

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

**Seventy-Seventh Session
February 27, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:07 a.m. on Wednesday, February 27, 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 Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman William C. Horne, Clark County Assembly District No. 34



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Nancy Davis, Committee Secretary
Gariety Pruitt, Committee Assistant

OTHERS PRESENT:

Valerie Wiener, Chair, Legislative Committee on Child Welfare and Juvenile Justice
Steve Yeager, Clark County Office of the Public Defender
Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada
George Flint, representing Select Legal Brothels of Nevada
Amy Coffee, representing Nevada Attorneys for Criminal Justice
Jennifer Reed, Private Citizen, Las Vegas, Nevada
James Lee Dold, Private Citizen, Washington, D.C.
Michon A. Martin, Chief Deputy Attorney General, Bureau of Litigation, Public Safety Division, Office of the Attorney General
John T. Jones, Jr., representing Nevada District Attorneys' Association
Allan Smith, representing Religious Alliance in Nevada
J. Timothy Ball, Private Citizen, Reno, Nevada
Marlene Lockhard, representing Nevada Women's Lobby
Tim O'Callaghan, Private Citizen, Las Vegas, Nevada
Carey Stewart, representing Nevada Association of Juvenile Justice Administrators
Arthur Gadke, Private Citizen, Las Vegas, Nevada
William O. Voy, Judge, Eighth Judicial District Court, Clark County
Michael Neil O'Callaghan, Private Citizen, Las Vegas, Nevada
Steve McBride, Deputy Administrator, Juvenile Services, Division of Child and Family Services, Department of Health and Human Services
Donald M. Hoier, Sergeant, Las Vegas Metropolitan Police Department
Elisa P. Cafferata, President, Nevada Advocates for Planned Parenthood Affiliates

Chairman Frierson:

[Roll called. Reviewed standing rules.] We have three bills on the agenda today. I will open the hearing on Assembly Bill 113.

Assembly Bill 113: Revises provisions relating to sex trafficking. (BDR 4-63)

Valerie Wiener, Chair, Legislative Committee on Child Welfare and Juvenile Justice:

I was proud to sit in the audience as you heard Assembly Bill 67, and watch the activities of the Committee and those who came before it. I was also proud to see the level of commitment and involvement this legislative body is giving to this particular issue. During the interim, I served as Chair of the Legislative Committee on Child Welfare and Juvenile Justice. One of the measures that we worked on during the interim was dealing with the substance of Assembly Bill 113. The intent was to deal with sex trafficking of minors. There is concern that these young people are often treated as offenders and not victims. This bill deals with modifying that language to give young people who are victimized in this arena more protection under the law.

The Committee recommended that legislation be drafted to establish the crime of sex trafficking of a minor and that the definition be similar to the statutes of involuntary servitude without the requirement of proof of forced labor services. This new crime must identify children who are commercially sexually exploited as sex trafficking victims. The Legislature would also revise the definition of victim for purposes of determining eligibility for aid to victims. It also provides for the removal or extension of the statute of limitations for prosecuting those accused of sex trafficking of minors. If this language and these provisions look familiar it is because you reviewed them as part of A.B. 67. The similarity is intentional. As I was working with staff drafting these bills prior to session, I wanted to ensure the intent of the Committee was honored. I also worked with the Attorney General's office to ensure that we did not have conflicting or competing language. We worked side-by-side to ensure that the language in each bill mirrored so that we could move forward with very powerful changes that benefit these victims in our communities and our state.

Chairman Frierson:

I do not believe that all of the definitions are contained in A.B. 67; for example, the rape shield provisions. I have been working on these provisions since the start of session. I know that the sentencing structure was in large part adopted from the sex assault on a minor sentencing provisions. In Nevada, because the age of consent is 16, it is always confusing when it comes to criminal statutes. The sex assault on a minor penalty has one set of punishments for victims under the age of 14 and another set of punishments for victims under the age of 16. This bill and A.B. 67 do not mirror that exactly; they reflect one set for under 14 and then another for 14 to 18. Was there any contemplation of delineating ages 14 to 16 and 16 to 18, recognizing that 16 to 18 is still not an adult?

Valerie Wiener:

I do not recall having that conversation in Committee, but I do recall from last session working with the Attorney General's office on many pieces of legislation that dealt with confusion over age of majority at 16 and 14. When we address minor, it is a child under the age of 18 to be consistent with the work that was done last session by the Attorney General.

Assemblywoman Diaz:

Do you think that sex trafficking is too broad of an umbrella, and if it is wise to strike out pandering? Would there be issues in keeping both sex trafficking and pandering in the bill?

Valerie Wiener:

Due to how significant this problem is, and how vulnerable the State of Nevada is for producing this crime, or for being susceptible, or being ripe for this type of crime, I believe that sex trafficking is the right way to go. This ensures that we handle one of the most egregious crimes in the most appropriate way.

Assemblywoman Diaz:

In your view, there is no way to have distinct categories where sex trafficking could be one charge, if we know there is a ring, or pimps have made these vulnerable people part of their business. I do feel there may be some instances where there is pandering versus sex trafficking. I am not sure that everyone who commits a crime in this area is a sex trafficker.

Valerie Wiener:

When we are talking about selling children for commercial sex acts, I do not know how I can consider that pandering. Considering the situations we have heard, I cannot think of this as being anything less than sex trafficking.

Chairman Frierson:

During the hearing on A.B. 67 there was discussion about leaving a pandering option for an adult defendant and an adult subject that does not involve force.

Valerie Wiener:

As I recall, there is a provision in A.B. 67, relating to juveniles who are forced or threatened. There is also an adult reference as well. I believe there is clarity there distinguishing between adults and juveniles. My reference is the work we did was effected only by the impact of the testimony about juveniles. Addressing adults is not something I am prepared to do today. My concerns are those minors who are being commercially marketed in such a horrific way.

Assemblywoman Fiore:

I am concerned with the overbroad definition of prostitution. I am interpreting this that "monetary" could mean dinner and a show as well.

Valerie Wiener:

The enforcement piece would be up to law enforcement. I interpret "monetary" as being in exchange for something of value.

Assemblywoman Fiore:

That is what is making me nervous. As we sit here creating legislation for the people to protect them, and we are not acting as prosecutors, I look at this and I think we can get innocent people in a lot of trouble if we are not careful and crafty with our words.

Valerie Wiener:

After 16 years of doing what you are doing, I cannot have a higher regard for the consideration that is before you today.

Chairman Frierson:

This bill came from the interim Legislative Committee on Child Welfare and Juvenile Justice and is specifically dealing with the provisions as they relate to children, which is significantly different than some of the others with a broader context.

Assemblywoman Cohen:

I am questioning section 4, subsection 1, paragraph (b), subparagraph (1) where it states "if the victim discovers or reasonably should have discovered that he or she was a victim of the sexual abuse or sex trafficking" Is "should have discovered" in reference to those kids who think that their pimp is their boyfriend and they are just helping him out because he has asked them to?

Valerie Wiener:

The "should have discovered" is not new language or a new standard in law. There are reasonable expectations of discovery and that is language that is typically used in references in the *Nevada Revised Statutes* (NRS). It would be a reasonable person's expectation that they should have discovered.

Assemblyman Ohrenschall:

What happens after the pimp is prosecuted? I know there have been efforts to try to establish a safe house. Is the interim Committee looking at trying to support those efforts, and to help the victims rebuild their lives? Many times they do not have a loving and stable home they can return to.

