

# Attachment Three (3)

Committee on Domestic Violence Agenda  
July 17, 2019

Contents: Legislative Update

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## MEMORANDUM

**To:** Committee on Domestic Violence

**From:** First Assistant Attorney General Kyle George

**Date:** July 17, 2019

**Subject:** Attorney General's Office Legislative Session in Review –  
Domestic Violence, Human Trafficking, and Sexual Assault

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On June 3<sup>rd</sup>, 2019, the 80<sup>th</sup> Nevada legislative session adjourned and was extremely successful for our office, and by extension Nevadans. Six (6) out of the thirteen (13) bills in our legislative package that were enacted into law dealt with Domestic Violence (3), Human Trafficking (1), and Sexual Assault (2). Additionally, the office worked in conjunction with several legislators on two bills of note which address protection orders and the creation of a Sexual Assault Survivor's Bill of Rights.

Below is a brief summary of the bills, followed by a more comprehensive outline of the changes to the law:

### **Domestic Violence**

**AB19:** Revises provisions relating to the service of process of temporary and extended DV protection orders, as well as increases the penalties for violations. It also expands the scope of the Repository for Information Concerning Orders for Protection to maintain records for the additional offenses of stalking, aggravated stalking, and harassment, and calls for the retention of expired temporary and extended protective orders in the interest of public safety. We are helping to fund the expansion of this repository via grants and settlements.

**AB41:** Strengthens the Confidential Address Program. This program protects survivors of domestic violence, trafficking and sexual assault from

being located by the perpetrator through public records. This bill expands the use of the Confidential Address Program to utility and telecommunications providers. It received support from Nevada businesses, such as NV Energy, Southwest Gas, AT&T, and others.

**AB60:** Increases penalties on domestic violence crimes, including repeated domestic battery, battery against pregnant victims, and battery resulting in substantial bodily harm. It also updates Nevada's stalking law, generally increases penalties on stalking, and the stalking of minor children.

### **Human Trafficking**

**SB7:** Increases penalties against those who solicit children for sex. It also expands statutory authority for law enforcement to conduct undercover operations against those seeking to solicit children.

### **Sexual Assault**

**AB16:** Increases the time for law enforcement officers to execute and return search warrants to obtain DNA samples. Previously, a search warrant had to be executed and returned to the Court within 10 days of issuance. However, if a subject is actively evading the police, law enforcement must return to the courts every 10 days to renew the warrant. If the warrant lapses and the subject is subsequently located, law enforcement can only detain that person for one hour while they attempt to get the warrant renewed. If the clock runs out before they are able to do so, the person must be released. The passage of AB 16 expands the effective period of a DNA warrant from that narrow 10-day window to six months.

**SB9:** Removes the statute of limitation when a sexual assault is committed during the course of a murder. Under current law, if a victim of sexual assault or a person authorized to act on behalf of the victim files a police report within five years of the assault, the statute of limitations on the crime is lifted, and the crime can be prosecuted at any time in the future. If, however, the victim does not file a report within five years, the statute of limitations for sexual assault is 20 years. These statutes created a problematic loophole where victims of sexual assault who have been murdered are unable to file a report, making the prosecution of these crimes limited to only 20 years. This legislation closes that loophole.

***A few other bills of note that our office worked extensively on:***

***AB410:*** Revises provisions relating to orders for protection against domestic violence or stalking, aggravated stalking or harassment by extending the duration of these orders from 30 to 45 days.

***AB176:*** Enacts the Sexual Assault Survivors' Bill of Rights, outlines these rights, defines certain terms relating to victims of sexual assault, and creates the Advisory Committee on the Rights of Survivors of Sexual Assault. Specific to our office, and in looking to the leadership of Ms. Adair and Ms. O'Banion, we are now tasked with the development of this Survivor's Bill of Rights. We are excited for this opportunity, and are honored that the legislature entrusted us with this.

## **AB19**

**Overview:** Revises provisions relating to the service of process of temporary and extended DV protection orders, as well as increases the penalties for violations. It also expands the scope of the Repository for Information Concerning Orders for Protection to maintain records for the additional offenses of stalking, aggravated stalking, and harassment, and calls for the retention of expired temporary and extended protective orders in the interest of public safety. We are helping to fund the expansion of this repository via grants and settlements.

