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SB 284 – ADVISORY TASK FORCE ON HIV EXPOSURE MODERNIZATION

August 5, 2020
5 p.m.

Webex Teleconference

Draft Minutes

TASK FORCE MEMBERS PRESENT:

Steve Amend
Andre' Wade
Stephan Page
Quentin Savvoir
Octavio Posada

TASK FORCE MEMBERS ABSENT:

Senator David Parks
Senator Dallas Harris
Ruben Murillo
Vince Collins

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH STAFF PRESENT:

Juan "Tony" Garcia, Grant & Projects Analyst I
Rhonda Buckley, Administrative Assistant II, Office of HIV
Michael "Thomas" Blissett, Health Program Specialist I

GUESTS

Cheryl Radeloff
Beth Gotti
Chris Reynolds
Brad Sears

1. Call to Order, Roll Call – Chair Andre’ Wade opens discussion at 5:14 p.m. and asked Administrative Assistant II Rhonda Buckley to conduct roll call. Four (4) of nine (9) Task Force members are present; five (5) absent, four (4) excused. Quorum not met; Michael “Thomas” Blissett instructs Chair Wade he can continue at this time, as a discussion. If quorum is to be met, the discussion may continue as a meeting.

2. Public Comment

(No action may be taken on a matter raised under this item of the agenda until the matter itself has been included specifically on an agenda as an item upon which action will be taken.) –

Chair Wade asked if there were any public comment; there was none. For point of clarification, Mr. Blissett pointed out, this would not be a meeting since the Task Force has not met quorum. So they would not follow the agenda until they do have quorum; they would just into discussion.

- Chair Wade introduced Brad Sears, J.D., David Sanders Distinguished Scholar of Law & Policy at the Williams Institute and the Associate Dean of Public Interest Law at UCLA Law Standing.

Mr. Sears introduced himself and said he has a long history of research of LGBT population, and people living with HIV and AIDS, including doing a number of studies about the level of enforcement of HIV criminalization laws in other states. The institute where he works has done studies in California, Georgia, Florida and Missouri. He spoke on the research support he could provide in support on the Task Force, both in legal research and data analysis. He said the data takes time, so it cannot be done quickly. He summarized the data from the forementioned states, and said he feels comfortable saying there are consistent trends that may be seen in Nevada as well.

Mr. Sears noted in terms of research support, HIV criminalization is an area where they do have a couple of drafts of research memos, focused on criminalization in Nevada already. The provide an analysis of the laws, any court cases that have challenged those laws, any court cases reported in the press, court cases or documents where the law has been enforced and a look at the legislative history. He said the most significant finding in the history, and he’s not sure the Task Force has looked into it, of the laws is the participation of a witness during the hearings in which these bills were enacted, named Paul Cameron. Mr. Sears said in 2001 he helped found the Williams Institute for objective source of research of issues in dealing with LGBT people, and one of the reasons they did this as there was mis-stereotypes about people with HIV and LGBT people at that time. And there were organizations producing research that was not of good quality and reinforced the stereotype. He said to look back at the 1980s and ‘90s, and tried to identify one person who was most responsible for putting out negative research on LGBT people, that would be Paul Cameron. Cameron was kicked out of academic credential side for not practicing rigorous research.

Chair Wade asked Mr. Sears to hold for a moment, as someone has joined the conversation. Task Force member Octavio Posada has joined at 5:21 p.m., and is noted, for the record. The Task Force is now at quorum. Chair Wade returned to the agenda and opened up the meeting to public comment. Beth Gotti, who works for the FC2 Internal Condom introduced herself and her position in the community. Cheryl Radloff also introduced herself. She is with the HIV Prevention planning group and part of the Southern Nevada Health District, because these laws are going to affect public health.

Chair Wade asked to State staff to introduce themselves. Juan “Tony” Garcia; Thomas Blissett, and Rhonda Buckley.