Valerie Wiener:

We had participation from Susan Roske, Clark County Office of the Public Defender; and Teresa Lowry, Family Support, Juvenile and Child Welfare Divisions, Clark County District Attorney's office and others. One of the plans is for a safe house in southern Nevada. I was at the sex trafficking summit and participated on a legislative panel that was hosted by the Attorney General at the University of Nevada, Las Vegas. One of the participants of an earlier panel, Gard Jameson, announced that the funding for the safe house has been pledged. One thing I learned while listening to your hearing on A.B. 67 was the concern of having a safe house in a community for those who live in that community because of the very distinct nature of this crime. It could be a matter of trading with another state; letting other victims come here and our victims going elsewhere.

Chairman Frierson:

Are there any more questions? I see none. Thank you, Senator Wiener, for the work you did. I would like to invite those in support of A.B. 113 to come up to testify. Seeing none, I will now hear those in opposition of A.B. 113.

Steve Yeager, Clark County Office of the Public Defender:

I am also speaking for the Washoe County Office of the Public Defender. I have submitted an amendment on behalf of the Clark and Washoe County Public Defenders' Offices ([Exhibit C](#)). This amendment, instead of creating the crime of sex trafficking, would seek to bolster the current pandering statute that is already on the books. The Nevada Supreme Court very recently looked at the pandering statute in the case of *Ford v. State*, 127 Nev. Adv. Op. No. 55 (2011). It upheld that the pandering statute was, in fact, constitutional. The facts of that case, as indicated in some of the written materials, were by an undercover officer. The idea being it was a very broad net that the pandering statute already covers, so the idea is to simply make some recidivist provisions for multiple offenders as well as ensure that anyone who panders a child would not receive probation.

I do know from some of the testimony during the A.B. 67 meeting that there was an idea that panders often receive probation. I can tell the Committee that has not been my experience. Panderers typically go to prison whether it is a crime against an adult or a child. Also, I would like to let the Committee know that in many of the stories we hear, the conduct that usually occurs is covered by a number of statutes already on the books. Along with pandering, the kidnapping statute is extremely broad and in certain circumstances can carry life sentences, especially when dealing with a minor being taken away without the consent of a parent. Any sort of violence that is done upon someone would be covered by battery, by robbery, and even if it is not a violent crime, we have

a coercion statute that is a felony in certain circumstances. Often there are many tools at the hands of the prosecutor to be able to charge multiple offenses in the truly egregious cases, rather than creating a new crime of sex trafficking that really makes sweeping changes and would be subject to a substantial amount of litigation. I think the better course would be to bolster the existing pandering statute, which we know is constitutional and can be used as a tool along with other statutes to make sure the truly egregious offenders do the time for their conduct.

Assemblyman Duncan:

Specifically, what areas do you think the new language of this bill would be subject to either constitutional challenge or litigation?

Steve Yeager:

That would be the expansion of the definition of prostitute in section 8, subsection 4. It expands the definition of prostitute where before it was basically a fee for sexual conduct. It has added monetary consideration or other thing of value, which is extremely broad, as mentioned earlier, and could cover truly innocent conduct. This notion of dinner and a show I think is one area that certainly would be challenged. In addition, the failure to have a carve-out for Nevada's legal prostitution industry could cause some problems. This is worded so broadly that someone doing something as innocent as driving a legal sex worker to a place of employment could be seen as aiding or encouraging sex trafficking as it is defined in this bill.

Chairman Frierson:

Are you aware of any circumstances where that type of activity, encouraging someone to engage in legal prostitution, was ever actually charged?

Steve Yeager:

Personally I am not aware of that, although I operate in Clark County where it is not legal. I am not sure that I would have the opportunity to see that. I do not know if it has actually been charged under existing law, but it would certainly be a concern that it could be charged without the carve-out.

Chairman Frierson:

Based on my experience, this is one of those areas where discretion has been used responsibly. While that is technically a possibility, I am not aware that encouraging someone to engage in legal prostitution has ever been charged that way. I am also mindful of statutory construction and drafting good legislation. I think that as a practical matter, that has not happened, and it is not the legislative intent.

Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada:

The American Civil Liberties Union (ACLU) is concerned with the expansion of the definitions of "prostitute" and "prostitution" which could lead to be vague and overbroad. We would also encourage a carve-out for legalized prostitution in order to avoid any future problems. Again, because of the vague and overbroad nature, we are afraid that folks will get caught up in the system which will lead to over-incarceration. We believe that the \$20,000 per year that we spend on each inmate in Nevada could be better spent on services. We also noted that there was a discussion of adults in this bill and we are particularly noting the upgrading of a felony from a category D to a C for adults. We would advocate that that would stay at a D felony. Finally, as far as consent being no defense, we still believe that consent should be considered on a case-by-case basis. You should not take away the right to consent, particularly if this does address adults.

Assemblyman Ohrenschall:

If this law and other bills related to the sex trafficking crimes pass, and there is litigation on constitutional grounds, what would happen to the prosecutions? Would we go back to the old law? If there is an injunction put on this law, what are we looking at in terms of litigation?

Vanessa Spinazola:

I think it is the vague and overbroad notion that will bring in constitutional cases. In referring to prostitution, any other thing of value and monetary consideration is very vague. This could be dinner for sexual gratification. It is just too broad.

Assemblywoman Fiore:

With this new law, what do you see changing? What are we not doing today that we are looking to implement in this law?

Vanessa Spinazola:

From my understanding, it will just be an expansion of who it applies to. Because prostitute is so much larger here as well as sexual conduct, this could apply to all sorts of scenarios. Regarding the one scenario of living off the earnings of a prostitute, there is a case in Clark County where a woman put an ad on craigslist and had a prostitute move into her apartment. The woman was charged with prostitution because it was in Clark County, and the landlord was charged with living off the earnings of a prostitute because she accepted rent from this other woman. She is being prosecuted in this case. If we upgrade all the felonies and take away the discretion for probation, we could be including all sorts of folks. Sometimes prosecutors will use pressure on one person to get

to another person. My fear is that by expanding this, it may not be the intent to catch those people, but they will be used in kind of a game to get to the real offenders.

Chairman Frierson:

Will you provide the Committee with a police report of the case you are referring to?

Vanessa Spinazola:

I can get that information for you.

George Flint, representing Select Legal Brothels of Nevada:

I would like to say that we have 25 brothels that are scared to death of this bill the way it is presently written. I would like to add a three line carve-out that would hold us harmless from the facets of the criminal activity that are being brought forward. My clients are concerned with the new language in section 9, subsection 1, paragraph (b) which states, "Induces, recruits, harbors, transports, provides, obtains or maintains a person by any means, knowing, or in reckless disregard of the fact, that threats, violence, force, intimidation, fraud, duress or coercion will be used to cause the person to engage in prostitution, or to enter any place within this state in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution." I pray this Committee will see that my client, who has about \$200 million invested legally in this state, really deserves a carve-out so that some aggressive ex-worker who becomes angry, or some aggressive well-meaning prosecutor could look at this and apply it to a legal brothel. I would like to say that to the best of my knowledge there has never been a case brought against anyone within my client's industry, or any of the women who have worked within the legal industry. We have behaved ourselves and present a legal service at a level so that there has been no reason to attempt to prosecute or bring any criminal action. I am proud of that. In conclusion, we would hope that you will give us this exemption.

Chairman Frierson:

It seems to me the intent is to target places engaging in prostitution other than legal establishments. Maybe that should be clarified. I will point out that there was an individual who testified during the hearing on A.B. 67 about being victimized, not by a brothel, but by someone who transported her to the brothel. This is an issue that needs to be addressed, and certainly to target the criminal activity. The focus and intent is clear; however, we need to draft it in a way that does not open the door for allegations that involve any legal activity.

Assemblyman Martin:

I would like for you to elaborate on the hiring practices of your client. I am assuming that background checks are done. If someone is underage, or under the age of consent, is that person rejected or reported for attempting to secure employment? What safeguards do your clients have for not hiring underage people?

