not for challenging the calculation of time and the petition must include facts supporting grounds for relief;
5. Amend section 9 to provide that a petition that challenges a conviction or sentence may be filed within one year under certain circumstances;
6. Amend section 11 to clarify instructions that the form should be used if the offender is seeking relief from a conviction or sentence and not for the challenging of calculation of time;
7. Amend section 11 to clarify in the instructions what information may be submitted and lastly;
8. Amend section 11 to require that one copy of the completed petition must be mailed to the prosecuting attorney.

The amendment is on the following pages.

**Chair Miller:**

Members, are there any questions? Not seeing any questions, I will entertain a motion to amend and do pass Assembly Bill 49.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 49.

ASSEMBLYMAN YUREK SECONDED THE MOTION.

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman La Rue Hatch. Ms. Thornton, please walk us through Assembly Bill 75.

**Assembly Bill 75: Exempts certain offers or sales of securities from registration requirements for securities. (BDR 7-145)**

**Diane C. Thornton, Committee Policy Analyst:**

Assembly Bill 75 was sponsored by Assemblyman Yeager and heard in this Committee on February 13, 2023 [[Exhibit D](#)].

This bill provides an exemption from state registration requirements for certain transactions involving an offer to sell or sale of a security to a Nevada certified investor. There is one proposed amendment to this measure. Assemblyman Yeager proposed the following amendment:

- Amend section 2, subsection 1 of the bill to change the registration requirements so that business must exceed 2.5 times the median income or \$200,000, whichever is higher.
- Amend section 2, subsection 2 of the bill to change the certified investor threshold from exceeding medium income to \$100,000 or exceeding medium income, whichever is higher.
- Increase the threshold for exemption from registration for sales to certified investor to 75 or fewer individuals, but requires a background check for the issuer, similar to what is in *Nevada Revised Statutes* 391.033 for educators.
- Remove all registration fees for NRS 90.490.
- Amend the existing language of NRS 90.490 by revising the required information in the registration statement.

**Chair Miller:**

Members, are there any questions? Not seeing any questions, I will take a motion to amend and do pass Assembly Bill 75.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 75.

ASSEMBLYWOMAN NEWBY SECONDED THE MOTION.

Is there any further discussion on the motion?

**Assemblywoman Summers-Armstrong:**

I wanted to let you know that I am in discussions with Speaker Yeager about some consumer protections that I was concerned about that have not been addressed. Therefore, I will vote no today, but I am still open as we get these things hashed out to deal with those consumer protections that I discussed in the hearing and discussed with him today.

**Chair Miller:**

We always appreciate when someone will say that they will vote a certain way out of Committee but may reserve the right to change their vote. We are always very open to people changing their votes to yes on the floor. Any further discussion, members? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN ORENTLICHER AND SUMMERS-ARMSTRONG VOTED NO.)

I will assign the floor statement to Assemblywoman Gallant. Next one, Ms. Thornton, which is Assembly Bill 260.

**Assembly Bill 260: Exempts veterans service organizations from various fees imposed on persons conducting business in this State. (BDR 7-73)**

**Diane C. Thornton, Committee Policy Analyst:**

Assembly Bill 260 is sponsored by Assemblyman O'Neill and was heard by this Committee on March 16, 2023 [[Exhibit E](#)].

This bill exempts veterans service organizations and any agent or officer of a veterans service organization from certain business fees, including (1) the issuance and renewal of a state business license; (2) filings required in connection with the registration of a registered agent; and (3) various filings to satisfy requirements imposed on a business entity. There are no amendments to the measure.

**Chair Miller:**

Members, are there any questions on Assembly Bill 260? Not seeing any, I will entertain a motion to do pass Assembly Bill 260.

ASSEMBLYWOMAN MARZOLA MOVED TO DO PASS ASSEMBLY BILL 260.

ASSEMBLYMAN GRAY SECONDED THE MOTION.

Any further discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman O'Neill. Next bill, Ms. Thornton.

**Assembly Bill 272: Establishes provisions relating to mail theft. (BDR 15-800)**

**Diane C. Thornton, Committee Policy Analyst:**

Assembly Bill 272 is sponsored by Assemblywoman Monroe-Moreno and was heard in Committee on March 28, 2023 [[Exhibit F](#)].

This bill establishes the crime of mail theft. A person is guilty of the crime of mail theft: (1) if the mail has no monetary value and does not include the personal identifying information of any person, a gross misdemeanor; (2) if the mail has monetary value or contains the personal identifying information of not more than nine persons, a category D felony; or (3) if the mail contains the personal identifying information of ten or more persons, a category C felony.

There is one amendment to the bill. Assemblywoman Monroe-Moreno proposed doing the following:

- Amend section 1, subsection 1 to provide that a person commits the crime of mail theft if the person buys, receives, conceals, or possesses personal identifying information and knows or reasonably should know that the personal identifying information was unlawfully taken or obtained and;
- Amend in section 1, subsection 2 the penalties of mail theft by providing that a person is guilty of a category D felony and shall be punished as provided in *Nevada Revised Statutes* 193.130.

**Chair Miller:**

Members, are there any questions? Not seeing any questions, I will entertain a motion to amend and do pass Assembly Bill 272.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 272.

