

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session
May 16, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:06 p.m. on Tuesday, May 16, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Assemblywoman Sabra Newby, Assembly District No. 10

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Karly O'Krent, Counsel
Kelsey DeLozier, Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

Terry Reynolds, Director, Nevada Department of Business and Industry
Alfredo Alonso, National Association of Settlement Purchasers
Jodi Hocking, Executive Director, Return Strong!
James Dzurenda, Director, Nevada Department of Corrections

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Pamela Browning
Melissa Duna
Ashley Gaddis
John Lucht
Sonja Williams
Chris Kovello
Tonja Brown, Advocates for the Inmates and the Innocent
Ariel Rodriguez, Return Strong!
Nick Shepack, Fines and Fees Justice Center
Nicole Williams, Return Strong!
DaShun Jackson, Children's Advocacy Alliance
Amber Falgout, Northern Nevada Manager, Battle Born Progress
Betty Guess
Annemarie Grant, Advocates for the Inmates and the Innocent
Katelyn Ahern
Leslie Quinn

CHAIR SCHEIBLE:

We will open the work session with a consent calendar on four bills.

PATRICK GUINAN (Policy Analyst):

Assembly Bill (A.B.) 32, as per the work session document ([Exhibit C](#)), revises provisions governing the Department of Sentencing Policy.

ASSEMBLY BILL 32 (1st Reprint): Makes various changes relating to criminal justice. (BDR 14-263)

I will read the summary of A.B. 32 from the work session document, [Exhibit C](#). The bill changes requirements for serving as the Department executive director. It addresses confidentiality of certain records and requires collection and reporting of data on the length of imprisonment and recidivism rates for persons whose probation, suspension of sentence or parole supervision is revoked due to technical violations. It also makes changes regarding the Division of Parole and Probation, Nevada Department of Public Safety, including revising risk and needs assessments administered to certain probationers and parolees. It authorizes the State Board of Parole Commissioners to revoke probation, suspension of sentence or parole supervision at the request of a probationer parolee.

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I will read the summary of A.B. 275 from the work session document ([Exhibit D](#)). The court or criminal justice agency cannot charge a fee to seal a record if the petitioner was being sex trafficked at the time the crime for which the record to be sealed was committed. The petitioner is required to include a statement in the petition certifying that circumstance.

ASSEMBLY BILL 275 (1st Reprint): Revises provisions governing the sealing of criminal records. (BDR 14-204)

Next, Assembly Bill 291 provides the State is not required to establish that all acts constituting a crime of swindling occurred in the State or within a single city, county or local jurisdiction.

ASSEMBLY BILL 291: Revises provisions relating to the prosecution of certain crimes. (BDR 15-473)

I will read the summary of A.B. 291 from the work session document ([Exhibit E](#)). The bill provides it is no defense that a person did not commit all acts constituting this crime within the State or in a single city, county or local jurisdiction.

Assembly Bill 350 regards forfeiture of property.

ASSEMBLY BILL 350: Revises provisions governing forfeiture of property. (BDR 14-472)

I will read the summary of A.B. 350 from the work session document ([Exhibit F](#)). It requires each law enforcement agency to include additional information relating to seizures and forfeitures in the annual report submitted to the Office of the Attorney General (OAG). It requires the OAG to publish reports relating to seizures and forfeitures on its website available in a machine-readable format.

SENATOR HARRIS MOVED TO DO PASS A.B. 32, A.B. 275, A.B. 291 AND A.B. 350.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MR. GUINAN:

Assembly Bill 76, as per the work session document ([Exhibit G](#)), increases from \$1,500 to \$15,000 the maximum amount a court may award to a prevailing party for the reasonable fees of an expert witness.

ASSEMBLY BILL 76: Revises provisions governing civil actions. (BDR 2-147)

SENATOR HANSEN:

My concern is \$1,500 to \$15,000 is a heck of a big jump. Has anybody done an inflation calculation on the issue? The law currently allows the judge a great deal of discretion. It is a big jump from \$1,500 to \$15,000 in one fell swoop. I have no idea when the last time that number was adjusted to \$1,500—from 1958 or some time? Could legal counsel weigh in on that?

KARLY O’KRENT (Counsel):

I can look that up and get back to you. I do not have it in front of me now.

SENATOR HANSEN:

Honestly, it is not that big a deal. I just always hate seeing numbers jumped up that much in statute. I am going to support the bill. If Ms. O’Krent could give me that date, if I do have continuing concerns, I can change my vote on the Floor.

CHAIR SCHEIBLE:

I would also encourage you to ask the sponsor if you need statistics about the average cost and things like that.

SENATOR STONE:

I remember the testimony that the amount has not been adjusted for years. If they had put a Consumer Price Index increase on it, it would have been much higher than the \$15,000, more like \$30,000. We cut that in half because it was such a big jump.

SENATOR KRASNER MOVED TO DO PASS A.B. 76.

SENATOR NGUYEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MR. GUINAN:

Assembly Bill 51 revises the period for the mandatory and discretionary arrest of a person suspected of committing a battery which constitutes domestic violence.

ASSEMBLY BILL 51 (1st Reprint): Makes various changes relating to public safety. (BDR 14-426)

I will read the summary of A.B. 51 from the work session document ([Exhibit H](#)). The bill requires a peace officer to arrest a person suspected of battery if the officer encounters the person while responding to the initial request for assistance within 24 hours after the alleged incident, or if the officer did not encounter the person while responding to the initial request, within 7 days after the alleged battery. The bill prohibits the court from granting probation to or suspending the sentence of a person who is charged with committing a battery which constitutes domestic violence punishable as a felony.

There are two amendments, [Exhibit H](#). The first is from the OAG, adding language defining what constitutes "relevant training" for a victims' advocate to provide services to victims of domestic violence, sexual assault or human trafficking. The second amendment, [Exhibit H](#), from the Nevada District Attorneys Association, revises language concerning a peace officer's "direct interaction" with a person who is alleged or suspected to have committed battery and the arrest of suspect.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 51.