George Flint:

Every county in Nevada except for Lyon and Storey do not hire sex workers unless they are 21 years of age. Lyon and Storey County have traditionally hired sex workers at 18 years of age. The hiring brothel does not give the potential employee the right to go to work. When a woman applies for employment in a brothel, she must first go to the sheriff or the local police enforcement agency. She is given a long, involved application to complete. There is an FBI check. There are other checks done that make the entire investigation very thorough, even to the point that if a girl has been proven HIV positive, she cannot work in a brothel. If there are any sort of unanswered, outstanding warrants, she cannot work in a brothel. Actually, she cannot go to work if she has any criminal background that has not been settled. It is the local authority that gives her a work card. We have no ability to hire her unless she has a work card that states she has been cleared by the county authority.

Chairman Frierson:

Are there any other questions? I see none. Is there anyone else here to testify in opposition to A.B. 113?

Amy Coffee, representing Nevada Attorneys for Criminal Justice:

I would like to say that we support everything that Mr. Yeager testified to. We also support the amendment discussed earlier ([Exhibit C](#)). I would encourage all of the members of this Committee to read *Ford v. State*. It is very enlightening in discussing the history of pandering statutes. There are 100 years of the pandering statutes here in Nevada. Chief Justice Pickering spent a lot of time explaining them, what they mean, and why they are constitutional. Further, pandering includes a wide range of activity. We heard a lot of testimony; we know that bad things happen. However, we do have pandering cases where an undercover policewoman engages in a conversation with a tourist, the conversation turns to "will you do something for \$100," and the guy can get charged with pandering. Limousine drivers who say they will go find a girl are also panderers. We are already talking about a very broad law.

Further, I will say that there was a question about vagueness in this bill. There is also language on page 7, starting on line 22, that says, "to enter any place within this State in which prostitution is practiced" I do not know what

that means, it is so vague and broad. When you start changing this tried and true language that has been tested by our Supreme Court, you invite litigation and argument over what these words mean. Finally, there was discussion about the consent issue. I would agree with the position of the ACLU on that. That is something that has to be decided on a case-by-case basis. Not every pandering or prostitution situation is similar.

Assemblyman Ohrenschall:

With your experience in representing cases like this under the current law, do you see the alleged pimp charged with just pandering, or do you see multiple charges, such as kidnapping, living off the earnings of a prostitute, and coercion?

Amy Coffee:

I have seen cases, especially with minors, where often we will see kidnapping, sexual assault, transporting, and living off the earnings. Typically the charges come in groups. Our existing law is extremely broad and covers a wide range of activity.

Jennifer Reed, Private Citizen, Las Vegas, Nevada:

I work with the Sex Workers Outreach Project, Las Vegas. My concerns today are the same as with A.B. 67. I concur with the opposition testimony as far as the vagueness and overly broad definitions that are used. This can criminalize a lot of people who do not really fit the notion of sex trafficking very well.

My particular concern is with the potential criminalizing of anyone in the support network of street youths who are trading sex as survival. This bill looks as though it could apply to youths working together in the sex trades. Oftentimes the youth will work together for protection; for example, if one makes an appointment for another, or if one accepts the money for another, they could potentially be the sex trafficker who is then given a 10-year mandatory sentence, when really they are in the same situation as the other youth. I am also concerned that the line "this does not apply to a customer of a prostitute," page 9, line 3, is struck in the definition of sex trafficking. I see that the way it is defined it would only apply to a child but I am concerned that this is a move toward demand policies for prostitution in general.

I am also concerned that sex trafficking is the only focus of this bill and not human trafficking in general. It seems there is a large conflation being made between trafficking and sex work in general, that sex work and sex trafficking are somehow combined. Human trafficking refers to any sort of forced labor or any sort of exploitation economically and any form of labor, whether it be for

sex or whether it be for domestic labor, or agricultural labor, et cetera. I have a concern over why sex is the only thing being discussed as far as trafficking.

Another concern is oversight and accountability. This is something that I have not heard addressed yet. We are talking about going after people who are the sex traffickers. "Pimps" is a word we are hearing a lot. A recent study reports that about 4 percent of the youths on the street have experienced violence due to pimps, which needs to be addressed, but at the same time, they say that the institutionalized violence has been a much larger problem for them. Thirty percent reported having been abused by the police themselves. I am very concerned about oversight and accountability for the law enforcement piece that is given more power in these situations to be looking for traffickers, who the youth we work with are often saying are the abusers.

Assemblyman Duncan:

Do you have a rough estimate of how many youths are caught up in the sort of activities you talked about in the Las Vegas area?

Jennifer Reed:

We do not have absolute numbers here in Las Vegas. We started to collect that data and over the last year the data has been held up due to ensuring the methods were correct because preliminary findings were not following the narrative that some people were expecting. We do not have any hard data at this time, we only have preliminary findings.

Chairman Frierson:

Is anyone else here to testify in opposition? Seeing no one, is anyone here to testify in a neutral position? I see no one. Senator Wiener, do you have any closing remarks?

Valerie Wiener:

I have deep gratitude for the level of consideration this Committee is giving both A.B. 67 and A.B. 113. I have great faith that you will move forward with the young peoples' best interests in mind. The intent of this measure is to focus on those minors who are being captured by this horrific crime. As you recall, one of the witnesses that testified on A.B. 67, stated that at one time, not long ago, 30 percent of those who were brought into this horrible experience that lasts a lifetime were local. That has now flipped, 70 percent of these young people are from Clark County. They are coming from all walks of life, all economic backgrounds, vulnerable for whatever reason, getting caught in this horrible situation that is very difficult to leave. It is very difficult to put behind them, even if they are able to leave. The horrific, egregious nature of this crime is why we brought it before you as sex trafficking. There is an amazing amount

of information to exchange on such an important issue. I thank you for your consideration of A.B. 113.

Chairman Frierson:

I will now close the hearing on Assembly Bill 113 and open the hearing on Assembly Bill 146.

Assembly Bill 146: Revises provisions governing servitude of a minor.
(BDR 15-752)

Assemblyman William C. Horne, Clark County Assembly District No. 34:

I would like to thank the Committee for the opportunity to introduce Assembly Bill 146. There will be some proposed amendments to this bill. I would say that you should not necessarily dismiss these proposed amendments out of hand as there are some good points that should be considered when deliberating on this bill. Some things I agree with, some things I do not necessarily agree with. I trust this Committee to find a good balance in this bill.

This bill establishes the crime of "involuntary servitude of a minor" to protect child victims of labor trafficking. Child labor trafficking is a brutal form of human trafficking where a child suffers sexual, physical, or emotional abuse or neglect. Sometimes all of the above. [Continued to read from prepared text ([Exhibit D](#)). A slide presentation was shown during testimony ([Exhibit E](#)).]

Assemblywoman Diaz:

How do we distinguish between domestic servitude versus strict parents who believe in hard work and building character?

Assemblyman Horne:

This bill is not intended to capture the situations of parents who may be strict and have daily chores for their children. I do not read any language in this bill that would provide a prosecutor that window of opportunity to make such an argument in court. In the instances where a child has abusive parents, there are other statutes to address that.

Assemblyman Carrillo:

In family businesses, often the children are required to help out, sometimes without an age restriction. Would these types of situations fall into this category?

Assemblyman Horne:

This bill does not capture that. In that type of situation, if a parent were working their child in a restaurant excessively, we have other statutes to address that.

Chairman Frierson:

I am questioning the definition of physical injury and the genesis of it. It appears to have come from *Nevada Revised Statutes* (NRS) Chapter 432. Since this is a criminal provision, why was this language chosen instead of substantial bodily harm language that is already in current statutes?

