

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
May 15, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:57 a.m. on Wednesday, May 15, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Senatorial District No. 17
Senator David R. Parks, Clark County Senatorial District No. 7
Senator Mark A. Manendo, Clark County Senatorial District No. 21

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Nancy Davis, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association
Brian O'Callaghan, Government Liaison, Las Vegas Metropolitan
Police Department
Eric Spratley, Lieutenant, Legislative Services, Washoe County
Sheriff's Office
Daniel S. Reid, State Liaison, National Rifle Association of America
Ron Cuzze, representing Nevada State Law Enforcement
Officers' Association
Duncan Mackie, Vice President, Legislative Division, Nevada
Firearms Coalition
Gregory Ross, Private Citizen, Reno, Nevada
Erin Breen, Director, Safe Community Partnership Program
Michael Cathcart, Business Operations Manager, City of Henderson
Joyce Haldeman, representing Clark County School District
Jennifer Batchelder, representing Nevada Women's Lobby
Carl Scarborough, Manager, Regional Transportation Commission of
Southern Nevada
John R. McCormick, Rural Courts Coordinator, Administrative Office of
the Courts
Chris Ferrari, representing American Dental Association
Carey Stewart, Director, Washoe County Department of Juvenile Services

Chairman Frierson:

[Roll was called and standing rules were reviewed.] I will open the hearing on
Senate Bill 76.

Senate Bill 76: Revises provisions governing permits to carry concealed firearms. (BDR 15-37)

Senator James A. Settelmeyer, Senatorial District No. 17:

Senate Bill 76 seeks to simplify the classification of the concealed carry weapon (CCW) process and provide more uniformity and clarity. My research shows that Nevada is one of only three states that currently uses a categorization system of semi-automatic and revolver. Texas, Arkansas, and New Mexico have a variation of it with a category and caliber system. Nevada is also one of eight states that require a live-fire component to their test for a CCW, which will continue with this bill. I think it is important to mention that. The instructions are set forth by the requirements of the Sheriffs' and Chiefs' Association, who has always done an excellent job of ensuring individuals have the proper training. These classes check for competency, much like the Department of Motor Vehicles does with a car. That is where I make an analogy. Just like with a car, if you pass your driver's test with a stick shift, you do not have to retake the test if you buy an automatic, and vice versa. That is the reason for this change.

There has been some confusion in the past regarding what is allowed with a CCW permit. Being involved in this process for quite some time, it has always been well understood by this legislative body that the CCW pertains to the ability to carry a handgun and only a handgun. Unfortunately, with changes from last session, there was some confusion and individuals felt they had the right to saw off a shotgun and carry it as a handgun. That was never our intent. This bill seeks to clarify that so there is no confusion. I have provided the Committee with both a walk-through of the bill ([Exhibit C](#)) and a mock-up amendment ([Exhibit D](#)). When this bill came out of the Senate, we found a better definition of a handgun, following the federal law of *United States Code* Title 18 Chapter 44 Section 921. I will now walk through the bill.

Section 1 is deleting the pistol, revolver and firearm, thus getting rid of the categorization and using the term handgun. The definition of handgun has been added. Sections 2, 3, and 4 delete the categorization definitions.

Assemblyman Ohrenschall:

Will it be more costly for a person to qualify on both the semi-automatic and revolver? Do they have to test for them separately? Is this an additional burden? How will this bill make it easier for the law-abiding gun owner?

Senator Settelmeyer:

The current process for a CCW permit is if an individual went in with one gun, he would only be qualified with the category of gun he has. For example, if he applied for a CCW permit with a revolver, he would only be allowed to carry a revolver. If, at a later time, he purchased a semi-automatic, he would have to pay and retake the entire course, even though he received all the training on the semi-automatic. We feel this is a little simpler. That is why I used the analogy of getting a driver's license. If you pass your driving test, you do not have to retake the test each time you buy a new car.

Assemblyman Thompson:

Approximately how many people have CCW permits in Nevada?

Senator Settelmeyer:

I would have to check for the exact number, I believe it is close to 55,000. Interestingly enough, if you made a county of all the CCW permit holders, it would be the third largest county in Nevada.

Assemblywoman Fiore:

There are 65,000 CCW carriers in Nevada, the majority of which are aged 51 to 62.

Assemblyman Hansen:

There is supposedly a relationship between firearm ownership and crime. Of those 65,000 CCW permit holders, how many have actually been convicted of a firearm-related offense?

Senator Settelmeyer:

I will have to get back to you. I do not have that information. I do know that it is significantly lower than the general population.

Assemblyman Hansen:

That is my impression as well. In fact, there is a substantial decline in firearm-related crimes with CCW permit holders.

Senator Settelmeyer:

More importantly, these are individuals who go through the lawful process to obtain firearms, and I applaud them for doing it the lawful way.

Assemblyman Martin:

Section 2, subsection 4 relates to the revocation of a CCW permit. I am wondering if that ever really happens. Is there any routine monitoring? Obviously having one CCW permit for all handguns makes sense, but will there be increased monitoring in case there needs to be a revocation of a CCW permit?

Senator Settlemeyer:

This bill does not change the process. An individual has only one CCW permit. During discussions with sheriffs in Churchill County, Lyon County, Storey County, and Douglas County, when necessary, they will revoke the CCW permit.

Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association:

Currently, there is only one CCW permit issued, with delineation between handgun qualification and semi-automatic. It used to be that you had to have a permit for each weapon, which was consolidated. Once a person has been arrested and background checks are done, if the arrest and conviction would cause removal of the CCW permit, the revocation process begins, advising the person they are no longer allowed to carry. That person will be flagged, so that if they are stopped, law enforcement will know their CCW permit has been revoked.

Assemblywoman Spiegel:

Since this proposes to change the definition of a handgun, will gun owners understand the new definition?

Senator Settlemeyer:

Yes, absolutely. Individuals with CCW permits are very good with their vernacular and have their vocabulary down. We felt this was the best way to handle the definition so that if the federal government decides to change the definition, we will be consistent with it. The federal definition is "a firearm which has a short stock and is designed to be held and fired by the use of a single hand" and also what the manufacturer's intent is. All guns, when manufactured, are either a rifle or a handgun. It does not matter if a person bought a rifle and modified it; it does not meet the definition of a handgun. The manufacturer was clear. We felt this definition is very precise and to the point.

Assemblywoman Spiegel:

So is it correct to assume the definition will be taught in the CCW classes?

Senator Settlemeyer:

I believe it was taught when I went through the course.

Robert Roshak:

Each instructor has to propose their training curriculum to the sheriff for approval. Any changes that occur, the Nevada Sheriffs' and Chiefs' Association has a firearms meeting where the changes are discussed. We also put out information to all of the agencies advising them of changes so the training is kept up to date. We did have people attempting to register weapons that were designed to be fired with two hands, but were small and semi-automatic, so they felt it should qualify. This helps bring clarity because that was not the intent to have people walking around with shotguns and rifles concealed. The CCW permit is specific for handguns, and the federal definition fits very well.

Assemblyman Carrillo:

Currently, if I took a CCW course with a revolver and a semi-automatic, would I need to qualify for both?

Senator Settlemeyer:

Yes, under current law.

Assemblyman Carrillo:

I could not test with just a revolver and be qualified for both?

Senator Settlemeyer:

Not under current law.

Chairman Frierson:

It is my understanding that the CCW class is currently eight hours, four of which are in the classroom and four hours are on the range. Is that correct?

Senator Settlemeyer:

I am not sure if that is the exact time requirement, but it is an eight-hour class with a live-fire component, which I very much agree with.

Robert Roshak:

Currently the class is eight hours. The renewal class is four hours. There is no specific breakdown as to the amount of time one spends on the range firing, but there are requirements on the range, such as firing from various distances and the familiarity with your firearm.

Senator Settlemeyer:

Nevada is one of eight states that require a live-fire component of the test. New Mexico has a 15-hour course; Connecticut has a basic pistol course; Florida has a five-hour course with a one-shot minimum—I guess they believe in making your shot count. Mississippi has a one-hour live-fire course. South

Carolina, New York, Texas, and Arkansas also have a minimal live-fire component to their tests. I feel the Sheriffs' and Chiefs' Association has done a sufficient job in requiring the eight-hour course.

