

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session
February 23, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Thursday, February 23, 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
Blain Jensen, Committee Secretary

OTHERS PRESENT:

John R. McCormick, Assistant Court Administrator, Administrative Office of the
Courts, Nevada Supreme Court
Melissa A. Saragosa, Las Vegas Township Justice Court, Department 4,
Clark County
Jeff Rogan, Clark County
Tom Clark, Nevada Judges of Limited Jurisdiction
Nick Shepack, Nevada State Deputy Director, Fines and Fees Justice Center
Tonja Brown, Advocate for the Inmates and the Innocent

Senate Committee on Judiciary
February 23, 2023
Page 2

Jim Hoffman, Nevada Attorneys for Criminal Justice
Ann Marie Grant

CHAIR SCHEIBLE:

I will open the hearing on Senate Bill (S.B.) 55.

SENATE BILL 55: Revises various provisions relating to courts. (BDR 1-432)

JOHN R. MCCORMICK (Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court):

Senate Bill 55 is a cleanup bill, because of antiquated provisions regarding limited jurisdiction courts, particularly justice courts.

Section 1 conforms the statute when a justice court can be open to match that of a district court, because there has been some confusion. However, it does not preclude a court from operating 24/7 for bail hearings, protection order applications and such. It just conforms the statute with what exists for district courts.

Sections 2 and 3 of the bill modernize the language regarding court clerks and changes the language to say "justice court" instead of the "justice of the peace" to accurately reflect current practice.

Section 3 modifies fees to search physical and electronic records, and implements a redaction fee. I submitted a proposed amendment ([Exhibit C](#)) that conforms the district court fees in *Nevada Revised Statutes* (NRS) 19.013 to match justice courts fees in NRS 4.060. We have received some feedback on the fees and are eager to work with anyone who has concerns.

Section 4 modernizes language for appointment of the clerk of the court, also known as the justice court administrator. Section 5 modifies the justice court jurisdiction statute to remove the ability of Nevada Highway Patrol to file tickets into adjacent jurisdictions; therefore, tickets would need to be filed in the jurisdiction where the offense occurred. However, it is no longer particularly necessary based upon electronic communication of the civil traffic system implemented by the Administrative Office of the Courts.

Section 6 allows a criminal case to be transferred to another justice court if all justices of the peace in a specific jurisdiction have been disqualified or had to

recuse, allowing for an efficient transfer rather than bringing in a judge. Section 7 conforms language with some of the modernization in sections 2 and 4.

Section 8 sets forth the rate of community service credit against fines and fees to be not less than the State minimum wage without health insurance. The statute in place reads, "\$10 or" that rate. In discussions with the bench, it made more sense to make that the floor. Courts can award more credit for community service if market conditions in the community dictate that. Sections 9, 10, 11 and 12 also conform the language modernization with that in sections 2, 4 and 7.

Section 13 repeals two outdated statutes regarding successors in office for justice of the peace. Vacancies in the office are now handled by the county commission that appoints a replacement justice of the peace.

MELISSA A. SARAGOSA (Las Vegas Township Justice Court, Department 4, Clark County):

Short of going through each section, I want to add more information to put the sections in perspective. Section 3 adds fees. This existing section envisioned an old clerk's office where each box contains a year's worth of cases and for every year searched, we charged a fee. Today, many courts still use paper files, and other courts like the Las Vegas Justice Court have electronic files. Searching for a case is quite different between the two systems, and how to properly charge someone did not make sense. We changed the price to allow physical record search for those rural courts without an electronic system and added a price for an electronic system search for whatever case the customer seeks.