Assemblyman Horne:

I have concerns with the scope of the language in NRS Chapter 432. As you noted, there is a list of injuries in this bill. There have been concerns raised as being too vague. I am amenable to amendments to address that. I do not think it should just state physical injury either. I think that opens a door for some overzealous prosecution.

Chairman Frierson:

Are there any other questions? I see none. We will now hear testimony from Mr. James Dold.

James Lee Dold, Private Citizen, Washington, D.C.:

I have, over the course of my career, helped draft over 27 laws to combat human trafficking, all of which have been upheld as constitutional, or have not been subject to constitutional challenges. This includes helping with the drafting of A.B. 146. [Written testimony provided ([Exhibit F](#)).]

Human trafficking is defined as the use of force, fraud, or coercion to induce or compel someone to engage in commercial sex acts or forced labor or services. The one exception is where you have a minor who is involved in the commercial sex trade. Federal law recognizes, as well as the laws in the majority of states, that anyone under the age of 18 who is induced to engage in a commercial sex act is a victim of sex trafficking. This was borne from a couple reasons. The first is that children do not have the emotional or psychological capacity to choose to engage in commercial sex as a meaningful line of work. Also, there is the fact that pimps and traffickers use a very terrible means in which to control children in these situations. Pimps, like most pedophiles, engage in what is known as the grooming process. That is where an individual will spot someone who seems to be vulnerable, typically and disproportionately kids of color, kids from broken families, or kids that have no self-esteem or self-confidence and are looking for someone to care for and love them. These pimps and pedophiles target the weakness and the need for love and care. They shower these kids

with compliments and gifts and gain that child's trust. During the course of that time, somewhere between them gaining their trust and the child interacting with the individual, there is some sort of traumatic event that typically happens. Oftentimes it is sexual abuse, physical abuse, or rape, et cetera. As a result of that, psychologists have created a term called trauma bonding, where a very traumatic event happens to a child and that person becomes psychologically and emotionally dependent on the other person. It is very similar to what happens in domestic violence situations as well as exploitative cults and incestuous families. Oftentimes when this happens, the person's individual will to make meaningful choices and engage in a free choice is compromised. So kids who are in the commercial sex trade who have pimps will often do whatever the pimp asks. It is very difficult to make a meaningful choice when you have been psychologically brainwashed and you come to rely on another person for your support, your care, and your love.

I would like to tell you my story and why A.B. 146 is so important, keeping in mind this idea of trauma bonding and how kids end up in these vulnerable situations in the first place. In 1997, I was a 13-year-old Boy Scout, and I had been victimized by sexual abuse. I was very rebellious and going through a lot of changes psychologically and physically. I was very angry with my parents and everyone else in my family. That made me susceptible to a person I met at a Boy Scouts function who took an interest in me. She made me feel like I was special. I was a kid from the inner-city, did not have a lot growing up, and this person was always taking me out for fast food, to movies, and buying me clothes. I had a crush on Jewel, and I was bought tickets to one of her concerts. All throughout that time, having conversations, and this person gaining my trust, I began to relay some of what had happened to me in my childhood. That person began to slowly use that against me, saying, "Your parents do not love you. Why would they allow a person who had done this to you to continue to live in your house. I would never have allowed something like that." The more that happened, the more angry I got with my family and the more rebellious I got. That is also when the sexual molestation started. This went on for a period of months, and eventually elevated into statutory sexual seduction where this person was raping me, from the age of 13 to 15. During that time, I thought this person really cared about me and loved me. She showed interest in me and bought me things. Getting back to the example of traumatic bonding, I looked to this person for my emotional and psychological support. As I was isolated from my family and my friends, and at this person's suggestion, I decided to run away and live with a family that I thought would love and care for me.

Shortly after I moved in with this family, a lot of things began to change. Over the course of this time, the way I was treated and talked to began to change.

In addition to the sexual abuse continuing, I was physically beaten on occasion. I was called a "nigger" so many times that I cannot tell you how many times that term has been used against me. I was told I was ugly. All of these things were done in tandem to mentally and emotionally tear me down. At that point, I had no idea what was going on; I just knew that I thought I loved this person and was willing to do anything she asked. I was asked to clean the house and take care of the children; those are the things I did for two years. I lived in a situation of perpetual domestic servitude where I constantly babysat, I cooked for the family, I scrubbed floors, washed dishes, cleaned bathrooms, and so on. All the while the molestation and emotional abuse was continuing to happen. I can tell you that, because of what was going on, because of the bond I had with the person who was exploiting me, I did not have a free choice in the matter. We talk about free will and the ability to make conscious and informed decisions, but as a 14-year-old, in that type of situation, feeling like nobody cares about them but the person who is exploiting them, you will do anything in the world to appease that person. When you do not, you feel as though you are not being loyal, that you are not doing what is asked of you, and you are not showing the same sort of love that is being shown to you.

It is not so much the force and violence that keeps people in those situations; it is the love, it is the emotional and psychological attachment. That is what becomes our prison, and that is what kept me and keeps kids in similar situations staying there, despite the abuse. I continued to labor because I was so psychologically attached to that person that I had no ability to leave.

Assembly Bill 146 is aimed at many of those activities. A few years ago when I went to report this crime to the Las Vegas Metropolitan Police Department, the statute of limitations had passed on sexual abuse charges, so there was no recourse. The Legislature should seriously consider expanding the statute of limitations to 10 years after the person reaches the age of majority, but that is another issue. When I relayed everything that happened to me to the investigating officer, he told me he could not get the person on any charges, so I asked about human trafficking. Because of the way the law is on the books, the officer did not recognize this as a trafficking situation. I reported this in October 2011. I believe the need for this law cannot be overstated enough. Even though the statute of limitations would have barred any sort of enforcement, the recognition of children like me and others in that type of situation is an absolute necessity for Nevada, and every state in the country. What happens to kids like me is absolutely human trafficking; there is no other way to describe it other than modern day slavery.

One thing I would like to address is the fact that there are often lesser charges included as a part of the human trafficking scheme. When you look at federal

law, and you look at the laws of every state, they all mirror to some degree what A.B. 146 is doing. Historically there were many different crimes being perpetrated against African Americans to keep them in a situation of perpetual servitude. There were kidnappings, physical beatings, rapes, and tortures. All of those were a means to an end. The end is exploitation for the profit of the person who is exploiting the individual. Whether it be for labor, services, or financial gains of the person engaging in commercial sex acts. While I know this bill incorporates a lot of existing criminal acts, I think a good way to look at it is those are the means by which someone is accomplishing an end and keeping someone like myself in a situation of domestic servitude.

I am very grateful for Assemblyman Horne and I think this will have a huge impact in Nevada and protect kids who are young, vulnerable, and relying on a caretaker who is in a position of power and who engages in a pattern of sexual or physical abuse. Engaging in that pattern is what creates the trauma bond. That is where the child no longer feels as though he or she has the ability to actually consent. They feel compelled to engage in these activities, which is why the consent of the person to engage in labor or services is not a defense when you have these specific, very egregious crimes committed against that child.

I humbly ask that you support this very important bill and help save the lives of children throughout Nevada.

Chairman Frierson:

Thank you for sharing your story. Your continued work in this area serves as an example of hope for those who go through this and are able to overcome and continue to give back to prevent this from happening to other children.

Assemblywoman Diaz:

What recourse do parents currently have? Did these people gain custody of you, or did you run away and your parents never looked for you?

James Dold:

I was in the inner-city, my dad was working all the time, and my mom was working part-time. We had 12 people living in a 4-bedroom house. When I left, I maintained contact with them, but I told them I was leaving. They were afraid they would lose complete contact with me if they tried to step in and intervene. My parents may have had suspicions that something was going on, but they did not really know what situation I was in.

