

# Advisory Task Force on HIV Exposure Modernization: Legal Authority and Obligations

PIERRON TACKES, DEPUTY ATTORNEY GENERAL

---

FEBRUARY 2022 TRAINING

# Road Map

---

- Statutory Authority
- Statutory Duties
- Overview of Open Meeting Law & Ethics in Government Provisions

# Advisory Task Force: The Origin Story

---

**The 80th Legislative Session (2019) passed Senate Bill (SB) 284**, which creates the Advisory Task Force on HIV Exposure Modernization.

- **Chapter 88, 2019 Statutes of Nevada, at Page 468**
  - 12. The Task Force shall, on or before September 1, 2020, prepare and submit a report of the activities, findings and recommendations of the Task Force to:
    - (a) The Governor; and
    - (b) The Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Legislature

**The 81st Legislative Session (2021) passed SB 275**, which reestablishes the Advisory Task Force.

- **Chapter, 491, 2021 Statutes of Nevada, at Page 3199**
  - 11. The Task Force shall, on or before September 1, 2022, prepare and submit a report of the activities, findings and recommendations of the Task Force to:
    - (a) The Governor; and
    - (b) The Director of the Legislative Counsel Bureau for transmittal to the 82nd Session of the Nevada Legislature.

# Composition

---

## **Chapter 88, 2019 Statutes of Nevada, Page 467:**

The Governor shall . . . . appoint not more than 15 members to the Task Force ensuring that the majority of the members are:

- (1) Persons who are living with the human immunodeficiency virus (HIV), affected by HIV or acquired immune deficiency syndrome (AIDS); or
- (2) Persons who represent an occupation, organization or community that is more affected or more at risk of being affected than the general population by the current statutes and regulations of this State that criminalize exposure to HIV.

## **Chapter 491, 2021 Statutes of Nevada, Page 3198:**

The Governor shall:

- (a) To the extent practicable, reappoint to the Task Force the members appointed pursuant to section 1 of chapter 88, Statutes of Nevada 2019, at page 466;
- (b) Solicit applications for additional appointments to the Task Force; and
- (c) After considering each application received pursuant to this subsection, appoint additional members to the Task Force who are members of the lesbian, gay, bisexual, transgender, questioning and queer community, women, persons living with the human immunodeficiency virus (HIV) and sex workers.

# Duties: Obligations and Authority

---

## ■ Obligations

- **Solicit input** from persons and nongovernmental agencies with expertise in matters relevant to the Task Force in carrying out its duties pursuant to this section, including, without limitation, persons, organizations and communities that are directly affected by the current statutes and regulations of this State that criminalize exposure to HIV or mandate HIV testing or disclosure as part of any civil or criminal law, or are likely to be affected by any law or policy recommended by the Task Force;
- **Research** the implementation and impact of such statutes and regulations of this State that criminalize exposure to HIV, including, without limitation, quantifying their impact through the analysis of records, information and data relevant to this State to the extent possible;
- **Identify** any disparities in arrests, prosecutions or convictions under such statutes or regulations related to race, color, sex, sexual orientation, gender identity or expression, age or national origin;
- **Evaluate** current medical and scientific research with respect to the modes of HIV transmission implicated by such statutes and regulations;
- **Identify** any court decisions enforcing or challenging such statutes and regulations;
- **On or before September 1, 2022, prepare and submit** a report of the activities, findings and recommendations of the Task Force to: (a) the Governor; and (b) the Director of the Legislative Counsel Bureau for transmittal to the 82nd Session of the Nevada Legislature.

# Duties: Obligations and Authority (cont'd)

---

## ■ Authority

- **May** apply for any available grants and accept any gifts, grants or donations to assist the Task Force in carrying out its duties;
- **May** make recommendations concerning any matter relating to the duties performed, including, without limitation, recommendations concerning proposed legislation, proposed regulations and policies.

# Other Governing Provisions of Law

---

Boards and Commissions are subject to:

- The Open Meeting Law: NRS Chapter 241
- The Ethics in Government Act: NRS Chapter 281A

# Open Meeting Law

---

AGO Training: [https://ag.nv.gov/Hot\\_Topics/Training\\_Materials/](https://ag.nv.gov/Hot_Topics/Training_Materials/)

Key points to remember:

- No communications between a quorum of members outside of a properly noticed meeting
- No serial communications
- Subcommittees appointed by the Council are subject to the same provisions
- Public comment periods must be provided, with only reasonable restrictions
- Changes during 81<sup>st</sup> Legislative Session (2021)



# Ethics in Government

---

AGO Training: [https://ag.nv.gov/Hot\\_Topics/Training\\_Materials/](https://ag.nv.gov/Hot_Topics/Training_Materials/)

Key points to remember:

- Disclosure: mandatory for any interest created by: a gift, substantial pecuniary interest, commitment in a private capacity
  - Must be made at time the matter is considered
  - Sufficient to inform public
- Abstention: only required in clear cases where judgment of a reasonable person in same position would be materially affected
  - Determination must be made on the record
- No misuse of official position (deliberation/action)

# Questions?

---

*Please feel free to reach out:*

**[ptackes@ag.nv.gov](mailto:ptackes@ag.nv.gov)**