

STATE OF NEVADA

STEVE SISOLAK
Governor

RICHARD WHITLEY, MS
Director



LISA SHERYCH
Administrator

IHSAN AZZAM, PhD, MD
Chief Medical Officer

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
HEALTH WELLNESS AND PREVENTION**

Office of HIV/AIDS
4126 Technology Way, Suite 200
Carson City, Nevada 89706
Telephone: (775) 684-4200 · Fax: (775) 684-4056

<https://notice.nv.gov/>

SB 284 – ADVISORY TASK FORCE ON HIV EXPOSURE MODERNIZATION

August 19, 2020
5 p.m.

Webex Teleconference

Draft Minutes

TASK FORCE MEMBERS PRESENT:

Senator David Parks
Senator Dallas Harris
Andre' Wade
Stephan Page
Ruben Murillo
Quentin Savvoir
Octavio Posada
Vince Collins

TASK FORCE MEMBERS ABSENT:

Steve Amend

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH STAFF PRESENT:

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

GUESTS PRESENT:

Chris Reynolds
Cheryl Radeloff
Christian Eduardo
Marguerite Schauer
Carla Hammons
Tami Haught
Connie Rose

1. Call to Order, Roll Call – Chair Wade called the meeting to order at 5:05 p.m., and asked Administrative Assistant II Rhonda Buckley to conduct roll call. Eight (8) of nine (9) members present.
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 was any public comment and if so, state their name for the record, spell it and they have one (1) minute to speak.
3. Review and approval of meeting minutes of Aug. 12, 2020 *(For possible action)*
Chair Wade asked if there were any revisions/corrections to be made to the minutes. There were none. Senator Parks moves to accept the minutes as submitted; Mr. Posada seconded the motion. All in favor say, ‘Aye,’ any opposed say, ‘Nay.’ None opposed; motion carried.
4. Presentations concerning work around HIV Modernization in Nevada
Chair Wade began the meeting with the presentations, starting with Marguerite Schauer, who is with The Center of HIV Law & Policy. Ms. Schauer read through a slide show she submitted for the Task Force members. Slides pertained to reform efforts, history, the process of modernization of HIV statutes in Nevada and comparisons to other states. She noted since the HIV epidemic began, in the 1980s and 1990s, when the stigma of having HIV was high and HIV criminal laws were passed. She noted there have been amendments after amendments, and many of them are not what would be considered modernizing. Ms. Schauer said HIV is not the only infectious disease criminalized, others include viral hepatitis. She identified the specifics of repeal, modernize and reform or effective repeal. Ms. Schauer gave examples of various states that have repealed and reformed various laws and the outcomes. She concluded with being cautious of repeal, reforming a current law can go further, reform should not exacerbate socio-economic disparities or create viral hierarchies and do not start with assumption that compromise is necessary and do not compromise if it will leave some communities behind for improvement for others. Ms. Schauer encouraged the Task Force to read through materials she has made available.
Chair Wade asked if there were questions for Ms. Schauer; there were none. Chair Wade then moved to guest speaker Christian Eduardo, with World Without Exploitation. Mr. Eduardo is an advocate in the state of New York and discussed laws they are working on to get passed. Mr.