Robert Roshak:

We worked with the Senator on this bill. The sheriffs are very much in favor of it. It streamlines issues for them and we look at it as a very positive and forward movement with regard to the CCW permit policy in this state.

Chairman Frierson:

I will now invite those wishing to offer testimony in support to come forward.

Brian O'Callaghan, Government Liaison, Las Vegas Metropolitan Police Department:

We are in support of this bill.

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

I would like to thank Senator Settlemeyer for bringing this legislation forward and working with us in the process; we support it.

Daniel S. Reid, State Liaison, National Rifle Association of America:

We, too, are in support of this bill. [Also provided letter of support ([Exhibit E](#)).]

Ron Cuzze, representing Nevada State Law Enforcement Officers' Association:

We support this bill.

Duncan Mackie, Vice President, Legislative Division, Nevada Firearms Coalition:

We strongly support this bill. [Letter of support also received from Don Turner, President, Nevada Firearms Coalition ([Exhibit F](#)).]

Chairman Frierson:

Is there anyone wishing to offer testimony in opposition?

Gregory Ross, Private Citizen, Reno, Nevada:

As written, I do not support S.B. 76 as it bans the CCW permit holder from the discreet carry of a rifle or shotgun, including in the original case in which it was sold. Many of these cases are very discreet and do not indicate that a firearm is within. The Attorney General has in the past opined that the firearm carried within the hands, including inside a case, is considered to be carried upon a person. I submitted a proposed amendment ([Exhibit G](#)) which would continue to allow a CCW permit holder to conceal rifles and shotguns while preserving the simplification of the CCW permit process.

This amendment would still simplify the qualification process and eliminate the arbitrary action-type restrictions as Senator Settelmeyer's bill would do. My amendment would still require qualification with the handguns. People would still have to practice with their handguns. I feel if you can use a handgun effectively and safely, you can use a rifle effectively and safely. You should have to qualify with a handgun because it is generally more difficult to use. I do not think there is any good reason to prohibit the CCW permit holder from firearms other than handguns. If you are carrying a concealed short-barreled rifle, I do not see why that is objectionable. Under the law you can open-carry those firearms anyway, the only difference is if you do not pass this amendment, the people would be forced to carry openly, even if they have a CCW permit. I do not think that is the way it should be. I disagree that the Legislature ever intended to prohibit people specifically from carrying firearms other than handguns—I do believe the Legislature did want people to qualify with a handgun. If you would amend the bill as I propose, then I would support its passing. As it is written, I cannot support this bill.

Chairman Frierson:

The open-carry distinction you made is currently in law, correct?

Greg Ross:

Yes, present law states you can open-carry a firearm. If you do not have a CCW permit you have to open-carry. However, if you do have a CCW permit, my understanding is that you can conceal any firearm that is a semi-automatic or revolver regardless of whether it is a handgun or a rifle.

Assemblyman Thompson:

What organization are you affiliated with?

Greg Ross:

I am representing myself.

Assemblyman Thompson:

Are you a gun owner?

Greg Ross:

Yes, I am a CCW permit holder. I am certified by the National Rifle Association to teach firearm classes and am seeking certification by the county to teach the CCW permit course.

Assemblywoman Fiore:

I do not have a copy of your amendment, but I would be interested in reading it. Currently, if I go into a store and purchase a brand new AR-15 and put it into my nice new case, you are saying that is illegal?

Greg Ross:

Under the current law, if you are carrying a firearm in a fashion that is not discernible by ordinary observation, it is considered a concealed firearm, which is a felony under state law. I believe when the firearm is carried in the original case this is not generally enforced; however if you were prosecuted, I believe you would be convicted if it was not discernible as a firearm. If the case looks a lot like a firearm, someone could easily argue in court that the firearm was discernible to ordinary observation. Many firearm cases are not very discernible by nature. I have a .22 rifle that came in a case that looks a lot like a laptop bag because the rifle disassembles to fit into a small case.

Assemblyman Wheeler:

Are you an attorney?

Greg Ross:

No, I am not. Attorney General Opinion No. 93-14 holds that if a firearm is concealed in a container that is held in the hand, they consider that to be a concealed firearm for the purposes of *Nevada Revised Statutes* (NRS) 202.350.

Assemblyman Wheeler:

Have you spoken to the sponsor of this bill about your amendment?

Greg Ross:

I was unable to get his opinion on this amendment.

Assemblywoman Fiore:

Do you know of anyone who has been arrested under the CCW law for carrying a gun in a case?

Greg Ross:

I am not personally aware of anyone who was arrested for carrying a gun within a case. If you had a loaded firearm in a laptop case, and it was obvious you were carrying it for self-defense, I find it hard to believe that they would not arrest you. Even if you are carrying a loaded firearm in your purse without a CCW permit, I believe you could be arrested.

Chairman Frierson:

There are lots of lawyers and law enforcement folks in the room; I would not presume to speak for any one of them. I have asked this question of law enforcement, and the case issue is pretty well established and clear in Nevada. Are there any other questions? Seeing none, is there anyone else here to offer testimony in opposition? Is there anyone in the neutral position? Seeing no one, I will say that Assembly standing rules do not allow us to work bills the same day we hear them. Any suggestion that because we did not work the bill today is an effort to do anything other than comply with our rules is simply misguided. We have an opportunity to suspend the rules at the direction of leadership, which has not happened yet. Do not read anything into these bills if we do not vote on the same day we hear them. I appreciate Mr. Settelmeyer's work with others on this bill. I will close the hearing on S.B. 76 and open the hearing on Senate Bill 136.

Senate Bill 136: Revises provisions relating to justifiable homicide by a public officer. (BDR 15-867)

Senator David R. Parks, Clark County Senatorial District No. 7:

Thank you for considering Senate Bill 136, which is quite a simple bill that adds to the definition of justifiable homicide by adding the words "In protecting against an imminent threat to the life of a person." I would like to defer to Mr. Cuzze for an explanation of this bill.

Ron Cuzze, representing Nevada State Law Enforcement Officers' Association:

This is a housekeeping bill to protect against civil interest, rather than criminal, if a law enforcement officer takes the life of a person who is an imminent threat to the life of another person. Unfortunately, a very good example of that would have been the Boston Marathon. If an officer had been present, was able to see something before it happened, and took that person out to protect life, this bill would protect that officer.

Assemblywoman Spiegel:

Is there a clear definition of what "imminent threat" means?

Ron Cuzze:

It means immediate threat of life. It would be something that could happen in a split second.

Assemblywoman Spiegel:

If it is someone who is in the process of perpetrating a crime and is holding a gun pointed at a police officer, I can understand that is an imminent threat.

What happens if they are not holding a gun? At what point does it become imminent?

Ron Cuzze:

It could be an improvised explosive device, or something of that nature. It does not necessarily have to be a handgun. It is anything that could harm or kill you.

Assemblyman Thompson:

In southern Nevada we have the coroner's inquest board, which has been a very contentious group. Has this been discussed with them?

Senator Parks:

I have not had any direct conversation with them. However, this is a bill that has been discussed with law enforcement in general. They have all seen a need and desire to have this included. The general consensus that I got from the initial reaction to the bill was that it should have been in the law a long time ago. Mr. Cuzze discovered it and asked that this be put into statute.

Brian O'Callaghan, Government Liaison, Las Vegas Metropolitan Police Department:

There was an assumption that the imminent threat was always in law. This is a very important part of the law to have.

Assemblyman Thompson:

I understand that, but I also know how the dynamics work within the community. That is why I was asking about the coroner's inquest board.

Chairman Frierson:

This bill does not appear to be an effort to expand anything, but to codify what common practice is and has always been, correct?

Senator Parks:

That is perfectly stated.

Chairman Frierson:

Are there any other questions? Seeing none, I will invite those up wishing to offer testimony in support.

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

We are in support of this bill and would like to thank Senator Parks for bringing this bill forward. I would like to address Assemblywoman Spiegel's question. Imminent threat is the articulable facts and circumstances that the officer can present. Someone merely carrying a gun does not present imminent danger.

Even if someone was pointing a gun at an officer, if there were circumstances, like bulletproof glass between them, for example, that may take away some of that imminent danger. If the person was firing at the glass and the glass started shattering, that is now creating a greater danger to respond to. It is up to the individual officer to say, "I saw this man place a backpack with an explosive crockpot in it on the sidewalk and then run." So, it is the circumstances that the officer will articulate before a court to determine if the circumstances are justified.

Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association:

We support this bill. The language just codifies what we have always known.

Chairman Frierson:

Are there any other questions? Seeing none, is there anyone else wishing to offer testimony in support? Is there anyone wishing to offer testimony in opposition? Is there anyone in a neutral position? Seeing no one, I will close the hearing on S.B. 136. We will take a short recess [at 9:35 a.m.].

I will now reconvene [at 9:38 a.m.] and open the hearing on Senate Bill 179 (2nd Reprint).

Senate Bill 179 (2nd Reprint): Makes various changes to provisions governing public safety. (BDR 43-79)

Senator Mark A. Manendo, Clark County Senatorial District No. 21:

I would like to say that this particular piece of legislation has had a lot of public attention regarding pedestrian safety, specifically in southern Nevada. There have been campaigns going on such as the "Be smart. Be safe. Be seen." campaign. Sadly, it seems like every other day we see in the media that someone is killed. I think there have been about 600 accidents in Las Vegas Metropolitan Police Department's (LVMPD) jurisdiction involving pedestrians, 100 of which were children. We started a working group one and a half years ago. Erin Breen, who is in Las Vegas today, took the lead of the group. I wanted you to know the coalition of folks that were involved in this. We had Clark County School Crossing Safety Program, Safe Community Partnership, Southern Nevada Health District, Regional Transportation Commission (RTC) of Washoe County, RTC of Southern Nevada, the Trauma and Burn Center from the University Medical Center of Southern Nevada, Henderson Police Department, LVMPD, City of Henderson, Assemblyman Richard Carrillo, Washoe County Sheriff's Department, Reno Police Department, Sparks Police Department, even insurance companies. It is a huge working group that has been working together on this particular piece of legislation. I do not think I have ever seen a coalition built with this many folks working together. I would

like to give a shout-out to everyone who has spent hundreds of hours creating, crafting, and working together on this piece of legislation. I would now like for Erin Breen to walk us through the bill.

Erin Breen, Director, Safe Community Partnership Program:

I am also chair of the Pedestrian Safety Committee, one of the five critical emphasis areas under the Nevada Strategic Highway Safety Plan. I am sure it is no secret to you that we kill an alarming number of pedestrians every year in Nevada. Nationally, the average percentage is roughly 11 percent of total crash fatalities. In Nevada the average is 25 percent. Last year in Clark County, we lost 42 pedestrian lives, which was 24.7 percent of our total motor vehicle fatalities. In Washoe County, 11 pedestrian lives were lost for 35.5 percent of their total. Other state counties added another 5 pedestrians, for a total of 58 lives lost in Nevada last year from people crossing roads. In reality, each number is a person, not just a number or a statistic; it is someone's loved one. It is a person that someone was waiting for to come home. Each fatality, as you know, has a greater impact on our community than just the immediate family who suffers that loss.

In 2011, we began a deadly trend in Clark County and saw six children under the age of 16 die crossing roads in Clark County. In response, Safe Community Partnership Program held a town hall meeting. You have in front of you today one of the results of that meeting. The Pedestrian Education Committee, borne from that town hall meeting, became the Education and Legislation Committee, and between December 2011 and February 2013, we developed Senate Bill 179 (2nd Reprint) with the help of Senator Manendo and many other people as was just pointed out.

During that time, roughly 75 people participated in some form in that committee, with ultimately about 40 people from all over the state participating on this bill. There are many facets to the bill, and it is our firm belief that it will help us save lives. Our goal is to make laws governing pedestrians and motorists easier to understand, thereby easier to educate both sides of road users.

I am going to attempt to walk you through this very long bill, much of which is adding clarifying wording to the existing law. I would like to go over the main components of this bill. We are asking you to change our current yield standard for motorists yielding to a pedestrian in a crosswalk by changing it to stopping for pedestrians for all the lanes in the driver's direction of travel. If the pedestrian is crossing mid-block or at an unsignaled intersection and if the driver is turning right or left, the pedestrian must be more than one lane away from the lane that you are turning into. We are requesting that you redefine when a

pedestrian can legally cross outside of an intersection or marked mid-block crosswalk from the current law which says, if between two traffic-controlled intersections, if another street bisects that road, pedestrians can cross if done in accordance with the law in yielding to vehicles. That is very convoluted. It also states if the pedestrian is approaching from the opposite side of the road in a manner that could be dangerous. We want to clarify when a pedestrian can do that. We are asking you to make that "if a pedestrian is more than 250 feet from a marked or unmarked crosswalk."

The third thing we are proposing is to allow entities and the Department of Transportation (NDOT) to have the ability to establish pedestrian safety zones if there are areas where pedestrians are at great risk, or putting their safety in jeopardy regularly. The pedestrian safety zone would allow each entity to increase fines up to double in the pedestrian safety zone as long as signage is put up to clearly mark when entering and leaving the zone, and that the fines are subject to doubling. This new section is modeled from the work safety zone law.

We are asking you to make it unlawful to make a U-turn in active school zones or in school crossing zones and to establish a no-passing law in each one of those areas, one half-hour before and one half-hour after school when those zones are active. Finally, we are proposing that those who violate pedestrian and bicycle rights-of-way, overtake another vehicle that is stopped or slowing, or a pedestrian or cyclist breaking the law, to have added to the penalty for the violation the possibility of attending a class on pedestrian, bicycle, and traffic safety.

I would like to call your attention to the fact that NDOT has made an offer to take the financial responsibility for each entity and county in Nevada to change their signage and pavement markings from the current yield standard to stop standard, so that no county has to undertake the fiscal impact.

I would now like to start on page 3, section 1. This is the section of the bill that is modeled after the work zone statute, allowing entities to establish pedestrian safety zones as long as the zone has a sign stating that you are entering a pedestrian safety zone and that the fines are subject to doubling and another sign when you are leaving the pedestrian safety zone. Our hope is that we catch motorists' attention that they are entering an area where pedestrians are in danger. That could be because of the driver's speed; it could also be because pedestrians tend to cross the road different from where they are expected to. This is something that we are hoping will affect both pedestrians crossing illegally and motorists not yielding to them. On page 4, there are other ways that you can violate the pedestrian safety zone if it were in place. Again,

this is modeled on the work safety zone language. The one area added by an amendment in the Senate is that this is not applicable in neighborhoods. I would like to now skip to page 12, section 14, which is the next big change. The pages in between are basically clarifying language for the pedestrian safety zone.

Chairman Frierson:

Are there any questions of the Committee? Seeing none, we can move on to page 12.

Erin Breen:

I would like to point out that section 14 is the due care clause. We are not proposing to change any part of section 14 except for the school zone and school crossing zones. Currently motorists are requested to yield to pedestrians and pedestrians are instructed how they can safely cross the street. Where we are asking to make changes is section 15. This is the first time you will see the current yield standard changing to a stop standard. We are hoping that by telling motorists they have to stop for a pedestrian, there will be better compliance of motorists by not simply avoiding hitting a pedestrian. If you are proceeding on a street where there is a marked mid-block crosswalk, or an intersection that is unsignaled, and you are proceeding in a forward motion, you must come to a complete stop and remain stopped for the entire time that the pedestrian is crossing the lanes of travel in the direction on which you are travelling. Once the pedestrian is more than one lane past the center lane, then you may proceed.

Section 15, subsection 1, paragraph (a), removes the word "devices," replacing it with "signals." This has always been the standard, and we are asking to go back to the standard. When the *Nevada Revised Statutes* (NRS) were renumbered, somehow this particular clause was changed to, "When official traffic-control devices are not in place or not in operation" That law was being interpreted in many different ways by law enforcement agencies and advocates like myself. A traffic control device can be a crosswalk, a yield sign, or a stop sign. It totally changed the intent of the law that a pedestrian right-of-way in a stretch of road that is between two signaled intersections, if another road bisected it, a pedestrian could cross at their discretion and at their own peril. That was not considered what you would typically call jaywalking. When it became traffic control devices, it became much more difficult to enforce pedestrian safety laws, especially in Clark County, where roads are extremely flat and long and with no safe places to cross. We wanted to go back to the standard of signals.

Chairman Frierson:

The notion of changing the standard from yield to stop, are we talking about yielding or stopping if there is a pedestrian present, or are we talking about treating them all as stop signs regardless of whether someone is present?