### **Bill Summary and Outline:**

- Section 1.3:
  - Revises the service of process requirements by requires a law enforcement agency to attempt to serve an adverse party personally with a temporary order. If unable to do so, law enforcement are to leave a notice at the adverse party's residence stating that the adverse party may respond within 24 hours. If unsuccessful personal service three times, the applicant for the temporary order may petition the court to order the law enforcement agency to serve the adverse party at place of employment. If still unsuccessful, can serve by alternative service method pursuant to Nevada Rules of Civil Procedure.
- Section 1.7:
  - Removes the requirement to serve the copy of the temporary order at the adverse party's place of employment
- Section 1:
  - Temporary or extended order for protection against domestic violence must include a notice to the adverse party that responding to a communication by the protected party may constitute a violation of the order
- Section 2 & 13:
  - Orders for protection expire after two years
  - Requires the court to enter a finding of fact providing the basis for the imposition of an extended order for a period of greater than one year.

- Authorizes either party at any time while protective order is in effect to move a court to modify or dissolve an extended order because of changed circumstances.
- Section 4:
  - First time offender of violating an order is guilty of a misdemeanor
  - If a person violates the order more than one time, it is a gross misdemeanor
  - If more than two times, the person is guilty of a category D felony
- Section 8:
  - Changes name of Repository to “Repository Information Concerning Orders for Protection”
  - Requires the Repository to maintain records within the Central Repository of all temporary and extended order for protection against stalking, aggravated stalking or harassment, and sexual assault.
- Section 10.3 & 10.7:
  - Require certain persons to transmit such orders to the Central Repository for transfer to the Repository for Information Concerning Orders for Protection

## **AB41**

***Overview:*** Strengthens the Confidential Address Program. This program protects survivors of domestic violence, trafficking and sexual assault from being located by the perpetrator through public records. This bill expands the use of the Confidential Address Program to utility and telecommunications providers. It received support from Nevada businesses, such as NV Energy, Southwest Gas, AT&T, and others.

### ***Bill Summary and Outline:***

- Section 1:
  - Requires a governmental entity or provider of a utility service in this State to allow the use of a fictitious address upon the request of a participant who has received a fictitious address issued by the Division

- Prohibits such entities from disclosing the same information prohibited from disclosure by the Division and expands the protected information to include the telephone number and image of the person with the fictitious address
- Sets forth the circumstances under which such entities may maintain, use and disclose the confidential address of a participant.

## **AB60**

***Overview:*** AB 60 increases penalties on domestic violence crimes, including repeated domestic battery, battery against pregnant victims, and battery resulting in substantial bodily harm. It also updates Nevada’s stalking law, generally increases penalties on stalking, and the stalking of minor children.

### ***Bill Summary and Outline:***

- Section 1
  - Revises the unlawful acts that constitute domestic violence to include coercion, burglary, home invasion and pandering.
  - Provides that such acts if committed by siblings against each other, unless in a custodial or guardianship relationship, or such acts if committed by cousins against each other, unless in a custodial or guardianship relationship, do not constitute domestic violence.
  - Authorizes a peace officer, under certain circumstances, to arrest a person when the officer has probable cause to believe that the person has committed a battery within the preceding 24 hours upon: (1) a person with whom he or she is actually residing; (2) a sibling, if the person is not the custodian or guardian of the sibling; or (3) a cousin, if the person is not the custodian or guardian of the cousin.
  - Provides that liability cannot be imposed against a peace officer or his or her employer for a determination made in good faith not to arrest a person suspected of committing such a battery or a battery which constitutes domestic violence, as applicable

- Requires a peace officer to make an arrest based on probable cause if the person committed such a battery upon the custodian or guardian of the person’s minor child.
  - Removes the requirement that the officer make such an arrest for a battery committed upon a person with whom he or she is or was actually residing.
- Section 2
  - Authorizes the court to order the videotaping of a deposition of a victim of facilitating sex trafficking
- Section 3
  - Allows such a videotaped deposition of a victim of facilitating sex trafficking to be used instead of the deponent’s testimony at trial.
  - Requires the court to enter a finding of fact that a person has committed an act which constitutes domestic violence in such a person’s judgment of conviction.
  - Requires the court to order such a person to attend such counseling sessions relating to the treatment of persons who commit domestic violence under certain circumstances.
- Section 14
  - Revises the definition of “officer” to include a prosecuting attorney of an agency or political subdivision of the United States or of this State so that the expanded definition is included in NRS 200.471 and NRS 200.481.
- Section 15
  - Requires the court to impose intermittent confinement of not less than 12 consecutive hours for the first offense of a battery which constitutes domestic violence.
  - Increases the minimum term of imprisonment to 20 days for a person convicted of his or her second offense of battery which constitutes domestic violence.
  - Increases the penalty for such an act to a category B felony for a person convicted of his or her third offense of battery which constitutes domestic violence.
  - Provides that a person who has previously been convicted of any felony that constitutes domestic violence or a similar offense in another state and who commits a battery which constitutes domestic violence is guilty of a category B felony.