ASSEMBLYWOMAN GALLANT SECONDED THE MOTION.

Any further discussion on the motion?

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Monroe-Moreno. Ms. Thornton, please walk us through the next one.

**Assembly Bill 350: Revises provisions governing forfeiture of property. (BDR 14-472)**

**Diane C. Thornton, Committee Policy Analyst:**

Assembly Bill 350 was sponsored by this Committee and heard on March 24, 2023 [[Exhibit G](#)].

This bill requires each law enforcement agency to include certain additional information relating to seizures and forfeitures in the report that law enforcement agencies submit to the Office of the Attorney General. This bill additionally requires the Office of the Attorney General to make the reports relating to the seizures and forfeitures that are published on its Internet website available in a machine-readable format. There are no amendments to this measure.

**Chair Miller:**

Members, any questions on Assembly Bill 350? Not seeing any, I will entertain a motion to do pass Assembly Bill 350.

ASSEMBLYWOMAN MARZOLA MOVED TO DO PASS ASSEMBLY BILL 350.

ASSEMBLYWOMAN NEWBY SECONDED THE MOTION.

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Yurek. Ms. Thornton, walk us through the last bill, please.

**Assembly Bill 388: Makes an appropriation to the Department of Sentencing Policy for the purpose of funding certain grants awarded by the Nevada Local Justice Reinvestment Coordinating Council. (BDR S-1049)**

**Diane C. Thornton, Committee Policy Analyst:**

The final bill on work session today is Assembly Bill 388, which makes an appropriation to the Department of Sentencing Policy for the purpose of funding certain grants awarded by the Nevada Local Justice Reinvestment Coordinating Council [[Exhibit H](#)]. The bill is sponsored by Assemblyman Yeager and was heard on March 31, 2023. There are no amendments to this measure.

**Chair Miller:**

Members, are there any further questions on Assembly Bill 388? Not seeing any, I will entertain a motion to do pass Assembly Bill 388.

ASSEMBLYWOMAN MARZOLA MOVED TO DO PASS ASSEMBLY BILL 388.

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, HARDY, GALLANT, GRAY, AND YUREK VOTED NO.)

I will go ahead and assign the floor statement to Assemblywoman Mosca. That concludes our work session for today. Thank you, members. Next on the agenda is our one hearing for the day, Assembly Bill 452. It will be presented by Assemblywoman Newby, Ms. Jodi Hocking, and Mr. Nick Shepack. With that, the hearing for Assembly Bill 452 is officially open.

**Assembly Bill 452: Revises provisions relating to visitation with offenders in a correctional institution or facility. (BDR 16-315)**

**Assemblywoman Sabra Newby, Assembly District No. 10:**

We are before you today to present A.B. 452, which is a bill that came out of the Joint Interim Standing Committee on Judiciary. It concerns visitation of friends and family members in the prison system, and I have been working with Ms. Jodi Hocking from Return Strong! and Mr. Nick Shepack on this bill. We do have a conceptual amendment that we have turned in and that you all should have [[Exhibit I](#)]. I am going to turn it over to Mr. Shepack to talk about how we got to this point with the conceptual amendment and the reason for it.

**Nick Shepack, State Deputy Director, Fines and Fees Justice Center:**

I am going to leave it up to Ms. Hocking to get into the details, but I briefly wanted to discuss how we got here and why we landed on what is now a very conceptual amendment. Through many talks with the Nevada Department of Corrections (NDOC) and stakeholders, we determined that an ombudsperson instead of heavy regulations surrounding visitation would address most of the concerns at hand. We believe that a statewide ombudsperson is an answer to address countless issues, and we have an agreement from all stakeholders that this can work. These discussions went late into the night leading up to this hearing, hence the very conceptual version of this amendment. I will pass it over to Ms. Hocking to explain further.

**Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada:**

I am a constituent of Assembly District 24 and Senate District 13. I want to take a moment to remind you that during this presentation, I am a woman whose loved one, partner, and best friend is in prison and has spent the majority of his life there. He was born in prison, addicted to heroin and crack, and the imprint of that on him and his family has been a cloud for a very long time. As I move through this presentation, I want you to remember that while this is professional for me, it is also deeply personal, and some of what I am going to share has been extremely traumatic, not just for myself but for families, children, and the loved ones of people who are incarcerated. Bringing an end to that is really what we are hoping to achieve through this bill. I thank the members of the Joint Interim Standing Committee on Judiciary, Chair Miller, and Assemblywoman Newby for hearing our voices and bringing this really important piece of legislation forward.



I would like to build on what Mr. Shepack was explaining on how we went from a very restrictive bill, that was meant to address very specific issues that we were having problems with, to what we have now. When we originally started working on this bill back during the interim, we were in a very different situation. There was a different administration. There were also families flying across the country for visitation, standing at the door reading a sign that said, Your visit has been canceled, or Visiting is closed, and it was very difficult. We had already lost visitation for a year and a half due to COVID-19, and when it reopened, everything gradually fell apart. In addition to visitation being closed, applications were not processed and children were removed from visits for hugging a parent whom they had not seen in years. There were just a lot of horrible things going on, and this bill started as a desperate cry for help to find solutions to it.

