

STATE OF NEVADA

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SB 284 – ADVISORY TASK FORCE ON HIV EXPOSURE MODERNIZATION

September 9, 2020
5 p.m.

WebEx Teleconference

Final Meeting Minutes – Approved 09.16.2020

TASK FORCE MEMBERS PRESENT:

Andre' Wade, Chair
Senator Dallas Harris, Co-Chair
Senator David Parks
Stephan Page
Ruben Murillo
Quentin Savvoir
Octavio Posada
Vince Collins
Steve Amend

TASK FORCE MEMBERS ABSENT:

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:

Cheryl Radeloff
Brad Sears
Marguerite Schauer
Connie Schearer
Jimmy Lau
Davina Conner
Robert Thurmond

1. Call to Order, Roll Call – Chair Wade called the meeting to order at 5:02 p.m. and asked Administrative Assistant II Rhonda Buckley to conduct roll call. All nine (9) members present; quorum met.

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. There was no public comment.

3. Review and approval of meeting minutes of Sept. 2, 2020 *(For possible action)*
Chair Wade asked if there were any revisions/corrections to be made to the minutes as submitted; there were none. Chair Wade moved to accept the minutes as presented; Senator Parks seconded the motion. All in favor say, ‘Aye,’ any opposed say, ‘Nay.’ None opposed; motion carried.

4. Review and Adoption of Task Force Report with Recommendations to the Legislative Body *(For Possible Action)* – Chair, Andre’ Wade
Chair Wade proposed taking the report section by section; Sen. Harris seconds Chair Wade’s idea, as a great way to keep it simple. Chair Wade asks the Task Force members to look over the section. Mr. Posada opens with the Background section. Mr. Posada presented his submission and discussed the sections. Sen. Parks recommended adding two words to the last line of the first graph, “with members,” placed between “Modernization” and “appointed” (by Governor Sisolak. Chair Wade agreed. Chair Wade asked if it would be tedious to read the report out loud; it would not be. Mr. Page said he skimmed over the report and did have one recommendation under the Acknowledgement section. He said it would be nice to mention some of the organizations who were particularly helpful to the Task Force, such as the Center for HIV Law and Policy, the Williams Institute and the Nevada HIV Modernization Coalition. Sen. Parks said he supports that; Chair Wade said it sounds good to him as well. Sen. Harris makes a motion to approve the recommendation with the amendment put forward by Mr. Page. Mr. Murillo said it would also have to include the recommendations made by Sen. Parks (addition of two words). Sen. Harris amends her motion to approve the section with both amendments suggested by Stephan Page and Senator Parks; Mr. Posada seconds the motion. Mr. Amend asks to add acknowledgement to the State Department of Health and Human Services and the people who helped with the meetings (to the acknowledgement section). Sen.

Harris comments she believes Mr. Page's comment would do just that, to include all parties. Mr. Murillo thanked Sen. Harris for the clarification. Chair Wade asked if there was further discussion before taking a vote; there was none. All in favor say, 'Aye,' any opposed say, 'Nay.' None opposed; motion carried.