SENATOR HARRIS SECONDED THE MOTION.

SENATOR OHRENSCHALL:

I am going to vote yes. I want to reserve my right to change my vote on the Floor. I still a few questions I have on the bill and amendments.

THE MOTION PASSED UNANIMOUSLY.

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MR. GUINAN:

Assembly Bill 55 revises provisions of the Uniform Unclaimed Property Act including but not limited to changing the dates on which certain property is presumed abandoned.

[ASSEMBLY BILL 55 \(1st Reprint\)](#): Revises provisions related to unclaimed property. (BDR 10-360)

I will read the summary of A.B. 55 from the work session document ([Exhibit I](#)). The bill requires the administrator of unclaimed property to create and maintain a Statewide publicly available searchable database including the name of the person reported to be the owner of the property.

The bill removes the requirement the administrator must provide written consent before the abandoned property is delivered to the apparent owner if the receipt of the property is in the best interest of the State. It revises the notice the administrator must make to sell certain abandoned property. It also authorizes the administrator to request a State or local agency to provide confidential information to facilitate the return of unclaimed or abandoned property. The administrator must adopt regulations to assist property owners in the return of property presumed abandoned. The bill repeals provisions requiring the Uniform Unclaimed Property Act must be applied among the states that enact it.

There is an amendment, [Exhibit I](#), from the Office of the State Treasurer. It revises "second" renewal to the "first" renewal of a time deposit, the time at which such a property is presumed abandoned. It provides for the annual publication of a notice concerning abandoned property in a newspaper of general circulation if the county has population of less than 700,000 and sets forth criteria for such a notice.

SENATOR STONE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 55.

SENATOR OHRENSCHALL SECONDED THE MOTION.

SENATOR KRASNER:

I spoke with Treasurer Zach Conine after our hearing on A.B. 55. He had proposed changing the newspaper notices' publication from six times per year to none. I asked him if he would at least publish them once per year, in addition to putting it on the website, because of my concern some seniors might not see it because they do not have access to the Internet. He agreed, so I will be voting yes.

THE MOTION PASSED UNANIMOUSLY.

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MR. GUINAN:

Assembly Bill 272 creates the crime of mail theft as a Category D felony.

ASSEMBLY BILL 272 (1st Reprint): Establishes provisions relating to mail theft.
(BDR 15-800)

I will read the summary of A.B. 272 from the work session document (Exhibit J). It sets out what constitutes the crime of mail theft. There is an amendment, Exhibit J, from the Nevada District Attorneys Association in consultation with the sponsor. It removes the language referencing personal identifying information and also the word "breaks" in relation to opening certain mailboxes.

SENATOR STONE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 272.

SENATOR KRASNER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MR. GUINAN:

Assembly Bill 405 revises provisions relating to court programs for the treatment of mental illness or intellectual disabilities.

ASSEMBLY BILL 405 (1st Reprint): Revises provisions relating to court programs for the treatment of mental illness or intellectual disabilities.
(BDR 14-729)

I will read the summary of A.B. 405 from the work session document (Exhibit K). The bill authorizes the justice or municipal court to establish a program for the treatment of mental illness or intellectual disabilities. The original jurisdiction of a case involving an eligible defendant must be transferred to the district court if the justice court or municipal court has not established such a program. The bill provides the district, justice or municipal court may impose sanctions against the defendant for the violation while allowing the person to remain in the program.

There is an amendment, Exhibit K, submitted by the judge who presented the bill. The amendment would be inserted into the amendment approved in the Assembly. The language of the Assembly amendment appears on page 4. It seeks to clarify that transfer of a case to a district court may occur if the justice court deems it appropriate and necessary and the district court approves it, regardless of whether the justice court has its own program. The amendment also clarifies the transfer may occur for individuals who have already been adjudicated and those who are in a deferred prosecution, rather than being limited to individuals who have already entered a plea.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 405.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:

We will close the work session and open the hearing on Senate Bill (S.B.) 449.

SENATE BILL 449: Revises provisions governing structured settlement purchase companies. (BDR 3-1074)

TERRY REYNOLDS (Director, Nevada Department of Business and Industry):
You have my presentation ([Exhibit L](#)) on S.B. 449. Legislation has been passed requiring registration of structured settlement companies. At the time, the Department of Business and Industry asked whether my office would be the entity to register those companies. There were approximately 22 companies engaged in structured settlements at the time when this was set up. We worked to get the Consumer Affairs Unit under permit authorization.

Since 2013, the Unit has been reauthorized every two years. Finally, we got permanent authorization under *Nevada Revised Statutes* (NRS) 598, the fraud and deceitful practices area of NRS. We thought we could promulgate rules and fees for the regulation of structured settlement companies under the general authorization of NRS 598. The Legislative Counsel Bureau (LCB) felt we should get specific authorization because of how the Consumer Affairs Unit is structured. The LCB authorized the Unit to adopt regulations in consultation with the Director of Business and Industry to carry out the provisions of NRS 42.200 to NRS 42.400, inclusive.

Section 3 of S.B. 449 authorizes the Consumer Affairs Unit to charge an initial and renewal registration application fee of \$250. Registration renewal is \$375 upon failure to renew the registration within 60 days after the expiration. If registration lapses, the reinstatement fee is \$500.

Nevada Revised Statutes 42.340 originally allowed cash bonds. The reality is most people file letters of credit or a surety bond instead of paying cash bonds. We seek the elimination of cash bonds in S.B. 449. For the 22 registered structured settlement companies, we have not accepted cash bonds. However, we would like to establish a fee of \$250 to do so.

We worked with our staff to establish a time element to work through the registration of the companies. The bill will allow us to accept applications, renewals, process payment receipts, track company profiles including bonds and contact information if needed, perform investigations and enforcement, and then issue certificates that companies are registered within the State. We will promulgate regulations to this if the bill passes.