Mr. Sears continues with his presentation with noting they can provide legal research and Nevada has a good legislative history record for these laws in Nevada. He noted the information given by Paul Cameron shows a level of anti-LGBT, pseudo-science put into the record. He feels it gives another origin of the level of the laws and their purpose. Mr. Sears said the Florida and Georgia reports show a 5-year plan and show all the ways these laws create stigma and incarcerate people, actually undermine the goals articulated in the plan.

Mr. Sears noted what they’ve been able to get for the entire state (four previously mentioned) are records from the arrest stage, to prosecution stage, charging stage and final outcome at the courts. He gave the ‘headlines’ of those findings and noted there is a great deal of consistency, and hopefully he can do the same thing for Nevada. He said the number one headline of HIV cases in the media, is cases in the dozens (not very many), but when they got all the data, it ended up being in the hundreds. Secondly, they were able to show how these laws impacted communities, first being sex work. There is a disproportionate enforcement of various types of HIV criminal laws focused on sex work. Ninety-five percent of the cases in California were focused on sex work. A disproportionate number, but they saw similar patterns in Florida and Georgia. Not so much in Missouri, but the numbers show people of color, and more specifically black people. He then gave percentages of specific race and gender, and notes the numbers are basically for either blacks or whites. He also noted many who were charged with (an HIV) crime, it was their introduction to the criminal justice system. In California the youngest case of sex crime, solicitation, was for a person 14-years-old. And there’s a fairly significant percentage of people who are arrested and convicted of these crimes who are under the age of 21; and others are in their 70s who are arrested for these crimes. Some data they were able to get regarding citizenship and immigration status, they saw a pattern of people being arrested for an HIV crime and deportation proceedings starting fairly soon thereafter. So this is a serious enough crime it can trigger deportation proceedings.

Mr. Sears wrapped up his presentation with cost, and for the state of Missouri, for incarceration alone, the cost was about \$18 million dollars.

Right now they are trying to track down all the information they can with Nevada. He said it takes about 3 to 6 months to receive and log the data.

Mr. Amend said just the preliminary data given was very enlightening and it would be extremely helpful for the committee to formulate the report and have the data to present to the legislature. Mr. Savoie had a question of Mr. Sears regarding reporting numbers in Missouri. Who reported, how was it reported, and who was responsible for reporting to others. Mr. Sears noted some who were initially charged with a resisting arrest crime, and later found out to be HIV positive, were the charged with a higher crime because of that.

Chair Wade asked Mr. Sears about two pieces of research he was going to bring to the table for the Task Force to consider. He asked him to go over that again and the timeline those might be available. Mr. Sears said he can pull together just in terms of legal background and legislative history. He needs to go over it and send it to him, would be fairly quickly. He sees this being in four pieces: legal research background; a summary of what they’ve learned from other states; a matchup of how criminal laws specifically undermine the goals and activities in your 5-year plan; the longer term thing, is getting the data and doing the data analysis.

Chair Wade noted to Mr. Sears a report that must be submitted by September 1, and what would be his suggestion to frame the report with particular headings, themes or emphasis. Mr. Sears said the Task Force has this unique origin of crimes, arrests and fake science pushed by somebody who was very anti-LGBT. There is a way to frame this as, it was reasonable in the

'80s, and the key thing is the origin is in bias. And these laws don't fall inside the norms of criminal law to the extent they don't require actual harm, the transmission, the intent to cause that harm or conduct to cause that harm. And the disproportionate impact on communities, more specifically, black people and sex workers. Every plan has to have active engagement of people of color, of trans people, of sex workers, of LGBT people and of course people with HIV, to make this plan work. And having a strategy for reaching your goal of engaging people. Chair Wade noted there are people working on a state plan and would love to get feedback on implementing HIV modernization into the plan. Is this something Mr. Sears would be willing to look at; Mr. Sears said yes. Mr. Posada asked Mr. Sears his definition of active engagement. Mr. Sears said in terms of communities, the plans call for active participation from impacted communities, either people with HIV or communities more likely to be vulnerable to HIV, in the planning process and developing programs and running programs. Mr. Sears then signed off; Chair Wade thanked him for his time.