Erin Breen:

Only if a pedestrian is present and legally crossing in a marked or unmarked crosswalk.

On the top of page 13, our intent was not to back up traffic if you are making a right or a left turn. The language says if the pedestrian is within one traffic lane of the road onto which you are turning. If you are making a right or a left turn, the pedestrian has to be more than one lane away from the lane you are turning onto. We are asking that you completely stop and you stay stopped if you are going straight, but allowing that if you are making a right or a left turn, the pedestrian has to be more than one lane away from you.

Chairman Frierson:

You have mentioned stop if there is a pedestrian properly crossing at a marked or unmarked crosswalk. What is an unmarked crosswalk?

Erin Breen:

An unmarked crosswalk is anywhere two roads intersect. There does not have to be pavement markings on the ground. It is what they call an implied crosswalk and the pedestrian has the legal right-of-way.

Chairman Frierson:

Currently, if there is a random intersection and someone crosses, that is not jaywalking?

Erin Breen:

It is not jaywalking.

Chairman Frierson:

But that is at an intersection, not just anywhere on the street?

Erin Breen:

Exactly. There are an awful lot of motorists who do not understand that and do not yield or stop for the pedestrian. By doing that, we teach pedestrians that there is no great reward for doing the right thing, encouraging them to jaywalk and cross unsafely and illegally.

Section 15, subsection 3 states, "Except as otherwise provided in subsection 4, if the driver of a motor vehicle or a pedestrian violates paragraph (a) or (c) . . ." which is not stopping, and overtaking another vehicle. What we are asking is that if you are cited for not stopping for a pedestrian, or for overtaking another vehicle that has stopped for a pedestrian, in addition to the fines that may currently be in place, at a judge's discretion you may be sent to a class on pedestrian, bicycle, and motor vehicle safety that could help you not only learn the rules of the road, but also possibly reduce your fine.

Chairman Frierson:

Is there such a class in existence, or are we creating a revenue stream for a new company?

Erin Breen:

It is not our intent to charge for the class. Our intent is that people throughout the state would put a class together similar to the child safety seat law, although there is a fee for that class. When we originally started looking at this bill, we were going to request a fee for this class, but our intent is not to generate revenue, our intent is to save lives. People who were on this committee have offered to step up and offer this class throughout the state. We can also work with the courts and develop a curriculum that could be added to online classes.

Chairman Frierson:

I certainly did not mean to imply that the sponsors of the bill want to create a revenue stream for themselves, I just meant that if this passes, I can create a company and offer my services to the court.

Erin Breen:

Our hope is if there is a class to attend and with the increased fines, that we get people's attention; crossing the street safely, taking your life into your own hands, is serious business. That was our intent. If you live more than 50 miles away from where you got the ticket, you are exempt from taking the class.

Moving on to section 16, there has been some discussion that any pedestrian crossing a highway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided, the pedestrian shall yield the right-of-way to all vehicles on the highway. One organization thought we were taking a step backward in pedestrian safety, but because of the request of 250 feet from any marked or unmarked crosswalk, it actually strengthens it. If you are adjacent to a tunnel or overhead walkway that is provided for a pedestrian, under current law you would have to yield, but under this proposal, if you are within 250 feet, you will have to use the crosswalk or tunnel. Staying on that subject, I would

like to move to section 16, subsection 1, paragraph (c). This is another large change to the bill. It says, "Except as otherwise provided in this paragraph, a pedestrian who is within 250 feet of a marked crosswalk or an unmarked crosswalk shall not cross the highway outside of the marked or unmarked crosswalk. On a residential street, a pedestrian who is within 250 feet of a marked or an unmarked crosswalk may cross the residential street outside of the marked or unmarked crosswalk in accordance with paragraphs (a) and (b)." Basically, we are asking you to strengthen our current law and make it mandatory that a pedestrian who is within 250 feet of a marked or unmarked crosswalk must use the crosswalk that is provided for them.

Assemblywoman Fiore:

How will the typical layman know how far 250 feet is?

Erin Breen:

There was much discussion on how far away from the marked or unmarked crosswalk would work best. Originally we decided 200 feet and the question came up about how to know how far that is. On arterial streets, street lights are 125 feet apart. So that will give you a visual cue. We will need to teach pedestrians that if you are within two street lights of the intersection, you have to use the crosswalk. If you are more than two street lights away, then you can cross, as currently stated, but not causing a vehicle to stop, slow down, or otherwise change their forward motion. The 250 feet gives them a visual of the street lights; it also gives us the hope that at 250 feet, under a street light, pedestrians have better light when they are crossing. We are trying to emphasize that you have to use the crosswalk.

Assemblywoman Fiore:

Are street lights 125 feet apart statewide?

Erin Breen:

Yes, on arterial roads. This is not going to hold true in a neighborhood road. Neighborhood roads are not subject to the 250 feet requirement.

Assemblywoman Fiore:

I am concerned with that. We have 2.7 million Nevadans and most of them are unaware of how far 250 feet is. I have never seen it in writing where a normal layman could find that street lights are 125 feet apart. Is that written anywhere?

Erin Breen:

To my knowledge, no it is not.

Assemblywoman Cohen:

Can you talk about what the impact will be on school zones?

Erin Breen:

If a school is in a neighborhood, which most schools are, the 250 foot law would not apply.

Continuing on to the top of page 15, lines 1 through 3 state, "A pedestrian who is more than 250 feet from a marked or unmarked crosswalk may cross a highway in accordance with paragraphs (a) and (b)." Again, that is restating that if they are more than 250 feet away, they can cross outside of a marked or unmarked crosswalk, much like they can under existing law in between two intersections, as long as another road bisects that road. We are trying to make it easier for us to educate people about how they can and cannot cross the road. Page 15, lines 9 through 13, states, "A person who violates any provision of this section may be subject to the additional penalty set forth in section 1 of this act. As used in this section, "residential street" means a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area." That is what covers most schools.

Section 19, subsection 7 is where we have added verbiage for the current flashing yellow pedestrian signals that are being activated all over Nevada. There was no existing law that said you had to yield to a pedestrian on the flashing yellow.

I would like to skip to section 24, which is the last major point in this bill. This section relates to not overtaking a vehicle and no U-turns in an active school zone or school crossing zone. The speed being set by the most prudent driver is our goal of not overtaking another vehicle. This is another way to call people's attention to what the posted speed limit is. We are asking to add the school crossing zone because these are areas in our community that are designated by the engineering community as ways the children travel to school. There are student crossings on some very busy streets, especially in Clark County. We are asking that in school crossing zones you cannot make a U-turn, in effect taking away half of the possibility of a child being struck by a car. School crossing zones average about 300 feet before and after a school crossing. School crossing zones have a regular posted speed limit, but a school crossing zone is typically 200 to 300 feet from a marked crosswalk that is designated as a way for children to get to school. Basically, those are the changes we are asking for in this bill. Pages 25 to 33 are clarifying language for existing law.

Assemblywoman Spiegel:

On page 23, will you please explain the difference between a school zone and a school crossing zone?

Erin Breen:

A school zone is an area that typically runs 200 to 300 feet on either side of a physical school—from a pedestrian advocate's standpoint, that is not long enough. A school crossing zone is on a street that engineers have identified as a way that children walk to school. It is not immediately adjacent to the school, but on a busier street where they need to slow traffic for a marked crosswalk. Typically with a flashing light, that says that it is a school zone. That way drivers know it is where children cross on their way to school. This is identified on engineers' maps as a "safe route to school"; it is where crosswalks and stop signs exist within the two-mile area of a particular school zone. For example, on Charleston Boulevard, there is a school crossing zone just west of Rancho Road that is almost at a small side street to Shetland Road. It slows traffic from 45 miles per hour to 25 miles per hour. Typically, you will see a flashing light for a very small area without schools nearby. That is a school crossing zone. What we are asking you is to not allow people to make a U-turn in that zone, and not allow motorists to pass another car in that zone.

Assemblywoman Spiegel:

How would this affect the school zone on a highway where there is a signal? For instance, there is a school zone as you approach Desert Inn Road on Jones Boulevard. If you are travelling southbound, the only way to get to the school is to make a U-turn at the signal. The only other option would be to go past the school zone, turn left into the shopping center, and exit heading northbound on Jones Boulevard; that seems onerous. Do we have an estimate on approximately how many school zones in the state are set up like this, where it would be very difficult for parents to get their kids to school?