- If the act of battery which constitutes domestic violence was committed against a victim who was pregnant then the first offense is a gross misdemeanor; and the second or any subsequent offense is a category B felony and authorizes the court to impose a minimum fine of not less than \$1,000 and not more than \$5,000.
- If the act of battery which constitutes domestic violence causes substantial bodily harm to the victim then the person is guilty of a category B felony, and the court is authorized to impose a fine of \$1,000 to \$15,000
- Section 17
  - Revises the definition of stalking to: (1) provide that the course of conduct must be directed at the victim; and (2) clarify that the conduct would cause the victim to be fearful for his or her immediate safety.
  - Increases the penalty for a third or any subsequent offense of stalking to a category C felony and authorizes a court to impose a fine of not more than \$5,000.
  - Provides that if the crime of stalking is committed against a victim who is under the age of 16 and the person is 5 or more years older than the victim then the person is guilty of a gross misdemeanor for the first offense. The person is guilty of a category C felony and may be further punished by a fine of not more than \$5,000 for the second offense. The person is guilty of a category B felony and may be further punished by a fine of not more than \$5,000 for a third or any subsequent offense.
- Section 21
  - Authorizes a court to impose an additional fine of \$500,000 on a person convicted of facilitating sex trafficking.
- Sections 38 & 39
  - Expands the definition of “victim” to include victims of the crime of facilitating sex trafficking so that such persons may be compensated under certain circumstances.
- Section 41
  - Authorizes the AG to appoint a subcommittee to carry out the duty of the Committee on Domestic Violence to review and make recommendations concerning such treatment programs; (2) requires a quorum of six members for all purposes; and (3)

authorizes the Committee to adopt regulations necessary to carry out its duties.

- Section 42
  - Expands the duties of the Office of Advocate for Missing or Exploited Children of the Office of the Attorney General to include investigating and prosecuting the crime of facilitating sex trafficking involving children.

## **SB7**

***Overview:*** Increases penalties against those who solicit children for sex. It also expands statutory authority for law enforcement to conduct undercover operations against those seeking to solicit children.

### ***Bill Summary and Outline:***

- Sections 1-4:
  - Deleted by the amendment
- Section 5:
  - Amends NRS 201.354
  - A person is guilty of soliciting a child for prostitution if the person solicits for prostitution:
    - A peace officer who is posing as a child; or
    - A person who is assisting a peace officer by posing as a child
  - Adds that a person who violates the first subsection is guilty of a misdemeanor.
  - Punishes customers who solicit a child for prostitution to higher felonies than previously.
    - Punishes third time offenders by a minimum of 1 year imprisonment and no more than 6 years and may be furthered issued a fine of not more than \$15,000.
- Section 6:
  - Deleted by amendment
- Section 7:
  - Effective July 1, 2019

## **AB16**

**Overview:** Increases the time for law enforcement officers to execute and return search warrants to obtain DNA samples. Previously, a search warrant had to be executed and returned to the Court within 10 days of issuance. However, if a subject is actively evading the police, law enforcement must return to the courts every 10 days to renew the warrant. If the warrant lapses and the subject is subsequently located, law enforcement can only detain that person for one hour while they attempt to get the warrant renewed. If the clock runs out before they are able to do so, the person must be released. The passage of AB 16 expands the effective period of a DNA warrant from that narrow 10-day window to six months.

### **Bill Summary and Outline:**

- Sections 1:
  - Provides that a search warrant that provides for the collection of a biological specimen from a person may be executed and returned within 6 months after its issue.
- Section 5:
  - Effective October 1, 2019

## **SB9**

**Overview:** Removes the statute of limitation when a sexual assault is committed during the course of a murder. Under current law, if a victim of sexual assault or a person authorized to act on behalf of the victim files a police report within five years of the assault, the statute of limitations on the crime is lifted, and the crime can be prosecuted at any time in the future. If, however, the victim does not file a report within five years, the statute of limitations for sexual assault is 20 years. These statutes created a problematic loophole where victims of sexual assault who have been murdered are unable to file a report, making the prosecution of these crimes limited to only 20 years. This legislation closes that loophole.

### **Bill Summary and Outline:**

- Section 1

- Provides that there is no time limitation in which a sexual assault prosecution must be commenced if the sexual assault arises from the same facts and circumstances as a murder.
- Section 2
  - Makes a conforming change.