The second part is the section 3 redaction. To put a little color on this, my focus is on the Las Vegas Justice Court. Over the past two calendar years, we received over 1,000 requests for documents. Everything we file into the Court includes police reports and things that are part of our probable cause packages. We need to review them in full because originally those documents are shielded from anyone just coming in and seeing them online. We do have certain obligations to redact them for people who make requests because we are a public court. The majority of those 1,000 requests a year comes from media. When the media makes a request, a staff member has to conduct necessary redactions, including everything from complying with Marsy's Law for victim names to personal identifying information and other statutorily required redactions. There is no staff for this purpose, and it takes about 30 to

45 minutes along with having our staff attorney do a final review for compliance to make sure nothing is missed. Staff time, except that of attorney, to do the review is nearly 500 to 750 hours a year—the equivalent of about 19 weeks of full-time employment or six months' worth of work. Staff members must stop their other administrative work for this purpose. The numbers are in part because of our fee structure: Justice Court keeps 25 percent of civil filing fees, and we are authorized to use that 25 percent for staff. This bill enables the courts to charge for this redaction process, which is costly. We would use those funds to supply the employee to do that work.

Section 4 with its clerk of the court language brings up the question I have often asked our County Counsel, "Who is the clerk of the Las Vegas Justice Court?" Neither the statutes nor our statutory provisions identify the "clerk of the court." Instead, we used to be combined with the County Clerk who oversaw the clerk's office for the courts, but that is now separated. I believe the statute has never been updated. That is my speculation because the statutes only referred to a "deputy clerk" with no "clerk of the court." *Nevada Revised Statutes* 4.350 provides that the clerk of the court would be appointed by the justices in most circumstances. In our Court, that will become the court administrator. The current practice of our Court has the chief judge serve as clerk of the court; every two years that has changed with each new chief judge. It should not be a judicial officer; it should be an administrative position. Instead of having a singular deputy clerk, which is the statutory scheme, we are striking that deputy language because all our clerks—records clerks and courtroom clerks—are considered deputy clerks. They are all empowered to issue summons, issue writs and do all of those clerical duties. All our clerks should be considered deputy clerks and have that authority.

With prospective section 6, a person may not think it happens often, but in my ten years this issue came up on three or four occasions, and I had to consult the Administrative Office of the Courts of the Nevada Supreme Court. I also had to consult the Nevada Commission on Judicial Discipline because we did not know what to do when a judge or a family member of a judge was a victim of a criminal offense. Everyone on the bench felt we should not be ruling on a case where one of our own is named as a witness, party or victim. Yet there was no statutory authority for us to transfer that case anywhere. We find a senior justice of the peace who is then assigned that one case and comes in to handle that particular case each time. This approach did not seem to be the most

efficient means when we could transfer jurisdiction to another adjoining township within our county.

Section 8 involves community service we are authorized to give to offenders. In the past if minimum wage was \$10 and someone had a \$250 fine, the offender could work that off by doing 25 hours of community service with a correlation between the money and the hours. Now it has been raised to an uneven number. We had intended the Las Vegas Justice Court to raise that to \$15, then the statute was changed to increase minimum wage to an uneven number, not divisible for a fine. That is why we are asking for a conversion to the minimum wage as the floor. Then each court can convert the number into community service, and no one must do 24.75 hours of community service to work off a fine.

The final comment is to section 13, the repealed statutes that seem odd and out of place. *Nevada Revised Statutes* 4.150 already covers what happens when there is a vacancy in office and provides that authority to a county commission to decide whether it will appoint or have a special election. This statute refers to NRS 245.170 as how to go about filling a vacancy. We always follow that practice no matter the source or cause of the vacancy. *Nevada Revised Statutes* 4.290 and 4.300 seemed unnecessary and redundant of the practice in place for a vacancy.

SENATOR NGUYEN:

What do section 3 fee additions mean in real time or in real life? These are confusing. Like in subsection 1, paragraph (o) says "for searching physical records or files, for each year" is only \$1. But the new paragraph (p) says "for searching in an electronic case management system, for each search term" is \$5. Even the redacting in paragraph (r) could be time-consuming. Maybe I am missing something and what this means? It seems redacting is \$1 and searching records for a year is \$1, but each search term is \$5.