Eduardo is a Latin immigrant and an English speaker for the LGBTQ+ community and a person living with HIV. He began advocating after being a victim of human trafficking. He is a survivor of international and domestic sex and labor trafficking. It changed his life drastically, with the stigma, fear and discrimination he has encountered made every day of his life very hard. He said the lack of information, resources and not knowing the laws of the U.S., fueled the exploitation of his body. He is a survivor of domestic trafficking in the U.S. Five years ago Mr. Eduardo did not know the definition of human trafficking and there was something called sexual exploitation and that traffickers and buyers prey upon vulnerable communities to satisfy their sexual desires without acknowledging the harm and damage done upon people like him. What others do not know, is the majority of people engaged in the sex trade or prostitution are there by coercion, force, fraud or survival. Mr. Eduardo said what he knows is he was forced to engage in non-consensual sexual activities. He never said, 'yes,' or used any kind of protection. He did not know how to ask for condoms, and people engaged in this activity are at high risk (for HIV). Not only is he now living with HIV, he also has PTSD, anxiety, depression and nightmares. Mr. Eduardo said criminalized people living with HIV make looking for help and resources harder. He said for immigrants and other vulnerable communities (Latinos, black, LGBTQ+), make this almost impossible. On the other side, laws that legalize sex trade, and laws that legalize prostitution, including pimping, not only fuel and increase sex trafficking, they put at risk their communities and families we want to protect. Because these human beings are separated from society and the risk of infection of HIV will also increase. He said those involved in sex trafficking and prostitution are there by choice; this is not true. Mr. Eduardo said the realities are not only physical, but psychological are the results of sexual exploitation, including living with HIV. The equality role model was created by listening to survivors, and there are three points to the model. First: to stop criminalization of people being bought and sold. Second: criminalize the pimping, owners and buying. Third: create resources to understand the harm of the sex trade and how it impacts people living with HIV. Chair Wade thanked Mr. Eduardo for speaking to the Task Force. He asked if there were any questions from the Task Force. Mr. Posada thanked Mr. Eduardo for his testimony. Chair Wade then moved to Agenda Item #6.

5. Update and Make Recommendations to the recruiting/onboarding of additional members – Chair, Andre' Wade

Chair Wade noted information regarding this, sent to the Task Force, it was suggested due to timing, they wouldn't be able to add additional task force members. But having folks sit in on the meetings, comment and react, is a good way to get the diversity of getting people and the voices they want. Chair Wade asked Sen. Parks if he had any updates since they last spoke about appointments (to the Task Force). Sen. Parks said he had no updates, and things have been quite difficult with the COVID-19 at the State level. Chair Wade said additionally, regarding the report, they are on track. All the information being given will be helpful for the legislature to use as a guide to what they want to do. He noted the Task Force will still an opportunity to submit supplemental information later in the year. Chair Wade said at the next meeting they needed to discuss how they will meet ongoing after the report is written. The Task Force is in place until June of 2021. They can think through of how often they want to meet leading up to that time. Mr. Collins asked, based on conversations, are they good to go with all of it, and does everyone feel comfortable with putting forward all the recommendations. Mr. Murillo said he is very comfortable with conversations and recommendations. And they will be asking for an extension to continue work. Chair Wade confirmed the Task Force is still able to

meet and submit supplemental information this year. Once they submit the report for September 1, they have the ability to submit supplemental, revised information for the legislature.

Chair Wade addressed Report Writing and motioned for it to be continued to the next meeting. The motion was seconded by Mr. Murillo. Chair Wade asked for a vote; all in favor say, 'Aye,' any opposed say, 'Nay,' none opposed. Motion carried.

6. Report Writing – Executive Summary, headers, statutes, themes, etc. (For Possible Action) – Chair, Andre' Wade

Chair Wade wanted to move through each of the sections and see where the Task Force is and see what needs to be added, revised. Chair Wade asked Mr. Posada if he had the background section of the report. Mr. Posada said, yes. Chair Wade said he wondered if they needed to add information about the function of the Task Force. Mr. Posada said he was following the format of the report, but is open to adding anything else. Mr. Page asked which document this was (by order on website). Chair Wade noted it was the first document of the last line. Chair Wade asked members of the Task Force if they had a chance to review all the documents. Most members said they had reviewed most, but not all documents. Chair Wade continued his suggestion of the function of the Task Force (per SB284). He then asked if the Task Force has reviewed the Summary of Work section. This is a section Chair Wade wrote. He said he planned to add more detail, and input information on the guiding principles provided by Ms. Schauer, and others. He asked if anyone had a chance to review statutory recommendations. Mr. Page advised he typed conversations around decisions the Task Force has made for some of the statutes. There are some statutes with two sections; these were statutes the Task Force has not yet made a decision on. Chair Wade asked all to look at the document. He then wondered if the elements of modernization should be included in this section of the report before they move to recommendations to give people a frame as to why they are making the recommendations. Mr. Page said he placed notes as to why they were making recommendations. Chair Wade expressed he wanted people to know why (in this section) the recommendations were made, as opposed to reverting back to other sections. Mr. Page said that would be a good idea. Chair Wade said he wanted everyone to be sure they were on the same page regarding recommendations. Mr. Page said he would read through them one by one, if it would be helpful. Chair Wade said, great.