Assemblywoman Diaz:

What helped you turn your life around?

James Dold:

I heard an FBI victim witness coordinator say it best when she talked about the sexual exploitation of children and how these children are eventually able to escape the grasp of their pimps. It is a maturing process where he or she will run away from their pimp, then they will go back; they will run away and go back, over and over again. Every time the child runs away, it is almost like a chink of armor in his or her breastplate, eventually they are able to break the psychological and emotional connection with the pimp. For me it was similar; that certainly happened. But I can tell you I would not be where I am at today if it was not for some amazing coaches I had in high school. For kids going through that type of situation, when it does not seem like many people care about them, some people make all the difference in the world.

Assemblywoman Diaz:

I just want to say that I am very proud of everything that you have accomplished and thank you for continuing the work on behalf of those who may be in the same situation you were once in.

Assemblyman Ohrenschall:

I am amazed at what you have been able to do with your life. You mentioned working on other legislation like this in other states. Do we have any data for other states that bumping this up to the highest felony possible has had a deterrent effect? Has it helped children not end up in the same situation you were in?

James Dold:

Nationally, when we look at the federal laws against human trafficking, every year for the past five years the U.S. Department of Justice has increased prosecutions. I think that is because we are doing a better job at identifying victims of human trafficking. I believe that when punishments meet the crime, there is a deterrent effect because traffickers are very smart people. Pimps and people engaged in labor trafficking are doing cost-benefit analysis. If the punishment does not fit the crime, then getting locked up for a couple months is considered the cost of doing business, especially in the more organized sex and labor trafficking rings. For someone who is part of an organization and gets arrested and goes away for a few years, that is not a strong enough deterrent, whereas if someone is subject to life in prison without the possibility of parole, that serves as a stronger deterrent.

One thing that has not been mentioned is justice. When we talk about human trafficking, it is the manifestation of modern-day slavery. It is those forms of torture and force, sometimes kidnapping, that are used to keep people in domestic servitude, keep them on farms, keep them on the streets turning

tricks, and there is no other way to describe it. Child slavery in the 1700s or modern-day slavery, it is the same form of violence being used. The only difference is that it does not have the blessing of the state. For Nevada, and for me to be able to come back and work here, is a very special thing. On October 31, 1864, Nevada entered the Union as a free state to give President Abraham Lincoln an additional electoral vote so that he could finish the work of abolishing slavery and winning the Civil War. What I would hope and pray for members of the Legislature to consider is that story in history of fighting slavery, and to ensure we are addressing this crime and making sure that when someone is in that situation, we respond in a way that sends a clear and strong message that it is behavior that will not be tolerated. This also gives a sense of justice to the victims that this was not just some minor thing that happened. This was a terrible thing, being in a position of slavery for months or years and we are going to treat it as such, and we are going to send the person who did this to you away, potentially for the rest of their life.

Assemblyman Ohrenschall:

If any of the other speakers here today have any information on other jurisdictions and if there has been a significant deterrent effect, I would appreciate that.

Michon A. Martin, Chief Deputy Attorney General, Bureau of Litigation, Public Safety Division, Office of the Attorney General:

I would like to acknowledge James Dold for his extraordinary bravery and shining a light on another piece of what is human trafficking and modern-day slavery. As he describes it, it is very similar to what we have been talking about with all of these various bills; this "grooming on steroids;" these individuals that can steal our children and force them to do things that are unimaginable. Our office is in support of this bill, which is continuing to be the holistic approach to how we effectively combat human trafficking both on the labor side and the sex side in Nevada.

Assemblywoman Cohen:

Do you know the numbers between the sex trade and the labor trade?

Michon Martin:

Statistics have been exceedingly difficult. Especially on the labor side, the statistics have not been kept regularly in Nevada. We are starting to see a picture on the sex trafficking side, but we are not seeing the full picture on the labor trafficking side.

John T. Jones, Jr., representing Nevada District Attorneys' Association:

We echo what has been said today. We do see stories like Mr. Dold's on a regular basis in both Clark and Washoe Counties. We are supportive of this bill and the continuing discussion to combat this issue.

Allan Smith, representing Religious Alliance in Nevada:

I am also here on behalf of Michael Patterson who represents Lutheran Advocacy Mission in Nevada. We both come in support of this bill. Being a grandparent and having a nine-year-old grandson, I look at the environment children are in today, which is so different from what I grew up in. I look at this type of legislation, and I believe we need to do this. Many of you either have children or grandchildren being raised at this time. This is a very important issue that needs to be addressed, and I appreciate this Committee addressing it at this time.

J. Timothy Ball, Private Citizen, Reno, Nevada:

I am an emergency medical technician and I know a little about the human body. I want to speak specifically about the enumeration of the injuries, and how important it is to capture what has happened to a person in terms of the treatment that they should receive afterward. I am aware from discussions with people working in this area that those injuries are often missed. The victims are not always examined head to toe, which is a critical issue for their long-term recovery. I urge that the issue of enumeration of the injuries is a key part of the bill, which causes the investigators to look carefully in places that they may not think are important.

Marlene Lockhard, representing Nevada Women's Lobby:

We are in support of this measure.

Tim O'Callaghan, Private Citizen, Las Vegas, Nevada:

I am also a board member of Religious Alliance in Nevada. We are concerned about the dignity of the human person. I am immensely moved by the testimony. We would like to go on the record as supporting A.B. 146.

Chairman Frierson:

Is there anyone here interested in testifying in the neutral position? I see no one. Is anyone here to testify in opposition?

Vanessa Spinazola, Legislative & Advocacy Director, American Civil Liberties Union of Nevada:

We oppose the bill as written, but definitely appreciate the intent and think that this bill comes closest to addressing the issue. Briefly, the "receiving anything of value" is vague. Consent should be determined on a case-by-case basis.

Assemblyman Carrillo mentioned someone working in a restaurant for a family. If that were open to a case-by-case determination of what that consent involved, it would address some of those concerns. Additionally, in terms of horrible experiences like Mr. Dold's, one can use psychological studies so that even if someone directly says yes or acts like they are consenting, you can say these are all reasons why they actually did not have the capacity to consent. That is why we hope there would be a consent case-by-case determination. Though we did speak with Assemblyman Horne regarding the enumeration of the physical injuries, some of them may be too broad, like a cut or a sprain.

Finally, I appreciate the inclusion of the labor side. I know this is a real problem. This was mentioned at the last hearing. I just came here from Louisiana, where I was a lawyer in post-Katrina New Orleans. I represented undocumented workers in wage claims. What happened there, more often than not, is that employers would pick one worker to be the ringleader in an attempt to successfully escape liability. When we were considering wage theft legislation, or legislation that would criminalize behavior, we would have to think about the scenarios that these employers create in order to escape that. We also need to think about the prostitute that has been promoted and is the ringleader of the girls. We need to think about if that person, or the one worker who could speak English and spoke to the boss, was the one who will get caught up in these laws. The employers and the pimps will arrange it so that can happen.

Amy Coffee, representing Nevada Attorneys for Criminal Justice:

We would support this bill with amendments. The first is that this bill encompasses a panoply of sex crimes here in Nevada. I understand the intent and I think it is a noble one. The problem is you are trying to mash up our sex crime statutes with involuntary servitude and you create a lot of confusion. I only handle sex cases, and almost all of them fit this definition. A lot of sex crimes actually happen in a home environment. I think that creates confusion. Just to be clear, if someone engages in a crime of involuntary servitude and exploits a minor, and they sexually assault that minor, they certainly would be prosecuted for both of those separate crimes. I think, as written, this causes confusion because it tries to glom those two areas of law together. This statute would be much cleaner, and we certainly would support it, if the sex language was taken out of section 2, subsection 1, paragraph (a).