JUDGE SARAGOSA:

Regarding physical records, when people come in to look for a specific case, that might be easy to find through the physical records. We struck searching physical records or files, "in his or her office," for each year because judges do not keep records in their offices, but the \$1 fee already existed. We did not change or increase the fee. Section 3, subsection 1, paragraph (o) is now within reality for those courts that store their records off-site. We do have paper files

and adhere to the records retention policy. But to conduct a search, we have to transport those records from an off-site location. The more files we pay a storage company to bring over is a part of that cost for each year. I do not know how each court in our State stores records.

We want to keep that intact as the Legislature intended it previously for physical files. For electronic files, we can adjust the amount. When clerks search for electronic records, it makes a big difference when names are spelled wrong and errors occur for something like an eviction or address. There are different ways to search, but it is not always that easy to find. Searches that take more digging could require quite an amount of time. I am certainly happy to change the fee amount to whatever the Legislature deems appropriate for purposes of putting S.B. 55 forward.

SENATOR NGUYEN:

It seems wild if you had someone come in who did not know how to spell my name to get a case search. If you misspelled my name six times, the customer is up to \$30. Most of us will sit here on our phones and rely on spellcheck. If courts did not have spellcheck on their search engine, a customer could be charged like \$100 to search one name. Consider if we are talking about people in an eviction proceeding or those already indigent. I am also concerned about private attorneys who are searching as part of their business. Every time they want to look up someone's name and do not have an exact spelling, would they be charged like \$5, \$10, \$15, \$20, \$30 and up to \$100 to search records? I cannot imagine a number I would feel comfortable with; even if it is set at 1 cent, I have concerns.

JUDGE SARAGOSA:

This was not intended for that scenario where there be a spelling question but when groups come in and want to search the records of many different names. They want to know every member on the Senate Judiciary Committee for instance and asked the court clerk to search and tell us whether they have any traffic cases. Then the court clerk is sitting there running name after name. This was the intention because it is a different search for a different person, and we can work with that language to make it clearer to a flat fee for searching for a specific case or person rather than name spelling. I do not disagree with you at all. That does not make sense.

SENATOR KRASNER:

Could section 1, subsection 1 of S.B. 55 where it says “No court may be open or transact any judicial business” have any effect on bail hearings or any other type of hearings? This committee has heard about people in the smaller rural town who might get arrested on a Friday and are stuck in jail Friday, Saturday and Sunday. If there is a holiday, then they are stuck there Monday. I want to make sure this does not happen.

MR. MCCORMICK:

In section 1, the existing statute says, “except for the following purposes.” Subsection 1, paragraph (c) includes “for the exercise of the power of a magistrate in a criminal action or in a proceeding of a criminal nature.” In those proceedings, a bail hearing is exempted from the provisions that courts cannot transact business on a Sunday. That would still be an exception along with applications for protection orders against domestic violence offenders, stalking and harassment, high risk and so forth. Those are all current statutory exceptions. This conforms the statute with district courts, leaving exceptions alone; those crucial pieces of business can still be conducted.

SENATOR HARRIS:

I read section 1 as more of a restriction on courts, excepting justice courts or municipal courts where it is necessarily not a requirement that they be open. Can you talk about why this is necessary to strike the language and change things around? It seems the statute talks about precluding certain courts from being open.

MR. MCCORMICK:

The intent was to conform to the district court statute with the exceptions providing sufficient leeway.

JUDGE SARAGOSA:

The idea was to be consistent among all the judiciary instead of having an exception of the justice and municipal courts. Exceptions already in the statute apply to all, so it would not impact those criminal proceedings or any action of a magistrate, including search warrants within the power of the magistrate.

SENATOR HARRIS:

My concern is other than what business may not be conducted. It looks like you all could just close on Sundays. Now you are coming to us and asking us to

mandate you be closed on Sundays; otherwise, you would not be closed. I am not sure why we need a mandate for you to close on Sundays. Senate Bill 55 says you could do business; you do not have to. If you want to close, you can currently do so?

JUDGE SARAGOSA:
That is a fair point, Senator.

