

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

**Seventy-Seventh Session  
February 28, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:17 a.m. on Thursday, February 28, 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](http://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](mailto: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 Harvey J. Munford, Clark County Assembly District No. 6



**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Brad Wilkinson, Committee Counsel  
Thelma Reindollar, Committee Secretary  
Gariety Pruitt, Committee Assistant

**OTHERS PRESENT:**

Kristin Erickson, representing Nevada District Attorneys Association  
Bart Pace, Chief Deputy District Attorney, Clark County District Attorney  
Karen C. Winckler, representing Nevada Attorneys for Criminal Justice  
Steve Yeager, Attorney, Office of the Public Defender, Clark County  
Nechole M. Garcia, Assistant City Attorney, City Attorney's Office,  
City of Henderson  
Julie Butler, Records Bureau Chief, Records and Technology Division,  
Department of Public Safety  
Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force

**Chairman Frierson:**

[Roll was called. Committee protocol and rules were explained.] We have two matters on the calendar today, both dealing with the same subject. We are going to keep them separate because they both have separate elements. With that, I will open the hearing on Assembly Bill 142.

**Assembly Bill 142:** Revises provisions relating to the sealing and removal of certain records. (BDR 14-490)

**Assemblyman Harvey J. Munford, Clark County Assembly District No. 6:**

Good morning, Chairman Frierson and members of the Judiciary Committee. I am here to present A.B. 142 for the Committee's consideration. Currently *Nevada Revised Statutes* (NRS) 179.255 allows a person who has been arrested for an alleged criminal act to petition for the sealing of those arrest records in two situations: (1) if the charges were dismissed; or (2) if the person was acquitted. The person also can apply to have the record of criminal history removed from the Central Repository for Nevada Records of Criminal History under similar circumstances. [Mr. Munford continued to read from Exhibit C.]

**Assemblyman Ohrenschall:**

Assemblyman Munford, ever since I was first elected, you have always been a trailblazer in reforming the criminal justice system. I have admired the brave stands you took. One thing I want to let the Committee know is that Assemblyman Munford and I did not discuss this issue during the interim and

yet we both have bills that try to achieve very common goals. That speaks to what a major issue this inequity in Nevada law is—the fact that someone could be acquitted or have the charges dismissed and then be able to seal the records, but when the charges, in fact, are never pursued, they are not able to seal that record. I just want to thank you for bringing this legislation.

**Assemblyman Munford:**

Thank you, Assemblyman Ohrenschall. I know our bills are very much connected. My bill is primarily constituent driven from the district that I represent, which is old historic west Las Vegas. Many of my constituents and family members have experienced something similar to this—being arrested, sometimes for profiling, or for unjust and sometimes wrong reasons. Getting employment is the real critical and grave aspect of this bill. All of you are familiar with the fact that when you fill out a job application, one of the areas that is required for you to fill out is if you have ever been arrested. The point is that maybe you have been arrested but you have never been convicted. Sometimes the employer will take into account that that will deny you the opportunity to be employed, but you were totally innocent. You might have only been a passenger in a situation, but you were part of the group and you were arrested. So this is more or less to look out for protections and the welfare of some of those that are in a situation where they need employment but they have been denied simply because they have been arrested. I do not want to go into my history but back in the day, have I been arrested? Yes, I have been arrested before. The criminals are laughing. It was an unjust thing and I am sure the Chairman would know, sometimes in terms of profiling and other types of things you find yourself in, those situations can occur. I have been victimized by that, but I was never convicted. If I had been convicted, maybe I would not be sitting here. Being an ex-felon, all your little past incidents of what you have been a part of are brought up. That is the real motivation, the real impetus, and the real drive behind this bill.

**Assemblyman Wheeler:**

I understand the intent of the bill. Can you tell me what the major differences are from Assemblyman Ohrenschall's bill, Assembly Bill 156? My second question refers to section 3, subsection 2. It says the records can actually be removed from the file and this is before the statute of limitation runs out after the 180-day period. I would like to know whether the prosecuting attorney, if he decided to refile after that 180 days, would be able to actually find those files even though they were sealed? This section says "removed," so I am wondering about the language.

**Assemblyman Munford:**

I do not know if they would have access to those files. I have not really taken that into account. There are people from the district attorney's office that may be able to answer that question.

**Chairman Frierson:**

I see that Ms. Erickson has approached. We will reserve that so we can hear all of your testimony together. Mr. Wheeler, please hold on to that question.

**Assemblyman Munford:**

I do not have all the knowledge of Assemblyman Ohrenschall's bill but I know there are some connections. I may even stay after this hearing and listen to his presentation.

**Assemblywoman Spiegel:**

Mr. Munford, as you were speaking, you were talking about the practical application of this and the impact that your constituents have had by being asked if they have been arrested, rather than being asked whether they have been convicted when they are seeking employment. Have you looked at perhaps making any changes to NRS requiring employers to only ask about convictions, and not ask about arrests?

**Assemblyman Munford:**

That is a good question. This takes some steps further into restructuring applications. Maybe that should not even be there. I mean, it should be there, but as you stated, it should say "have you been convicted?" Do you think that should be worded there?

**Assemblywoman Spiegel:**

That might help given that people should have the presumption of innocence until guilt is proven.

**Assemblyman Munford:**

That is right. You are making a good point.

**Assemblywoman Diaz:**

Are there any other circumstances in which your constituents have expressed a frustration to you? You mentioned the employment factor; are there any other instances in which something of this nature could also impede other processes? Is employment mainly the area that this is going to help alleviate?

**Assemblyman Munford:**

My primary focus was on the employment aspect. I am trying to think of other areas that might be affected by this.

**Assemblywoman Diaz:**

If there are other presenters that can speak to that when they come to the table, then I would like them to shed some light on that.

**Assemblyman Hansen:**

I signed on as a cosponsor and I will tell you why. With regard to what Assemblyman Diaz was bringing up, in my district we had six 18- and 19-year-old boys shooting rabbits just outside of town; illegally spotlighting at night. They were arrested but instead of being charged with a simple misdemeanor, the officers decided to charge them with a felony. Five of these kids had just graduated from high school and were in college. One of them was actually back for his interview to possibly be going to Annapolis. To make a long story short, they are all good kids. Two of them were planning on going on Mormon missions and because of this felony arrest, these kids basically had their lives put on hold. I am familiar with it because one of them was my son. I got involved in a big way because the punishment in relation to the crime was way out of proportion. I contacted the sheriff's office and the district attorney's office. I got the whole thing taken care of. They had to pay a fine like they should have. I will say, my son just got appointed to Annapolis so it worked out.