SENATOR STONE:

Can you compare and contrast the advantages and disadvantages of a cash versus surety bond or a letter of credit? How do they compare when it comes to security and the cost for the business to provide such security?

MR. REYNOLDS:

A cash bond is the actual cash businesses must put up. A letter of credit indicates they have money available within a bank.

SENATOR STONE:

The financial institution issues a letter of credit for a fee. It is not like having to take out cash and dedicate it. You are collecting interest on that money in the bank. When you pay for a surety bond, it is more cost effective than putting up the cash. From a State perspective, we really do not care; from a business standpoint, it is probably less expensive to secure a surety bond or letter of credit. With a letter of credit, if a business's balance does not reflect the value of the letter, the bank must be notified. Is that correct?

MR. REYNOLDS:

That is correct. It is much easier for us to work with a financial institution with a surety bond or letter of credit than to account for cash and make sure the cash bond stays whole within the time period.

ALFREDO ALONSO (National Association of Settlement Purchasers):

When this Body regulated the industry in the Eighty-first Legislative Session, we were under the impression the Division had the authority to charge a fee for these licenses. Unfortunately, we found out that was in question. We agree the discrepancy needs to be fixed if possible.

SENATOR OHRENSCHALL MOVED TO DO PASS S.B. 449.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:

I will close the hearing on S.B. 449 and open the hearing on A.B. 452.

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):

Assembly Bill 452 originated in a recommendation from the 2021-2022 Joint Interim Standing Committee on Judiciary to draft legislation requiring the adoption and publishing of a policy regarding prison visitation. It must include without limitation a procedure for appealing a decision to deny a visitation request and prohibiting the Nevada Department of Corrections (DOC) from banning in-person visits for approved visitors under certain circumstances.

Unfortunately, A.B. 452 as written was overly prescriptive in its requirements, which threatened its full implementation. Work has been ongoing with inmate advocates and DOC Director James Dzurenda to reach a mutually agreeable position. The conceptual amendment ([Exhibit M](#)) is a work in progress.

The intent of the bill is to ensure in statute a guaranteed ability for visitations in prisons and notice if visitations are cancelled. We want to establish an ombudsperson to act as a pressure reliever or fixer of certain issues with respect to inmates.

JODI HOCKING (Executive Director, Return Strong!):

Something I have learned in two sessions of doing inmate advocacy at the Legislature is there are two sides to every story. That does not make one side 100 percent right and the other side 100 percent wrong. A lot of it depends on your perspective and the angle from which you are looking at things.

The voices of families with loved ones in prison are often silenced and their experience is hidden from public view. I realized that when I began to talk to Legislators. I discovered experiences that are common knowledge for us are foreign to many of you.

What Return Strong! has been calling for all along from DOC is communication, transparency, understanding and legitimate oversight. We have begun to make strides in that with the current DOC administration. Unfortunately, prisons are a

space hidden from the public unless you are touched by incarceration, which I hope none of you are.

The imprisonment of your loved one or yourself is something difficult to comprehend, given all the pieces it entails. Over the past couple of years, Return Strong! has done a lot of research and study of the principles behind the prison experience. One of the things we found is prisons need layers of oversight. There is no one thing or one type of oversight that will fix every problem. Assembly Bill 452 is an attempt to find a way to fix as many as possible.

There were a few best practices we gleaned through research developed by experts. A key one, when you start to look at oversight, is independence from DOC in staffing and funding. Oversight should focus on three main areas: investigation, monitoring of prison conditions and access to people who are impacted via records and data. We have done a good job of finding ways oversight works in Nevada. States are starting to implement oversight bills, but each one is dependent on what works best in each state.

The proposed amendment, [Exhibit M](#), is not the version to which I will refer. The first section will codify administrative regulations for in-person visitation. This is a concern for families and incarcerated people because we have seen such visitation banned at county jails and across the Country. The trend is toward video visits, which in many places resulted in the loss of in-person visits. We have talked a lot about giving tablets to DOC inmates this Session. We wanted to make sure there is statutory protection for in-person visitation as video visits are implemented.

The second part of the amendment, [Exhibit M](#), involves visitation cancelations. This came out after the past few years as visitations came back after the COVID-19 pandemic. Severe staffing shortages have created a monstrosity as far as visitation and cancelations, but it was much worse prior to Director Dzurenda. The number of visits being canceled has lessened.

We also want statutory protection around cancelations and cancellation notifications. People should not fly across the Country or from another country or even drive from Las Vegas to find a sign on the door saying their visit was canceled. In the bill's section 2, subsection 1, paragraph (d) would require cancellation notification posted on a public space. This means either on the DOC

website—which does not happen now—or through something like a push text notification, which would go to anyone who was registered for the notification service.

Section 2, subsection 1, paragraph (d), subparagraph (1) of the bill and the first part of the amendment would require if the notice was 72 hours or longer, then the DOC deputy director would have to approve it. That way, people would know it was not just random, like an officer canceled the visit today. If the cancellation notice is issued less than 72 hours in advance, the Director would have to approve it in order to make sure the administration supported the change.

Under the amendment, [Exhibit M](#), the DOC would be required to provide a quarterly report to the Board of State Prison Commissioners including the number of cancelations per facility and the reasons why.

The other half of the amendment, [Exhibit M](#), to [A.B. 452](#) is about creating an ombudsperson office. The 2021-2022 Joint Interim Standing Committee on Judiciary supported the idea, but at the time it was not an option because the then-DOC administration was unwilling to have that discussion.

The OAG would establish an “Office of the Ombudsman.” It would be independent from DOC and impartial. The ombudsperson would assist in strengthening procedures and practices to lessen the possibility of actions occurring within DOC that may adversely impact the health, safety, welfare and rehabilitation of offenders.