SENATOR DONDERO LOOP:
As the nonlawyer on the Committee, I am confused why we need S.B. 55. Like why you need to put these prices in the bill? I was under the impression from years past that you could just change those if you decided to charge \$0.50 instead of a \$1 or change to \$2. Does this all have to be in statute? Do we have to have S.B. 55 here?

JUDGE SARAGOSA:
There are two ways in which fees to the court are derived, and one of them is NRS 4.060, which has existed for years. The second is the court's inherent power to charge certain fees. That statute also talks about the filing fees and adds in other fees in sections beyond this that help support the Neighborhood Justice Center and Civil Law Self-Help Center. If the fee is written in this statute, we cannot just change it at any point, probably for consistency across the State to avoid inconsistent fees for filing a small claims complaint in Las Vegas, Henderson, North Las Vegas, Elko or Ely.

We do not just change our fees. The last time fees increased was a 2013 bill; prior to that, it would have been 20 years since fees increased. For purposes of clarifying, we kept it within the statute and that is why it is in S.B. 55. I do not disagree that the redaction could be something we would impose as our inherent power of the judiciary but because it went along with requesting records and documents from the court, we decided to include it in the statute. The other portion of the statute is the court's ability to keep a portion of those funds to support the court system.

SENATOR DONDERO LOOP:
In 2013, I was on the Assembly Judiciary Committee and heard this bill at that point. I am looking at NRS 4.060 and thank you for that clarification.

SENATOR OHRENSCHALL:

My question has to do with the new language on page 5, lines 20 through 23, the \$1 fee per page for redaction of personal identifying information. I understand that is necessary and an extra burden for the courts and your staff to do that, but will this become a barrier for the press or the public who are interested in these public documents? Do you have any idea in terms of recent requests from media for these documents whether we are looking at something that will be \$10, \$500 or just a question that cannot be answered right now? Is there any such information, and might this become a burden on transparency?

JUDGE SARAGOSA:

I did not ask about the average page number of a report. When I inquired about how many search requests a year, it is about 1,000 just looking at case reports, and I would say the average report is three pages long. Media newsworthy cases are bigger. Las Vegas Justice Court just had a large case with 45 pages of redactions that would cost the media \$45 to get a copy of the redacted declaration of a warrant for arrest. I do not think \$45 is going to chill any media attention or its impact of getting these documents. It will just help us with some costs.

SENATOR NGUYEN:

In section 4, you are taking the approval of the board of county commissioners out of the equation on the appointment of a clerk of the court. It gives some authority to the justice of the peace if that official wants to appoint another person. Are the clerks of the courts paid by the counties?

JUDGE SARAGOSA:

Yes, all our employees are paid by the County and that includes the justices themselves. In practice, the Las Vegas Justice Court hires its own court administrator, and our court administrator is the clerk of the court under the job description. The Clark County Board of Commissioners has never appointed a clerk of the court, or a deputy clerk as contemplated here. We have drafted the proposed language the way it is practiced. Mr. McCormick may answer for other courts that have more than one justice of the peace or how another court designates a clerk of the court, and how that is practiced in Washoe County or some of the rural areas that have more than one justice.

MR. MCCORMICK:

Reno Justice Court is similar to the way it is done in Las Vegas Justice Court. In section 4, subsection 2, the county commissioners still fix the compensation of a clerk so there is still a check and balance.

JEFF ROGAN (Clark County):

We are in support of S.B. 55 as written. I want to address some questions that Senator Nguyen asked regarding section 4. Judge Saragosa is correct. Even though the statute says the board of county commissioners may appoint a deputy clerk of the justice court, it has consistently been the justice of the peace who selects that person. The board of county commissioners does establish the salaries and benefits for that position, depending upon the size of the justice court. If it is a smaller court or larger court, those salaries and benefits are different. Nothing changes under section 4 other than to recognize the status quo of the standard operating procedure in Clark County. This is consistent with caselaw that establishes the court should be selecting its employees, not the board of county commissioners.