Nevertheless, I am very familiar with what you are talking about and how this kind of stuff can really cause a problem. The 180-day window seems completely reasonable to me. It does not just affect employment; it affects people going on missions, getting into a college, and a lot of other things. They are in a state of limbo until the whole thing is adjudicated. If, in fact, the prosecution does not adjudicate it, this stays on their record apparently, per Nevada law, for an indefinite period of time. I understand where you are coming from. I just wanted to give you a plug there. Thank you.

**Assemblyman Munford:**

I appreciate that, and that might have answered one of the questions that Assemblywoman Diaz was asking with regard to other areas; that it would apply to education also.

**Assemblyman Hansen:**

And like you, I was once arrested. We will have to share our arrest stories.

**Chairman Frierson:**

Thank you, and for the record, I was never arrested.

**Assemblyman Hansen:**

You just never got caught.

**Chairman Frierson:**

Mr. Hansen, for the city folk, could you elaborate on spotlighting?

**Assemblyman Hansen:**

I do not want to indicate that what they were doing was not a crime. There were six of them out late at night bouncing around in a pickup truck. They had one shotgun, a spotlight, and were chasing jackrabbits and shooting them, but they were too close to town. That is where they committed the crime. There were several things that were clearly wrong and they should have gotten into trouble, but not a felony. They actually got arrested and thrown in jail overnight. I got a call at 1:30 in the morning telling me I had to come up with \$21,000 bail for a pretty good kid. It worked out but, nevertheless, I am highly sympathetic to what you are trying to do with this bill.

**Assemblyman Duncan:**

I signed on to the bill as well. Would you take the Committee through the reasoning behind the bill—not having the charge dismissed at the statute of limitations versus the 180 days, or the declination of prosecution?

**Assemblyman Munford:**

The 180 days is established by law. Ms. Erickson can answer that a little better than I can.

**Kristin Erickson, representing Nevada District Attorneys Association:**

Mr. Chairman, I do plan on addressing that in my presentation whenever you are ready.

**Chairman Frierson:**

Thank you. If you can help right now, please proceed at least with that answer.

**Kristin Erickson:**

We appreciate and thank Mr. Munford for bringing forward this bill and working with us in crafting these amendments. The amendment has been submitted by the Nevada District Attorneys Association (NDAA) and the concern is with the 180 days ([Exhibit D](#)). Our primary concern with the 180 days is that often it is not enough time for the State to initiate criminal proceedings. There have been several instances, and it is typically in larger cases such as murders or

sexual assaults, where the police officers will make an arrest to get the serious predator off the street. Once submitted to the district attorney's office, we will review the case and realize there is not enough evidence to proceed. We usually make a list; for example, please re-interview this person, interview that person, get a test on this, and get a toxicology on that. We may send it back with a whole list of requests for further investigation. Due to staffing and budgetary issues like every governmental agency, the police will receive that and in due time, they will get to it and finish their investigation for however long that takes. They will resubmit it to the district attorney's office. By the time the district attorney's office gets around to it, it is very easily past 180 days or even a year, especially on bigger, more complex cases such as murder or sexual assault.

That is the reason we submitted the amendment to request the sealing after the statute of limitations. The current law is that we have the ability to file charges within the statute of limitations. We also recognize that there are some cases where we are not going to refile—simple cases where it is obvious to all parties that we are not going to proceed. We wanted to provide an avenue to seal those cases prior to the statute of limitations. We believe we have done so by the language, indicating by stipulation that we can seal those prior to the statute running.

With regard to section 1, subsection 8, and Assemblyman Wheeler's question, which is an excellent question, it appears that subsection 8 allows the state to simply bypass it. We do not need the period to run up to the statute of limitations; we can immediately file. The problem is, prosecutors' offices throughout the state have different procedures. After a number of meetings in the past couple days with numerous prosecutors' offices, the overwhelming majority of offices, when they receive a record to seal, physically seal that file and put it in a place unknown, never to be seen again, and remove it from their computer systems. So if a lab result were to be submitted to the district attorney's office, it would have the defendant's name on it; the suspect's name on it. We would receive that lab report and look it up in the computer, and there would be nothing there. We would have no file to match it with, so it would be a logistical impossibility for us to refile charges. We do not have that file any longer; it has been sealed, we do not have access to it, and we do not know it exists. As a result, that is why we would like the statute of limitations beyond 180 days. We believe this amendment balances adequately the need for arrestees to seal their record, but also protects law enforcement and the community from more serious cases.

**Assemblyman Wheeler:**

Are there some cases, or some crimes, where there are no statutes of limitation? I understand there are very few—murder, one or two sex crimes. In those cases, what you are saying is those records would not be sealed forever. Say you have an innocent person accused of murder where there is no statute of limitations. So you are not going to seal his record forever?

**Kristin Erickson:**

That is the current state of the law; there is no statute of limitations for murder. We would be happy to work with the sponsor to create a limit, if necessary, but there are some murders that have been solved years later. That is the reason for no statute of limitations. Some murders are solved 10 to 20 years after the fact as technology develops.

**Chairman Frierson:**

This seems to be more an efficiency issue than barring the ability to pursue it. For example, the district attorney gets information from an investigating agency, then creates a file. You are saying that file would then be sent to "Oz," and if the state wanted to subsequently pursue it, they would have to start from scratch with the original documents and recreate that file, and that this is more of an efficient way for the district attorney to be able to reconsider measures as opposed to an impossibility?

**Kristin Erickson:**

Mr. Chairman, actually one of the issues is if the records are ordered sealed, we do not see how the record could be recreated without violating the sealing order.

**Chairman Frierson:**

Would the order of sealing the records require the Las Vegas Metropolitan Police Department (Metro) to seal their records of the original police reports?

**Kristin Erickson:**

I believe it would.

**Chairman Frierson:**

That is news to me. You learn something new every day.

**Kristin Erickson:**

I would prefer to have Metro answer that, but that is my understanding.



**Chairman Frierson:**

For what it is worth, it makes sense. I just do not know if all the hands are always talking to each other.

**Assemblywoman Spiegel:**

Is there a provision anywhere in NRS for something to be partially sealed so that law enforcement could have access to necessary records, but that the person who has been accused of the crime would be able to have, in essence, the appearance of being sealed so that you could get to both public policy objectives?