Ultimately, help came in part from new administration and the changes that have occurred with the return of Director Dzurenda and Deputy Director Wickham. I have talked to enough people to earnestly share with you that our interactions with him and his team have been a sigh of relief. It is good to know that the director and his team truly will listen and help us. He has helped us move from this narrow goal of how we ensure 72 hours of notice for a canceled visit to how we solve these types of problems in the long term. Due to that, I just want to acknowledge that they have been a big part in helping us figure out a way to do this.

This bill would require the director to submit an RFP [request for proposal] to implement a search for an ombudsman within a certain number of days, which we have not agreed on yet, of the bill passage. The ombudsman would be responsible for overseeing offender grievances, disciplinary appeals, and visiting appeals, as well as training, oversight, and monitoring the recordkeeping and time frames that would be put into effect through this bill. The goal with the ombudsman is that they would be a last-step mediator for these areas prior to filing for litigation and would follow national best practices for a corrections ombudsman.

This idea of a corrections ombudsman is not foreign in Nevada. In 2011, Nevada passed *Nevada Revised Statutes* (NRS) 209.244, which gave the Office of the Attorney General the option—option is the keyword—to create a pathway to mediating complaints from incarcerated people. However, the statute was never funded and, consequently, has only been words in a legislative digest somewhere. It is something that could have been but never quite materialized. Together with the director, we have been able to find a pathway to make this happen.

I want people to not only understand that there is a pathway to make this happen, but also give people a glimpse of why we were here in the first place. In our work, we correspond with almost 1,500 incarcerated people at any given time, sometimes more than that. We constantly have our finger on the pulse of what is happening inside NDOC from a network of people that worked with us to organize from the inside out. This is pretty rare, but it has allowed us a unique perspective into what happens inside Nevada prisons. I am going to share some quick examples of things that occurred that brought us to this point just so that you have an idea of how an ombudsman could help and how they would have made these situations different. I just want to remind you one more time that behind each one of

these stories are families, children, parents, and grandparents who were dealing with the trauma of these events at the same time.

Michael Kelekolia lost his fingers in a tragic in-cell accident at Southern Desert Correctional Center. He ended up with gangrene, which almost took his life because he never received wound care while he was in the medical unit.

Sony Pham is a man who was in his early thirties whose family called us in desperation because they discovered he was in the intensive care unit dying of COVID-19. The doctors were saying he would not make it through the night, and his parents and twin sisters were trying to visit him to say their goodbyes. The hospital said they could come but they needed approval from NDOC. The administration at the time would not answer their calls, and we ended up intervening. We were able to get in contact with a warden and convince him to approve the visit. What would have happened if we were not there to fight for them? An ombudsman could have been a resource for them, and it would not have been a wild shot in the dark.

Jordan Blackwood is a young man who went to prison in his teens and was incarcerated during COVID-19 during the outbreak at Warm Springs Correctional Center in 2020. Jordan's cellmate had COVID-19, turned blue, and passed out in the cell. He was screaming for help, and a correctional officer came over the intercom and told him to perform CPR [cardiopulmonary resuscitation] on his cellmate. No one ever came to help either one of them. Every year, in multiple facilities, there are issues with no heat, hot water, or air conditioning. Imagine being in a cell when it is 117 degrees outside in Las Vegas and the air conditioning is blowing heat. Our NDOC buildings and infrastructures are falling apart, and Director Dzurenda has expressed the same sentiment. We have tried everything to have it addressed, but no one ever responds. An ombudsman could evaluate this issue and find pathways to resolution through capital improvement or other recommendations.

Monica is a woman who was at Florence McClure Women's Correctional Center and sent us over 30 letters. She is now free, but day after day she would beg us for help. She would write these scratched letters on pieces of paper with the words, "Help us," that were reminiscent from a movie where someone just got kidnapped and would send them to us nearly every single day. She told us stories of women being abused and mentally broken at Florence McClure by the lockdowns, by abuse, and a wide variety of other things. She wrote us a letter about the suicide of a young woman at Florence McClure and many attempted suicides including one where the woman had cut her wrists and used her blood to scrawl, "This is your fault," on the walls of her cell.

Esteban Hernandez was a young man in his twenties, serving his first sentence ever, who died of E. coli. That is right, E. coli. They had served lasagna in the chow hall and the whole unit got sick, but Esteban died. He was ignored by medical staff for five days, given a COVID-19 test, and nothing else. By the time they did anything, he was unresponsive, and by the time they got to the hospital, he was dead.

There was an attack on incarcerated people in the chow hall at Southern Desert Correctional Center last summer, which was described by people who could see what was happening as an ambush. Cameras were covered, and weaponized officers stormed the chow hall. Ultimately, we received stacks of letters from inmates who were not in the chow hall but could see what was happening. They witnessed a person who was handcuffed on the ground being beaten and kicked in the head, which has resulted in a traumatic brain injury for this person and criminal charges for the officer. Grievances are taking years to make it through the grievance process, and the system is overwhelmed with due process violations that make resolution impossible in any timely manner.