Chair Wade proceeded to Summary of (Task Force) Work. He said he began by explaining the process of the early meetings, what the Task Force was asked to do, and the four NRS they were asked to review and discuss. Chair Wade included elements of modernization (taken from the Nevada HIV Coalition), timeline, and guest speakers. He then offered a brief summary on what Chris Reynolds and Brad Sears talked about and added what other guest speakers spoke about during the meetings, and the overall statutes they were looking at. He noted he had 12, but believes it was 13 (statutes). Mr. Page said he was happy with the section, and confirmed it was 13 statutes. Chair Wade said he would like to illustrate the feedback received from a host of people during the last four meetings. Mr. Murillo asked how far Chair Wade's section goes and does it include statutory recommendations. Chair Wade said the statutory recommendations are separate. Mr. Sears noted on page 7, letter 'e,' to add 'actual transmission occurs,' to the section (elements of modernization). Mr. Amend asked if they were going to vote on this section; Chair Wade moves to add the words "actual transmission occurs" as suggested by Mr. Sears; Mr. Amend seconds the motion. Chair Wade calls for a vote. All in favor say, 'Aye,' any opposed say, 'Nay.' None opposed, motion carried. Chair Wade moves to change twelve (12) statutes to thirteen (13); Mr. Collins seconds the motion. All in favor say, 'Aye,' any opposed say, 'Nay.' None opposed; motion carried. Chair Wade the moves to put further input around the CHLP's comments and supplemental reports by the Williams Institute; Mr. Amend seconds the motion. All in favor say, 'Aye,' opposed say, 'Nay.' None opposed; motion carried. Chair Wade next moved to Non-statutory recommendations, asking Mr. Murillo to proceed. Mr. Murillo noted there were two statutes that were non-statutory; the first being the extension of the deadline (for submitting the report), and the second was completion of reports of the The Task Force to compliment the work that will be done, until June 2021. Mr. Amend moves to approve the non-statutory recommendations; Mr. Murillo seconds the motion. Chair Wade asks for discussion; there was no discussion. Chair Wade calls for a vote, all in favor say, 'Aye,' any opposed say, 'Nay.' None opposed; motion carried. Chair Wade continued to Statutory Recommendations, authored by Mr. Page. Mr. Page said he had three things he wanted to highlight for the members. He began with NRS 441A.180, he said at the end there is the word "citation" that is highlighted. This is the statute where they are importing language from the penal code, and he described that in the last paragraph. But he thought it would also be helpful to refer to the added language the CHLP submitted, if they do want to submit that. It would also be helpful for reference to all the statutes, and maybe move that line to the top of the section (for reference). The second statute, NRS 441A.195 – the citation in the second paragraph for the three articles are not cited correctly and needs to be fixed. The last note is in 441A.320, Mr. Page said he was a bit confused on this statute at the last meeting. He asked the members to review his recommendation to be sure he described them correctly. Ms. Schauer asked if the Task Force wanted to insert a citation to the suggested language on 441A.180. The (most recent) list of recommendations sent by CHLP are better and free of errors. Chair Wade clarified with Mr. Page, that would be the citation to be placed in 441A.180. Mr. Page said yes. Ms. Radeloff had a question for clarification on 441A.320, that no longer will the alleged perpetrator be tested for STIs, they will only be offering testing to the victim/survivor. Mr. Page said that was correct, as he interpreted the information from the edited language from the CHLP and draft minutes of record from the prior meeting. Ms. Schauer said she believes she is certain it is the same recommendations as submitted before