**Kristin Erickson:**

I would have to defer that question to Mr. Bart Pace, our record sealing expert in Las Vegas. He does this for the Clark County District Attorney's Office.

**Chairman Frierson:**

Mr. Munford, please comment and then I am going to go see if Mr. Pace can answer that question.

**Assemblyman Munford:**

I wanted to go back to Assemblyman Duncan. Did that answer your question?

**Assemblyman Duncan:**

The way I heard the testimony is that there is someone being investigated for robbery and there is a file that is created on them. The 180 days that it would be sealed would be after the actual declination, correct? It sounded like it was just six months after the initial investigation and that is not my understanding of the bill. It is after the actual declination so that could actually be two or three years whatever the statute of limitations is on that. Is that correct?

**Kristin Erickson:**

When a person is arrested we have to file a complaint within 72 hours or forthwith. If that does not occur, he would be released if he was in custody and had not been released already. We would generally have to file a complaint within a month or two months, but we could receive continuances. Typically the declination of prosecution occurs fairly rapidly—within a week to a couple months at the latest.

**Chairman Frierson:**

Are there any other questions for Mr. Munford at this time? I see none.

**Bart Pace, Chief Deputy District Attorney, Clark County District Attorney:**

I support what Kristin Erickson is saying about the amendment to the bill. When the district attorney's office denies a case it is done quite rapidly. What that is saying is the district attorney's office found insufficient evidence to proceed on prosecution of this individual at this time. It does not mean that the investigation of the crime ceases; the police department continues to investigate the crime. Things pop up, new evidence comes out, and they resubmit to the district attorney's office and it can be proceeded upon.

So I support her amendments at this point. I feel comfortable with the amendments being proposed by the NDAA. In fact, it allows for the denied event to be sealed even earlier because you do not have to wait 180 days after declination. If a prosecutor declines a case, and petitions the record be submitted to him, he looks at it, talks to the screening deputy, and if it looks like just a bad case, he can go forward with the sealing immediately after the declination of prosecution. There are some real advantages to the public there.

I will also proceed with my other issue. Generally, A.B. 142 is in line with A.B. 156 which I coauthored and that we will talk about later. The major distinction for me is in section 3 of the bill which amends NRS 179A.160. My major concern there is that it is going to be creating a whole administrative process for sealing of records that would include not just the Central Repository but all law enforcement agencies across the state, and the same problem exists there. Once we decline prosecution, that does not mean the investigation of the crime ceases; it just means that the district attorney's office is not ready to proceed on this defendant. I think the amendments in section 3—the creation of subsection 2 to NRS 179A.160—could discourage prosecution because the way it is written now, it would literally remove from access, the investigative facts of a case from the law enforcement agency. It would create a redundant process for sealing records that does not have prosecutorial or judicial review. The advantage of the process for sealing records is that it requires prosecutorial and judicial review.

The seminal case in records sealing is *State v. Cavaricci*, 108 Nev. 411, 834 P.2d 406 (1992) where the Supreme Court said you need to read NRS 179.245 and 179.255 in conjunction with each other because oftentimes defendants have a lot more on their record than one case where the district attorney declined to prosecute. You need to look at the defendant's record as a whole as you consider whether or not to seal a record because, if they have 20 years of arrests and are currently sitting in a Nevada state prison, why are we wasting time on a denied case that occurred in 2012?

I am generally in support of A.B. 142 with the recommended revisions that Ms. Erickson mentioned, other than subsection 3 where it creates redundant administrative sealing processes where there is no judicial and prosecutorial review. The goal of records sealing statutes is to allow people to go on with their lives in seeking employment and education which is laudable but, at the same time, we do not want to tie the hands of law enforcement in these processes.

**Assemblywoman Spiegel:**

Would you be able to answer the question that I asked previously? Is there a way to achieve both public policy goals of having the records not sealed internally so that efficiencies could still occur but allowing the person who is accused of the crime to have the public perception that the record is sealed until such time that they have been actually convicted?

**Bart Pace:**

I understand there are inconsistencies throughout the state with the various district attorney's offices. The inconsistencies result from an interpretation of the sealing of the judicial process, pursuing records statute as it is. A lot of people misunderstand sealing to be more an expungement, or removal of the records. Our statute basically says that we remove from public knowledge the information. In fact, there is a Nevada Supreme Court case, *In re Shin*, 125 Nev. 100, 206 P.3d 91 (2009) which talks specifically about the fact that we seal the paperwork but the facts still exist. You cannot change history by the sealing of a record.

It has been the interpretation of the Clark County District Attorney's Office that sealing of a record means you disassociate the defendant's name from the criminal process. The record is still there available for statistical purposes so we can continue to accumulate knowledge about criminal justice. If we need to petition to unseal that record, the record is still there. The sealing statute itself under NRS 179.295 has a process for unsealing of records. Under the statute, the record has to be maintained. There should be no reason to destroy the record unless you have administrative reasons for destroying the record. I do not think the statute contemplates the destruction of the record at all.

There are many reasons why the record should be maintained; for example, professional licensing corporations such as the Gaming Control Board can access a sealed record under the statute. Does that answer your question?

**Assemblywoman Spiegel:**

I think it does, thank you. It seems to me that if there are disparities in how people are understanding what sealed records are and what is allowed under that, we might want to look at clarifying that.

**Chairman Frierson:**

Are there any other questions? Mr. Pace, were you done with your presentation?

**Bart Pace:**

Yes, those are the comments I had regarding this bill.

**Assemblyman Munford:**

Excuse me, Mr. Chairman. I wanted to ask Mr. Pace to explain the difference between expungement and sealing records. Is there a difference?

**Bart Pace:**

Since we do not practice expungement in Nevada, I am not clear of the procedures, but it is my understanding that it is more a removal of the record completely. Ms. Winckler may be better able to address the differences.

**Karen C. Winckler, representing Nevada Attorneys for Criminal Justice:**

Expungement takes the record out of the system totally. Here in Nevada the Gaming Control Board insisted that we discuss the issue of how to help people in these situations. We would only remove their names from certain databases that could be checked, for instance, for employment. I get a lot of people who come to town, have fun, have a little bit too much fun, and then get arrested for something. They go back to Florida or Tennessee and they suddenly say, "Oh, my goodness. I have a professional license that has to be renewed." They have this arrest, no charges were filed, and they need to get that sealed. When they get that sealed, they understand the record does not disappear, that their name and that arrest is removed from the databases that are spread throughout the country through Shared Computer Operations for Protection and Enforcement (SCOPE), which is our local database in Las Vegas. It does not mean the arrest is gone. The paperwork remains, and it must remain, so that it is available in case that person goes to the Gaming Control Board and requests a gaming license. The Gaming Control Board is going to say, "Have you ever been arrested, convicted, or had any records sealed?" and they must answer honestly. They then go and check by the identification number of the person, and the information provided, to get those records. The records must remain; they cannot be destroyed in Nevada.