The amendment, [Exhibit M](#), says the DOC Director would make the funds available to support the Office. The ombudsperson would have access to the Nevada Offender Tracking Information System (NOTIS), the computer system DOC uses to run reports to look for patterns of problems. Depending on those patterns, the ombudsperson would make recommendations to the State about how to address them. The ombudsperson would also have access to internal grievance audits.

There would be a request for proposal by the ombudsperson. Once that bid is accepted, the ombudsperson would also provide or refer training for officers and people who manage the grievance responses to make sure that they are meeting all requirements. With that access, the ombudsperson would be able to

provide a report on grievances: whether they were accepted, whether DOC is honoring response timelines and various other things.

JAMES DZURENDA (Director, Nevada Department of Corrections):

I met with the deputy attorney general who represents DOC and he concurred with what I saw in the Connecticut prison system. Connecticut has an ombudsperson office that is a separate, nonstate agency. It is any law firm that is willing to take the contract.

An ombudsperson reduces litigation and helps everything be more transparent, especially if the agency is supposed to not hide anything. According to agreements DOC has with the U.S. Supreme Court, the offender must go through a multistep process of grievance, ending at the DOC Director. If those steps have happened and the inmate still does not get resolution, he or she can file litigation.

The ombudsperson will act almost like the mediator for a court, as the arbiter for cases. The Office of the Ombudsman can help prevent cases from going further by being the outside entity to determine whether grievances are warranted and done properly.

Other ways the Office can help us is with staff training and monitoring of the books. The ombudsperson in Connecticut had access to case notes. Any time an offender meets with his or her caseworker with a problem or complaint he or she is trying to resolve, the caseworker puts a case note in NOTIS available for tracking.

The next step is the ombudsperson has access to what was done at the first level and if the complaint was not answered within the time frame. It is important for the ombudsperson to have access to NOTIS so the Office can monitor the time frames and due process, especially if the latter is related to discipline.

The DOC has a significant number of court cases based upon due process failures related to discipline. There is a specific due process for handling discipline, including the notice of charges, the time frame within a charge must be heard and sanctions. If due process is not followed, the inmate has grounds for litigation. That can also be something the ombudsperson should be able to monitor and focus on.

Now, a lot of violations of due process are done by accident. When an ombudsperson is following it, things can be put back in focus or the direction changed. That way, what happened in the discipline grievance or its appeal does not get to litigation.

Unfortunately, it is hard to determine cost savings on nonlitigated cases because we will never know about them. We could go back to see what was actually litigated. Were there fewer of cases than a couple years earlier? States that have done this show a reduction in litigated cases. Right now, there are 662 cases against DOC. That number could be reduced dramatically if we did something different. Doing something different is the embodiment of making sure things are done properly, even if they were initially overlooked.

Unfortunately, of all the visits canceled at the last minute, 99 percent are due to staffing shortages. When staff do not show up for work or someone is called out, we cannot get people in on overtime because there is no staff available. Facilities have a process whereby they cancel, move around or reduce staff hours so they can run the operation safely. Unfortunately, visits are the thing probably shut down first.

If a visit is scheduled for the beginning of a shift, administrators are not going to know until they show up at the facility they do not have enough staff to cover the shift. We could still post and notify people of the cancelation, but that will not help those who are traveling because they are going to get there probably an hour before the visit is set to begin.

When we find out we do not have staff to run visitation, we should have a better process to notify the public. It could save someone a long trip from Indian Springs or even Phoenix, Arizona, to Las Vegas. It is not just cancelations of visits, it should be cancelation of any operations and other things that the public should be notified of on our website or through another process.

I foresee a problem the Office of the Ombudsman could have. In the Seventy-sixth Legislative Session, legislation was enacted to give the OAG the ability to scope an ombudsperson's office for oversight of DOC. Unfortunately, it was never funded so did not happen, even though it is in statute. There arises the issue of a State agency overseeing another State agency.

The purpose of A.B. 452 and the proposed amendment, [Exhibit M](#), would be to have a completely separate entity—a private firm or whatever—with oversight over DOC. However, it is not legal oversight, simply an oversight to show discrepancies, inconsistencies or patterns of things that probably should not happen. That could be more effective and better for DOC.

The bill and amendment would help in our litigated cases. I would have to look at how we are going to fund the Office. We turn in a lot of money under Category 1 funding from our staff vacancies. We could refocus that or put money into an Interim Finance Committee contingency to pay for the ombudsperson for least the first or second contract year to see what benefits DOC could have.

SENATOR STONE:

Many times, this Committee talked about DOC staffing levels and has concluded we do not pay our prison guards enough. As a result, we have about 1,100 vacancies.

You mentioned 99 percent of visitation cancelations are going to happen at the last minute. I do not see how an ombudsperson is going to mitigate that. Here we are trying to spell out visitation rules in statute. I assume, if A.B. 452 becomes law, you are going to educate your troops on the new visitation rules, which hopefully people will follow. I am concerned that at a time when we do not have enough money for DOC to hire more guards we are going to spend a lot of money on an ombudsperson, which may make your job a little easier.

Director Dzurenda, the Governor put you in your position for a reason. We trust you to bring DOC into the new millennium and make sure our prison officers are safe and inmates appropriately taken care of. Do you think it might be more appropriate to pass this bill without the ombudsperson to give you the opportunity to fix these problems? Will you come back to us in the Eighty-third Legislative Session and say the expenditure of the ombudsperson—which is probably going to be in the six-figure or more range—was necessary?

MR. DZURENDA:

Actually, I was thinking the opposite. When we talk about visitation policies and procedures, there is already policy and procedure oversight: the Board of State Prison Commissioners. That is built into NRS and the Nevada Constitution. It is possible if A.B. 452 passes, visitation regulation could fall under NRS 233B, the

process of public hearing. There would be additional oversight of that. If we had an ombudsperson, that would help ensure things are being focused on and in compliance, even things that are accidental.