Erin Breen:

To my knowledge that list does not exist. There are always extenuating circumstances such as your example. Our intent is to cut the potential hazard to a child in half; it is certainly not to make it difficult for you to get your child to school. We would leave that to each entity's discretion and make it okay for a U-turn at a signal. The reality is that there will be far more school crossing zones that would fall into exactly what we are trying to help here.

Assemblywoman Spiegel:

I can think of other examples where this could be problematic. We need to try to figure out a way to have exceptions. Also, we would need to clarify these things to the general public.

Assemblywoman Dondero Loop:

As someone who has been in many different school zones, in my opinion U-turns at schools are asking for an accident. Where my granddaughter goes to school, there is a barrier—you can park on one side of the street or the other, but you have to go to the crosswalk in order to cross. Personally, I think it is a great idea. I live by a school that is not that way, with double parking, U-turns, and hurrying through, or, "I picked up my kid so it does not matter who else needs to pick up theirs." I have been at schools where this is a huge problem. I do not know about the rest of the bill, but regarding the school zone piece—I do not want to make it more difficult for parents, I want to make it safer for kids. I think at the end of the day, when a mom tells her child to run across the street, it is a problem. We cannot legislate common sense, so we have to legislate rules and laws that make it safe for kids around schools.

Erin Breen:

If we could make roads safer and parents more comfortable allowing their children to walk or bike to school, there would be the possibility of cutting down on some of the double and triple parking, parents calling their children across the street, and all the things you just spoke of that are an issue at every elementary school in the Clark County School District. I am sure it is an issue in Washoe County and outlying areas as well.

Assemblyman Wheeler:

How do you envision this law in high tourist areas? Virginia City comes to mind. During the summertime on C Street, the speed limit is 15 miles per hour, unless congested. People cross the street wherever and whenever; 250 feet from a crosswalk would be a burden there. Some of the streets are 20 feet apart, some of them are 1,000 feet apart. How do you envision the enforcement of this?

Erin Breen:

It would be lovely, as a Clark County resident, to have streets with speed limits of 15 miles per hour, less when congested. We do not have those kinds of roads in Clark County. We have roads that are very flat and very fast. The average road speed in Clark County is 53 miles per hour. We do not have great 15 mile-per-hour compliance in school zones. There are many streets throughout the state where it is 1,000 feet, even a half a mile, without a place to safely cross. We currently have pedestrians who cross wherever their point of travel takes them. We are trying to make pedestrians more predictable. We are trying to say to motorists you have to look for pedestrians and pay closer attention in those longer stretches of road where pedestrians are not going to use a crosswalk or an intersection. We have a big problem.

I am not telling you this bill will solve all of our problems. I think this is an ongoing, live bill that we will probably revisit next session to build on what worked and change what did not. We have to do something because there are so many people dying on our roads. There are roughly 1,200 people in Clark County that were admitted to hospitals and trauma centers due to pedestrian crashes alone; another 1,000 due to bicycle crashes. It is a big, expensive problem, especially as we are trying to get motorists out of their vehicles and walking and biking more, and encouraging transit use. People are never going to do that if they feel they are not safe on their feet or bicycle on the road. We have to do everything we can to try to get motorists to understand it is their job to pay attention to pedestrians and try to get pedestrians to be more predictable. I cannot answer what is going to happen in Virginia City, other than to say something in the terms of this being up to law enforcement's discretion if they thought someone was doing something unsafe, to ticket either the pedestrian or the motorist.

Assemblyman Wheeler:

You realize, of course, that you are talking to the state of Nevada, not the state of Clark County. This seems to be a one size fits all type of bill and maybe should be passed through local regulations. Is that possible?

Erin Breen:

This is not just a Clark County issue. It may not happen in the rural areas, but Washoe County's percentage of pedestrian fatalities is far greater than ours. They may not have lost as many lives, but 35 percent of their overall motor vehicle fatalities last year were pedestrians; 40 percent of their motor vehicle fatalities the year before were pedestrians. It is a problem wherever there are long stretches of road. If, in Virginia City, streets intersect at 20, 30, or 40 feet, this law would not pertain to that. In the downtown Las Vegas area, when streets were constructed in what we call the old days, they were much closer together. There were not long stretches of road. I know they exist all over the state. We are losing pedestrians in every county of the state. The numbers are in fact far greater in Clark County and Washoe County. Keeping people safe should be an issue statewide, not just in Clark and Washoe Counties. We are trying to craft a law that gets motorists' attention by telling them that we are increasing the fines and penalties. Sadly, that is what it takes sometimes to get motorists' attention. That is why we have our best compliance in school zones and work zones. We are trying to have that same spotlight on areas that say here is where you should look for a pedestrian. In reality, it is your job as a motorist to look for pedestrians at every place they can legally cross the street. So many times motorists say they did not see the person; that is not an okay answer. If we can get motorists to comply with stopping for pedestrians and allowing them to cross the street when they are

doing the right thing, my firm belief is that pedestrians will go out of their way to cross the street in a safer manner.

Chairman Frierson:

This bill references the option of incarcerating someone and sentencing them up to six months in jail. That is already the case in current law, so do we need that in here?

Erin Breen:

I believe you are referring to the school safety zones. It is standard work zone language. We had some discussion on if there were a pedestrian safety zone in effect in the same area as a work zone or a school zone, should that double the fine? We discussed this with the Legislative Counsel Bureau, because this is not a money thing, but an education thing. It is my belief that the fines should not be doubled. Because it is an existing misdemeanor, the fine cannot be over \$1,000 or more than six months. So, the fine would not be subject to doubling, if that was your question.

Chairman Frierson:

My question was specifically the six months. The language referencing doubling the penalty is generally doubling the fine, not the incarceration time. A misdemeanor is a misdemeanor. I am just wondering if we need the six-month incarceration language. Because, quite frankly, there is a piece of legislation being referred to the advisory commission to deal with traffic tickets, and I do not know if we need to have this all over the statute. If we, for whatever reason change the penalty for a misdemeanor, or if we change the penalty for traffic violations, then we have to find all the places where it is specified.

Erin Breen:

I agree with you. It is not necessary for it to be stated more than once.

Chairman Frierson:

Are there any other questions? Seeing none, I will invite those wishing to offer testimony in support of this bill to come forward.

Brian O'Callaghan, Government Liaison, Las Vegas Metropolitan Police Department:

We have been working closely with our elected officials, community partners, and the University of Nevada, Las Vegas in trying to bring down this trend. We believe S.B. 179 (R2) will improve on key traffic laws and also increase public safety within Nevada.

Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:

I am here to express our support of S.B. 179 (R2), and thank Senator Manendo for his concern regarding traffic safety. Public safety is the mission of the Washoe County Sheriff's Office; traffic safety is a major priority for our organization. I would like you to consider that this bill is about pedestrian safety, which also intimately affects drivers. A driver who hits a pedestrian, especially a child, is patently affected by that incident for the rest of his life. This will help to address that lifelong trauma. As far as the numbers, I would request that we consider there has to be some sort of measurement. We all have those roads that are very long that pedestrians walk down. They may try to gauge it as 250 feet—there is probably an app for that—but there has to be a number for statute, and 250 feet seems like a good number. This just makes sense and we would request that you support it as we do.

Michael Cathcart, Business Operations Manager, City of Henderson:

I would like to thank Senator Manendo for bringing this legislation and go on the record that we are in support of S.B. 179 (R2), and also thank the Department of Transportation for assisting with the cost for changes in signage.

Joyce Haldeman, representing Clark County School District:

We, too, would like to thank Senator Manendo for bringing this bill forward. As you can imagine, student safety is extremely important to us. As our children walk to and from school, safety can sometimes be a real issue.

Jennifer Batchelder, representing Nevada Women's Lobby:

Me too.

Carl Scarborough, Manager, Regional Transportation Commission of Southern Nevada:

We support S.B. 179 (R2).

Chairman Frierson:

Is there anyone wishing to testify in opposition? Is there anyone wishing to testify in neutral? Seeing no one, Mr. Manendo, do you have closing remarks?