When they say that they put them away and can never find them, they need a different system. They need to keep a list of names of documents that are records that have been sealed because the Gaming Control Board has to have access to that data. We are a special state and we are one of the few states that started the sealing process rather than expungement, as in California where they actually take the record. This is very important because it helps a person with those issues of education, employment, professional licensing, and all of that which helps in Nevada for those purposes but, at any time, law enforcement can be continuing their investigation. The record does not disappear; it is just that it is not there for purposes of data searches when someone does a background check. Your name does not automatically appear on one of the Nevada databases.

**Assemblyman Munford:**

Thank you, Karen. I think it cleared some things up and gave us some understanding and knowledge. I am glad you brought up one other point and that is from state to state. I have had requests from someone who has moved to Nevada from another state wanting to know what direction to take in getting their records expunged.

**Karen C. Winckler:**

Each state must take care of their own expungement. They each have their own process. Nevada was unique because when it set its process in place it was a gaming state. More and more states are changing the way they do this, but in Nevada we only seal. We do not destroy the record.

**Assemblywoman Dondero Loop:**

I am hearing you say we do not expunge; we only seal. Is that the same within the juvenile system? I thought I understood that in the juvenile system, the case could be expunged.

**Karen C. Winckler:**

It is my understanding that it depends on circumstances. If a juvenile commits a crime, it is not revealed to anyone unless, for instance, it is a gun charge and now they are in district court with the adults, then it is revealed. If they do not get into any more trouble and it has been a juvenile matter, it remains closed and it is not revealed to anyone. If they rob a bank when they are 22, the feds will go and ask for all the records and then the juvenile record is revealed to them because of the subsequent bad conduct.

**Chairman Frierson:**

I think what Ms. Dondero Loop was getting at was that you or Mr. Pace had indicated that there is no expungement in Nevada, only sealing. We were

wondering if that applies to a juvenile. Is there an expungement process in juvenile court to expunge a record, or is it similar?

**Bart Pace:**

I know that their procedures are different, in fact, there is an automatic sealing of record. I do not think I have ever heard the juvenile process referred to as an expungement process. I have only heard it referred to as a sealing process but I am no expert on juvenile matters. For juveniles, you can petition the court to seal it and at age 21 or 24, there is an automatic sealing if the juvenile has stayed out of trouble up to that point. That is all I know.

**Chairman Frierson:**

Thank you, Mr. Pace. I know Mr. Jones is probably more familiar with that and is not here today. Ms. Erickson, if you could pass along to Mr. Jones that we had a question about that, I am sure he can get an answer pretty quickly.

**Kristin Erickson:**

I will do so.

**Assemblyman Munford:**

Chairman, just one other point. I think Assemblywoman Dondero Loop posed a very good question. Does that also go for school records of students under 18? Are those records sealed, so that you can never go into those files as to what occurred while they were in school?

**Chairman Frierson:**

That is getting kind of into the weeds of this bill. I do not know that this bill would even have a purview of affecting how a school district operates as far as their records. I just do not want to get too far away from what this bill is addressing.

**Assemblyman Munford:**

I know.

**Assemblyman Duncan:**

Ms. Erickson, I want to think through possible unintended consequences of the bill. If the bill passes with the proposed language of 180 days, do you have an idea of the possible burden that would be put on prosecutors' offices? Do we have an idea of cases that are declined for prosecution and later there is more evidence found? Maybe we do not have numbers, but I am trying to weigh possible unintended consequences of the burden that might be put on the prosecutor's office to have to go in and unseal those records.

**Kristin Erickson:**

It would create another step in the process, or several steps, to unseal these records. We are already understaffed so it would create another layer of litigation and more work. I do not have any numbers on what would be the effect.

**Chairman Frierson:**

Do you have any other questions for Mr. Munford?

**Assemblywoman Cohen:**

Are the sealing motions done ex parte or are they all with motion hearings?

**Kristin Erickson:**

I would like to defer to Mr. Pace on that question. I think he has better experience in this matter.

**Bart Pace:**

They are all done with motion hearings unless there is a stipulation by the district attorney. Once the stipulation is filed, they are usually handled in chambers calendar where the judge just looks at the stipulation and signs the order.

**Assemblywoman Cohen:**

Generally how many are done by stipulation? If they are misdemeanors, do they tend to be stipulated, but if it is felony there tends to be a hearing?

**Bart Pace:**

Our office stipulates to the sealing of the record in approximately 60 to 70 percent of all petitions that are submitted to our office. People can read the statute and they can count how many years they have to wait. Then they just submit a petition to our office and unless they have an extensive record or a particularly offensive crime, we stipulate close to 70 percent of the cases.

**Chairman Frierson:**

Mr. Pace, can you give us an idea on two things that have come up: (1) what is the cost associated with sealing and (2) how long does the process take for cases where the prosecution declines, but also if there is a dismissal or an acquittal even in misdemeanor cases?

**Bart Pace:**

The only costs associated are the filing fees with the courts whether it be justice court, municipal court, or district court. Ms. Winckler would know exactly what those filing fees are. Time wise, that is a staffing issue. Our

office right now, in particular, is working on November and December petitions because I have had huge staffing issues this year based upon, of course, the crash as well as I have had a turnover of two secretaries who have done this. Our office is behind right now but we are catching up. Optimally, it should take about two months to come to our office. Once we screen it and approve it, we send it along to Metro for them to look at it. What they want to do at Metro is to dot the "i's" and cross the "t's" so that when the orders are signed by the judge, everything is readily identifiable so they can do a clean sealing.

**Chairman Frierson:**

Thank you. Are there any other questions at this time? I see none. I am going to go to those that are here to testify in support of A.B. 142 and ask you to come forward at this time.