Mr. Page began with NRS 174.031; the recommendation is, no change.

NRS 201.205; recommendation is to repeal, but maybe they should have more discussion. He also note if it is not repealed, the Task Force recommend the felony charge be lowered to a misdemeanor. Chair Wade placed in reference Ms. Schauer's presentation, regarding language, asked if they were alignment with defining terms. Mr. Page suggested not recommending complete repeal, as there could be other laws, or leave room for increased criminalization. He said if all agreed, remove this part and leave recommendation to lower charge as that is an element of modernization. Senator Harris said there's no harm in being overly bold in the recommendations. She wanted them to understand they are going in with recommendations and it may be less coming out. Mr. Page asked if Ms. Schauer was willing to put in her two cents. Ms. Schauer said she understands both points, but her point is repeal is not the goal and she understands the idea of going bold, but would say bold is not good considering the risks. She cautions against repeal. Sen. Harris said whatever the committee's pleasure she would be okay with. She does not want people to be afraid of going for the repeal if that's what they actually want to recommend. They are all legitimate points. Chair Wade asked Ms. Schauer if she

would suggest modernize, or reform versus repeal. Ms. Schauer said smartly revising the statute to make it a misdemeanor as well as all other pieces of actual intent and transmission, is what matters. They general support effective repeal. Mr. Page said considering this information, does the Task Force recommend taking out the part about repealing the statute? He recommends lowering the charge to a misdemeanor and he does feel that repealing (this statute) could cause issues. Chair Wade suggesting contacting other organizations and getting their feedback, to bring to the next meeting.

NRS 201.354; Mr. Page said the Task Force said no change on this statute as it relates to prostitution and does not mention HIV.

NRS 201.356; there are two options – statute relates to being in prison in the state of Nevada. If a person is in prison they must be tested for HIV; the opposition was to the fine of \$100 to the person being tested. The other option is no change to the statute. Mr. Collins had a question about the process of arrest/arraignment of a person, and of being tested, and who performs the test. Mr. Posada referred to Sen. Harris' comment about recommending the fine being removed, and if not, they know they tried. Mr. Page commented it would be more of a value question for them. He said he would add notes regarding the equities and court fees. Chair Wade referred to the and read, if a person is convicted of NRS 201.354, the person shall pay the sum of \$100 for the cost of the test. Mr. Collins clarified the test is administered once the person is arraigned. Mr. Reynolds commented the issue was the cost of the test, as many know the test does not cost \$100. He noted as Sen. Harris said, they want it to be completely repealed, and if the legislature says, no, the other choice would be the language would be changed to pay for the cost of the test. Mr. Posada suggested that considering some of the statutes are old, perhaps the cost included other aspects. Connie Rose had a question of the Task Force regarding testing and charges of a person, and using a standing, trusted location to conduct the test. Mr. Collins explained how/how/where testing is performed and the timeline of the process. Mr. Reynolds explained the process of blood draws when a person is booked for solicitation. Ms. Rose suggested the rules and laws are being applied by officers at their discretion. Chair Wade thanked everyone for their comments, and moved to NRS 201.358.