Chair Wade asked if Scott Shoettes from Lambda Legal was on the line; he was not. Chris Reynolds, who is now a standing presenter for the Task Force, was in attendance. Chair Wade asked if he had anything to present today; Mr. Reynolds said he did not. Chair Wade returned to the agenda and addressed Item No. 3.

3. Review and approval of meeting minutes of July 22, 2020 (*For possible action*) – Chair, Andre' Wade

Chair Wade asked if all had a chance to review the minutes and if there were any revisions or additions. Mr. Reynolds noted on page 4, Mr. Murillo brought up the topic of adding members to the Task Force, himself and Antocio Corio. And specifically adding Mr. Reynolds as a standing item as a resource to the agenda. He wanted to ask about having this added to the minutes. Chair Wade noted to add the discussion (to the minutes) about adding Mr. Reynolds to the agenda as a standing presenter. Chair Wade asked if there were any other corrections to the minutes; there were none. He asked for a motion to approve the minutes of July 22, 2020 with the noted revision. Mr. Amend moved to accept minutes with the changes; Mr. Posada seconds the motion. All in favor say, 'Aye,' none opposed, motion carried.

4. Presentation concerning work around HIV Modernization in Nevada

- Presenter #1: Brad Sears, J.D., David Sanders Distinguished Scholar of Law & Policy at the Williams Institute and the Associate Dean of Public Interest Law at UCLA Law Standing
- Presenter #2: Scott Schoettes, Counsel and HIV Project Director, Lambda Legal
- Presenter #3: (standing) Chris Reynolds, Chair of Nevada HIV Modernization Coalition

Discussion noted earlier in agenda.

5. Review, discuss and approve useage of proposed Elements of Modernization submitted by the HIV Modernization Coalition (*For possible action*) – Chair, Andre' Wade

Chair Wade said he wanted this item on the agenda to be sure everyone was 'on the same page' that these are the elements they want to use and have woven into their work. He asked if there were any questions or comments. There were none. He asked for a motion to approve the Elements of Modernization for the work the Task Force would be doing. Mr. Savvoir motioned for approval; Mr. Posada seconds the motion. Chair Wade asked all in favor say, 'Aye,' those opposed say, 'Nay,' none opposed. Motion carried.