**Steve Yeager, Attorney, Office of the Public Defender, Clark County:**

Thank you, Mr. Chairman and members of the Committee. I will be brief. I obviously support any measure that will potentially allow our clients, or people who have been our clients, to be able to seal a record. I wanted to make a couple comments and that is, another area where this potentially affects somebody can be military service. If there is something on your record, especially a felony arrest that has not been sealed, that can sometimes be an excluder for military service. Also, it has been my experience that once paperwork is submitted to the district attorney's office, at least in Clark County, sometimes that will sit there for about a year before a declination occurs, particularly in drug-type offenses where they are waiting on testing. So I think sometimes the declination does happen quickly, but it has been my experience that sometimes those cases do remain in kind of an open status. I wanted to clarify that it is not atypical at all for me to have current clients calling me to check on their cases to see whether it has been declined or whether it has been filed. That process can sometimes take up to a year.

**Chairman Frierson:**

Thank you. Are there any questions for Mr. Yeager?

**Assemblyman Duncan:**

There is a balancing test here because of what Mr. Munford shared and experienced, as well as in the circumstances you said about trying to get into military service. There is a balance of people that may have been arrested for wrong reasons, or their case may have been declined. On the other end of the scope are your murder charges, or these violent crimes, that are open as well. In weighing this legislation, are we going to be putting an undue burden on prosecutors? In this Committee, trying to weigh what we are doing is prudent and wise; is it going to have unintended consequences? Anecdotally speaking



from your experience, how many cases are we talking about whether it is a declination, and charges that are pursued later? I am thinking about this in terms of more your small crimes, witnesses disappear, drugs, or whatever. Can you maybe help this Committee understand that a little better?

**Steve Yeager:**

I can tell you in my personal experience that I am not aware of any scenario where a prosecution has been declined and then later reopened. I have never had that happen. That is not to say it does not happen, but I think you are right that the situations where that is likely to happen are probably the more serious offenses where additional evidence is found later. I am not sure, in those cases, if the record would be sealed in any case. I do not remember anyone in my office saying that they had that scenario. Usually when a case gets denied, and we have an internal way to see that, I do not ever remember seeing a case down the road being reopened and filed.

**Chairman Frierson:**

Thank you. Are there any other questions for Mr. Yeager? I see none.

**Nechole M. Garcia, Assistant City Attorney, City Attorney's Office, City of Henderson:**

I represent the City Attorney's Office in the City of Henderson. Even though our office only prosecutes misdemeanors, we have some of the similar concerns that Ms. Erickson articulated, particularly with our driving under the influence (DUI) cases because sometimes it can take months for us to receive lab results for the blood testing for either drugs or for alcohol. Because of that, we do appreciate the need for this bill, and we do support this bill with the amendment that the NDAA brought forth. We believe that 180-day time frame would put a burden on prosecutors in our office. Frequently the prosecutors, because they do not have the blood results, will decline the charges and the statute of limitations for a misdemeanor is one year. It would create a burden if the case was sealed and then the blood results came in. The prosecutors would then have to go through the process of unsealing the record before being able to proceed on the case.

**Chairman Frierson:**

Thank you, Ms. Garcia. You touched on something in the other bill regarding DUIs that I think would probably resolve some of that, and I presume you will still be here for.

**Assemblyman Hansen:**

In section 1, subsection 8, it seems to give you the option of going back and charging them if, in fact, these charges are serious. What is the process of

unsealing? Is that a legal thing where you go the judge and ask to unseal your record, or is it simply a matter of peeling the tape off the envelope and you have the file and say, "we are going to go after this guy because now we have the evidence we need." How involved are we talking?

**Nechole M. Garcia:**

I would probably defer to Mr. Pace on that. He is more of an expert on the process. Within the city attorney's office we do remove it via information from our database. It just puts more of a burden on our office in terms of trying to match up any results, or any further information received, with the records we have. It is more an efficiency problem but it is not impossible.

**Assemblyman Hansen:**

It is not going back to court and it is not a rehearing, correct?

**Nechole M. Garcia:**

My understanding of section 1, subsection 8, of A.B. 142, would be that the court would automatically order the record unsealed. I am not sure if that would involve the prosecutor going to court or not. My understanding is that it would not.

**Chairman Frierson:**

Are there any other questions? I see none. Is there anyone else in Carson City in support of A.B. 142? I see no one else. I am going to go down to Las Vegas for support of A.B. 142. Ms. Winckler, did you provide everything that you felt was relevant with respect to A.B. 142?

**Karen Winckler:**

Yes, sir, thank you. This is the kind of work I do all the time—criminal defense—and I do handle a lot of sealing of records. As a member of the Nevada Attorneys for Criminal Justice (NACJ), I met with the Las Vegas Justice Court several years ago and this language was not included so they were refusing, at the time, to continue to sign orders allowing records to be sealed for National Crime Faculty (NCF) cases. Upon further discussion with the Justice Court, they agreed to continue signing it because it had been a tradition through decades with the understanding that I would be sure to bring this issue to the Legislature to make these technical changes to the bill. The Las Vegas Justice Court thanks you for taking the time to do this.

**Assemblyman Hansen:**

Are you in favor of the bill?

**Karen Winckler:**

The only problem that I have is the Central Repository starting its own sealing of records format. That is up to them if they want to do it. I think it is going to add a lot of employees that they are going to have to work with. I know that in the district attorney's office, it takes a whole team of people to make this happen. Section 3, subsection 2, is creating a whole new process for the sealing of records. It does not include the prosecution reviewing things, or a court reviewing things. It is just going to be the Central Repository accepting an application, reviewing it, seeing if it is properly completed, and then saying, "Okay, we are going to seal this record." I do not know if it means they are going to seal the record just in the Central Repository, or they are going to send the order out to every place this record exists. Part of sealing the records is talking with your client and knowing who has looked at the records of where those databases are that have the information. With computers in this day and age, you have to be sure that every database seals a record. A justice court, the district attorney's office, Metro, and the Central Repository are automatic, but there are other agencies sometimes that take a look at them. I do not know by this bill if that is going to accomplish actually a sealing of records throughout the state, or only within the Central Repository. We have a sealing of records that we are following through on per Assembly Bill 156 which sets out all of the requirements. I have concerns about that part of it; otherwise, the bill speaks to the needs that we have for sealing of records when no charges are filed.

**Assemblyman Hansen:**

Boy, it is tough to get a "yes" or "no" out of an attorney. Thank you.

**Karen Winckler:**

I support it but with an "except." [See [Exhibit E.](#)]

**Chairman Frierson:**

Now is the time for those in opposition to A.B. 142 to come forward. Is there anyone in Carson City or Las Vegas in opposition? [There was no one.] Those signed in to testify in the neutral position, now would be the time to come forward.