without subsequent changes. She said the recommendation, requires to offer testing to an alleged victim. And, if the alleged victim wants to get tested themselves, and does, and wants the defendant to get tested, and probable cause is shown (that the victim may have been exposed). Mr. Page said he did not see the portion of the victim getting tested so he will add it to the description. Mr. Amend said to also be sure to add probable cause, as the conduct that was done could have led to an exposure. Chair Wade, for the record, begins with NRS 441A.320, wants to go paragraph by paragraph to see where they need to make revisions. Chair Wade asked if there was anything in the first graph. Mr. Page said the first graph is a summary of the statute; and would add the recommendation to the third graph, after the last sentence. On the lines of, "Our recommendations include that the defendant can be tested at the request of the victim if there's probable cause an STD/STI was transmitted." Ms. Schauer read the recommendation of the CHLP regarding probable cause. Mr. Sears commented all three recommendations read were good. Ms. Radeloff commented on this language going beyond HIV, to include STIs. Ms. Schauer said she fully supports Mr. Sears' comments on having probable cause required in each of the three areas. Ms. Radeloff said it is important when looking at issues of sexual assault, to consider treatment in these circumstances. Mr. Page asked if the subject of treatment is mentioned anywhere else in NRS. Ms. Radeloff was not sure but may be listed under NAC, but maybe be considered in the NRS. Sen. Harris noted it is more difficult to make changes to the NAC than NRS. She said they may want to consider only limiting their recommendations to the NRS. Sen. Harris added they could make a change to the NRS that would trigger a rule making by a particular agency which would amend the NAC. Chair Wade said a summary of these recommendations would be helpful, so the Task Force knows what they want to adopt. Mr. Page said he had a sentence ready in terms of probable cause, added after the last sentence of the third paragraph: Reads, "The health authority will test the alleged perpetrator at the request of the victim, at the determination of probable cause that the offense occurred, that STD/STI was likely to be transmitted and that testing of the alleged perpetrator would be helpful for the victim." Ms. Schauer said rather than use the word helpful, use "necessary to determine appropriate treatment for the alleged victim." Ms. Radeloff noted she has recently been working with the Department of Health and Human Services on AB124 which is resources and services for sexual assault survivors. Mr. Collins asked the information of the recommendation to be summarized to be a little more clear. Mr. Page read the revisions, at this point, to be added. Mr. Murillo said what he would like to see (at the conclusion) is to see a revised copy of the report, with all the changes being made. Mr. Page noted the recommendations have been adopted, it's only the addition of once sentence that is being made at this time. Mr. Page read the sentence, that will be added at the end of the third paragraph. Mr. Amend commented to add necessary for "treatment" of the victim. In order to move forward, Chair Wade asked Mr. Page to add the language and track changes, and confer with Mr. Sears and Ms. Schauer, then resubmit and go through it from there. Mr. Page asked the members to read through the rest of the recommendations and flag any concerns they may have. Ms. Radeloff asked about NRS 209.385 and the general consensus of removing testing of all communicable diseases prior to entering and exiting prisons, or institutes under the Department of Corrections. Mr. Page said he looked at the minutes to be sure, and the final vote was to repeal, but also recommending a statute be added to the public health code that allows inmates to get tested for STDs/STIs. Ms. Radeloff then had a question directed to Mr. Sears and Ms. Schauer, is it something that may occur in prisons, if somebody does engage in activities, such as sex, tattooing or other using injectable drugs, could they be charged with a crime have time added (to their sentence) if they do that. And if they do voluntarily test, might that be a deterrent for them to not test while in prison? Senator Parks said there already are