6. Review and approve timeline with benchmarks to complete report by due date to legislature (*For possible action*) – Chair, Andre’ Wade
- Chair Wade asked if there were any updates or changes about the activities/timelines. Mr. Amend noted the section assigned to him – review of court cases – he mentioned the one court case he could find and would like that noted, but would like to add a note they’re waiting on information in the report to hopefully be produced by the Williams Institute and Brad Sears. Chair Wade asked what the source documentation was on the one case Mr. Amend brought forward. Mr. Amend said *Gacoya(sp) v State, 110N344*. Chair Wade asked if there were any others. There were not. He asked the Task Force to figure out what they want done in the next few weeks and get a sense of what the actual writing of the report will look like. With two good meetings left and the research Mr. Sears will be providing, and a review of the statutes done over the first few meetings, they are in a decent place, considering. He asked for members’ thoughts on what they should complete over the next two to three weeks.
- Mr. Amend said what the group could do is do an outline draft of the report, with headings, whether it be an executive summary, talk about each of the specific parts of the Senate Bill we are supposed to cover. And the either give a summary of the information found out by then or put the information about what we’re waiting on before we can make any type of finding for that specific area. Then give a little heading about, considering the short amount of time we’ve had, this is how much time we expect to need to fully finish the report. Mr. Amend has looked at other formats from other task forces, that can be used as an outline to start to plug in some information. He said the group could at least do an outline of the report by next week. It won’t have much content in it but it will have headings and something to start working from, and know what areas are still needed to be filled in before the report’s fully completed. Chair Wade asked if he could send the draft to Rhonda Buckley, who could then get it to the rest of the Task Force. Mr. Amend said he could draft a sample outline of a report for the committee to look at. Chair Wade said that would be great. Mr. Savvoir noted he missed the meeting on July 22, and he is waiting to be assigned and he could take a portion of what needs to be done. Mr. Reynolds asked what, if anything, the HIV Coalition could help to do to support, considering the short time frame, to help with the process. Chair Wade reviews the list and timeline, and Mr. Amend suggests going through the list and note who is supplying information, or where they’re going to get the information for each one.
- Chair Wade starts with letter ‘a’ – document supplied by HIV Modernization Coalition, the Sidley Memo and Elements of Modernization. Mr. Amend said they need to get more information from the Williams Institute as well, and to put them down as a source.
- Chair Wade – letter ‘b’ – Information supplied by Mr. Amend and the Williams Institute. Mr. Amend made a comment regarding disproportionate (most of comment garbled). Chair Wade asked if the HIV Coalition has information on disproportionate impacts. Mr. Reynolds said they may have some, but he’s not sure if it’s necessarily related to Nevada. Chair Wade said this may be okay to use as an illustration. Mr. Reynolds said he would look for the information. Mr. Reynolds asked if they had a contact with the health department who could give information on impact on their public health goals at least HIV prevention. Mr. Reynolds said that would probably be Cheryl (Radeloff). Ms. Radeloff asked for clarification of request. Mr. Amend said specifically how has it affected the health department’s ability to carry out their goals when it comes to HIV prevention. Ms. Reynolds said they may have to go back and look at the Integrated Plan and how it may have affected prevention and care. And look at some national plans as they apply to us such as ending the epidemic, and look at stigma overall. She will also try to find things. Mr. Reynolds said he would work with Ms. Radeloff on that. Chair

Wade said he would like to invite someone from HIV Law and Policy Research Institute to see if they could talk to the group in the next week or so.

Chair Wade moves to letter 'c' – He noted they have already talked about that. Mr. Posada commented on resources they could use (his comment is greatly garbled), possible local data. Mr. Amend said he thinks the request for information Mr. Sears will be helping them draft, would get exactly to this type of information and with their help in analyzing they can get some of this information answered. But there is a lot of prosecution information the group does not know about and with what Mr. Sears and his group will be providing, it should help.

Chair Wade moves to letter 'd' – (designated to Vince Collins) Chair Wade asked Ms. Radeloff if she could point the Task Force in a direction to find out current medical and scientific research with respect to the modes of HIV transmission. Ms. Radeloff said there is a lot of information and recommended the CDC specifically. Chair Wade asked Mr. Page and Mr. Reynolds if the information provided was robust or was there still more that could be provided. Mr. Reynolds said information regarding 'U = U' was provided, but there's always more information that could be submitted. He concurred with Ms. Radeloff to look to the CDC, but would also look the World Health Organization and the National Institutes on Health. Mr. Reynolds said he would put some information together and get it to Chair Wade. Ms. Radeloff said there were major revisions done a few years ago (regarding NRS and NAC statutes) and to look into those, and some other states as well as how they've organized their communicable disease statutes. Not only in advances for HIV testing, but also prevention and care. Mr. Page said maybe get of this information from the State Office of HIV/AIDS. If the office has the information it would be nice to submit the information to the LCB. He also noted NRS 441A.180 addresses communicable diseases. Chair Wade asked Mr. Savvoir to reach out to the Office of HIV/AIDS and formally ask them for information relating to letter 'd.' Mr. Savvoir said he can do that and report back next week.

Char Wade moves to letter 'e' – Mr. Amend said this is one of the things Mr. Sears would do. Mr. Reynolds said this also includes the one case Mr. Amend has discussed. Mr. Reynolds said for the group to think about what they are recommending (repeal) and an alternative to that.

Chair Wade moves to letter 'f' – He notes they have the Sidley Memo and Williams Institute.

Chair Wade moves to letter 'g' – He notes the Task Force is not there yet, but getting there.