**Julie Butler, Records Bureau Chief, Records and Technology Division,  
Department of Public Safety:**

Thank you, Mr. Chairman. While we take no position on A.B. 142, we will be extremely limited in our ability to comply with its provisions. When criminal history records are sealed at the courts, the Records Bureau receives court orders to seal individuals' criminal history records at the Criminal History Repository and at the Federal Bureau of Investigation (FBI). The Repository's ability to seal a record depends upon getting supporting

documentation from local criminal justice agencies, such as prosecutors. Many prosecutors' offices in Nevada do not provide the Repository with notice when they decline to file criminal charges against an individual. Absent this critical piece of information from the prosecutors, the Repository will not be able to comply with these court orders. [Ms. Butler continued to read from [Exhibit F.](#)]

In terms of the amendment that has been put forth, I have not seen it but we would be supportive of that in terms of not allowing the sealing to go forth until the statute of limitations has run out. [Ms. Butler continued to read [Exhibit F.](#)]

**Chairman Frierson:**

If I am hearing your testimony correctly, if the portions of A.B. 142 with respect to the Central Repository were removed, that would alleviate your concerns about your ability to comply.

**Julie Butler:**

No, Mr. Chairman. We need to keep those provisions related to the Central Repository; that is existing language. What this bill indicates is that if you have a warrant or something that had been declined to prosecute, you can apply to the Central Repository administratively without getting a court order to seal. We do not want to necessarily remove that.

**Chairman Frierson:**

I am sorry. Let me clarify—not the existing law but the bill proposes to add a new paragraph with respect to the declination of charges. So I was saying if that new part was removed and it did not change any of the statutes with respect to the Central Repository, that would alleviate your concerns about any new measures?

**Julie Butler:**

That is correct.

**Assemblyman Hansen:**

You have a 180-day window. How long does it typically take from the time you start the process to where you actually get a judge to say "yes, these records will be sealed?"

**Julie Butler:**

I can only speak as to when the Central Repository gets a court order. If we have all the information and we do not have to chase down supporting documentation, it can be a matter of a few days. If my staff has to do a lot of the research—contacting the prosecutors' offices, the arresting agency, the

courts—it can take upwards of a year sometimes to seal a record at the Central Repository and the FBI.

**Assemblyman Ohrenschall:**

I am trying to understand the concerns about section 3 of A.B. 142. I am looking at the existing statute NRS 179A.160. The way I read it the existing law is, if a person's charges have been dismissed, the person simply makes an application to have that sealed. They do not need a court order. Is that correct?

**Julie Butler:**

That is correct. They do not need a court order. This is an administrative process here.

**Assemblyman Ohrenschall:**

Is what Assemblyman Munford is proposing in section 3 not the same administrative process where there has been a denial and the person would not need to get an order for sealing the record? They would simply make an application to the Central Repository.

**Julie Butler:**

Yes, there are two processes at work: the court process which affects the Central Repository because we did not get a copy of the court order, and an administrative process where the person can just apply directly to the Central Repository. In either case, both of them come to the Repository but the problem with both of those is it is very difficult for us with some prosecutors' offices to get the information we need to seal the record.

**Assemblyman Ohrenschall:**

So the onus would then be on the Repository to contact the county district attorney for the denial of the charges?

**Julie Butler:**

That is correct. In many cases, but not all, those offices are not willing to share that information with us.

**Assemblyman Ohrenschall:**

Is there a possibility that if Mr. Munford was able to work with the other interested parties to create some kind of scenario where the person seeking the sealing through their application would get proof from that county, maybe from the district attorney's office, that it might be less burdensome to the Repository?

**Julie Butler:**

Actually we have a bill, Senate Bill 45, which is going to be heard in the Senate on March 11. The bill is designed to help address some of the problems that we see, and it puts the burden on the petitioner to gather all of that supporting documentation and provide it not only to the Repository but to all criminal justice agencies which would have a copy of that record. If those provisions were perhaps amended into A.B. 142 or A.B. 156, that would help alleviate a lot of our concerns.

**Assemblyman Ohrenschall:**

Does S.B. 45 provide for sealing in the case of a denial as well?

**Julie Butler:**

It does not address that. What it does address is the minimum information that the Repository needs to properly seal a record at the Repository and at the FBI.

**Chairman Frierson:**

Do I have any other questions for Ms. Butler? I see none. If there is anyone else in Las Vegas to testify in a neutral position to A.B. 142, now would be the time.

**Bart Pace:**

Maybe I could just add some information to what was just presented. I agree that the provisions in A.B. 142 are much like the next bill we will be discussing. It is that section 3 which causes the Clark County District Attorney's Office concern. We are in opposition for the reasons just stated by the Central Repository.

**Chairman Frierson:**

For the record, you would support A.B. 142 if that section was stricken and the amendment that the NDAA proposed were adopted?

**Bart Pace:**

Yes.

**Chairman Frierson:**

Are there any other questions for Mr. Pace? [There were none.] Mr. Munford, did you have any closing remarks you wanted to provide before we move on to the next bill?

**Assemblyman Munford:**

Thank you, Mr. Chairman. I was not aware of some of the support that I got by those who sat next to me. I appreciate that very much because we never really

had any previous conversations about it. I appreciate this Committee who asked quality questions that helped to add some strength to this bill.

**Chairman Frierson:**

With that, I will close the hearing on A.B.142. I am now going to open the hearing on Assembly Bill 156.

**Assembly Bill 156:** Revises provisions relating to the sealing of certain records.  
(BDR 14-590)

**Assemblyman James Ohrenschall, Clark County Assembly District No. 12:**

Good morning, Mr. Chairman and members of the Committee. As I mentioned earlier, Assemblyman Munford and I did not talk about this issue during the interim but we were independently contacted by different parties about the importance of this issue and that there is this inequity in the *Nevada Revised Statutes*. When I started practicing law in the criminal defense arena, I really started to feel one of my jobs was trying to get people second chances and sometimes, third chances. One of the things I have seen since I was first elected to the Assembly was that we try to help people move on with their lives and to become productive citizens even if they have gotten into trouble with the law. Frankly I was astonished when it was brought to my attention that a record could be sealed if something had been dismissed, or there had been an acquittal, but not if there had been a denial. I looked back in legislative history and I have not been able to find an answer. The bills, while very similar, have slightly different approaches. I was very lucky to have the benefit of working with Mr. Pace and Ms. Winckler on this issue. I am happy to answer any questions. I believe that both bills will accomplish positive results for citizens of our state.