regulations in the prison that prohibit tattooing as well as containing any tattooing devices. The inmate would get a write up and potentially some added time for such activity. And, there's already a regulation, that nobody in the prison system – inmate or corrections official – engage in any sexual contact. Ms. Schauer asked if testing would be used as a deterrent. She did not understand the initial question. Ms. Schauer said her question was, if this was repealed, they would not have a baseline to know people's stats coming in (re: communicable diseases), and with the consequence of added time, may deter some from testing. Will this action stop the spread of communicable disease, which is their goal. Connie Schearer commented she agrees with Ms. Radeloff in the ability to test, but this should be a public health approach as a first line of defense. Chair Wade notes the third paragraph of this section, where they also recommend adding a statute to the public health code that allows inmates to get tested for STDs/STIs, he feels it's important to retain testing aspect of this statute, but think this statute is too problematic as written now, for the reasons given above. He notes the point is moving it out of the criminal code to the public health code. So it's not necessarily going away, it's taking the public health approach. Ms. Schearer asked to moving this to the health code, is it a statute they could give domain to the health department. Ms. Radeloff addressed her questions and gave her clarity as to who would work with various incarceration centers. Mr. Page said the statute is vague, and they're recommending repeal as they feel it does not belong in the penal code. And recommending a statute be added to the public health code that allows inmates to be tested. Chair Wade suggests adding a note to that section, that with more information and deliberation, the Task Force will revise this recommendation for a report to be submitted later in the year. Chair Wade moves to add a sentence that the Task Force will revisit this recommendation after further discussion for the later report; Mr. Page seconds the motion. Mr. Murillo asked if it meant removing the entire recommendation until it is resubmitted. Chair Wade said he is moving they add language to this section that is submitted as is, to state that the Task Force will further deliberate, and revise recommendation as needed, when the report is resubmitted. Mr. Murillo notes Chair Wade has made a move and asks for a second so there can be a discussion. Mr. Collins seconds the motion. Mr. Murillo said if there is a recommendation that has not been completed, he would rather take it out and fix it, then resubmit it if they're going to do it additionally at a different time. Mr. Collins said as he understands it, the recommendation being submitted is already there, they're just adding a note to address clarification on the statute. Mr. Murillo said he understands this. Chair Wade noted that Deputy Attorney General suggested the Task Force spell out – if there's any non-agreement – on any certain recommendations, that the Task Force state that, and that further information is going to be gathered for a future report. There was no further discussion. Chair Wade moves to vote on the language and further deliberation as needed. All in favor say, 'Aye,' those opposed say, 'Nay,' Mr. Murillo opposed; motion carried. Chair Wade asked if there were any other areas for discussion before they move to vote on other sections. Mr. Sears made a suggestion for NRS 201.205 – it shows it's going to be moved to the public health code – but being very specific it's actually being incorporated into NRS 441A.180 (and not as a separate statute). Mr. Page said he likes this idea, and motions to amend the recommendation for NRS 201.205 so that the first sentence of the fourth paragraph reads, "We also recommend that the statute after being amended, be moved from the penal code to the public health code and NRS 441A.180." Mr. Amend seconds the motion; there is no discussion. Chair Wade calls for a vote. All in favor say, 'Aye,' opposed say, 'Nay.' None opposed; motion carried. Chair Wade then called for a vote on the 'highlighted citation' in 441A.180, and moves to add language that citation will be the updated statute amended by CHLP; Mr. Page seconds the motion. There is no discussion. All in favor say, 'Aye,' opposed say, 'Nay.'" None opposed; motion carried. Chair Wade asked

if there were any other points in the section. Chair Wade then moves to have citations fixed under the section 441A.195; Mr. Page seconds the motion. There is no discussion. All in favor say, 'Aye,' any opposed say, 'Nay.' None opposed; motion carried. Ms. Radeloff asked for point of clarification in NRS 441A.160, the first part of it – a health authority who knows, suspects or is informed of the existence of the jurisdiction of the health authority of communicable disease shall immediately investigate the matter and also shall take measures of prevention, suppression and control of the disease as are required by the regulation by the board or a local board of health. Her concern is hoping the changes recommended will not interfere in that part of duties of public health and they will be able to act quickly and efficiently toward investigations. She also recommended getting recommendations from the State board of health to assist with looking at the revisions. Mr. Page asked Ms. Radeloff if her concern was in the opportunity to act quickly. Ms. Radeloff was potentially, yes. Mr. Page said he personally feels the revision would not impede that, but the prime part of the amendment is the health authority has to document whatever action they are taking is necessary. Ms. Schauer noted the CHLP did not 'touch' this section. Ms. Radeloff said their prime directive is to be able to that in section one. And sometimes they have to be able to act quickly. She asked that any amendments do not impede their ability to talk with folks, offer testing and treatment, as needed. Mr. Page commented he did not think the recommendation would prevent the health authorities from doing their job, it only asks that actions be documented. Ms. Schearer commented on the legalities and how non-disclosure of HIV is something that should be an argument. Chair Wade asked for clarity (from Ms. Radeloff) in how to decide to move forward, that what is the specific point of contention and how could it be resolved. Ms. Radeloff she was most concerned in terms of, as long as the recommendation doesn't impede the health authorities ability to do the activities, or duties that are basically required by the State, and the CDC, to stop the spread of infectious diseases, she does not have an issue. Mr. Page said it may be helpful if she looks at the CHLP's language in the document titled, "NRS Draft, CHLP and NV NV Coalition Correction." Chair Wade asked the Task Force if they had any concerns about this particular paragraph, section. There were none. Chair Wade noted there will be a host of appendices items going along with the report as cross reference. With no further comments/questions, Chair Wade moved to the next section of the report. Mr. Amend said some of the work in this section has been completed since the prior meeting, and asked Mr. Sears if he could tell the Task Force which sections were included in his report. Chair Wade noted the third bullet point is one section that was submitted. Mr. Sears said under the first two bullets of work to be completed, work not completed in Nevada; the third bullet point is the latest scientific and medical information on the transmission of HIV and applies it to each of the statutes and the conduct it prohibits; the fourth bullet point on the legislative history, there is a subsection in that document that reviews and documentation on the enforcement of the laws, media reports. Mr. Sears said what is missing is the Nevada-specific data about enforcement. Mr. Amend said they should delete the third and fourth bullet points, and with the first and second bullet points, add a notation that they are looking for that information regarding Nevada-specific data. Chair Wade notes in the bullet point it does say data relevant to this state. But in the second bullet point, the first sentence, "Identify any disparities, arrest or prosecutions or convictions" under state statutes, should read convictions under Nevada state statutes. Mr. Amend said that sounds good. Chair Wade moves to revise the second bullet, striking such, adding Nevada; Mr. Murillo seconds the motion. No discussion. All in favor say, 'Aye,' opposed say, 'Nay.' None opposed; motion carried. Chair Wade then moved to strike the third and fourth bullets (as they have received information), and also move to make these as part of the appendices (with a reference); Senator Harris seconds the motion. There is no

