

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session  
February 22, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Wednesday, February 22, 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

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Karly O'Krent, Counsel  
Jan Brase, Committee Secretary

**OTHERS PRESENT:**

Marc Schifalacqua, City Attorney's Office, Criminal Division, City of Henderson  
Annette Magnus, Battle Born Progress  
Erica Roth, Washoe County Public Defender's Office  
John J. Piro, Clark County Public Defender's Office  
Nick Shepack, Fines and Fees Justice Center  
Tonja Brown, Advocates for the Inmates and the Innocent  
John Jones, Jr., Nevada District Attorneys Association  
Christopher Ries, Las Vegas Metropolitan Police Department  
Jason Walker, Washoe County Sheriff's Office

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Jim Hoffman, Nevada Attorneys for Criminal Justice  
Leisa Moseley, Fines and Fees Justice Center  
Cadence Matijevich, Office of the County Manager, Washoe County  
Jeff Rogan, Clark County District Attorney's Office

CHAIR SCHEIBLE:

Senator Rochelle T. Nguyen will present Senate Bill (S.B.) 104 and outline conceptual amendments.

**SENATE BILL 104**: Revises provisions relating to traffic offenses. (BDR 43-309)

SENATOR ROCHELLE T. NGUYEN (Senatorial District No. 3):

Senate Bill 104 is a cleanup bill and addresses A.B. No. 116 of the 81st Session and S.B. No. 219 of the 81st Session. Senate Bill No. 219 of the 81st Session authorized a court to suspend the driver's license of a defendant in certain circumstances. The bill was sponsored by the Senate Majority Leader and had bipartisan support in both Houses of the Legislature. I had the privilege of carrying A.B. No. 116 of the 81st Session. The bill sought to decriminalize minor traffic offenses, passed with bipartisan support and took effect on January 1, 2023. Senate Bill 104 is meant to address inconsistencies between S.B. No. 219 of the 81st Session and A.B. No. 116 of the 81st Session, particularly as they relate to the suspension of a person's driver's license.

The proposed conceptual amendments ([Exhibit C](#)) seek to address issues of concern following the implementation of A.B. No. 116 of the 81st Session. There has been some agreement among Legislators and stakeholders, and we continue to work to make necessary adjustments.

The first bullet point amends *Nevada Revised Statutes* (NRS) 484A.7035, subsection 1, paragraph (c) to add cellular phone numbers to the information collected for issuing traffic citations and include an opt-in to text message communications. The messages could include fee payment reminders or information regarding upcoming court appearances.

The second bullet point amends NRS 484.615, subsection 4, paragraph (a), subparagraph (3) to read "the state registration number of the vehicle the person is driving." This is a suggestion from members of law enforcement, those issuing tickets and the courts. The additional information will provide further clarification to the ticketing process.

The next bullet point amends NRS 484A.704, subsections (2) through (4) to allow a person who does not contest a civil citation to request a reduction in amount due, a payment plan or community service in lieu of penalty. This is allowed, but the proposed changes would clarify that when a citation is converted from criminal to civil the courts would still have flexibility to allow payment plans, community service or other options.

*Nevada Revised Statutes* 484A.7043, subsection (1) is amended to specify that fines and fees are paid to the jurisdiction in which the traffic citation is filed rather than the jurisdiction where the offense occurred. For example, when a driver is issued a ticket in the City of Reno and appears in justice court, the proposed amendment assures fines go to the jurisdiction where the citation occurred.

*Nevada Revised Statutes* 484A.7049 is amended to make clear that a prosecutor can convert a criminal traffic offense to a civil traffic offense at any time before conviction, regardless of date of commission of the offense, even if committed before January 1, 2023. Prosecutors requested this clarity to conform to the intent of A.B. No. 116 of the 81st Session, allowing conversions to civil traffic offenses and referral of unpaid fines to the collection process.

*Nevada Revised Statutes* 484A.705 is amended to state that officers arresting a person for DUI can also arrest this person for the commission of an associated civil traffic offense, rather than placing the charging decision with prosecutors. For example, when a driver is stopped for a violation that would be considered a civil citation but upon approaching the vehicle the officer smells alcohol or is suspicious of another crime, the officer will have flexibility to arrest and charge the driver criminally. Ultimately, the prosecutor will have flexibility on charging decisions allowing for a seamless process. In implementing A.B. No. 116 of the 81st Session, the Legislature wanted to assure that law enforcement officers dealing with traffic matters and other crimes do not experience changes in their responsibilities or investigative procedures.

The proposed amendment adds a section providing prosecutorial immunity for attorneys handling civil traffic matters to the same extent as those handling criminal traffic matters. In municipal and county courts, district attorneys and city attorneys prosecuting criminal and civil citations are granted prosecutorial immunity in both instances. This is consistent with the intent to provide flexibility and protection for prosecutors.