There was a recent incident that thankfully Director Dzurenda quickly helped us address and worked to correct from the previous administration. People who had received disciplinary write-ups for things like fighting, where nobody was seriously injured and no one involved needed medical treatment, were being charged with murder. I could not believe that this was true, but it was. The previous administration had made changes to a disciplinary manual by removing several levels of sanctions. Consequently, my understanding is that anybody who was written up for an infraction that fell between minor and serious was getting notice charges about murder, even though there was no murder victim and no death had occurred. Thankfully, Director Dzurenda quickly resolved this and fixed the problem, but if he had not have been here, we would still be stuck with people facing murder charges.

There are also seemingly never-ending lockdowns at multiple facilities post-COVID-19. While many of us have gone back to some semblance of normal life, that never happened with NDOC. Lovelock Correctional Center, High Desert State Prison, Florence McClure Women's Correctional Center, and Ely State Prison all still experience extended stays where inmates spend 22 to 23 hours a day in their cell, even though they are not disciplined. A lot of it has to do with staffing, but they spend the bulk of their days in de facto solitary confinement.

The point of these examples is that each of them could have been resolved with an ombudsman and potentially been resolved without lawsuits or settlements that continue to cost the state money. Prisons need oversight, and not just in the form of lawsuits that are long, tedious, and often blocked by the Prison Litigation Reform Act and due process violation. Legal protections are a form of external oversight, but prisons need layers of oversight and accountability in order to ensure that prisoners are safe and treated humanely at a minimum. What an ombudsman would be like in Nevada is our decision. There are currently 18 states that have enacted legislation around ombudsmen, and what that looks like fits the needs of that individual jurisdiction. We have the opportunity to work together to decide exactly what that will look like in Nevada.

However, there are some best practices that have been recommended by FAMM [Families Against Mandatory Minimums], The Marshall Project, Vera Institute of Justice, and the Brennan Center for Justice. They include things like ensuring that the ombudsman program runs independently from Department of Corrections in the Attorney General's Office, making sure that the ombudsman has the ability to enter and inspect facilities without notice in order

to investigate complaints, as well as allowing access to documents and data relevant to their work. The ombudsman would be responsive to families, incarcerated people, the public, legislators, and decision makers. They would report findings and make recommendations.

This conceptual amendment [[Exhibit I](#)] creates a win for incarcerated people and families, a win for NDOC, and a win for the state. Thank you for hearing this bill, and we look forward to your support.

**Assemblywoman Newby:**

I will now walk you through the bill as written, today. Section 1 says that there are going to be new sections added to NRS. Section 2 sets forth regulations for the director to adopt concerning visitation in each institution and then goes forward to line out what those regulations would include. Section 2, subsection 1, paragraph (a) deals with the frequency, how often these visitations should happen, as well as gives direction on the conditions of and frequency of visitations for offenders who gave birth at any time during the six weeks or have newborns and children under one year old. Paragraph (b) discusses the eligibility of offenders to receive visitors and those regulations. Section 2, subsection 1, paragraph (c) addresses approval or denial of a prospective visitor ensuring providing notice and a procedure for appeal. Paragraph (d) is about the notice around a canceled visit. You have heard some testimony today about what happens when visits are canceled unexpectedly, and this is where that issue is addressed.

Madam Chair, do you want me to go through this in that level of detail or do you want me to give an overview?

**Chair Miller:**

I think an overview is fine. Then, members will ask questions if they want more details.

**Assemblywoman Newby:**

In summary, section 2 talks about the regulations that need to be developed and implemented surrounding visitation. Section 3 discusses the creation of a review panel, who should be on that panel, and the duties of that panel if a prospective visitor is denied and files an appeal. Section 4 talks about those denials, what happens when someone is denied, and what sort of information must be given to that person. This would close that loophole where people are denied but they are not told why. Section 5 makes conforming changes, and section 6 is the effective date.

As Ms. Hocking mentioned, she has submitted the conceptual amendment [[Exhibit I](#)]. My understanding is that there is another piece of legislation being considered in the Senate that also concerns this area of law. The conceptual amendment was to get at a mediation of these issues with the ombudsperson, understanding that there was also other legislation pending in this particular area.

**Chair Miller:**

Thank you for mentioning that, but we can only consider the measures in front of us because of the shelf life of bills and what may or may not make it through. Nonetheless, thank you for adding that as a consideration.

**Nick Shepack:**

I do not have much to add at this time; I am here to answer questions. I will just state that the proposed conceptual amendment would redline the bill and replace it with the ombudsperson and the duties therein [[Exhibit I](#)].

**Chair Miller:**

Thank you for that. Due to this Committee receiving the amendment this morning, members have been asked to consider this measure in both regards; as written and then as a gut and replace with the new conceptual amendment [[Exhibit I](#)]. We are viewing this through both lenses. I see that Director Dzurenda is here. Are you available if members have questions as well?

**James E. Dzurenda, Director, Department of Corrections:**

Yes.

**Chair Miller:**

Thank you. I love when there are people in the audience that are willing to step up and answer questions. With that, we do have a few questions.