SENATOR OHRENSCHALL:

If A.B. 452 passes and we have an ombudsperson, maybe some problems could be solved before they get to the point of litigation. Do you think there might be savings for DOC from not ending up in State or federal courts if the ombudsperson can cut through the red tape?

MR. DZURENDA:

I know there will be savings, but it is hard to prove because we are not going to see cases come up. What can be proven is there will be faster resolution of court cases. Now, resolutions can be two, three, four, six years or even longer, which builds up tensions when offenders have issues they believe should have been resolved sooner.

An ombudsperson can help resolve issues or at least explain things to make offenders feel they have someone outside the agency listening to them. The ombudsperson can give a layman's definition of why grievances do not go through rather than having inmates wait for court cases, which could take two to six years.

PAMELA BROWNING:

I have an incarcerated loved one and am a core volunteer with Return Strong!. I was thinking about letters we receive from inmates on the topics covered in A.B. 452 and how little we can do to resolve the problems shared with us.

Then I started thinking about how instrumental an ombudsperson would be if he or she had access to NOTIS and could run a report to look at patterns of problems across DOC facilities.

We have 175 topics that have been brought to us through inmate letters. In the last 5 months, we have received 212 letters about the food quality and quantity; 184 letters with complaints of correctional abuse; 559 letters regarding medical, dental and mental health neglect; 270 letters about violations of due process and grievances, including 130 letters about grievances; 221 letters about lockdowns, isolation and lack of time out of cells; and 263 facility complaints: no heat or hot water, air conditioning not working, no

cleaning supplies. These are a lot of concerns and issues an ombudsperson could help us follow up on.

MELISSA DUNA:

My son is incarcerated at High Desert State Prison. He is not a hardened criminal, but he was addicted to drugs. What happened to him inside High Desert was horrific. Our ability to get help has been almost as bad as the situation.

My son was moved to protective custody after being assaulted by a known predator. We fought for anyone to listen to us. We looked at things that happened to him in prison. He was poisoned and began having health issues. His mental stability was off the wall.

I phoned Return Strong! and discovered we were not alone. I came across other sons, daughters and family members going through the same things. The torture and abuse is not always by other inmates; it is also by DOC workers. I was at visitation last week and there were signs about how to protect everybody who works at DOC but not about who protects the inmates.

Where can families go for help? The OAG represents DOC; the Office of Inspector General for U.S. Department of Health and Human Services is not impartial. The investigators for DOC wardens do not respond to questions. It is horrible, but that is the way the system is designed to work.

We need oversight by a neutral party. We need to be impartial and improve the path to the resolution beyond waiting years for lawsuits to happen. This is why I support [A.B. 452](#) and its amendment, [Exhibit M](#).

ASHLEY GADDIS:

I was formerly incarcerated at Florence McClure Women's Correctional Facility and am a Return Strong! staff member. I am here to give you personal insight as to why [A.B. 452](#) is important. I have submitted examples of my grievance filings ([Exhibit N](#)). There continue to be many offenders whose frustration and anxiety are on the rise because of the lack of available resources. They are seeking relief and resolutions to complaints about conditions of confinement and other violations.

Since working with Return Strong!, I have read countless letters from the incarcerated full of pure desperation and despair. Complaints range from lack of food, outrageous pricing of prisoner store items, visitation cancelations, abuse and assaults. Most of these complaints were exhausted using the grievance process and remain unresolved; the initial complaints are still problematic and progressive.

Chain of command must be followed when seeking relief or resolution or sometimes just explaining what we were looking for. The chain of command depended on the nature of the question or complaint. Most can be resolved on a lower level through a caseworker, but they are not. Instead, there is no response or unprofessional comments by staff like, "That is not in my pay grade or job description." This is what fuels the fire and results in costly litigation, mental breakdowns, suicides, hostility, aggression and even hunger strikes. It does not have to be this way.

I had an experience at Florence McClure Women's Correctional Facility involving a male officer who had recently been transferred from the men's facility, [Exhibit N](#). His behavior was anything but professional; to put it politely, he was a bully. The issue with him started as a disagreement over cleaning supplies. It resulted in his continuously coming into my unit yelling, hovering over me with threats, harassment and unnecessary locker searches. It got so bad I would refuse to come out of my room while he was working in fear of what would happen next.

I reached out to mental health staff who told me there was nothing that could be done because I was not having suicidal or homicidal thoughts. It should not have to take a person feeling suicidal or homicidal to validate reporting an officer's behavior and the effect it is having on him or her. I expressed the triggering of past trauma yet was told there was nothing to be done. I spoke with my caseworker. I had side conversations with DOC lieutenants and all they did was defend my nemesis. I was scared to initiate a grievance due to the possibility of retaliation, which clearly was already happening.

Eventually, my family called Shift Command with my concerns. I was called to Shift Command and questioned about the problem. I told them I did not feel safe, but they continue to defend the bully. The harassment went on for about three months before I was transferred out of the facility.

Having complaints and concerns circulated internally is not working; having an ombudsperson is greatly needed. With an ombudsperson, there will be factual resolutions to the complaints and concerns that go unnoticed, reducing the levels of frustration and tension among the population. Having an ombudsperson would also provide greatly needed oversight of the grievance process.

JOHN LUCHT:

I am a formerly incarcerated prisoner in High Desert State Prison. I am speaking in support of the amendment, [Exhibit M](#). An ombudsperson as an outside, objective witness with golden key authority would be a wise expense.

Someone who can physically go in and observe prison workings directly and passively through the camera system would be able to observe things up to two weeks into the past. This outside person would be able to see the living conditions and question why things are the way they are. For example, on the weekends when there is apparently not enough staff for normal operations, nobody is allowed out of one's cell. However, there are enough staff to allow 24 inmates in every unit out of their cells, just nobody else. If there is enough staff for that number in the morning and night, why cannot anybody else come out all day long?