TOM CLARK (Nevada Judges of Limited Jurisdiction):

Judge Saragosa has done a phenomenal job, and all the other judges of the association support S.B. 55 as well.

NICK SHEPACK (Nevada State Deputy Director, Fines and Fees Justice Center):

I am here in opposition of S.B. 55. We want to thank Mr. McCormick for working with us and other stakeholders. Part of our mission as an organization is to eliminate fees in the criminal legal system. Courts and the services they provide are essential to maintaining our communities and therefore should be funded through general appropriations, not backdoor taxes we often refer to as fees. Members of our communities who have interacted with the criminal legal system need access to court records for many reasons. Many of these individuals are attempting to turn their lives around and become productive citizens. Barriers of additional fees to access court documents that may be a necessary part of these efforts are unacceptable. If this bill passes with these fees, there should be a way for individuals to request those fees be waived.

The electronic search fee does not appear to be tied to any real tangible work. If this Body allows new fees, we suggest knowing the true cost of the work and ensuring those fees go directly to that work and are not just plucked out of the air. We share the sentiments of many of the questions that were asked today

and are concerned that even a 1-cent fee could become burdensome for some individuals.

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

We oppose S.B. 55. As an advocate, one of the things we do is to help those who have been wrongfully convicted seek newly discovered evidence through court records. These could be their post-conviction petitions and writs. We try to look at their exhibits, making all this quite costly for indigents, who have no money. Advocates do this for free and cannot personally afford this fee.

I can only speak to the Second Judicial District and Nevada Supreme Court with their caseloads. The Second Judicial District has a backlog of about 50,000 cases that have not been scanned into the computers. That information is stored at an off-site facility—how much is that going to cost? When you look at a defendant's case, there is a criminal case number; when you file a petition for post-conviction, it becomes a civil case. There could be several cases tied into one case, and that could cost a great deal of money. The Nevada Supreme Court does not have all its cases scanned into the computer system, and it becomes a problem. If you go down there to locate it, they will tell you, "We do not have it unless you actually know the case number." The District Court in the Second Judicial District does not know of any record. That cost is going to go up. If you come back to show them the case number, they will tell you, "We do not have it." Then the next step for the Nevada Supreme Court is into the Law Library to look at microfilm. Pulling it up this way, you might find it there. But if somebody is looking and tells you to go over to the books and look at all the cases, the name search is costly. Some of those cases are omitted and not even in those books of Nevada Supreme Court decisions.

We are finding newly discovered evidence in people maintaining innocence who are incarcerated. We want to look at these exhibits so we can show that, yes, it is newly discovered evidence. If you are charged, we ask all fees be waived for indigent defendants and those searching for court records on their behalf.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):

We oppose S.B. 55, especially for the reason Mr. Shepack gave. We are concerned about these fees for the public. People who have evictions and family court cases are not usually wealthy; even if they are wealthy, \$5 per search is still a lot. My other point is that as a practicing lawyer, I search in any electronic case management system multiple times a day. This morning I had court. Before

I went to court, I searched for my client's name in an electronic case management system to make sure I had the right courtroom and time. After I get off this call, I am going to search for my client again so I can pull all the records and download them from the system. This is just one client on one day. A prosecutor or public defender can have hundreds of cases in a day. Are all these officials going to pay \$500 for the 100 cases? How does that work? Is the Clark County District Attorney's Office going to be paying the Justice Court? This fee introduces a lot of questions and problems into the system. We are opposed to this specific part of S.B. 55 and do not have an opinion on the rest of it.

ANN MARIE GRANT:

I am opposed to S.B. 55 as someone who has made public records requests across a variety of agencies in Nevada. I can testify that any type of increase in fees is a barrier to the public and indigent folks like myself. Going from \$0.50 to \$1 may not seem a lot, but it is a 100 percent increase. There should be no kind of fees at all for public records.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 55 and open the hearing on S.B. 62.