We have already discussed the broadness of the physical harm. There was mention about already looking at our current statutory definitions and I think that is something that is always the best way to go, because it is the tried and true.

We would not oppose section 2, subsection 4, subparagraph (b) simply saying something to the effect of physical, non-physical, or psychological harm and not incorporating the reasonable person standard. Any time an attorney sees reasonable person, the lightbulbs of litigation should go off. No one wants vague legislation because that defeats the purpose of this bill.

The issue of consent has come up again. Consent is always a question of fact for the jury. With those various changes, Nevada Attorneys for Criminal Justice would fully support this bill.

Chairman Frierson:

Are there any questions? I see none. Assemblyman Horne, do you have any closing remarks on A.B. 146?

Assemblyman Horne:

I look forward to working with those who have raised concerns. On the issue of consent, as we know, the age of consent in Nevada is 16. This bill states that consent as not being a defense if under the age of 18.

[Exhibits provided but not discussed for Assembly Bill 146 were ([Exhibit G](#)), ([Exhibit H](#)), ([Exhibit I](#)) ([Exhibit J](#)), ([Exhibit K](#)), and ([Exhibit L](#)).]

Chairman Frierson:

Thank you. I think this bill has some important issues that need to be addressed. I will now close the hearing on Assembly Bill 146, and open the hearing on Assembly Bill 152.

Assembly Bill 152: Makes various changes relating to sexually exploited children. (BDR 5-62)

Valerie Wiener, Chair, Legislative Committee on Child Welfare and Juvenile Justice:

Assembly Bill 152 is one of ten measures that were approved by the Legislative Committee on Child Welfare and Juvenile Justice in the interim. This measure deals with the sexually exploited child. This particular issue was raised by Susan Roske, Clark County Office of the Public Defender. This was one of their recommendations for consideration. The members voted to submit the recommendation as a bill draft, which is what is before you, in an effort to provide law enforcement and courts with more tools to help young victims. Section 1 provides a new definition of sexually exploited child. The sexually exploited child is defined as a child under the age of 18 who is engaged or attempting to engage in a commercial sex act, including prostitution. Sections 3 and 4 amend statutes relating to a child in need of supervision

(CHINS) to include a sexually exploited child and place such a child in the jurisdiction of the juvenile court. Section 5 exempts juvenile victims of sexual exploitation from the requirement that CHINS be released within 24 hours of arrest in order to keep these children from returning to the streets. In section 6 we remove a requirement that a judge in a juvenile court admonish and refer to community services a child who has not previously been found to be in the courts jurisdiction if the child has been sexually exploited.

There are concerns about conflict with requirements of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Since section 5 would not only affect policy, but also funding, I am offering to continue to work with the parties and those concerned so that we are in compliance and do the best policy work on this as well as provide the greatest assets for this measure. I would continue to work with the parties to ensure we are not in violation in any way, and we could then bring the language to you through an amendment.

Chairman Frierson:

I appreciate your willingness to continue to work on this measure.

Assemblywoman Spiegel:

In the definition of a sexually exploited child in section 1, why do we not also include a child who was coerced into a noncommercial sex act?

Valerie Wiener:

This bill is dealing with those who are being trafficked, commercially exploited, and there is an exchange of money for that sex act.

Assemblywoman Spiegel:

My concern is what has been described as the grooming process. During the grooming process, the child may be sexually exploited with no monetary exchange with the intent of the abuser to transition to commercial sexual exploitation. It may make sense for some recourse for that type of behavior.

Valerie Wiener:

I appreciate that and certainly consider that an important component to this because of the grooming process you have identified.

Assemblyman Ohrenschall:

While reviewing this bill, I was trying to understand the ultimate goal. Is the ultimate goal that more services could be provided to these children if they are declared as being a CHINS?

Valerie Wiener:

When we discussed CHINS, this is giving those children the appropriate services rather than being in a facility and being punished for behavior. This would allow sexually exploited children to receive the services they need. The reason we put section 5 into the measure was to allow proper authorities to keep the children in a safe environment so that, after a 24-hour period, they do not go back to the streets. We have learned from federal authorities that this may be in conflict with some of the policies at the federal level. We will work very carefully to see how we can still protect the children, the CHINS, so we can redirect their lives and provide services that they need so we can resolve that intent while still being consistent with federal requirements.

Assemblyman Ohrenschall:

What kind of kids become CHINS?

Valerie Wiener:

They are runaways; young people who are often troubled. By law they do not have the wherewithal to make serious adult decisions. These children are even more troubled and often make rash decisions and rash behaviors that can have long-term effects. When they are in need of supervision, we have the opportunity to provide services to help redirect them. For the 16 years I was in office, I have worked in the arena to redirect children who make bad choices and even in the later years of my career, I did legislation around sexting and transmitting sexual images. We believe these children are not making wise choices, so rather than taking the delinquent route, we would rather redirect these children so they can rethink their choices.

Chairman Frierson:

Are there any other questions? [There were none.] I will now hear those in support of A.B. 152.

Michon A. Martin, Chief Deputy Attorney General, Bureau of Litigation, Public Safety Division, Office of the Attorney General:

Our office supports A.B. 152 and thanks those involved in all the work done by the Committee. The recommendations that came from the Committee were very well thought out on how to take care of these children. This bill will address how to take care of the victims of sex trafficking and what we do to assist them.

Assemblywoman Diaz:

Who is going to be responsible for providing this supervision of these children? Is it the family or the social workers?

Carey Stewart, representing Nevada Association of Juvenile Justice Administrators:

The responsible party for working with these kids would be our juvenile probation agencies.

Allan Smith, representing Religious Alliance in Nevada:

I am also here on behalf of Michael Patterson who represents Lutheran Advocacy Mission in Nevada. We support the intent of the bill and would hope the Committee and Senator Wiener will work together to move this forward.

J. Timothy Ball, Private Citizen, Reno, Nevada:

I come forward to speak specifically about the importance of protecting the victims after they are first received by law enforcement agencies. Generally, as Mr. Dold testified, they are seriously traumatized physically, psychologically, and emotionally. They are not in a position to even be treated. They tend to be quite rebellious; they are not happy; many of them are malnourished. It is important that they be settled down and have a chance to understand that people can care for them. Generally, they cannot understand that when they first come into contact with care providers. My understanding is that it can sometimes take months. An important component to this bill is protection in a way that provides some level of discipline before they understand that people can love them. They do not understand what love is like.

Chairman Frierson:

You raise a valid point which is crossing the line beyond protecting victims to treating them like the accused and incarcerating them, forcing them to get help. That is a fine line and a legitimate concern as is the concern for ensuring they have the opportunity to appreciate the resources that are there for them.

Tim Ball:

I think we all understand this is an incredibly complicated problem. The holistic approach is needed. I do not personally think we understand the approach fully. I think there is a lot to still be learned. The only way we are going to do this well is to proceed and to learn as we go. I represent a group of Christian people in Nevada who want to help. Our intent is to come forward and work with the State and help these victims.

Marlene Lockhard, representing Nevada Women's Lobby:

We, too, support this measure. These measures are very important to Nevadans and the young children exploited here, which has gone on for far too long. We also want to thank Senator Wiener for her 16 years of service in taking the lead on important issues that impact women, children, and families in this state.

Arthur Gadke, Private Citizen, Las Vegas, Nevada:

I support the intent and direction of this bill and commend the Committee for considering all of the bills dealing with the exploitation and trafficking of children and caring for the victims.