Senator Manendo:

Thank you. I appreciate the Committee's time. I think this is why we had such a large working group and so much thought trying to bring everyone together. It is not easy, and I know this is not going to solve all of our problems. This will be a work in progress. Over time, we have worked on many public safety issues in my 20 years in the Legislature. We are still bringing bills back to tweak them as things change in time and as people's habits change. It is going to take education; it is a very long process that we are going to have to work

through. I remember back in the '80s at one of the schools in Clark County, William E. Ferron Elementary School, parents would literally stop, park their cars, leave their cars triple parked, block the roadway, and wait to pick up their kids. They would leave their vehicles. Neighbors could not back out of their driveways, even though blocking the driveway was against the law. We had LVMPD come out and we made fliers for the Parent Teacher Association to hand out.

In my head I am thinking there are three kinds of people. There are people who make things happen, people who watch things happen, and people who wonder what the hell just happened. Those people are the ones who end up dying. Hopefully, with this bill and a few tweaks, we can say our statistics have gone down and we are heading in the right direction. Thank you very much. This committee has a history of working hard on public safety and we appreciate that.

Chairman Frierson:

With that I will close the hearing on S.B. 179 (R2). Senate Bill 421 (1st Reprint) is on the agenda, but we are not going to work it up today. Hopefully, we will put it on tomorrow's agenda.

Senate Bill 421 (1st Reprint): Requires a court to excuse a juror for cause under certain circumstances. (BDR 2-1109)

We are now in recess to get ready for the work session [at 10:35 a.m.].

We will come back to order [at 10:44 a.m.]. We will start the work session, beginning with Senate Bill 27 (1st Reprint).

Senate Bill 27 (1st Reprint): Revises provisions relating to the legal representation of certain persons by the Attorney General or the chief legal officer of a political subdivision of this State in certain civil actions. (BDR 3-219)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 27 (1st Reprint) relates to the legal representation of certain persons, was sponsored by the Senate Committee on Judiciary on behalf of the Attorney General, and was heard in this Committee on May 3, 2013. This bill requires the official attorney, as defined in the bill, to provide for the defense of a present or former judicial officer, or any other named defendant in a civil action who is named solely because of an alleged act relating to the public duties of a judicial officer, officer or employee, immune contractor, or Legislator. [Continued to read from work session document ([Exhibit H](#)).]

Chairman Frierson:

Clark County has withdrawn their amendment and the parties have agreed to work together in a practical sense to work out what the concerns are. Are there any questions? I will be seeking a motion to do pass.

ASSEMBLYWOMAN DIAZ MOVED TO DO PASS SENATE BILL 27
(1ST REPRINT).

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Mr. Wheeler. We will hear Senate Bill 31
(1st Reprint).

Senate Bill 31 (1st Reprint): Revises provisions governing children within the jurisdiction of the juvenile court and children in protective custody. (BDR 5-385)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 31 (1st Reprint) relates to juvenile justice, was sponsored by the Senate Committee on Judiciary on behalf of the Nevada Supreme Court, and was heard in this Committee on May 1, 2012. Senate Bill 31 (R1) provides that a director of juvenile services, chief juvenile probation officer, or the chief of the Youth Parole Bureau may, upon written request and good cause shown, share appropriate juvenile justice information with a juvenile court judge or master and certain other persons for purposes of ensuring the safety, permanent placement, rehabilitation, educational success, and well-being of a child. [Continued to read from work session document ([Exhibit I](#)).] There is an amendment provided to us by the Administrative Office of the Courts. The amendment's main changes are in section 1.2 and section 4.8 of the bill as far as the persons to whom the information may be released and for what reason.

Chairman Frierson:

The Committee may recall that this bill was on a work session earlier, but the amendment gave folks some pause, so we continued it. This new amendment is the result of work during that time. One of the questions I had is adding the language "a chief juvenile probation officer" which is part of the definition of a director of juvenile services, where that exists. Mr. McCormick, will you clarify what we are trying to accomplish by adding that language?

John R. McCormick, Rural Courts Coordinator, Administrative Office of the Courts:

I put that back in out of an abundance of caution because of the way *Nevada Revised Statutes* Chapter 62G reads based on population thresholds, that it is a chief juvenile probation officer in a county with under 100,000 people and over that it is a director of juvenile services.

Chairman Frierson:

The thought was that although it was out of an abundance of caution, it was not necessary since it was already included in the definition. I appreciate the caution, I just think this has the potential to cause some confusion.

John McCormick:

Now that it is on the record, that is great.

Chairman Frierson:

Section 2.5 discusses information maintained by an agency which provides child welfare services, but it refers back to section 1.2, which I do not think uses that phrase. It seems that sections 1.2 and 1.3 refer to juvenile justice information. I want to ensure we are clear on what we are trying to accomplish.

John McCormick:

We can chalk that one up to a drafting error.

Chairman Frierson:

Meaning it is not necessary?

John McCormick:

Correct.

Chairman Frierson:

I think that resolves the concerns I had with respect to the amendment. Are there any other questions? Seeing none, I will be seeking a motion to amend and do pass, with the amendment striking the additional language throughout of "or a chief juvenile probation officer" since we have clarified that it is part of the definition. Also, striking the additional language in section 2.5.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND DO PASS SENATE BILL 31 (1ST REPRINT).

ASSEMBLYMAN THOMPSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Mr. Thompson. Next on the agenda is Senate Bill 38 (2nd Reprint); however I believe that there is still some conversation about this bill and the amendment, so I will roll this bill and we will work it up tomorrow.

Senate Bill 38 (2nd Reprint): Revises provisions governing the dissemination by the Central Repository for Nevada Records of Criminal History of information relating to certain offenses. (BDR 14-343)

We will now move on to Senate Bill 199 (1st Reprint).

Senate Bill 199 (1st Reprint): Makes it a felony to perform certain medical procedures without a license. (BDR 15-504)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 199 (1st Reprint) relates to crimes and punishments, was sponsored by the Senate Committee on Judiciary on behalf of the Legislative Committee on Health Care, and was heard in this Committee on April 17, 2013. This bill provides that a person without a license who performs a health care procedure or surgical procedure is guilty of a felony. [Continued to read from work session document ([Exhibit J](#)).]

Chairman Frierson:

Is there any discussion on this bill? At the very least, I think the parties agreed that the language provided in the mock-up was sufficient.

Assemblywoman Diaz:

Will you explain why the proposed amendment is needed in this bill?

Chris Ferrari, representing American Dental Association:

We worked with the interim committee on health care. Immediately prior to their taking up the issue of crimes against folks purporting to be medical providers and increased punishments related thereto, there was an incident that occurred in Reno out of someone's trailer where someone was sent to the emergency room for a botched dental procedure that blocked his windpipe. We want to ensure that there is the ability for the Board of Dental Examiners of

Nevada to further reprimand and take action against folks practicing illegally. The purpose of enhancing the definition is to provide a broader parameter. Under current *Nevada Revised Statutes* 631.215, there is a laundry list of measures that defines what a dentist does. Adding these specific words gives them broader parameters to go after someone who is practicing without a license.

Chairman Frierson:

I believe the language that is to be added came from the American Dental Association.

Chris Ferrari:

That is correct.

Chairman Frierson:

Are there any other questions? I will seek a motion.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS
SENATE BILL 199 (1ST REPRINT).

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Mr. Carrillo. Next we will hear Senate Bill 243 (1st Reprint).

Senate Bill 243 (1st Reprint): Revises provisions relating to genetic marker analysis. (BDR 14-137)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 243 (1st Reprint) relates to genetic marker analysis, was sponsored by Senator Smith, and was heard in this Committee on May 9, 2013. This bill establishes the state DNA database, which is administered by the Forensic Science Division of the Washoe County Sheriff's Office. [Continued to read from work session document ([Exhibit K](#)).] On the day of the hearing, Steve Yeager, representing the Clark County Public Defender's Office, submitted a proposed amendment. It is my understanding that amendment is not approved by the sponsors. The Committee has received an additional proposed amendment ([Exhibit L](#)).