discussion. All in favor say, 'Aye,' opposed say, 'Nay.' None opposed; motion carried. Chair Wade notes a minor edit in the last bullet with the indentation, in the second-to-last line, it reads 'recommendation with be made in,' and should read, 'will be made in.' Chair Wade moves to change the language from "with" to "will," in the sentence; Mr. Amend seconds the motion. There is no discussion. All in favor say, 'Aye,' opposed say, 'Nay.' None opposed; motion carried.

Chair Wade then discussed the appendices section of the report. He said they need to cross reference a lot of the items that have been submitted. He asked if there were questions or thoughts on supplemental information that will be attached to the report. Mr. Murillo asked if there was intention of including any handouts or documents to the report or was citations okay. Chair Wade said this is what he is talking about, supplemental attachments, documents, whatever, would be in the appendices in reference to the report. Mr. Amend said they should include any copies of the report they have referenced, in their report. Ms. Schauer had a comment regarding the CHLP's comments being included, she would not mind if the only things included at this section they be called, CHLP's suggestions. Chair Wade clarified her comment. Chair Wade then moves to clarify that what is going to be noted in the appendices section for CHLP, as language recommendations; Mr. Page seconds the motion. There is no discussion. All in favor say, 'Aye,' opposed say, 'Nay.' None opposed; motion carried. Mr. Page said they should add the HIV Coalition packet to the list of documents. Mr. Collins asked if this would be consistent with adding Mr. Reynolds' presentation in referencing that information. Mr. Page moves to add the Nevada HIV Modernization Coalition's packet as appendix 'g.' Mr. Collins seconds the motion; there is no discussion. All in favor say, 'Aye,' opposed say, 'Nay.' Mr. Page said he would send Ms. Buckley an updated version of the packet, soon. Chair Wade asked if there were any more items to add to the appendix section; there were none.