William O. Voy, Judge, Eighth Judicial District Court, Clark County:

My fingerprints, along with Susan Roske, Clark County Office of the Public Defender, and Teresa Lowry, Family Support, Juvenile and Child Welfare Divisions, Clark County District Attorney's office, are on this bill. We came up with this idea about seven years ago as a way to bring children in need of protection under the jurisdiction of the court and provide services. Most of these kids, when we first encounter them, do not see us as saviors or the answer to their problems and they run from us.

We originally came up with the idea in conjunction with the safe house plan that has been on the books for the last seven years. Currently, we only get kids coming in that have been arrested for directly soliciting an undercover officer or some other related offense such as minor in a gaming establishment, trespassing, et cetera. There are scores of other kids out there every night that law enforcement encounters and knows they are being prostituted out. The kids admit to it, but because of the laws of evidence, they are not arrested. When the kid expresses an interest in being taken away from the situation, law enforcement's only option is putting them into WestCare, but they do not stay. The kids are usually out the back door of the facility before the officer leaves through the front door.

We wanted to target and help this other population that is not being brought in. This thought went through the Legislative Committee on Child Welfare and Juvenile Justice. Obviously the issue is to create another CHINS offense. The federal policy is concerned with that type of offense. The warehousing of children in detention centers gave rise to the federal government saying, "No, you cannot do that, you will lose your funding." I am concerned about there being no resources or a place to take these children after they are booked. We do not have that resource. Obviously I support this bill. I do have concerns with section 5, but I have not heard anyone else give another alternative. People are quick to say, "you cannot do that," but we need to work with Senator Wiener and come up with other alternatives.

Assemblyman Ohrenschall:

I am aware of the Salvation Army program, which tries to help these children. Are there other programs and services to help the victims? Can you order the children to get help?

William Voy:

We can order them to get help, but obviously a therapeutic type help does not work if there is not a willing participant. There are services out there; the community has developed faith-based and nonfaith-based services for these children. Again, 80 percent of these kids we encounter initially do not want assistance. It takes time to break through the barriers and get to that point. That is what the safe house is designed for. We do have services for the 20 percent of kids that want the help, but we need more and better services. We are trying to get to the 80 percent and get them the help they are needing.

Michael Neil O'Callaghan, Private Citizen, Las Vegas, Nevada:

This bill is a very good one. I have a published opinion on child molestation with regard to *Shannon v. State*, 105 Nev. 782, 783 P.2d 942 (1989). While I was a prosecuting attorney in Clark County, I saw the results of what takes place to people being victimized. There is one situation that has not been addressed. That is the fiscal impact. There is ancillary fiscal impact because of the high penalties for these kinds of offenses. In the adult system, private attorneys that are appointed charge very high rates by the hour. The public defender's office should have a "Chinese wall" set up between the adult system and the juvenile system in order to avoid the public defender's office from recusing themselves from defending the adult in the adult system. The bill itself is solid. It is the ancillary fiscal impact that is going to result with the decision of the public defender's office on whether or not they get off of a case in the adult system.

Chairman Frierson:

This is a policy committee, and we are discussing the language of the bill. There is a time for public comments after this hearing for issues outside the language of the bill, particularly the appointment of indigent counsel and the financing of them, which is beyond the purview of this particular bill.

Michael O'Callaghan:

I just wanted to take advantage of this moment.

Chairman Frierson:

Is there anyone else in support of A.B. 152? [There was no one.] Is there anyone in opposition to this bill?

Carey Stewart, representing Nevada Association of Juvenile Justice Administrators:

Our opposition to this bill is in regard to section 5 which is the very strict and time-sensitive guidelines established by OJJDP in regard to the use of detention for kids who are in the category of CHINS. As juvenile justice administrators,

we may have to expedite the release of a victim to a nonsecure environment and, in doing so, we may be referring them right back to the environment we are trying to protect them from. We appreciate the efforts to try to resolve those possible conflicts because our intentions are to look out for the best interests of the children involved and to ensure we have the time to appropriately release them to safe and secure environments with services.

Steve McBride, Deputy Administrator, Juvenile Services, Division of Child and Family Services, Department of Health and Human Services:

The Division shares the same concerns with regard to section 5.

John T. Jones, Jr., representing Nevada District Attorneys' Association:

We, too, are in support of the premise behind this bill and our concerns are the same. I would like to say, on behalf of the Clark County District Attorney's Office, that we have worked in conjunction with Judge Voy, Susan Roske, and Teresa Lowry who have been instrumental in putting this effort together. We appreciate that, but do share the concerns with OJJDP. We are more than willing to help craft a bill that will not have any undue burdens on our juvenile justice system.

Amy Coffee, representing Nevada Attorneys for Criminal Justice:

We are opposed to this bill. I fully agree with the intentions of the bill. I know it is a very tricky situation, what to do and how to treat the juvenile who comes into juvenile court on a prostitution case; however, I do not think this bill is the right way to address that. This bill has serious due process ramifications. The fact is, based on my experience of defending cases, there are some minors who do engage in prostitution. There are some who actually do it of their own free will. There are some pandering cases that involve undercover operations, limousine drivers, or someone who approaches a girl on the strip thinking she is older than she is; there is the dispute. We have cases involving trick rolls with underage prostitutes. These things actually do happen. The fact of the matter is that there are some situations where it is a significant legal fact that the minor was engaging in prostitution, and by codifying this we are taking away the crime of any minor ever being a prostitute in Nevada, and labeling them as sexually exploited minors. I do not disagree that some of them may truly be exploited, but by doing that, you foreclose any situation where an individual, say as a defense, is coming into court and wants to state that this person was engaging in prostitution. I think what will happen legally is now they will be foreclosed because minors engaging in prostitution will no longer exist. This would create some serious due process issues. These are questions of fact that must be decided on a case-by-case basis. While there may be people who are truly sexually exploited, that really does not cover every situation. When you

cast the net this wide, you are going to have some very unintended consequences. This is very dangerous.

I will also point out that there should be more latitude given to the juvenile court judge, that when a boy or girl is picked up in these situations, perhaps there could be a stay of adjudication that they could be directed into diversionary programs and other things that could be done. I do think there are other ways to get those results, other than codifying and classifying a wide group of people in this way. Again, I do not disagree with the intentions, and we certainly support something that would give the juvenile courts much more flexibility in this area. However, we strongly oppose the way this bill is worded. We do see a lot of serious due process issues down the road when trying to deal with the fallout from this bill.

Chairman Frierson:

You mentioned undercover operations in your due process concerns. Could you describe what a trick roll is?

Amy Coffee:

Typically undercover operations involve adults, where an undercover female cop will engage an individual, could be a tourist, or anyone who approaches her, and they have a conversation about sex for money. That would be soliciting for prostitution, or sometimes those people will be charged with pandering. When I mentioned trick roll, you have situations where prostitutes, either underage or over the age of 18, steal money and do some bad, criminal things. It is just a fact of life that it happens. That is why I think it is very important that we look at this on a case-by-case basis, so we can ferret out those who are truly exploited and the bad guys who are exploiting underage people because they are bad guys. We really need to be careful that we are capturing the criminals and not giving a group of people a pass with our good intentions. There are many cases where this eventually ends up being a jury question that has to be resolved as to whether or not a crime was committed.

Chairman Frierson:

Just for clarification, a trick roll is a prostitute luring in a john and then stealing or mugging the john. Is that accurate?

Amy Coffee:

That is correct. Sometimes we have situations where our defendant will say this person stole from me, and maybe the prostitute claims she is the victim. This really becomes a question of fact; was there prostitution, what was this person doing? Again, without judging who is right or wrong, this is our criminal justice system. These are questions of fact where we decide who is the

criminal. My concern is when you start using the legislative process to make those determinations, there will be unintended consequences. If the purpose is to help these juveniles, there may be a better way to get them to the help and the resources they need without doing it this way.