The proposed amendment adds another section modeled on NRS 268.019 providing that counties can, by ordinance, propose civil penalties in lieu of criminal penalties. The proposed amendment would allow cities and counties to enact ordinances addressing civil traffic infractions and corresponding civil penalties. We will continue to observe jurisdictions' collaboration with law enforcement partners, courts, court administrators, clerks and all those involved.

Because Nevada does not have a unified court system and jurisdictions throughout the State issue citations in varied formats, Amy Davey, Administrator, Office of Traffic Safety, Nevada Department of Public Safety, requested an amendment to NRS 484A.7035 mandating that a portion of traffic citations be standardized across the State. Ms. Davey has requested the formation of a working group to identify the most useful citation designs. All jurisdictions would continue to have discretion in designing a portion of the citations to meet needs particular to their areas. The mobile application used by law enforcement can continue to partition citations so each jurisdiction can utilize customized templates. Planning and implementation will be challenging and likely require a project manager who can coordinate with the courts, judges and working groups in jurisdictions across the State.

The last proposed amendment adds language to NRS 484A.704 stating the court must allow availability to an online system of dispute resolution and include program participation instructions. This provides flexibility and options to the courts, allowing for resolutions to civil violations such as community service, traffic school or other safety mechanisms.

We continue to address the issue of setting aside default judgments. In the case of civil citations, unpaid fines are automatically converted to default judgments. Some courts do not have a mechanism to set aside those judgments and allow people to pay fines after a 90-day period. We are attempting to determine whether there is enough flexibility in the rules for courts to create their own system or whether a universal set of guidelines is necessary.

Because A.B. No. 116 of the 81st Session has only recently been implemented, I anticipate additional concerns and questions in the coming weeks. Finally, we are lacking clarification on juvenile citations. Previously, traffic citations issued to juveniles were considered criminal offenses and settlement of the cases required the presence of a parent or guardian. The statutory changes allow for

the conversion of criminal offenses to civil offenses. The question of the imposition of civil judgments on juveniles is troublesome. We want to make certain there are extra protections for juveniles, which is a policy decision not previously considered. We have some individual working groups exploring options to address the issue, such as referring cases to family court or encouraging parental involvement.

These amendments are conceptual in nature, but I want to make certain that the Committee has language to consider during this dynamic process. This is not meant to decriminalize additional offenses, though it is possible other bills on the subject may be introduced during the Session.

SENATOR DONDERO LOOP:

Juveniles usually do not own their automobiles but generally drive cars owned by their parents. Has there been discussion requiring the vehicle's owner to make an appearance when a citation has been issued?

SENATOR NGUYEN:

Members of working groups are in the audience today and may speak to the issue. Discussions are taking place, and I encourage those individuals to share their thoughts. I will follow up and provide information as it becomes available.

SENATOR DONDERO LOOP:

It is important that parents or guardians are aware when their children are issued traffic tickets.

SENATOR NGUYEN:

I will keep you apprised on developments.

SENATOR HANSEN:

I appreciate your efforts in allowing for conversion of criminal offenses to civil offenses. It is a complicated issue as evidenced by your support of S.B. 104 and your proposed amendments. Regarding failures of citation compliance, have you considered a mechanism for tracking attempts at compliance and addressing people who ignore or refuse pay fines? Will they also be offered the opportunity to make payments or commit to community service without penalty? Should additional penalties for deliberate noncompliance be considered?

SENATOR NGUYEN:

I will investigate further. The penalty for nonpayment is referral to the collection process. I discussed the need to establish guidelines and rules for setting aside default judgments. In addition to the collection process, statutory language within A.B. No. 116 of the 81st Session allowed courts to include collection fees and other penalties with few limitations.

SENATOR HANSEN:

The bill removed the process by which those who failed to appear in court for traffic violations were issued warrants and subject to arrest. Is that correct?

SENATOR NGUYEN:

Yes, that is correct for charges enumerated in the bill. The list is extensive but not inclusive. For example, a variety of citations for broken taillights are still criminal violations. I can provide the list to the Committee, but I am certain ongoing revisions will be required.

SENATOR HANSEN:

I salute you for your courage to jump into this subject and suspect you will be back numerous times at least through the Eighty-third Session.

SENATOR STONE:

I also appreciate your efforts. I support prosecutorial immunity for civil offenses and the innovative plan for an online system for dispute resolution. Does the State have broadband capacities to support this type of system?

SENATOR NGUYEN:

Not at this time, but we are making progress. Adding a uniform criminal citation might be a step in that direction. A uniform criminal citation system would allow for a simplified input process, autonomy for individual courts and improved efficiencies. Challenges associated with this issue include financial costs, a need to mandate compliance and implementation. Senate Bill 104 intends to address these challenges.

CHAIR SCHEIBLE:

Regarding prosecutorial involvement with civil citations, you are suggesting that we provide some prosecutorial immunity. What is the plan to address jurisdictions where the district attorney is simply refusing to engage in this

process and there is no one to bring the citation forward or compel those charged to appear?