Chair Wade moves to letter 'h' – He notes the Task Force is not there yet, but getting there.

Chair Wade then summarizes the meeting; Mr. Amend will prepare a draft template with headers, and will include information from the Williams Institute to further the group's work as well as some additional assignments that were given to Mr. Reynolds, Mr. Savvoir and Ms. Radeloff and provide the information by next week if possible. Chair Wade asked if anyone had anything to add or if there are any questions. Ms. Radeloff asked if she could get a little more detail for her assignment to ensure she gets the exact information being requested. Chair Wade said he will reach out to her with clarification. There were no other questions. Chair Wade then moved to have Item No. 6 placed on next week's agenda; Mr. Amend seconds the motion. All in favor say, 'Aye,' none opposed. Motion carried.

7. Continue to review, discuss research on HIV Modernization done by the HIV Modernization Coalition and Silver State Equality, which includes Nevada Revised Statutes (NRS) and pertaining to 2019 Senate Bill (19 SB284) and approve recommendations for the report to the legislature from the Task Force (*For possible action*) – Chair, Andre' Wade

- NRS 174.031
- NRS 201.205
- NRS 201.354

- NRS 201.356
- NRS 209.385
- NRS 210.358
- NRS 441A.180
- NRS 441A.230
- NRS 441A.300, and NRS 441A.320

Chair Wade asked if there was any more discussions on the listed statutes. Mr. Page noted the Task Force has had a lot of time to discuss the statutes. He said for the next meeting, spend some time on them as there were some disagreements on a few of the statutes as to amend them or keep as is, so the group needs to come to an agreements on the statutes. But for the most part more than half were agreed upon. Mr. Amend's concern is he does not think they should make a final decision on the statutes until they have all other information first. And that it would be helpful to get the information from the Williams Institute to evaluate that, and think about the ramifications of what their recommendations might be before finally make recommendations on them. He recommends they get all the evidence in first before going through the statutes, otherwise, outsiders may think they're making decisions without having all the facts. Mr. Page said this was a good idea and asked if this item could be moved to the next meeting. Chair Wade asked Mr. Page if he remembered the two statutes the Task Force was in disagreement on. Mr. Page said according to his notes the first was NRS 201.358, and the other was 201.356. He also said there was not a disagreement, but on NRS 209.385, but they did not come up with a conclusion as how to amend it. Chair Wade thanked Mr. Page. Chair Wade asked if there were any other comments or questions on Item 7, and to place it on next week's agenda as well. There were none. Chair Wade said there are two statutes he came across. He did not have the descriptions, but they are, NRS 441A.160 and 441A.910 and will bring them forward for the next meeting so they can talk through them. Mr. Reynolds advised the group, NRS 441A.160 is regarding investigation – powers of the health authority, it's about disease investigation. And order to require to submit to examination, isolation or quarantine or treatment. Mr. Page noted 441A.910 basically states if you violate any provision of this chapter you're guilty of a misdemeanor. Chair Wade said if there were no other items of discussion he motioned to place the item on the agenda for next week and asked for a second to his motion. Mr. Reynolds asked before they vote, he has a question, was the two statutes Chair Wade brought forward to be added to Item 7 for next week's agenda. Chair Wade clarified that yes, they would be included. Mr. Page seconds the motion Chair Wade asked all those in favor say, 'Aye,' any opposed say 'Nay,' none opposed, motion carried.

8. Public Comment

(No action may be taken on a matter raised under this item of the agenda until the matter itself has been included specifically on an agenda as an item upon which action will be taken.)

Chair Wade asked if there were any public comment and if so, the person state their name, spell it and they had one minute to speak. Mr. Blissett had a question for Chair Wade, if there were just two items on the agenda for next week, being Items 6 and 7 from the meeting of August 5. Chair Wade he would go over items for next week's meeting with members of the Task Force to see collectively what they would like on the agenda. Mr. Blissett said he wanted to be sure so a meeting did not have to be canceled.