NRS 201.358; Mr. Page noted this statute makes it a Class B felony for a person with HIV to engage in sex work. Option 1 is to bring it down to a misdemeanor; option 2 is no change. Mr. Collins questioned the fine and term of the NRS as being excessive. Mr. Page said it was his recommendation to lower charge to a misdemeanor. Chair Wade asked Mr. Page about going with option 1. Mr. Page said he would like to go with another option, option 3, and completely repeal. Mr. Posada concurs with complete repeal. Chair Wade asked for suggestions. Ms. Schauer said her two cents is to repeal. Tami Haught agreed with Ms. Schauer for complete repeal. Mr. Page said if no one was opposed, he recommended complete repeal. Ms. Radeloff said there may be entities who would present strong objections to a repeal. (Law enforcement.) Mr. Posada referred to a comment by Sen. Harris, they can ask for a repeal and if it does not happen, hopefully they would be met half way. Mr. Page said if they would not repeal, ask it be reduced to a misdemeanor. Chair Wade asked Sen. Harris if she had any comments. Sen. Harris' suggestion is to make the recommendation the committee feels is most appropriate. Then in the discussion of the recommendation, there is always room to suggest alternatives. Chair Wade asked Mr. Page to include the additional option with the clause and it can be further discussed at the next meeting.

NRS 209.385; pertains to segregation in prisons. That anyone in prison in Nevada must be tested for HIV, and if they test positive the Department of Corrections may segregate you if it's believed you may be engaging in risky behavior. Mr. Page was curious about the definition of segregation. Does it mean solitary confinement? It leaves a lot for the DOC to decide what

takes place. Chair Wade asked Mr. Page about his report, as he noted ‘other states.’ He asked if he knew which states, and could he list them out. Mr. Page said he would happy to add the sources. Senator Parks asked if anyone has reached out and had a conversation with the DOC? He noted the DOC has their own internal regulations relating to HIV. Mr. Collins noted there are programs in the DOC for those with HIV, and the determination of segregation would be made right away as individuals are tested when they enter the prison. Chair Wade asked who would like to reach out to the DOC and find out this information. Mr. Collins said he would. NRS 441A.160; Mr. Page said there was no recommendation for change. Chair Wade asked Mr. Posada if he had a charge regarding a chart he submitted (assigned statutes). Mr. Posada said yes and referred to the website for review. Chair Wade asked Mr. Page to do some research, making notes and bringing it back later for discussion. Mr. Page agreed. NRS 441A.180; Mr. Page noted there was no recommendation for change. It reads for any communicable disease, it does not specifically mention HIV. It is about violation of the initial statute, and person would be guilty of a misdemeanor. NRS 441A.230; Mr. Page noted there was no recommendation for this statute as it pertained to HIPPA. It did not specifically mention HIV. NRS 441A.300; Mr. Page noted this is similar to 441A.180. It does specifically mention AIDS, and his recommendation is it should be HIV, not AIDS. Second recommendation was to repeal completely. It basically says if you have HIV, a health authority can confine you. He said 441A.180 was adequate enough that this statute wasn’t necessary. Chair Wade asked if there other terms to be used as a strategy mechanism. Ms. Schauer and Ms. Haught both had no objection to the reason for repeal. Ms. Radeloff said she understands the logic, there is always the concern of that ability of public health authorities in the comparison of HIV with TB, that for folks who may not be willing to act in ways after they’ve been approached with behavior. This may be a concern for public health entities. Ms. Rose commented they need to remember that if someone is acting inappropriately, there are other measures like going before a judge and saying they are a public threat to confine someone. Because if they’re living with HIV it opens the door to other situations. She highly recommended repeal on this statute. NRS 441A.320; Mr. Page noted this states if you are accused of sexual assault, you have to be tested for HIV and other STDs. He said the Task Force had no issue as a whole, but the mention of the phrase of HIV and other STDs wasn’t necessary, as HIV is an STD. The mention of both was stigmatizing. The recommendation was to change it to read just STDs. NRS 441A.195; Mr. Page said he has not yet researched this statute. But it does not mention HIV, it’s just about communicable diseases. He has no recommendation but it’s worthy of being considered. Chair Wade asked Mr. Page to place a summary of the NRS so they could respond to it at the next meeting. Mr. Page said yes. Ms. Radeloff said in terms of bodily fluids, there is also Hepatitis C and other conditions as well she can see the concern raised about this. Mr. Page agreed and proposed adding a clause to the recommendation. Ms. Radeloff noted leaving the law a little interpretable. Mr. Collins noted they do want to consider public health concerns, but also diseases that have been targeted for criminalization. Senator Harris suggested putting in (the recommendation) something about known, or should have known, about the method of transmission. Mr. Posada asked about adding the information, communicable diseases as defined by the CDC. Ms. Rose commented adding, the realistic proof of transmission and the intent of the alleged perpetrator. Sen. Harris commented everyone is on the right track with this statute. The purpose is to catch people who are recklessly or intentionally transmitting communicable diseases to other people without regard to their safety or public welfare. Chair Wade noted information submitted by Ms. Schauer, a consensus statement on HIV and he was asking if they needed to include a couple of the points