SENATOR NGUYEN:

I appreciate your expertise on traffic matters. Courts have not brought the issue of jurisdictional noncompliance to my attention though I recognize the importance of considering the inclusion of language to address the question and am open to discussions.

CHAIR SCHEIBLE:

It is my understanding that in some jurisdictions, the courts are taking over prosecutorial functions of mailing citations, setting court dates and processing responses from cited individuals. Responses include agreement to pay fines or contestation of citations. We can have a broader policy discussion about whether we think courts can and should perform those functions, but it is important that someone be responsible for ensuring that if we keep these laws on the books, we have a way to enforce them. Statute still allows individuals to contest a civil citation. A hearing is supposed to be set for individuals to appear before a judge, traffic hearing officer or magistrate to argue their case. I do not know of any jurisdictions that have held one of those hearings. Are statutory changes necessary to address this issue?

SENATOR NGUYEN:

Resolution for challenges to civil citations is not addressed in S.B. 104. One concern has been that in order to schedule a hearing, the individual cited would be required to post excessive bond. I will continue to investigate and report to the Committee.

CHAIR SCHEIBLE:

You have put a tremendous amount of work into this bill as well as A.B. 116 of the 81st Session, and the work continues. We appreciate your commitment to continuing to ensure we craft legislation that works for everybody in Nevada and accomplishes our goal of designating certain traffic citations as civil infractions.

MARC SCHIFALACQUA (City Attorney's Office, Criminal Division, City of Henderson):

We worked with Senator Nguyen on two of the conceptual amendments. We are one of the jurisdictions that is continuing to handle criminal as well as civil

traffic cases in our municipal courts. Our prosecutors are still appearing and subpoenaing those cases that go to contested hearings. We are appreciative of Senator Nguyen's willingness to work with us. If those two conceptual amendments are included, we are supportive of S.B. 104.

ANNETTE MAGNUS (Battle Born Progress):

We are here today in support of S.B. 104. The bills passed last Session with bipartisan support were critical, and we supported them. This cleanup bill is necessary to ensure the legislative intent is fully realized for those bills. Passing S.B. 104 will continue to ensure that Nevadans can drive legally, which is a critical way to ensure that the citizens of this great State contribute to their families, communities and, ultimately, their State. Please pass this commonsense legislation.

ERICA ROTH (Washoe County Public Defender's Office):

We support S.B. 104.

JOHN J. PIRO (Clark County Public Defender's Office):

We support S.B. 104.

NICK SHEPACK (Fines and Fees Justice Center):

As an organization, we are dedicated to helping make sure S.B. 104 works for everyone.

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

We echo the comments previously made by the individuals here. I am interested in learning more about clarifications of juvenile civil judgments.

JOHN JONES, JR. (Nevada District Attorneys Association):

We also support the proposed conceptual amendments. I would like to address the question posed by Chair Scheible with respect to prosecutors opting out. This was something we did investigate last Session. Other jurisdictions have passed criminal civil structures and allowed prosecutors to opt out. We can look to other states for potential solutions.

CHRISTOPHER RIES (Las Vegas Metropolitan Police Department):

We support S.B. 104 conceptually and look forward to working with Senator Nguyen on this legislation.



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JASON WALKER (Washoe County Sheriff's Office):  
We support S.B. 104 and are looking forward to further conversations.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):  
We support S.B. 104.

LEISA MOSELEY (Fines and Fees Justice Center):  
We support S.B. 104. I emphasize our commitment to working with Senator Nguyen and other stakeholders. We will continue to work to ensure the bill is passed.

CADENCE MATIJEVICH (Office of the County Manager, Washoe County):  
We are supportive of these conceptual amendments, particularly proposed changes to NRS 484A.7043, subsection 1. We appreciate being included in the working group.

JEFF ROGAN (Clark County District Attorney's Office):  
We have had some procedural difficulties in our justice courts relating to the implementation of A.B. No. 116 of the 81st Session. The conceptual amendments will go a long way toward resolving some of those procedural and operational issues. Regarding Senator Dondero Loop's question about juveniles, when a juvenile is a tort-feasor in a civil case in our jurisdiction, the case is brought against the parents on behalf of the child, and it is ultimately the parent who is responsible for the fines and fees or civil judgment. We are investigating whether this option is preferable to routing cases through juvenile court. These discussions are still ongoing, and I will provide the Committee with updates.

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CHAIR SCHEIBLE:

Having nothing further to come before the Senate Committee on Judiciary, we are adjourned at 1:41 p.m.

RESPECTFULLY SUBMITTED:

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Jan Brase,  
Committee Secretary

APPROVED BY:

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Senator Melanie Scheible, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit Letter</b>	<b>Introduced on Minute Report Page No.</b>	<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	1		Attendance Roster
S.B. 104	C	2	Senator Rochelle T. Nguyen	Proposed Conceptual Amendments