Chairman Frierson:

The amendment ([Exhibit L](#)) reflects an effort on the part of proponents of the bill to address some of the concerns of those that were not entirely on board with the bill. It includes a provision that if a case was charged as a felony but negotiated to a misdemeanor, that would automatically be deemed a dismissal. Also, the amendment changes five years to three years for those who were arrested but never charged, which is much more consistent with many statutes of limitation on those charges. The last change proposes to provide some direction to the subcommittee that they would consider ensuring that certain things were included. Section 33, subsection 1, paragraph (b), removes the notion of being able to find folks after they have been released from prison. This is obviously a difficult and challenging issue and there are some strong feelings about it. We have had some extremely thoughtful consideration of the issues that were raised.

I know there are concerns with this applying only to violent felonies, which was vetted out in the Committee hearing as something that the proponents of the bill thought limited the effectiveness of what they were trying to accomplish. I believe they provided some examples of individuals who had nonviolent felonies and subsequently the acts that we are trying to prevent. I know another dealt with expungement and whether we should automatically expunge the samples and the information collected based on the individuals that were subsequently acquitted. I think the testimony was that it would be extremely costly. There is another state that had testimony that it proved to be costly. New Mexico actually had the nonviolent felonies and ended up changing that law to all felonies. I would open it up for any other thoughts or discussions of the Committee.

Assemblywoman Diaz:

I would like to thank the sponsors of the bill for being amenable to amend. The expungement process is something that is important. I appreciate them giving clarity to the subcommittee that is being formed to ensure they look into this possible process in the future. Also, something that gave me a better feeling about the bill was making it clear that any charge that was pled down was also encompassed, not just those that were acquitted. Finally, I am hopeful that this information will also be used to exonerate folks who did not commit a crime and are serving time. This may be the link to give them back their freedom.

Assemblywoman Spiegel:

I also appreciate the work the sponsors have done on this bill. There are still a number of things that make me feel very uncomfortable. I am willing to vote it out of Committee, but I am not committing to voting for it on the floor.

Assemblywoman Fiore:

Basically, ditto on Assemblywoman Spiegel's words; I see the need for this, but I would like more clarification before I actually vote to put this into Nevada state law.

Assemblyman Thompson:

I want to commend the committee that brought this bill forward. I was able to speak to the two families in depth. Also, I will be voting for it to come out of the Committee, but I am very neutral, and will reserve the right to change my vote on the floor.

Assemblyman Duncan:

I am in support of this bill and I will be voting for it here and on the floor. The question in this case was a constitutional one. The question is: Is the search reasonable? In that inquiry, we are weighing a couple of things. We are weighing the expectation of privacy that the arrestee has in his DNA profile versus the government's interest in solving existing crimes and also preventing future brutal crimes. That is where the inquiry stopped for me. We can talk about the lab and all the different logistical things, but the constitutional and policy question that is before us is whether the search is reasonable.

I will note for the record that the federal government has been doing this since the mid-'90s. They do it for misdemeanors and felonies. Other states have also been successfully doing this. The testimony for me was compelling. I think the government interest in preventing future brutal crimes is very important. That weighed against the privacy interest for me and put me over the edge. I will say that I am thankful to all the parties on this. I spoke with both sides numerous times and appreciate their input in the process. I am a supporter of this bill.

Assemblywoman Cohen:

Like my colleagues, I also appreciate the work of the sponsors. I am going to vote this out of Committee but reserve my right to change. I still have concerns about the lack of automatic expungement, backlogs, assessments, et cetera.

Assemblyman Carrillo:

In America, we are still innocent until proven guilty and storage of DNA in the Combined DNA Indexing System (CODIS) automatically renders those arrested but not necessarily convicted for a felony offense suspects in a future crime. Their DNA will be searched in CODIS, and this is particularly true for those who will not be able to navigate the cumbersome expungement process as outlined in S.B. 243 (R1), so I will be voting no.

Assemblyman Wheeler:

I have some very strong reservations about this bill concerning our Fourth Amendment and even some of our Fifth Amendment rights. However, I will be voting yes out of Committee and yes on the floor as this is a bill that my constituents have very much voiced that they want, and that is what they hired me to do.

Assemblyman Hansen:

I supported this bill last session and I fully support it this time. I think that, when discussing the Fourth Amendment, we have a very specific right to not be searched in an unreasonable fashion, but I think the felony standard is reasonable. I am always uncomfortable when you have very emotional testimony because our instinct is to simply base it on that testimony. If you look at the bill overall, it is clear, emotional or not; this is a good and necessary step. I think it will be a big help to law enforcement. I think the provisions put into this law are very reasonable and go out of the way to ensure that people who want to have this removed, if in fact they have not been convicted of a felony, have that process available, which they do not have for fingerprints or mugshots. I will gladly be supporting this in Committee and on the floor.

Assemblyman Martin:

I am also in support, but not without my concerns about the automatic expungement questions. I am not convinced that the accounting has been presented accurately. I am not comfortable with the fact that it could be more expensive to do an automatic expungement versus having someone fight for their right to have it removed. The other factor that makes me slightly uncomfortable, although in general I think this is a great crime-fighting technique, I am concerned about the labs and quality and I think we need to ensure we maintain very strict chains of custody and quality controls over said labs.

Assemblyman Ohrenschall:

I would like to echo many sentiments in that I support what Senator Smith and Assemblyman Hickey have done on this bill. They have worked so hard to try to address many concerns from last session. I admire the family's courage for having to relive what happened. I looked at the same constitutional analysis that Mr. Duncan looked at and unfortunately, I do not arrive at the same result. If it were limited to violent felonies, then I might be there in terms of seeing the connection to potential violent crime, but with a blanket arrest on all felonies, that is where I lose my comfort in that analysis. Is this a proper search and seizure in taking that DNA for a potential crime and limiting it to people who have been arrested on felony charges? Today I am going to be a no.

Assemblyman Duncan:

I would also like to note that the Supreme Court is going to be coming down with a decision on this in June. If we get it wrong, the Supreme Court may overturn us or narrowly tailor what we are supposed to be doing as a state. I think there are only a few times as legislators that we get the opportunity to pass something that may have a direct result in people's lives. This would do that in a very huge way. The balancing test that Mr. Ohrenschall talked about weighs in the interest of preventing brutal crimes. I think that is something we should be contemplative about.

Chairman Frierson:

I cannot help but note the somber timbre; it is not about the decision to be made, it is recognition of the serious issue and a reflection of the deep thought that the Committee has put into this. I think the concerns on both sides are valid. I find the notion of constitutionality interesting because, whether it is a violent felony or nonviolent felony, it is still not a conviction. I do not find the distinction between violent and nonviolent felonies constitutionally compelling because either way there has not been a conviction yet. I will also acknowledge that regardless of what they are arrested for—often, if not on a regular basis, the crime for which someone is arrested is different than what he is ultimately charged with. I am not comfortable making a distinction between violent and nonviolent when I know that the charging agency is going to make that ultimate decision anyway. Someone could be arrested for burglary and ultimately be charged with something that is a violent felony. I just do not find it compelling enough to hold up my support for the bill.

I will acknowledge the folks in opposition and their feelings and concerns are valid. I want to acknowledge Ms. Dennison for being the first I have ever seen in eight years to acknowledge that this bill is not perfect and has some problems, and that profiling really does exist. I certainly appreciate her acknowledging that and the sentiment was that there are some problems in the system that need to be dealt with on the front end. Very few people deny that. That does not mean that we cannot act on others. I think some of the concerns that have been raised are very valid, but the greater good that is accomplished makes it difficult to oppose this measure.

To be clear for the record, I do not want the folks from the American Civil Liberties Union, the Washoe County Public Defender's Office, or the Clark County Public Defender's Office to think that their proposals were not distributed and contemplated, but at this time I will be seeking a motion to amend and do pass with the amendment that was most recently received.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS
SENATE BILL 243 (1ST REPRINT).

ASSEMBLYWOMAN DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CARRILLO AND
OHRENSCHALL VOTED NO.)

I will assign the floor statement to Mr. Hansen. Next on the work session is
Senate Bill 278 (1st Reprint).

Senate Bill 278 (1st Reprint): Establishes an expedited process for the
foreclosure of abandoned residential property. (BDR 9-134)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 278 (1st Reprint) relates to deeds of trust, was sponsored by
Senator Ford, and was heard in this Committee on May 2, 2013. This bill
authorizes the beneficiary of a deed of trust to use an expedited procedure for
the trustee's sale if, after an investigation, the beneficiary determines that the
property is abandoned and receives a certification from the applicable city or
county. [Continued to read from work session document ([Exhibit M](#)).]