**Chairman Frierson:**

Are there any questions for Mr. Ohrenschall?

**Assemblyman Wheeler:**

What is the difference between A.B. 142 and A.B. 156? I see a couple minor differences but, in totality, they are very much the same.

**Assemblyman Ohrenschall:**

The difference between the two bills as originally introduced is that there is some give-and-take in my bill that is not in A.B. 142. You will find that on page 3, lines 17 through 30 of A.B. 156. There was a decision made among the parties that if someone does have a conviction for one of these crimes, that that is something we do not want sealed, especially in light of the fact that we do have a three-strikes DUI law within 7 years in our state. We do not want to

take a chance that that does not come up when there might be a prosecution. The other main difference would be the lack of section 3. My bill does not address going to the Central Repository.

**Assemblywoman Spiegel:**

I would like to clarify the items that you pointed out on page 3, lines 17 through 30. If there is a decline to prosecute on those, then that is not counted in this list, correct?

**Assemblyman Ohrenschall:**

This list would only have to do with convictions. If someone were to be charged with one of these felony drinking and driving or drinking and boating offenses and the charges were dismissed, the person was acquitted, or if the charges were denied by the county prosecutor or the attorney general, currently they can only get them sealed if there has been a dismissal or an acquittal, but under my bill they would be able to get them sealed. There is the denial but not if there is a conviction. That is the tradeoff. Right now under Nevada law, depending on the class of the felony, there is a waiting period which is on page 2 of the bill and is still NRS 179.245. In some of my research, the last time the Legislature made a significant attempt to reform this was in 2001. It has been a long time and I really do think the Legislature needs to revisit these statutes.

**Assemblyman Hansen:**

One big difference is that yours starts the 180-day window after there is an official denial of charges by the district attorney. Mr. Munford's bill allows the person arrested after 180 days to determine when he wants to start it. Am I reading that correctly? That is A.B. 156, page 4, lines 30 through 38.

**Assemblyman Ohrenschall:**

I believe you are misreading that. Section 1 of A.B. 142 and section 2 of the amendments to NRS 179.255 of A.B. 156 are identical. The clock would start ticking from the denial, not from the arrest, because the significant event would be the fact that the county prosecutor, the attorney general, or the special prosecutor would deny the charges and say that, for whatever reason, there is not enough evidence or this case is not worth our time.

**Assemblyman Hansen:**

Okay, I am confused on that. I thought his started after 180 days, even if the district attorney did not decide to prosecute. Just the fact that he had been arrested was that 180-day window. Am I wrong on that?



**Assemblyman Ohrenschall:**

Well, you can ask ten lawyers' opinions and get ten different opinions but the way I am reading it, the court had the jurisdiction in which the charges were declined for prosecution at any time 180 days after the date of the declination. It would be after the prosecutor formally declines the charge. Someone accused of a crime can get a letter in the mail and sometimes that can be a long time. Sometimes it can be at an arraignment in justice court or municipal court. It can vary as to when the declination happens and how the defendant receives notice, but it would be after the declination.

**Assemblyman Hansen:**

I thought his was different. We will have to clear that up.

**Assemblyman Ohrenschall:**

I am happy to defer to Counsel but I do not believe so.

**Brad Wilkinson, Committee Counsel:**

The sections are actually identical as Mr. Ohrenschall stated.

**Assemblyman Ohrenschall:**

Mr. Chairman, if I might indulge one comment that Mr. Yeager made. I have had clients who want to try to change things. They want to join the military and sometimes even the arrest can prevent them from joining. Right now the military has been very selective as to who they will take. It is just terrible that either an omission in the NRS, or maybe it was a conscious decision, but I cannot understand why to not allow sealing of these declinations. They put a roadblock in front of young people trying to move on with their lives. The military option is a real good one for them to get some education and some training.

**Chairman Frierson:**

Are there any other questions for Mr. Ohrenschall. I see none. I will now invite those here in support of A.B. 156 to come forward.

**Steve Yeager, Attorney, Office of the Public Defender, Clark County:**

Thank you, Mr. Chairman and members of the Committee. I will be brief. As in the last bill, I am in support of this bill. Regarding page 3, lines 17 through 30 of A.B. 156, which talks about the kinds of violations that cannot be sealed, it might be pertinent to clarify that we are talking about convictions of those offenses; sometimes it says "violation" in some of the sections. I think the legislative intent is clear because Mr. Ohrenschall testified to that, but it might be helpful to make that clear in the bill itself. I wholeheartedly support this bill.

**Chairman Frierson:**

We actually had discussed that. It looks like the existing language uses the word "conviction" to modify both crime against a child and sexual offense. Now that it is divided into sections—the original bill included convictions—so I think that is a valid point. It is more a drafting modification than intent. It is something we will certainly look at. Are there any questions for Mr. Yeager? [There were none.]

**Kristin Erickson, representing Nevada District Attorneys Association:**

We would like to thank Mr. Ohrenschall for bringing this legislation forward. We are in support with the amendments as submitted by the Nevada District Attorneys Association. We appreciate Mr. Ohrenschall working with us in attempting to craft these. The issue is exactly the same in this bill as is A.B. 142. The language is the same and our concern is the same.

**Chairman Frierson:**

Did you have an opinion or an opportunity to consider the issue of a conviction being included so it is clear throughout?

**Kristin Erickson:**

Referring to page 3, we are in support of that section.

**Chairman Frierson:**

Do I have any other questions for Ms. Erickson? I see none. Thank you.

**Nechole M. Garcia, Assistant City Attorney, City Attorney's Office, City of Henderson:**

We have concerns with the exact same provisions in this bill that were in A.B. 142. We support this bill with the amendments, and we also think that it would be good to clarify in section 1 that they apply to convictions of those offenses. I am happy to answer any questions that you may have.

**Chairman Frierson:**

Do I have any other questions for Ms. Garcia? I see none.

**Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force:**

I am here this morning to support A.B. 156, particularly the provisions on page 3 that have to do with the felony DUI convictions. It is important to keep those on the record of the offender so they can be properly prosecuted for future violations of the law because of the DUI laws that are in effect, particularly our "once a felon, always a felon" statute that was passed in a prior session.

**Chairman Frierson:**

Thank you. Does the Committee have any questions? I see none. Is there anyone else in Carson City to testify in support of A.B. 156? I see none. Anyone in Las Vegas wishing to testify in support?