to the report, either in general or to the section Stephan wrote that would help provide more guiding principles. Mr. Collins agreed, as he read the consensus and they would be useful in the process. Ms. Schauer noted for clarification, there are guiding principles that could be extremely useful and she's happy to talk about them. The consensus statement refers to U = U. Chair Wade noted two core legal principles, one was convictions must require proof the person intended to harm; second, the degree of punishment must be closely related to the level of injury. The part of the consensus statement he pulled out was, modernized laws must reflect a central principle that those who act with intent to do harm by transmitting a disease be held criminally accountable.

Chair Wade then moved on to Non-Statutory recommendations and has anyone had a chance to react to them. He noted in addition to the LGBTQ, they also want to add women, people living with HIV, sex workers, etc. Mr. Murillo said he was open to the suggestions, changes. Chair Wade then addressed Conclusion and Next Steps; he had nothing sensitive to react on this. He asked Task Force members, for the next meeting, read through the sections and offer any comments. If they have a section they wrote, if they could make revisions and send back to Rhonda and Tony, for uploading to the website. Mr. Collins asked if they approved the minutes from the last meeting. Chair Wade said no, they will be. Mr. Page asked Ms. Buckley when the deadline would be for submitting the second drafts. Ms. Buckley advised by 9 a.m. Tuesday, Aug. 25. Chair Wade confirmed the time and date. Chair Wade motioned for this agenda item to be continued to the next meeting's agenda. Mr. Page seconded the motion. All in favor say, 'Aye,' any opposed say, 'Nay.' None opposed; motion carried.

7. Review and approve timeline with benchmarks, to complete report by due date to legislature (*For possible action*) – Chair, Andre' Wade
Chair Wade motioned to move this item to the next meeting's agenda. Mr. Murillo seconded the motion. All in favor vote, 'Aye,' opposed say, 'Nay.' None opposed; motion carried.
8. Review and discuss research on HIV Modernization done by the HIV Modernization Coalition and Silver State Equality, which includes Nevada Revised Statutes pertaining to 2019 Senate Bill 284 (19SB284) and approve recommendations for the report to the legislature from the Task Force (*For possible action*) – Chair, Andre' Wade
Chair Wade moves to place this agenda item on the next meeting's agenda. Senator Harris seconded the motion. All in favor say, 'Aye.' Any opposed say, 'Nay.' None opposed; motion carried.
9. Review and discuss next meeting's agenda – Chair, Andre' Wade
Items for continued discussion include Agenda Item 5; Agenda Item 6; Agenda Item 7; Agenda Item 8.
10. 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 was any public comment to be made and if so, state their name and keep comments to one (1) minute in length of time. Chair Wade asked members to review the documents and make revisions prior to the next meeting. And think about how they would like

to continue meeting after submission of the report. Mr. Posada asked with continued guests, are there documents that could be added to the report they could welcome those as well. Chair Wade recommended members to reach out to people in their network to get some reactions to sections of the report.

11. Adjournment

Senator Parks motions to adjourn the meeting; Senator Harris seconds the motion. Chair Wade calls for a vote. All in favor say, 'Aye,' any opposed say, 'Nay.' None opposed; motion carried. Chair Wade adjourned the meeting at 7:06 p.m.

DRAFT