Chair Wade then confirmed with Task Force members items for the agenda for Aug. 12, 2020. He mentioned the standing presenter would be an item, possibly a member of the HIV Law and Policy Institute as a presenter, go over items No. 6 and 7, go over the template report, and was there anything else. Mr. Page confirmed the template would be on the agenda. Mr. Posada asked if it were recommended having a sex worker as a guest presenter (remaining words garbled/cut out). Chair Wade said they could do outreach to someone who represents the sex worker community, or ask Ms. Radeloff if she's available to report on her dissertation, or both. Chair Wade addressed Mr. Reynolds that a particular sex worker group, "The Cupcakes," weren't particularly interested in engaging in participating in "political activities." He asked Mr. Reynolds if he know of any other groups or person who would be interested in speaking to the Task Force to help shape their work. Mr. Reynolds said he knew of one young woman who worked for legal, licensed sex work in Nevada, and she is doing her dissertation on sex work, so he would reach out to her and ask her if she would be willing to at least attend the meeting. And if she is, Mr. Reynolds would get Chair Wade her name. Mr. Posada commented on the person and maybe she was part of a group, but he could not remember the name. Mr. Reynolds said "?" actually has a sex worker group that meets sometimes (with Trac-B, a syringe program) in Las Vegas, and reached out to the woman to see if they would be willing to speak on the unlicensed side of sex work. Ms. Radeloff said she mentioned this meeting to Dr. Barb Brents of UNLV Department of Sociology, she has book out on brothels in Nevada so she may be someone good to talk to. Also in the Spring, there was a sex worker march in Las Vegas, she knows some of the organizers of that event so the group may be able to have them participate – as both those who participate in the legal sex work and unlicensed. Ms. Radeloff said another person would be Sabrina Bernaby who is with Gender Justice. Mr. Reynolds clarified Sabrina goes by "Sy" Bernaby now. Mr. Page asked if anyone knew if the Red Umbrella Project was active in Las Vegas. He said he knew they were based out of New York but they also did some work in Las Vegas, and did represent sex workers and were a more politically active organization. They could be someone to reach out to. Ms. Radeloff said she would find out. Chair Wade said when they reach out to Sy, if they know of any trans folks who might be willing to present or speak to the Task Force. Mr. Page said Ms. Radeloff mentioned Gender Justice and he thinks they would be great to reach out to regarding gender representation as well. Chair Wade noted, with the understanding, if they don't have a commitment from a presenter by the given deadline, they might be delayed a week or so. He appreciates the outreach by everyone. And, if a presenter is not able to speak to the Task Force, maybe they would speak with the HIV Modernization Task Force to help provide some information there as well. Mr. Blissett informed Chair Wade for agenda purposes, they could always have a stand-in from an organization, or a representative of a certain organization, and that way it could be approved on the agenda. Mr. Amend informed Chair Wade that in a news report (breaking) Gov. Sisolak has declared racism a public health crisis to ensure the state does not perpetuate poor health outcomes due to systemic racism during and after the pandemic. He said he thinks definitely helps their work, too. Mr. Octavio asked the name of the person with Gender Justice. Mr. Reynolds advised Sy Bernaby.

9. Review, discuss and approve next meeting's agenda (For possible action)
Chair Wade noted for the agenda of Aug. 12, 2020, they will have presentations to be determined with some placeholders, review of the timeline/benchmarks, continue to look at the statutes including the two he brought forward today, and the formatting of the report. Chair Wade moved to approve the agenda as outlined for next week. Mr. Amend said he didn't think he needed to do that because as Chair, he can add stuff to the agenda that were discussed. He

only needs approval from the Task Force. Mr. Posada apologized to the Task Force for being late.

10. *Adjournment (For possible action)*

Chair Wade motioned to adjourn the meeting; Mr. Amend seconds the motion. All in favor say, 'Aye,' none opposed/abstained. Motion carried. Chair Wade adjourned the meeting at 6:52 p.m.

DRAFT