Chairman Frierson:

I think this reflects a lot of work that Senator Ford, Assemblywoman Spiegel,
and I have put in leading up to and during this session. I certainly commend
Senator Ford working with the stakeholders in trying to come up with
something practical that takes into account everyone's thoughts. I would
entertain a motion to amend and do pass.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
SENATE BILL 278 (1ST REPRINT).

ASSEMBLYMAN THOMPSON SECONDED THE MOTION.

Assemblyman Ohrenschall:

I have the greatest respect for your work, Senator Ford's work, and
Assemblywoman Spiegel's work. During testimony I brought up a couple of
scenarios where I am concerned about some unintended consequences if this
passes. I am still going to talk with some people before the floor vote. I am
going to be voting yes today, but reserve my right to change my vote on the
floor.

Chairman Frierson:

I know many of us shared the same sentiments about the impact this could have on lower-income communities and homes that may be mistaken for being abandoned. I think there are some adjustments made in the bill to try to address that as much as possible.

MOTION PASSED UNANIMOUSLY.

Chairman Frierson:

I will assign the floor statement to Mrs. Spiegel. Next is Senate Bill 365.

Senate Bill 365: Establishes the crime of stolen valor. (BDR 15-155)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 365 was sponsored by Senator Brower, and was heard in this Committee on May 13, 2013. This bill provides that a person commits the crime of stolen valor and is guilty of a gross misdemeanor if the person knowingly, with the intent to obtain money, property, or another tangible benefit . . . [continued to read from work session document ([Exhibit N](#))].

ASSEMBLYMAN WHEELER MOVED TO DO PASS SENATE BILL 365.

ASSEMBLYMAN DUNCAN SECONDED THE MOTION.

Chairman Frierson:

This is a bill that started out the way we ended last session; it took into consideration the concerns that we had last session. That is why there were no amendments; we did the work last session to get to a better starting point.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Mr. Anderson with Mr. Duncan as a backup. Next up is Senate Bill 409 (1st Reprint).

Senate Bill 409 (1st Reprint): Makes various changes relating to gaming. (BDR 41-1054)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 409 (1st Reprint) relates to regulation of gaming, was sponsored by Senator Kihuen, and was heard in this Committee on May 13, 2013. This bill exempts certain persons from the existing prohibitions. [Continued to read from work session document ([Exhibit O](#)).]

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS SENATE BILL 409 (1ST REPRINT).

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Frierson:

I will assign the floor statement to Mr. Ohrenschall.

Assemblyman Ohrenschall:

I would be happy to carry the floor statement. I would like to compliment Professor Gemignani, Mr. Hernandez, and all the students at the gaming law clinic for the excellent work they have done this session, as they do every session.

Chairman Frierson:

Next is Senate Bill 414 (1st Reprint).

Senate Bill 414 (1st Reprint): Prohibits transmitting or distributing certain images of bullying involving a child under certain circumstances. (BDR 15-70)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 414 (1st Reprint) was sponsored by the Senate Committee on Judiciary, and was heard in this Committee on May 8, 2013. This bill prohibits a minor from knowingly and willfully using an electronic communication device to transmit or distribute an image of bullying committed against a minor with the intent to encourage, further, or promote bullying or to cause harm to the minor. [Continued to read from work session document ([Exhibit P](#)).] Also, there is a need to specify the definition that applies in this bill.

Chairman Frierson:

I believe this bill originated with Ms. Wiener, and the change in section 1 by changing the word "or" to "and" in the sentence, "bullying committed against a minor to another person with the intent to encourage, further or promote bullying or to cause harm to the minor" would reflect both her wishes and the intention to ensure there is some mens rea or specific intent to cause harm to the minor that would imply a connection, albeit the person does not have to personally know the victim. In section 1.4, the definition of bullying has a cross-reference to another statute. We thought it appropriate, rather than cross-referencing, to simply spell out the definition in the event that there are

other changes, we would have clarity in this bill. With those two amendments, I will be seeking a motion to amend and do pass.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS
SENATE BILL 414 (1ST REPRINT).

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Frierson:

The floor statement will go to Mrs. Diaz. Next is Senate Bill 427 (1st Reprint).

Senate Bill 427 (1st Reprint): Revises provisions governing bullying. (BDR 5-72)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 427 (1st Reprint) is also on the subject of bullying, was sponsored by the Senate Committee on Judiciary, and was heard in this Committee on May 8, 2013. This bill requires a court to provide information to the school district if the court determines a child enrolled in the district has engaged in bullying or cyber-bullying. [Continued to read from work session document ([Exhibit Q](#)).]

Chairman Frierson:

Mr. Stewart, can you help with the proposed amendment?

Carey Stewart, Director, Washoe County Department of Juvenile Services:

The proposed amendment would clarify or allow probation departments to be able to notify the school of an incident of bullying. Most of those cases are handled informally now.

Chairman Frierson:

Thank you. I think that the concern, at least the question, was that in section 1, where the court will make the determination, it sets out criteria. The amendment proposes to require a department of juvenile probation and juvenile services to report to the school district as well as a juvenile court. What criteria would the department be using to make that determination?

Carey Stewart:

The probation departments would meet with the parents and child and there would be an admission. There would not be a formal petition or adjudication by the court. Most of the misdemeanors that are handled by probation departments are done on an informal basis with an admission. If, at some point

in time, the sanctions are not followed through with, then we would request a formal petition be filed. However, the notification of the school just on an admission would have already taken place. That would be tough to bring back if, in fact, at a later point in time, other sanctions were not completed and we had to request a formal petition and the matter be held in front of the court.

Chairman Frierson:

I do not know if I am questioning whether there are formal situations that warrant communication of this information short of the court, but the court has all of these steps they have to follow and criteria they have to consider before they are required to provide this information. A juvenile probation officer, it seems, can just call the school to report bullying without any set criteria.

Carey Stewart:

Just as you described it, that could happen. We would follow the same criteria as far as what information is released, but when handling the informal cases, that formal criteria that is established, potentially would not take place. When we handle a case informally within the system, when we meet with parents so we do not have to file formal charges, we try to replicate the same procedures that take place. Our probation officers or our assessment workers would be notifying the school that an individual was referred to the department and there was an admission of bullying.

Chairman Frierson:

I am struggling with this. In the court there is a due process structure where there is some additional protection. What does a person subject to this—if it was from a juvenile probation officer and not the court—have in the event that they believe there is a discrepancy in what is being reported?

Carey Stewart:

Are you referring to the information being reported or the fact that we are reporting the information to the school?

Chairman Frierson:

Both. If a subject says this did not really happen, what protection would that person have?

Carey Stewart:

At that point, our probation officers do not act as judge and jury. The matter would be referred to the district attorney's office if it was serious enough in nature. That office would then determine whether charges should be filed to proceed accordingly.

Chairman Frierson:

Are there any other questions? I will seek a motion to amend and do pass.

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
SENATE BILL 427 (1ST REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

Chairman Frierson:

I will assign the floor statement to Ms. Fiore. That concludes the work session.
I will open the meeting for public comment. Seeing none, this meeting is
adjourned [at 11:42 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 15, 2013

Time of Meeting: 8:57 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 76	C	Senator Settlemeyer	Walk-through of the Bill
S.B. 76	D	Senator Settlemeyer	Proposed Amendment
S.B. 76	E	Daniel Reid	Letter in Support
S.B. 76	F	Duncan Mackie	Letter in Support from Nevada Firearms Coalition
S.B. 76	G	Greg Ross	Proposed Amendment
S.B. 27 (R1)	H	Dave Ziegler	Work Session Document
S.B. 31 (R1)	I	Dave Ziegler	Work Session Document
S.B. 199 (R1)	J	Dave Ziegler	Work Session Document
S.B. 243 (R1)	K	Dave Ziegler	Work Session Document
S.B. 243 (R1)	L	Dave Ziegler	Proposed Amendment
S.B. 278 (R1)	M	Dave Ziegler	Work Session Document
S.B. 365	N	Dave Ziegler	Work Session Document
S.B. 409 (R1)	O	Dave Ziegler	Work Session Document

S.B. 414 (R1)	P	Dave Ziegler	Work Session Document
S.B. 427 (R1)	Q	Dave Ziegler	Work Session Document