5. Review and approve timeline for meeting on an ongoing basis (*For possible action*) – Chair, Andre' Wade

Chair Wade noted the Task Force will need to meet the following week to further finalize the document. He asked if they wanted to discuss now what the on-going meetings would look like or wait until the next meeting. Mr. Blissett noted for the Office of HIV, for direction as to what the ongoing meetings would look like, so they could plan accordingly for their staff time, as well. Chair Wade said that works for him as well, and there was discussion as to meeting every other week. He asked, individually of the members, their thoughts on frequency of meetings moving forward. Sen. Parks said he didn't think they needed to meet every other week, but certainly should meet once a month. Mr. Posada (answer very garbled). Mr. Page wanted to meet every other week, but every month is fine, and if they do have more work to do, possibly revisit the schedule. Mr. Murillo said he supports once a month, and also at the beginning of the month. He also asked for clarification in voting on the recommendations (now that they all have been voted on), will they now be submitted to the legislature, and on what date. Chair Wade said his thought is they would meet the following week to make sure all the revisions are in alignment, and from there the report would be submitted. Mr. Murillo said he supports that as he would like to see a final document before they go forward and submit it to make sure everybody's intent is reflected in the document. Mr. Amend agrees monthly would be good (to meet). Mr. Collins said monthly would be good, too. Sen. Harris said once a month is great. And after the initial report is submitted, they can meet once a month to review any updates they want to send to the legislature prior to February. Mr. Savoir concurs with once a month. Chair

Wade asked the members if they were okay with meeting the first Wednesday of the month. And if not, say so; none were opposed. Chair Wade said the Task Force would meet on Sept. 16, 2020, and from there the first Wednesday of the month starting with October. Unless otherwise determined. Mr. Blissett asked Chair Wade, once the report is submitted, will their legislature requirement be over, that's not requiring Open Meetings, but just be a general gathering, or will they still be required to operate under Open Meeting requirements. Chair Wade said that was a good question. Mr. Blissett said if they did not have the answer that was okay, they could discuss it at the next meeting. Chair Wade said they will still be under Open Meeting Law because they will be gathering additional information and submitting another report toward the end of the year. Mr. Page said since the Bill also stated the Task Force stays formed until the end of session, they would still have to be subject to Open Meeting Law. Ms. Schearer asked how they were going to handle the appointments of additional members as there still no women (living with HIV) on the Task Force. Mr. Murillo noted under the non-statutory recommendations adopted, to add people to the Task Force, that would be what this committee will be working with, Andre', with the Governor's office. Through that process they will try to make sure that additional members reflect the diversity in the community. Chair Wade said he received a note from La Neisha Dawson, she has received additional names, and will be looking at the names already submitted. And due to COVID-19, there have not been any recent appointments to the board. Ms. Dawson also noted there will not be notices going out because there are still vacancies on the board and thanked the Task Force for keeping diversity in mind. Mr. Murillo asked who gets the final list of recommendations for appointment. Because the Governor needs to know what representation is needed on the Task Force. Mr. Page said he does not think the Governor himself is making the appointments, rather his office (the Office of Appointments). Chair Wade noted he sent a message to Ms. Dawson on their needs for diversity (on the Task Force). Ms. Schauer asked if it was something already sent to Ms. Dawson or would it be part of recommendations, she was curious. Chair Wade read, as part of the non-statutory recommendations, a note, (Chair Wade reads the note), regarding completion of appointments to the Task Force. Chair Wade said he has been in touch with Sex Workers Alliance of Nevada to try to get some folks to apply to the Task Force. Chair Wade commented that he and Mr. Page track their changes being submitted in the report to areas where they have made updates.

6. Review and make recommendations for next meeting's agenda (For Possible Action) – Chair, Andre' Wade

Mr. Murillo asked Chair Wade about items for the next agenda. Chair Wade asked for suggested items for the next meeting. Mr. Amend said they just need to review and finalize the report. Chair Wade moves for the next agenda, outside of approving the meeting minutes, and all other standard agenda items, they review and finalize the report; Mr. Amend seconds the motion. There is no discussion. All in favor say, 'Aye,' opposed say, 'Nay.' None opposed; motion carried.

7. 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. There was no public comment.

8. Adjournment

Chair Wade asks if there are any final thoughts or suggestions before they adjourn; there are none. Chair Wade thanked everyone for their commitment and adjourns the meeting at 7:01 p.m.