The commanding officers are paid to watch inmates, correct? An ombudsperson could observe firsthand the cleanliness of tiers, eating areas and showers, plus water temperature and air conditioning. Nobody bothers to check these things. The cleanliness of the High Desert medical facility is abysmal. The extra security yards built shrank the normal size of the regular yards but are never used anymore. The camera system is used to passively observe everybody. This could lead to a lot of accountability issues about how the interactions are taking place and whether certain special inmates benefit at the expense of all others.

To have someone oversee the DOC internal logs and emails to determine how orders and directives are conducted could yield clarity about what is going on behind closed doors. The ombudsperson could report directly to outside agencies about what exactly was found during his or her observations. This would force accountability by staff about how professionally they are performing their duties. Are they being fair, firm and equal to all inmates or just to some?

Why has the grievance process become so complex? Even the savviest inmate has a hard time navigating such basic issues and bringing up simple problems. The ombudsperson could observe how up to date regulations are and whether equipment works and is being used correctly in the law library. Last time I was at High Desert, the regulations were so far out of date, they were not even relevant.

Nothing is being followed up on; that is only done on paper. Investigating broad claims of misconduct and abandonment of duties by said ombudsperson may expose internal communications, coverups or lack of communications. Since 2020, there have been several times when internal memos were only spoken about, but never printed to prevent litigation and lawsuits. The ability to interview commanding officers and inmates about incidents of beatings and murders, other incidental situations, food service and culinary standards before and after chow would be invaluable. Wardens are reducing calorie counts from 2,800 to 2,200 calories per day. Every ounce of food on those trays is necessary. An ombudsperson could make sure all inmates involved in food service are properly dressed and dishing out appropriate portions. The ombudsperson could also verify amounts of food being sent from the kitchen.

The ombudsperson would also be able to verify the staffing and where they are posted. Far too often, guards are posted in out-of-the-way places so they do not have to do anything. For example, when visitation is not conducted, there are up to four guards just hanging out in the visitation rooms all day long. During lockdowns during the week, one can see guards in the infirmary, law library and chapel just standing around.

An ombudsperson could randomly interview inmates about problems within the facility and yield valuable insights. Problems with staff go unnoticed or completely unchecked. Night shift supervisors do not do their rounds so as to not catch retaliatory events by commanding officers. They indirectly seek revenge on inmates by using other inmates as leverage for the price of privileges, extorting them to get information or contraband.

Observations need to be assessed about who gets appointed to inmate advisory committees. More often than not, porters are appointed to these positions. It does not matter to them if they are denied privileges because they get them anyway. All inmates denied privileges are locked in their cells and do not get a voice on these committees.

SONJA WILLIAMS:

My daughter's father was diagnosed with multiple cancers while incarcerated at High Desert State Prison. I wish at the time we had had some type of protection like in [A.B. 452](#) and its amendment, [Exhibit M](#). When it was us versus the machine of DOC, we never won during the final two years. You have my statement of support ([Exhibit O](#)) for [A.B. 452](#).

I have given public comments to Committees on multiple issues about my experience with the Office of Special Investigations and as a core volunteer with Return Strong!. I helped read and process letters we received from inmates full of issues that could have been addressed and resolved if we had a neutral party to review and make recommendations. Most issues cannot be told in the two minutes allowed for phone testimony here.

[Assembly Bill 452](#) could have helped me resolve a situation in summer of 2021 when I took my then-six-year-old daughter, Jaselyn Newman, to visit her terminally ill father. At the time, the visiting rules stated if children were uncontrollable, a visit could be canceled. We had a special visit with Eric, who was wheelchair bound because he was so weak, plus his hands and feet were shackled to the wheelchair.

Jaselyn had not seen her father for two years due to the COVID-19 pandemic. Anyone who knows Jaselyn will tell you she is the most affectionate, sweet-natured child in the world. As I was signing us in, she hugged her dad. She was immediately pulled off him and then staff ended the visit. Jaselyn never saw her father again because they suspended all our visits. They wrote Eric up for unlawful contact. What is even worse is he could not hug her back. That is the last memory Jaselyn has of her father because he died six months later.

If there had been a neutral third party, we could have filed a complaint and there is a possibility Jaselyn would have seen her father again. There would have been an opportunity for resolution. Now, DOC holds all the power, right or wrong. Whether we get the truth or a fabrication of a story, DOC owns the narrative.

Mine is just one example. We have families who cannot be here today who, due to COVID-19, were unable to visit a loved one in the intensive care unit. We have families who flew in from all over the United States and the world who got

off the plane to find the visit was canceled. Families save to afford one visit every four or five years and then show up to see a sign on the door saying the visit is canceled due to staff shortages.

We understand A.B. 452 will not fix everything, but it will create a process that provides at least some protection that families and children do not become victims with no recourse. What happened to me and my daughter was horrible; what was worse was never having a voice. We desperately need this. I never want another child to deal with the trauma Jaselyn had to endure at the hands of DOC.

CHRIS KOVELLO:

My son was previously incarcerated at DOC. He is home now doing well, thankfully. I have no idea what happens to people without a family to help them, but that is a story for another day. I support A.B. 452 and its amendment, [Exhibit M](#).

Food quality or lack of food in DOC is something with which an ombudsperson could really help, as noted in the food diary ([Exhibit P](#)). My son was assigned to work in a Nevada Division of Forestry (NDF) camp. Work camps are far from everything. He was training and working for NDF while they were there. Workers are supposed to get additional calories due to extra nutritional needs. I called him one night and, as I did almost every time I called, asked him, "Well, what you get for dinner tonight?" because it is hard to know what to talk to inmates about. He said, "Dinner tonight was a piece of fish equal to about two fish sticks, a quarter cup of rice and a little bit of dry salad." Then he told me about the constant hunger pangs that never go away.