**Assemblywoman Gallant:**

My question is for you, Director. First of all, I like the intent of this bill in terms of making sure that there is visitation with the outside world. We have seen a lot of bills and hearings about the importance of having connection with family and reducing recidivism, which I appreciate. I imagine that within the prison system there can be times where emergencies come up. I am wondering in terms of section 2, subsection 1, paragraph (d), subparagraph (1) where it says, "Provided at least 72 hours in advance of the cancelled visit . . . ," will there be exceptions to that rule if there is an emergency at a particular facility?

**James Dzurenda:**

The majority of our cancellations happen at the last minute. They are not normally happening 72 hours in advance. Cancellations happen when the facility does not have the minimum number of staff required to run the facility or when there is an emergency happening, whether that be a disturbance caused from something unforeseen happening, a lockdown caused from a potential escape; it could be a whole variety of things. Very few scheduled visits are canceled 72 hours in advance. The majority are at the last minute.

**Assemblywoman Gallant:**

Therefore, if this was to be enacted as is, what is that going to look like for your department? Is that going to back you into a corner where you would be having to juggle safety versus breaking this statute?

**James Dzurenda:**

If we know the visits are going to be canceled 72 hours in advance, it should be posted, and we will post them. We should be doing that now anyway, but as I said, the majority we do not know about until the last minute. What will help is when we eventually get tablets and wireless devices. The alerts can be put right on the wireless devices, which will notify them almost immediately that a cancellation of a visit has occurred.

**Jodi Hocking:**

I just want to add something to that. We understand that there are going to be staffing difficulties, emergencies, and things like that. There is a part of the bill that says if it is less than 72 hours' notice, then the director has to sign off on that. Clearly, we understand those types of situations will happen. I was traveling from New York for visits for decades, and there has been a significant increase of that happening. Yet there are ways to make that a middle ground for all parties.

There have been recent incidents where visits were canceled for unclear reasons, and all we wanted was, if you cannot give 72 hours notice, let us know as soon as possible. For instance, Washington State has a traffic light on their website so you can check your loved one's facility: red, there are no visits that weekend, do not travel; yellow, check with the institution; green, you are good to go to visit. We were hoping to eventually have some type of system like that. Then the director has the authority to override that because there are instances where that would be appropriate. Therefore, that was included as well.

**Assemblywoman Mosca:**

My question was on section 3, about the review panel. I appreciated that it included who would be on it, but I did not see for how long they would have to go through it and when you wanted a response. Could you speak to that?

**Jodi Hocking:**

The way that the appeal process happens currently seems to shut down opportunities prematurely, and it was not giving people a fair shot at having their cases looked at. Excuse me, can you repeat your question?

**Assemblywoman Newby:**

It was essentially regarding the review panel's timeline. Do they have two weeks to meet and make a decision? Is there a time frame?

**Jodi Hocking:**

I do not think we had a time frame in mind because it depends on how it works with each unique situation. There are significant changes currently happening, and that is why the ombudsman conceptual amendment is hopefully going to be where this goes. Furthermore, Director Dzurenda is working with us on providing input on a new visitation manual. This would address many of those things outside of statute, and we look forward to working together on those pieces.

**Assemblywoman Hansen:**

Having served here for a little bit and having watched from afar for many years, there certainly is a need for this. Thank you for bringing this. I do like this conceptual amendment versus the original bill, and I am hoping that is where you are going to land. An ombudsman seems like something we have needed for a long time. Either Mr. Shepack or Ms. Hocking mentioned there were other states, perhaps 18, and I just want to make sure that is right. If you could reiterate for my notes how many states and if you happen to know what those states are that have an ombudsman?

**Jodi Hocking:**

I believe it is 18 states, and I sent an exhibit that lists all of them [[Exhibit J](#)]. I know that there have been new ombudsman programs in Connecticut and New Jersey, as well as several other states that have recently added them. Each one seems to do it a little bit differently, which is why I think there is a clear path for us to figure out what works for Nevada. However, that document should be available to you and lists all the different ways that ombudsmen are being used across the country.

**Assemblywoman Hansen:**

One of those states mentioned might have been a state that you, Director Dzurenda, are familiar with. Can you opine a little bit on that model?

**James Dzurenda:**

When I was the commissioner for Connecticut, running the prisons and jails there, we did have ombudsmen. When you talk to any of the states that have them, they actually do reduce litigation cases. Currently in the state of Nevada, there are over 600 litigation cases against NDOC, which is overwhelming the Office of the Attorney General. Ombudsmen can be a nonpartisan party of individuals that are looking at those grievance cases. If you know anything about litigation cases with NDOC, they must go through the grievance process first before it goes through the court process. Having those bypassed by an ombudsman would prevent a lot of these cases from going into the Supreme Court and from getting that far. It would also help in reducing the caseload of the deputy attorney generals. I have met with them about this specifically, and it would be a benefit to them as well, just as long as there is a funding source. In fact, funding sources can be mitigated through the savings from the long-term reduction in litigated cases. It is hard to predict that, but I know from experience in Connecticut that that helps.

It also reduces anxiety and tension with the offenders knowing that someone outside the agency is reviewing and looking at these cases; whether it is visiting appeals or grievance cases on property, which is our number one grievance issue. Also, conditions of confinement, which are a common grievance issue, can all go through an ombudsman if a program did get developed in this state. I do think it will be a benefit for the agency if we are able to do something similar.