SENATE BILL 62: Revises provisions relating to the Commission on Judicial Discipline. (BDR 1-437)

MR. MCCORMICK:

Senate Bill 62 is an outgrowth of A.B. No. 43 of the 81st Session which asked the Nevada Supreme Court to study the Commission on Judicial Discipline. The Court Committee studied the statutes and rules of the Commission on Judicial Discipline and updated the *Nevada Code of Judicial Conduct*. I sent over a proposed amendment (Exhibit D) because we are treating this as a gut-and-replace bill. I will speak to the amendment rather than the original text of S.B. 62, which ended up being a placeholder. The Commission has agreed on mandatory language.

The mandatory language is intended to leave NRS 1.445 as written and make a change to NRS 1.440 to clarify the disciplinary jurisdiction of the State Bar of Nevada and the Commission on Judicial Discipline for attorney judges. The Commission's jurisdiction over judges starts when they take office and acts prior to that are still under the purview of the Nevada State Bar as the

Commission discussed. The Office of Bar Counsel is okay with that, and the Commission on Judicial Discipline as a participant in the committee is also okay to clarify that jurisdictional question.

MS. BROWN:

We are in neutral on S.B. 62. If an attorney commits a crime and has done some unethical things, you file the complaint with the Nevada State Bar. Then the Nevada State Bar will wait for the results of the outcome. For example, if you file a police report against an attorney, the Nevada State Bar will not touch it until it is resolved but is turned over to the district attorney's office. The district attorney's office will sit on it until the statute of limitations runs out. Therefore, there are no repercussions for the attorney who committed the unethical acts or a crime committed to a case. It does happen. Attorneys can go and do what they want. When they are defending an individual, they will commit perjury to protect their careers when it is discovered. The police have confirmed they have committed perjury. We agree with you and are sending it over to the district attorney's office, and they sit on it until the statute of limitations expires. There is no resolution because the Nevada State Bar and district attorney's office will not do it. Then the offending attorney can go on and become a sitting judge.

CHAIR SCHEIBLE:

We will close the hearing on S.B. 62 and move to public comment.

MS. GRANT:

Four residents of Nevada died during interactions on this date, February 23, since the year 2000. They include 21-year-old Damien from the Las Vegas Metropolitan Police Department, 24-year-old Steven Valenzuela from the Reno Police Department, 33-year-old David Crams from the Reno Police Department, and 23-year-old Jacori Shaw who was killed 1 year ago today by Sparks Police Department.

It is not without pain and with a heavy heart that a mother is grieving the loss of a son. Jacori meant so much to so many. Although he is no longer with us, he will never be forgotten and live on through the many lives he touched. I stood in solidarity this past September with Jacori's family and other families in Washoe County, requesting Attorney General Aaron Ford conduct independent fact-finding investigations into the deaths at the hands of police that are occurring far too often in this State. The police always get to release

the narrative, and it is always a self-serving one. The police narrative about Jacori was as follows,

Sparks Police released a K9 to detain him. He then pulled out a gun and pointed it at detectives and was shot. Body cam footage refused that narrative; he was completely unarmed when they shot him. Every legal gun owner in Nevada is a walking police narrative. Imagine your son, mother, father, daughter or friend being murdered. Imagine if the police knew the perpetrator's name but refused to release it. That is exactly what happened in Washoe County, Nevada. When police murder your loved one, family, like many others, receive no information. Jacori's family will gather in Hungry Valley on February 25 for a celebration of love and life to include a graveside balloon release at 3 p.m.

Please pause on that date in time to remember Jacori and reflect on the far too many community members in Nevada who are tried, convicted and executed by police, which is 468 human beings.

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Senate Committee on Judiciary
February 23, 2023
Page 15

CHAIR SCHEIBLE:

I will adjourn the Judiciary Committee at 1:53 p.m.

RESPECTFULLY SUBMITTED:

Blain Jensen,
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
S.B. 55	C	2	John R. McCormick / Administrative Office of the Courts, Nevada Supreme Court	Proposed Amendment
S.B. 62	D	12	John R. McCormick / Administrative Office of the Courts, Nevada Supreme Court	Proposed Amendment