A few days later, there was an incident at the camp in which people were accused of stealing food because they got seconds. No matter what, if food is left over, it is thrown out rather than given to hungry people. This is food paid for by the State. I was infuriated when I found out about that. Then I found out it is not just at camps; the same thing happens at every DOC facility.

I am an advocate with Return Strong!. We have letters from individuals about food being thrown away and people being hungry. I was desperate to find out what can we do about it. I needed somebody to listen to me to help us.

I went to NDF to find out what is going on. Because I am a season ticketholder with the Las Vegas Aces, I knew then-Governor Steve Sisolak was at many of the games. I went with signs and letters from different people who had family incarcerated at DOC. The Governor had his entourage with him and when I tried to get close to him, I almost got arrested. I knew it was crazy, but I was desperate because no one in DOC cared at all.

Every week, Return Strong! gets letters from DOC inmates about how hungry they are. There have been a million explanations from DOC; maybe some are true. We need someone who can look at these complaints, investigate them and make recommendations for solutions. We want more than just our voices heard. We want our loved ones fed appropriately. We want somebody to investigate what he said/she said, that type of thing, to get at the truth and help us find remedies. I support [A.B. 452](#) with its amendment, not just because of the food but because we desperately need oversight.

TONJA BROWN (Advocates for the Inmates and the Innocent):

We want to echo the previous comments made in support the amendment, [Exhibit M](#), to [A.B. 452](#), with the exception of establishing an Office of the Ombudsman. The ombudsperson should not review any grievances relating to offenders' underlying criminal conviction. During the 2007-2008 Interim Advisory Commission on the Administration of Justice, several inmate advocates including, me, Flo Jones, Theresa Werner, Michelle Rival, Pat Hines and others worked on getting an independent oversight committee over DOC. In 2011, S.B. No. 201 of the 76th Session passed and became the ombudsman bill under the control of the OAG. It was never funded.

When NOTIS was installed in June 2007, it flipped out and put false felony charges in inmates' files, some of which were never removed. We are talking murder, sexual assault, burglary—crimes the inmates never committed. For some, the crimes they had committed were doubled, unbeknownst to the Parole and Pardons Boards.

Advocates for the Inmates and the Innocent submitted an amendment to substitute section 6 of [A.B. 452](#), which provides the ombudsperson's position will include looking at offenders' NOTIS files to review any discrepancies the offender claims are inaccurate and that no disciplinary action should exist.

Last week, I was contacted by an inmate about a false felony charge going back many years ago. He claimed he had a false sexual assault charge and other untrue things in his file. He had heard about the computer glitch and I told him, "We will file your grievance, but you may have to take it to court."

He had parole hearings in 2013 and 2016. Unbeknownst to him, the false charges were submitted to the Parole and Pardons Boards and he was denied. He filed a writ of mandamus in the Eighth Judicial District Court. Last week, the Nevada Supreme Court rendered an order on the false charges. We ask you on behalf of Return Strong! Nevada, Battle Born Progress and Advocates for the Inmates and the Innocents to accept our amendment and remove section C of Return Strong!'s proposed amendment, [Exhibit M](#).

SENATOR KRASNER:

You mentioned false felony charges placed in inmates' files. Since you are proposing an amendment, how are you alleging those false felony charges got into the files?

MS. BROWN:

I am not alleging there are false felony charges; I am stating a fact. The charges were added in 2011, according to a sworn deposition by Don Helling, then-DOC Programs Director, after we obtained the offender information with the false charges. The file made it appear as though the inmate had been in DOC for many years and that he had a new charge as of 2007.

When the inmate asked Mr. Helling about it in 2011, he stated when NOTIS was installed in 2007, it somehow created errors that put false charges in files. The inmate to whom we spoke had a false burglary charge in his file. That information was submitted to the Parole and Pardons Boards and his parole was denied.

When the story started to break, other inmates discovered they had false sexual assault charges in their files. It was a huge thing back in the day. Then-Assemblyman Al Kramer, District No. 40, came to me during his last term after receiving information from Ely State Prison inmates about false charges. He had no idea about the computer glitch.

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On May 11, 2023, the Nevada Supreme Court ruled on *Johnson v. Bisbee, State of Nevada Board of Parole Commissioners and James Dzurenda*, S.Ct. unpublished opinion Case No. 84892 (2023).

The case dealt with the 2016 parole hearing in which there was some false information. The ruling was about an appeal of an Eighth Judicial District order denying a petition for a writ of mandamus. The defendant lost all those years and could have been released.

Inmates tell us DOC staff removes false felony charges; however, when the inmate goes before the Board, sometimes the charges reappear. My proposed amendment to A.B. 452 puts the Board on notice that there is an issue. Hearings were held on this in 2011 and DOC staff were fired. They said they did not know how to fix it. Well, as far as I know, it still exists because they have not been able to fix it.

CHAIR SCHEIBLE:

We need you to follow up with documentation on that: a copy of the deposition, a copy of the reports provided to the Board, a copy of the judgment of conviction. You must substantiate the explanation you gave.

MS. BROWN:

May I say it is public record? Do you believe the Advisory Commission on the Administration of Justice and Board of State Prison Commissioners have proof of my testimony? I will provide you with Mr. Helling's deposition that clearly shows knowledge of the false charges.

ARIEL RODRIGUEZ (Return Strong!):

Spanish-speaking DOC inmates lack the ability to access anything in their own language about the visitation policy. Dress code requirements, signs on doors and kites to request medical care are all in English. There is nowhere to get help with visitation because the applications are only in English.

If there were an ombudsperson, he or she could review the problem across the State to see how badly Spanish speakers are impacted when there is nowhere to go. The ombudsperson could make recommendations to make sure people have access to information.

NICK SHEPACK (Fines and Fees Justice Center):

The Fines and Fees Justice Center supports [A.B. 452](#). For far too long in Nevada we have either fixed problems in DOC through litigation or every other year by coming before his Body with a litany of bills to try to address the issues in [A.B. 452](#).