**Assemblywoman Cohen:**

I am still unsure about what the intent is because I think of the bill as getting regulations to put together the program for visitation, as well as making sure all the families and the offenders know what the program is going to be, when everyone is going to be able to see each other, and what those standards are going to be. However, an ombudsman's purpose is more about investigating, correct? They are appointed to investigate complaints. Therefore, my question is, are we trying to do both, or are we trying to do one or the other? For example, if there is an issue with someone who is incarcerated saying, I am not getting my visitation, and it is not appropriate, or I am not able to see my family for whatever reason, are there caseworkers they can be going to? I am seeing this as two separate things, and while I think both are noble goals, I do not know if we are trying to do both with this or one or the other.

**Jodi Hocking:**

What we are looking for is an ombudsman. The original language and the nickel-and-diming were to try to hold NDOC accountable to their visitation policy because there is no way to do that currently. Ultimately, if an ombudsman is appointed, they would be able to hear things that violate policy. What we do now is we negotiate policy, get it approved, and then that policy is set. Lately, policies have not been getting implemented after being set and that has been part of the problem. Nonetheless, we do that through the administrative regulation process and through getting approval from the Board of State Prison Commissioners. Once policy is set, an ombudsman would be able to hear all grievances or concerns.

For example, if every Saturday at High Desert State Prison visitation gets canceled for people at the door because of staffing, then that can go through the ombudsman who can investigate why there is a problem and then provide a recommendation to get it corrected. They become a neutral third party in that process. These are two things; we now have an avenue to negotiate the administrative regulations as well as the policy around visitation, and then the ombudsman provides a neutral third party for accountability.

**Nick Shepack:**

To add to that, having done this now for a few sessions and having spent a lot of time working with NDOC, there are many laws on the books for years that we feel have not been followed. If we put regulations in and those regulations are not followed, the recourse to figure out what to do about that is almost solely through litigation. Although organizations such as the American Civil Liberties Union have the ability to litigate that, it has been very difficult. There has been no oversight. Therefore, even if the visitation policy makes sense and everybody agrees to it, if it is not being followed, there is no real path for recourse. If we create an ombudsperson—even with the current standing policy for visitation—it would ensure that those policies are followed, and it would give families the recourse in a much more immediate fashion, rather than families going through the long, arduous process of trying to file litigation to ensure that any department in the state follows the regulations that this body sets or the administrative regulations that they set themselves.



**Assemblywoman Summers-Armstrong:**

I have concerns. I was on the Joint Interim Standing Committee on Judiciary, and I sat through those hearings last year. This bill is a result of those hearings as well as what we heard in 2021, and I am concerned about dismantling it. My question to Director Dzurenda is, do you currently have resources for technological updates to assist in notifying people as Ms. Hocking discussed? If we went along with the ombudsman, do you have the resources to make the necessary updates to your computer systems? Finally, do you have the resources to even fund an ombudsman that would then take care of all these things?

**James Dzurenda:**

We are currently in the process of hiring a public information officer, which the agency does not have right now. This would be the individual that is in charge of the NDOC website, which I believe has not been updated in the last two years. That is one avenue of notification we are working on. Another way would be notifying the offenders when there are emergencies in their units. Then they would be able to notify their visitors through their phone calls.

Regarding the ombudsman, we do not have funding for it, but there are ways to secure funding; if it is not through the State General Fund, it could go through the Inmate Welfare Account. That is a funding source that would be available because it meets the criteria of providing a benefit to all inmates.

Moving to the issue with technological devices, again, when we get a wireless device to every offender, communication is going to be immediate between them and their families, and I think it is going to be, as I mentioned in Assembly Bill 35, a game changer for the agency and the state.

**Assemblywoman Summers-Armstrong:**

When we spoke about that bill with the wireless devices, one of the questions I asked was about how, regardless of availability, there is still a cost. Therefore, there will be some folks who are incarcerated who will not have access to communicate because they will not have the resources to do so. Please clarify for me, if an incarcerated person does not have the resources to communicate with this device, your website has not been updated in two years, and you do not have the finances necessarily to make the changes, are we just going around in a circle?

**James Dzurenda:**

If you listened to my testimony on A.B. 35 regarding those wireless devices, certain things will have charges to them. Whether it is entertainment, videos, or gaming, they are not something that every inmate needs to have but could have if they pay for them, and those services and fees would actually pay for free phone calls for every offender. That is how you would be able to make that happen. When the offender has the wireless device in their actual cell, the second they hear that their visit is canceled, they can call immediately with the one free phone call every day if those wireless devices are enacted as they were proposed. So, it would allow for emergency, immediate communication free of charge for every offender at

least once a day. The public information officer is going to create a great website, but if we lose the public information officer because they find another job, we are going to have to go through the process again. We would be stuck with another issue with the lack of immediate posting and that could be troublesome.

**Assemblywoman La Rue Hatch:**

I wanted to dig in a little bit into the actual language of the bill. Section 2, subsection 1, paragraph (a), subparagraph (2), sub-subparagraph (IV) talks about the five consecutive days of in-person contact for children less than one year of age. Then on the previous page, under sub-subparagraph (I), there is also language that speaks of two in-person days for an offender that has given birth recently, and it says that they do not affect the other. I just want to confirm, does that mean for the first six weeks of a child's life, they would have every day contact with their parent? Also, what is the current policy on someone who has recently given birth?