**Bart Pace, Chief Deputy District Attorney, Clark County District Attorney:**

I appreciate the opportunity to testify on this bill. I want to touch on a couple points. You have heard several of my comments earlier. As Ms. Winckler pointed out, we had a couple of judges in Las Vegas who had determined that the denied case could not be sealed. Even though our office was not in opposition to denied cases being sealed, the court rightfully said that it is not in the statute. So we agreed to work on this bill and get something together that would allow the sealing of denied cases ([Exhibit G](#)).

As to the provisions on page 3 regarding DUI, that became a very important issue since the Legislature that created the "once a felon, always a felon" rule. In the last year, we have probably had about six petitions to try and seal felony DUIs. In every case, the court agreed with us that the sealing statute frustrated the legislative intent of "once a felon, always a felon" for felony DUIs except for in one case. So this provision would basically agree with the majority of the district courts that have addressed this issue and memorialized that in statute and secondly, it would discourage the filing of petitions on these because we have more petitions that we can handle already.

As to the amendments submitted by the NDAA, we are not in opposition to the amendments in section 2 because we think they are appropriate amendments. It still leaves the discretion for the district attorney to stipulate to the sealing of a denied case in appropriate cases.

**Assemblyman Ohrenschall:**

Pardon me, Mr. Chairman, for interrupting. There were two versions of the amendment submitted by the NDAA and perhaps Mr. Pace and Ms. Winckler do not have the newest version. The first version they sent me included the deletion of paragraph 8 which can be found on page 6, but then the last version they submitted to your Committee Manager did not delete paragraph 8, lines 10 through 17. Perhaps Ms. Erickson can come and clarify that because there was an earlier version of the amendment. I was confused by that as well.

**Ms. Erickson:**

Mr. Ohrenschall is correct. We did not delete section 8 as part of our amendment. Our amendment only affects section 2, subsection 1, paragraph (b). It requests that subsection 8 remain intact ([Exhibit H](#)).

**Chairman Frierson:**

Thank you for that clarification.

**Bart Pace:**

That is good news. The reason why that was so important for the district attorney's office is we did have an occasion in the last year and a half where we had to go back in and request the unsealing of a case. It became a huge court battle where the court was placing burdens on the district attorney's office to refile that case that were more closely related to double jeopardy issues than they were the statutes. It is important that we be able to just refile because the goal of this statute is to help people get jobs and move on in their lives with education or whatever their goals may be. At the same time, we do not want to tie the hands of criminal justice, particularly in ongoing investigations which many of these denied cases are. Thank you.

**Chairman Frierson:**

I have a question on the sealing of records in this statute. It did not seem to me that the statute requires the prosecution to agree. It appears to me that the statute allows for someone to apply, in particular, for a case that has been dismissed or when a person has been acquitted, to have that record sealed. In the practical world, I would imagine it makes it easier if the state agrees, but it did not seem to be something that was required. Could you clarify that, Mr. Pace?

**Bart Pace:**

The statute does not require even a stipulation process so there is no harm if the prosecutor agrees. The only thing that the statute really requires is that the court notify the prosecuting attorney and the law enforcement agency who were involved in the prosecution of the case and the arrest of the hearing. The stipulation process, of course, is developed to be beneficial to all parties involved. I do not have to go into court on a case that I am agreeing to stipulate to, nor do I have to go into court on unnecessary battles. Of course, for the party seeking to have the record sealed, the stipulation process speeds things up and makes the outcome more sure for the petitioner, but there is no requirement for the prosecutor to stipulate to anything.

**Chairman Frierson:**

Mr. Pace, in your experience, do you recall any circumstances where such a request was granted without the state's approval? I am personally aware of the process and it is pretty streamlined although, because of caseload, it may take some time. I was just curious if it ever occurs without a stipulation.

**Bart Pace:**

Yes, I have been at many hearings where I have lost the battle. They are usually borderline cases where I am not comfortable sealing it but I understand the petitioner's argument in the judge's final determination. The Supreme Court in *State v. Cavaricci*, 108 Nev. 411, 834 P.2d 406 (1992) made the courts the final guardian of whether or not a record is going to be sealed. The statute gives the court the jurisdiction and if it does not meet the statutory requirements, the court does not have jurisdiction, but after that it is within the court's discretion. The courts put burdens upon the court to exercise its discretion wisely. Sometimes I disagree with the decision of the court but I understand their position. I have never had to appeal one of these because they are usually trying to be reasonable.

**Chairman Frierson:**

Thank you. Is there anyone else in Carson City in opposition to A.B. 156? I see no one. Is there anyone in Las Vegas, other than Mr. Pace's comments about some changes, in opposition to A.B. 156? I see no one. Is there anyone to testify neutral for A.B. 156 in Las Vegas or in Carson City?

**Julie Butler, Records Bureau Chief, Records and Technology Division,  
Department of Public Safety:**

We have the same concerns with section 2 in A.B. 156 as we had with A.B. 142 and that is our ability to comply absent the information from a prosecutor's office and then the unsealing of a sealed record.

**Chairman Frierson:**

Are there any questions for Ms. Butler? I see none. Mr. Ohrenschall, do you have any closing remarks on A.B. 156?

**Assemblyman Ohrenschall:**

I appreciate your patience. I know it has been a long morning. I am hopeful that it is the Committee's pleasure to process one or both of these pieces of legislation. I believe that they have some very meritorious components and they will help people move on with their lives. I do want to thank Mr. Pace and Ms. Winckler for being here today. I thank everybody from the district attorney's office, the public defenders, and the Nevada Attorneys for Criminal Justice.

**Chairman Frierson:**

I will close the hearing on A.B. 156. I do not believe we have any bill draft requests to introduce or any matters from any previous meetings. I will open it up for any public comments, if there are any both here and in Las Vegas. I see none. Thank you for your patience. The meeting is adjourned [at 10:00 a.m.].

RESPECTFULLY SUBMITTED:

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Thelma Reindollar  
Committee Secretary

APPROVED BY:

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Assemblyman Jason Frierson, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** February 28, 2013

**Time of Meeting:** 8:17 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 142	C	Assemblyman Harvey Munford	Prepared speech
A.B. 142	D	Kristin Erickson, NDAA	Amendments
A.B. 142	E	Karen Winckler, NACJ	Letter of support
A.B. 142	F	Julie Butler, Records Bureau Chief, DPS	Prepared speech
A.B. 156	G	Bart Pace, Chief Deputy District Attorney, Clark County	NACJ Letter of support
A.B. 156	H	Kristin Erickson, NDAA	Amendments