As we have seen in many other states, an ombudsperson office can address many of these issues. Not only will it reduce litigation and likely save the State money, it will reduce legislation. Use of an ombudsperson is the best practice everywhere it has been implemented. The bill will directly impact the work of our organization as it looks at DOC financial issues. Examination of those issues can be given over to the ombudsperson, as well as many of the other issues brought before you in this and previous sessions.

Are we paying our public employees, especially our correctional officers, enough? Clearly not. We have a department-wide staffing problem. We should implement best practices to ensure we are providing the best pay and resources to staff our prisons so that we can also eliminate that issue.

NICOLE WILLIAMS (Return Strong!):

I have a loved one in DOC. I am the mail coordinator for Return Strong! so see, touch and screen every letter we receive. [Assembly Bill 452](#) and its amendment, [Exhibit M](#), are urgently needed by all of us who are impacted by incarceration.

My husband is incarcerated down south and I live in northern Nevada with our three-year-old daughter. She loves her daddy no matter where he is and she needs him. The time we spend in the visiting room strengthens her bond with him and lets him learn how to interact with her. They create memories that are the foundation for the relationship now and 20 years into the future.

Unfortunately, we are not often able to make the visitation trip. I have always wished we had video visits; hopefully, those will come with issuing tablets to inmates. However, I would hate to see any family lose the ability to look into their loved one's eyes. We need to touch, hug, laugh and just be in each other's presence. Just like you love your families, we love ours.

One of the most powerful things [A.B. 452](#) does is protect our ability to have in-person visitation, even as tablets and video visits become methods to add

interaction with our loved ones. They should never replace the ability to be in each other's presence. My husband will be home soon, and I pray he will stay home and we will not be in this situation again. I am here today to make sure all families in Nevada have the legally protected ability to sit down with their loved ones like my daughter and I do now.

DASHUN JACKSON (Children's Advocacy Alliance):

The Children's Advocacy Alliance supports A.B. 452. We hope the Committee will consider family preservation and connections. It is important families have that time to spend with their loved ones behind bars, whether via a tablet or in person.

AMBER FALGOUT (Northern Nevada Manager, Battle Born Progress):

Battle Born Progress strongly supports A.B. 452 as written. We want to highlight the addition of an ombudsperson to provide oversight. Having oversight from someone outside of DOC to investigate grievances and complaints on any other issue is desperately needed. Session after session we hear about what incarcerated folks and their families deal with. A system has not been set up to deal with those issues. Adding an outside source to help advocate for inmates and their concerns is a step in the right direction. The ombudsperson would bring much-needed relief and transparency in DOC.

BETTY GUESS:

I have a loved one incarcerated in DOC. I support A.B. 452 and reiterate everything everyone else has said, especially regarding the grievance process and the need for an ombudsperson to oversee it.

My loved one has experienced all the things that you have heard regarding food and its lack of quality and quantity. He has experienced problems with the grievance process regarding medical care and many other things you have heard about today. I do not live in Nevada anymore; I am 1,800 miles away in Indiana. My son has been in DOC for 13 years and has had one visit. It was with me last month and only due to the benevolence and kindness of Return Strong!. I am a core volunteer and the chaplain for that organization.

ANNEMARIE GRANT (Advocates for the Inmates and the Innocent):

I support A.B. 452 and Return Strong!'s amendment, Exhibit M. However, we would like the ombudsperson section to include Ms. Brown's conceptual amendment because inmates are still being affected by the computer glitch of

which she spoke. I echo her other statements and ask you to reference *Johnson v. Bisbee*, which mentions the computer glitch and false felony charges.

KATELYN AHERN:

I have a loved one incarcerated in Nevada and support A.B. 452.

LESLIE QUINN:

I am neutral on A.B. 452. Having an ombudsperson connection would help in processing inmate issues and incorrect charges. My husband works for DOC and is willing to be a liaison between it and the Office of the Ombudsman if DOC will approve him.

However, I oppose the recommended changes to visitation as written, specifically in regard to a 72-hour notice being given for cancelation of visits if the facility has to shut down in an emergency. In regard to hospital visitation, the bill will create a safety and security breach for correctional officers, other inmates, visitors and the public in general.

CHAIR SCHEIBLE:

The Committee has received one letter ([Exhibit Q](#)) of support for A.B. 452 from Marianne Espinosa. We will close the hearing on A.B. 452 and open public comment.

Ms. QUINN:

I am grateful so many people want to support people in general and their freedom. My hope is the same concern would be given to staff working for the public, whether police officers, correctional officers, hospital staff or nurses. Please also consider and have respect for them. The Legislators are doing just that.

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CHAIR SCHEIBLE:

We will close public comment. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 2:42 p.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
A.B. 32	C	2	Patrick Guinan	Work Session Document
A.B. 275	D	3	Patrick Guinan	Work Session Document
A.B. 291	E	3	Patrick Guinan	Work Session Document
A.B. 350	F	3	Patrick Guinan	Work Session Document
A.B. 76	G	4	Patrick Guinan	Work Session Document
A.B. 51	H	5	Patrick Guinan	Work Session Document
A.B. 55	I	6	Patrick Guinan	Work Session Document
A.B. 272	J	7	Patrick Guinan	Work Session Document
A.B. 405	K	8	Patrick Guinan	Work Session Document
S.B. 449	L	9	Terry Reynolds / Department of Business and Industry	Presentation
A.B. 452	M	11	Jodi Hocking / Return Strong!	Proposed Conceptual Amendment
A.B. 452	N	18	Ashley Gaddis	Grievance Process Example
A.B. 452	O	22	Sonja Williams	Support Statement
A.B. 452	P	23	Chris Kovello	Amarak Food Diary / Thomas Supranovich
A.B. 452	Q	29	Marianne Espinoza	Letter of Support