### **AB410**

**Overview:** AB 410 revises provisions relating to orders for protection against domestic violence or stalking, aggravated stalking or harassment by extending the duration of these orders from 30 to 45 days.

**Bill Summary and Outline:**

- Section 1
  - Extends the period of time that a temporary order for protection against domestic violence is initially valid from 30 days to 45 days.
- Section 2
  - Extends the period of time that a temporary order for protection against stalking, aggravated stalking, and harassment is initially valid from 30 days to 45 days.

### **AB176**

**Overview:** Enacts the Sexual Assault Survivors' Bill of Rights, outlines these rights, defines certain terms relating to victims of sexual assault, and creates the Advisory Committee on the Rights of Survivors of Sexual Assault. The Attorney General's Office is now tasked with the development of the Survivor's Bill of Rights. We are excited for this opportunity, and are honored that the legislature entrusted us with this.

**Bill Summary and Outline:**

- Sections 2-29 of this bill enact the Sexual Assault Survivors' Bill of Rights.
- Section 15 of this bill defines the term "survivor" for purposes of the Bill of Rights, and certain other purposes, as a person who is

- the victim of a sexual assault or certain other persons if the victim is incompetent, deceased or a minor.
- Section 16 of this bill provides that the Sexual Assault Survivors' Bill of Rights attaches when a survivor is subject to: (1) a forensic medical examination; or (2) an interview by a law enforcement official or prosecutor.
  - Section 17 of this bill generally grants a survivor the right to consult with a sexual assault victims' advocate or to designate an attendant for support during a sexual assault forensic medical examination and an interview with a law enforcement official or prosecutor.
  - Section 18 of this bill provides: (1) that a survivor retains the rights set forth in section 17 even if the survivor has waived such rights during a previous examination or interview; and(2) that, except with the consent of the survivor, the fact that the survivor waived the right to consult with a sexual assault victims' advocate is not admissible into evidence for any purpose.
  - Section 19 of this bill outlines a survivor's rights before and during a forensic medical examination and prescribe certain duties required of the medical provider.
  - Section 20 of this bill makes conforming changes to reflect a survivor's rights during an interview with a law enforcement official or prosecutor, and such an interviewer's duties.
  - Section 21 of this bill affords a survivor the right to counsel under certain circumstances.
  - Sections 22-24 of this bill set forth procedures regarding the collection and analysis of forensic evidence kits.
  - Section 25 of this bill prohibits a defendant from challenging his or her conviction based on certain persons not adhering to such collection and analysis timelines.
  - Section 26 of this bill provides that forensic evidence from the sexual assault may not be used to prosecute a survivor under certain circumstances.
  - Section 27 of this bill requires the Office of the Attorney General to develop and make available certain information for a survivor regarding his or her sexual assault.
  - Section 29 of this bill provides a survivor with certain rights regarding the legal process, such as being reasonably protected from the

defendant, being allowed to wait at trial in a separate area from the defendant, authorizing the survivor to make a survivor impact statement under certain circumstances and prohibiting the requirement of an examination by polygraph of the survivor before he or she is authorized to participate in certain legal processes.

- Section 32 of this bill creates the Advisory Committee on Rights of Survivors of Sexual Assault
- Section 33 of this bill prescribes the duties of the Advisory Committee as related to sexual assault forensic evidence kits, sexual assault victims' advocates and the implementation of the rights guaranteed by the Sexual Assault Survivors' Bill of Rights. Existing law requires a prosecutor to inform an alleged victim of sexual assault of the final disposition of the case if the case goes to trial. (NRS 200.3784)
- Section 35 of this bill additionally requires the prosecutor to provide, upon the written request of the alleged victim, the pretrial disposition of the case and information supplied by the sex offender registry regarding the defendant, if applicable. Existing law sets forth certain requirements pertaining to the collection and analysis of sexual assault forensic evidence kits.(NRS 200.3786)
- Section 36 of this bill requires: (1) a medical provider to notify a law enforcement agency within 72 hours of conducting a forensic medical examination; and(2) the law enforcement agency to take possession of such a kit within 5 days of such notification. Existing law requires the State to implement a statewide tracking system for sexual assault forensic evidence kits and to submit an annual report to the Legislature regarding certain data collected by forensic laboratories analyzing such kits. (NRS 200.3786, 200.3788)
- Section 36 eliminates the requirement to make such a report.
- Section 37 of this bill requires that the survivor be allowed to track or receive certain updates via Internet or telephone.
- Section 40.5 of this bill makes an appropriation of \$150,000 for each fiscal year to the Office of the Attorney General for the purpose of awarding grants to organizations that will recruit and train persons to serve as sexual assault victims' advocates.