**James Dzurenda:**

When someone has given birth, the policy is the same with everybody; you get up to two visits a week as soon as they are approved on the visiting list. To do five days a week, infrastructure-wise, I do not know how we would be able to do it with the sizes of the facilities. For example, High Desert State Prison has approximately 4,000 offenders, and depending on the numbers, we do not have the infrastructure to be able to provide for all those visits. On my end it is very difficult to find a way to be able to do that, and if you increase the number of visits, then we would have to find more staff. They would have to provide those services such as escorting, monitoring, sign-ins, backgrounds, and all that will require an increase in staffing.

Furthermore, mixing populations is a difficult thing to handle. If you mix a high security with a low security, just because they had a child, that could be dangerous to the family and to the individual. Currently, if we had a woman that was pregnant in the facility and they give birth, even if it happens at the facility, the baby is removed from the offender and turned over to either the spouse or significant party, whatever was agreed upon by the family or the Division of Child and Family Services.

**Nick Shepack:**

To address the first part of the question, you are reading that correctly. That is the policy that is proposed, and one which we believe is good policy. I will say through many discussions though, I do have to concede that the feasibility of implementing such a policy immediately does appear to be quite a hill to climb; however, we stand behind the intent of that policy for children and their parents.

**Assemblywoman Considine:**

You mentioned that if there are cancellations or notifications of cancellations in advance, the incarcerated person would have one phone call per day to notify the family with their wireless devices. What I want to know is if there is a policy, or will there be a policy when the tablets go into effect, that if visitation is canceled for reasons not associated with the

incarcerated person, will they be able to notify their family either through text or a phone call without cost, or is it only if they have not already made a phone call that day? I am thinking of a situation where they have already taken their phone call with a family member and several hours later, something happens and a visitation is canceled. What would that policy be or is there one already?

**James Dzurenda:**

The policy has not been developed yet because we must get the authority to do wireless devices first. A company called ViaPath Technologies was already selected for the contract for the wireless devices and all communications. However, you are correct, if they have already made their one phone call and the visit ends up getting canceled, they would not be able to make another free phone call. There would have to be some policy in place that would communicate through the website for them to be notified of cancellations. Emails are not going to be free of charge either, so they are not going to be able to send an email like that to a family member to notify them. However, there are ways to do it; you could perhaps do recorded messages. There is no policy about this right now, but it could be that simple, where someone could call in and know when something is canceled through a recorded message.

**Chair Miller:**

Depending on where people are traveling from, we do not want people traveling to find out their visitation was canceled, so the ability to call in and hear a message is great. Of course, people want the website updated, but I think a recorded message would work well also.

**Assemblywoman Hardy:**

Through this discussion, I think I am gathering that the intent of this bill would be to establish regulations for the frequency of visits. What I am understanding is currently, either there are not set policies or there are, but they are not being implemented or consistently upheld. Therefore, the intention of the bill is to set those in statute and say, This is what we have to abide by. Then the ombudsman would be a mechanism for when those policies are not followed. Do I understand that correctly?

**Nick Shepack:**

Yes, the original intent of the bill was to regulate visitation policy heavily through statute because we found ourselves in a position where it was basically mass confusion. Therefore, the response to such confusion was to regulate NDOC's visitation policy. Currently, they have broad authority to develop their own processes. Since then, Return Strong! and other stakeholders have worked directly with the director to ensure that we have a policy for visitation that will go through the Board of State Prison Commissioners. Hopefully, it will go through the NRS Chapter 233B process at some point, which is the public rulemaking process, which will then make it publicly available administrative regulation. Since we are moving so far along in that process, a process of which we have faith in, the idea to make this bill an ombudsman bill is to ensure that that process is followed both by this department and by future administrations.

**Chair Miller:**

I do not see any additional questions from members. With that, I will open it up for testimony in support of Assembly Bill 452.

**Tonja Brown, Private Citizen, Carson City, Nevada:**

I am with Advocates for the Inmates and the Innocent, and we strongly support this bill. I want to give you a little history of the ombudsman bill. Back in 2007, there were some advocates: Ms. Florence Jones, Ms. Pat Hines, Ms. Michelle Ravell, me, and others who had worked on getting an independent ombudsman within NDOC. After failing the first time, in 2011 the bill passed but it became law under the Office of the Attorney General, and it was never funded. In 2013, I went back to the Legislature and asked why the bill had not been implemented and it was due to lack of funding. I did bring this up to the Interim Standing Committee on Judiciary last year.

We are in support of getting an ombudsman, but we have some concerns which have been touched on a little bit today. Therefore, we would like to be included as a stakeholder and participant in the conceptual amendment discussions; however, we have reached out to no avail. I will tell you with the litigation, there are millions of dollars in litigation that go out. Other advocates and I in the last ten years have learned a lot of things, such as most inmates are not allowed to see their file and they cannot check for accuracy. There is information dealing with litigation in these files, and when the Board of Parole Commissioners looks at this, they have no way of knowing whether that litigation from an inmate's grievance was successful. Those are some of the concerns that we have, and we would like to be part of the upcoming stakeholder discussions. We ask that Return Strong! reach out to us and the other stakeholders because we do have valuable information that should be included in an ombudsman bill.

**Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office:**

I am here on behalf of the Washoe County Public Defender's Officer in support of A.B. 452 this morning. Prison-imposed barriers to family contact contradicts decades of social science research showing associations between family contact and outcomes, including in-prison behavior, measures of health, and reconviction after release. This is why the American Correctional Association supports in-person visitation, and this bill is both moral and practical. We urge your support.

**John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:**

More than 80 percent of the people that go in are going to come out, and we have to decide how we want them to come out. Family visitation is one of the best measures to track connection to your community and success when you reenter society. We cannot treat people like animals in cages and then expect them to come out better when it is time to reintegrate into society. This bill will aid in rehabilitation. This bill will aid in visitation. This bill will aid in community connection, and hopefully it will aid, later on down the road, with making amends to the community. Therefore, we strongly urge your support.

**Sonya Williams, Private Citizen, Las Vegas, Nevada:**

With me today is my daughter Jaselyn Newman, and we just want to show our support for A.B. 452 with the amendments. We are in support because we have had lots of issues with her father passing. So, we think this is great, we appreciate it, and we are in support with the amendments.

**Jaselyn Newman, Private Citizen, Las Vegas, Nevada:**

I support.

**Ashley Gaddis, Private Citizen, Carson City, Nevada:**

I was formerly incarcerated at Florence McClure Women's Correctional Center and am now a staff member with Return Strong!. I strongly support this bill and feel that having this process in place would, as previously stated, alleviate a lot of frustration and anxiety within the prisons. I support A.B. 452 as amended.

**Denise Bolanos, Private Citizen, Carson City, Nevada:**

I would just like to say that I do support this bill with this amendment, and I urge you to do the same.

**Chair Miller:**

With that, I will open it up for testimony in opposition to Assembly Bill 452. [There was none.] I will now open it up for testimony in neutral of A.B. 452.

**Darrol Brown, Private Citizen, Carson City, Nevada:**

I am on the United Veterans Legislative Council, and a member of Vietnam Veterans of America Carson Area Chapter 388. Although A.B. 452 is not veteran specific, everyone pretty much knows there are a lot of veterans incarcerated throughout the state of Nevada. This bill could go a long way to adding extreme benefits that would be very beneficial to all incarcerated individuals, especially those who are incarcerated veterans. United Veterans Legislative Council has not taken a position on this at this time, but as it moves through the process, we may take a position on it.

**Harold Wickham, Deputy Director, Programs, Department of Corrections:**

I think that this bill as amended would provide a great deal of benefit not only to the community and to the stakeholders but also to our agency. I know it sounds a little confusing going specifically from a visitation bill to now an ombudsperson bill; but I think we have garnered some trust working with Return Strong!, as well as Fines and Fees Justice Center, and we are making massive reform to our visitation regulations as it is. This would just hold the department accountable. For the record, we are in neutral for this bill.

**Chair Miller:**

With that, I will close testimony and welcome the bill presenters up for brief closing remarks.

**Assemblywoman Newby:**

Thank you for your patience and grace with us this morning with the presentation of this bill. As you can tell there is a lot of passion on this subject, and I pledge to work with the various parties surrounding this bill to get us to a point where we can have something presentable and passable for you.

**Nick Shepack:**

I just want to say thank you again for your patience with this. One of the very first conversations I ever had with Ms. Hocking when she started this work in the state was how can we get some sort of ombudsperson, because today the problem is visitation, tomorrow it is medical care, and the next day it is something else. It was always told to us that this was somewhat of a pipe dream; however, through discussions with NDOC and various stakeholders, this seems like a real possibility. With that, we are happy to talk with any and every one of you, and we will work diligently to ensure that you have something in front of you that is usable.

**Jodi Hocking:**

I just want to thank everybody that has been involved for your questions and concerns about the change of direction, which I understand. In closing, we appreciate all of you, and I do really believe that this is the pathway that not only allows us to have a degree of accountability around visitation, but also around safety and humanity for people that are in Nevada prisons. I think in the larger interest, this is the way to go. I appreciate working with all of you, and we will hopefully be back with much more detailed language.

**Chair Miller:**

Thank you so much. With that, I will go ahead and close the hearing on Assembly Bill 452. The last item on our agenda today is public comment.

[Public comment was heard.]

With that, we have concluded public comment and we are done with our business for today. I know this seemed like a long week, and next week is going to be worse. Please make sure you get a lot of sleep this weekend. We will see you at 8 a.m. on Monday morning. This meeting is adjourned [at 10:19 a.m.].

RESPECTFULLY SUBMITTED:

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Aaron Klatt  
Committee Secretary

APPROVED BY:

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Assemblywoman Brittney Miller, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for [Assembly Bill 49](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 75](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 260](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 272](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 350](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 388](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is a proposed conceptual amendment to [Assembly Bill 452](#), submitted and presented by Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada.

[Exhibit J](#) is a document titled "Correctional Oversight Models," submitted by Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada, regarding [Assembly Bill 452](#).