Assemblywoman Fiore:

You said something about our police engaging in a setup type of operation. I hope that our cops are not engaging our tourists to exploit them into doing something they did not want to do.

Amy Coffee:

Ford v. State 127 Nev. Adv. Op. 55 (2011) was an undercover sting operation. It is not unusual to have an undercover cop engage someone who will start to arrange sex for money. There have been situations where they were targeting limousine drivers. They would get in a limo and try to get the driver to take them to some girls. The driver would then be arrested for pandering. My point is that pandering and sex crimes really encompass a wide range of activity and a wide range of individuals. Not everyone who is a panderer fits a particular description. Just as with the panderers, prostitution encompasses a wide range of people and, in my experience, even some underage prostitutes can be very savvy, and know how to commit crimes. When I say trick roll, it is to lure someone in and stealing. They know how to use the system. I know this is an ugly truth that no one wants to talk about, but anyone who has details with these cases can tell you that we are talking a very wide range of activity.

Assemblywoman Fiore:

Regarding undercover operations and sting operations, are we setting up anyone in particular? Do they have a person who they suspect is doing bad things, or are we talking about a tourist who just landed from Oregon, suddenly he is offered sex, and now he is going to jail?

Amy Coffee:

You would have to ask law enforcement why, what, and how they come up with these operations and who they target. I could not begin to tell you that information. I just know that we have had people who you would not expect being caught up in those cases.

Chairman Frierson:

Is there a member of law enforcement here who can answer this question?

Donald M. Hoier, Sergeant, Las Vegas Metropolitan Police Department:

The vice section engages in undercover activities or covert activities to target street level prostitution, or prostitution that is occurring in hotels that involves

both providers, purchasers, and also the people who pander those individuals. The term entrapment is not accurate. We are not finding people who are not predisposed to be committing those crimes. If I am sitting at a bar during an operation, I do not approach every female I see asking for a sexual service in exchange for money. Normally, there is a two-way conversation that is clear as to what is going on. It is the same way for panderers. These are not set up as a one-time meet where some talk about pandering occurs and we arrest someone. We are dealing with cases that happen on multiple meets where a pattern is clearly established with the individual who has approached the undercover. I think it is important to point out that when we send out a female undercover, we are not sending them out to approach people, they are set on the street and people approach them. Similarly, inside casinos or when we are doing a pandering reversal, the suspects approach the undercover and direct the conversation down the prostitution road.

Assemblywoman Fiore:

Generally, what you are saying is that the people you arrest have a rap sheet.

Donald Hoier:

They could have a rap sheet or they may not. The Las Vegas Strip is a known prostitute track. Prostitutes will congregate along the Strip and inside the hotels along the Strip to procure customers to engage in prostitution. We also have customers who will go down to the Strip to procure prostitutes. In that sense, pimps will also congregate in that area for the purpose of recruiting other prostitutes and watching the prostitutes they have work. When we are setting up an undercover, whether we are targeting prostitutes or pimps, it is the same operation. These are complete random, chance encounters.

Assemblywoman Fiore:

I am just hoping that these sting operations are targeted to individuals that you suspect are engaging in these trafficking issues and not random to where we are picking up our tourists after we have lured them into an act. Maybe they have never had a hooker and suddenly they decide to try it one time.

Donald Hoier:

We are not out specifically targeting anyone. Our female undercover officers are not the ones that are making contact with the potential clientele. We are not sending a scantily clad female out there with a sign around her neck that says, "I'm available." An individual must actually approach the female cop, speak to her, and direct the conversation. There are some tourists that come to Las Vegas just for the purpose of picking up prostitutes, which is one of the things they do for their "Vegas experience." To say we are targeting tourists is not true. That is not something we are trying to lure tourists into doing.

Chairman Frierson:

We need to refocus on the bill. Is there anyone else here to testify in opposition? I see no one. Is there anyone wishing to testify in the neutral position? I see no one. I would like to invite Senator Wiener up for closing remarks.

Valerie Wiener:

I am gratified to hear the exchange taking place on this measure. It is not easy to predict what will be the concerns of a committee and the public. I am eager to work with the interested parties. We will work with the best interests of our children and our community in mind as we move forward.

Chairman Frierson:

With that I will close the hearing on A.B. 152 and move on to public comment.

George Flint, representing Select Legal Brothels of Nevada:

We learned a lesson in the 1920s that the prohibition of alcohol was a complete flop in the United States. Until we, as a populace, come to the conclusion that we are using that same mentality in keeping prostitution illegal and attempting to outlaw it and make it go away, we, ourselves, are pandering to the pimps. The pimps run prostitution in Clark County. They use girls as young as 10 and 12 years old. I can tell you that I have represented the legal brothels in Nevada for 25 years. In 50 years there is not one single case of a client ever hurt or attacked or mistreated in a legal brothel. In that same 50 years there have only been two cases of a woman ever working as a prostitute in a legal environment that was hurt. If we ever had the courage as a state, to address this issue, and try to stabilize the problem, the pimps are going to continue to rule the roost. If we had the courage to address this issue and legalize and regulate this activity, there would be no more market for the pimps, or at least a much smaller market, and there would be no more market for the teenage child who is currently being abused and mistreated and exploited. The 40 million tourists that come to Clark County are not looking to get in trouble. To a great degree, because we call ourselves Sin City, they are looking for something that is not going to get them in trouble, but they open the yellow pages, or get the pamphlet handed to them on the street, and they see trucks with signs promoting women direct to your hotel room, what in the Hades are our tourists supposed to think? They reach out thinking, even if it is not legal, it is obviously tolerated. We need to adjust our mentality on this entire issue, even as we learned a lesson when it came to the prohibition on alcohol.

Elisa P. Cafferata, President, Nevada Advocates for Planned Parenthood Affiliates:

I wanted to reiterate what I said before. We do not have specific amendments to any of these bills, but one of the issues raised in the testimony, particularly about young people is that we do not have a lot of services for these folks. In the process of looking at this issue, we want to ensure that young people are protected in terms of their access to health care. If someone is driving their friend to a health center to get an STD test or birth control, we need to make sure they are not considered traffickers when they are trying to get some health care.

Chairman Frierson:

I see no one else here for public comment.

I will entertain a motion to introduce Bill Draft Request 12-805.

BDR 12-805—Revises provisions governing estates. (Later introduced as [Assembly Bill 180](#).)

ASSEMBLYMAN OHRENSCHALL MOVED TO INTRODUCE
BDR 12-805.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Frierson:

This meeting is adjourned [at 10:46 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 27, 2013

Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 113	C	Steve Yeager, Office of the Public Defender, Clark County	Proposed Amendment
A.B. 146	D	Assemblyman Horne	Prepared Statement
A.B. 146	E	Assemblyman Horne	Presentation
A.B. 146	F	James Lee Dold, Private Citizen, Washington, D.C.	Prepared Testimony
A.B. 146	G	Mary C. Ellison, Polaris Project	Letter of Support
A.B. 146	H	Mary C. Ellison, Polaris Project	Issue Brief: Labor Servitude of a Minor
A.B. 146	I	Jennifer Reed, Private Citizen, Las Vegas, Nevada	Proposed Amendment
A.B. 146	J	Jennifer Reed, Private Citizen, Las Vegas, Nevada	Social Policy and Street- Based Sex Work in the USA
A.B. 146	K	Jennifer Reed, Private Citizen, Las Vegas, Nevada	Publication of Lost Boys
A.B. 146	L	Jennifer Reed, Private Citizen, Las Vegas, Nevada	The CATO Institute's National Police Misconduct Reporting Project