

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

**Seventy-Seventh Session
April 1, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 9:12 a.m. on Monday, April 1, 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. The meeting was also videoconferenced to the satellite office of Arizona State University, 1834 Connecticut Avenue, N.W., Washington, D.C. 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 John Hambrick, Clark County Assembly District No. 2

Minutes ID: 712



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Thelma Reindollar, Committee Secretary
Colter Thomas, Committee Assistant

OTHERS PRESENT:

Mary C. Ellison, Director of Policy, Polaris Project, Washington, D.C.
James Dold, Senior Policy Counsel, Polaris Project, Washington, D.C.
Marlene Lockard, representing Nevada Women's Lobby
John T. Jones, Jr., representing Nevada District Attorneys Association
George Flint, representing Select Legal Brothels of Nevada
Allan Smith, representing the Religious Alliance in Nevada
Elisa P. Cafferata, President & CEO, Nevada Advocates for Planned Parenthood Affiliates
Kim Yaeger, Director of Member Relations, Nevada Trucking Association
Michon A. Martin, Chief Deputy Attorney General, Bureau of Litigation, Public Safety Division, Office of the Attorney General
Steve McBride, Deputy Administrator, Juvenile Services, Division of Child and Family Services, Department of Health and Human Services
John B. Simms, Chief Juvenile Probation Officer, Department of Juvenile Services, Carson City/Storey County
Lisa Moseley, representing Clark County Black Caucus
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office
Arthur Gafke, representing Nevadans for the Common Good
Charles Redmond, representing Nevadans for the Common Good
Karen Hughes, Lieutenant, Las Vegas Metropolitan Police Department
Susan Roske, Chief Deputy Public Defender, Juvenile Division, Clark County Public Defender's Office
Teresa Harder, Private Citizen, Las Vegas, Nevada
Craig Christiansen, Vice President, Nevada Association of Public Safety Officers
Amy Coffee, representing Nevada Attorneys for Criminal Justice
Lisa Rasmussen, representing Nevada Attorneys for Criminal Justice
Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office

Chairman Frierson:

[Roll was called. Committee protocol and rules were explained.] Good morning, everyone. We originally had three bills on the agenda for today, but Assembly Bill 307 has been pulled back temporarily. The sponsor of that bill

has some work they would like to do before we hear it and so I have obliged them. I am going to stay in order and first call Assembly Bill 241 as it is the longest and will take the most amount of time. I invite Mr. Hambrick up to present the bill. I will now open the hearing on Assembly Bill 241.

**Assembly Bill 241: Provides certain protections for sexually exploited children.
(BDR 5-678)**

Assemblyman John Hambrick, Clark County Assembly District No. 2:

Thank you, Mr. Chairman and members of the Committee. In the past few weeks, most of us religiously had time to reflect on certain values and among those is mercy. Assembly Bill 241 addresses the mercy aspect of our beliefs. It goes to assisting the victims of human trafficking, particularly children of human trafficking. It will give them, should this Committee act in a favorable manner, a safe harbor in our state to seek refuge, care, and comfort from the system that has, in the past, abandoned them all too often.

The original aspect of the bill has been reviewed. There will be some amendments offered. In our zeal to come forward, we had tight language that was inappropriate with some of the federal statutes so we will be amending those. The Chairman has proposed amendments and, hopefully, they are in the Nevada Electronic Legislative Information System (NELIS) and we will address those. I am privileged to have with me from Washington, D.C., the Polaris Project. The Polaris Project has been amazing in their support, not only of my legislation, but of legislation of other members of this body. There are roughly 100,000 youth in our country that have been trafficked. In Las Vegas, more than 100 were arrested last year in prostitution-related arrests. We have to address these issues. The pimps and traffickers are running rampant; it is at an epidemic level in many parts of our state, both north and south.

The Safe Harbor Act creates a funding mechanism for services for sexually exploited children by mandating that an assessment of \$500 be levied against persons found to be in violation of prostitution or solicitation of an adult, and \$2,500 assessment for those who attempt to solicit for prostitution of a minor. Those funds would be split equally between the prosecutors and the courts. I have spoken and corresponded with our State Controller and she is in agreement that 50 percent of this money would go into a special account to be utilized by the court system to address the needs of the courts to have specialty courts in care of the victims. The other 50 percent would go to the district attorney in the counties of which they were prosecuted to help the victims. Mr. Chairman, with your concurrence, I will step back for a few moments to allow Mary Ellison with the Polaris Project in Washington, D.C., to take over from here.

Chairman Frierson:

Thank you, Mr. Hambrick. You mentioned amendments being proposed by the Chairman.

Assemblyman John Hambrick:

I thought you might have seen the proposed amendments that may have been provided to you in written form.

Chairman Frierson:

I have received some proposed amendments, but I thought you meant the Chairman was proposing some amendments.

Assemblyman John Hambrick:

No, that is a misinterpretation.

Chairman Frierson:

Okay, thank you. We will now go to Washington, D.C., and proceed with the remainder of your introduction.

Mary C. Ellison, Director of Policy, Polaris Project, Washington, D.C.:

I also have with me James Dold, Senior Policy Counsel at Polaris Project. Thank you so much for having us testify, and for the ability to testify live via this feed to you from Washington, D.C.

Polaris Project is a national human trafficking outreach organization and we have offices both here in Washington, D.C., and in Newark, New Jersey. We provide comprehensive case management to trafficking victims. We operate the National Human Trafficking Resource Center hotline. We also work on state and federal laws on human trafficking across the country. In fact, Polaris Project has passed more than 90 laws in 49 states, or 35 percent of all state laws on human trafficking enacted in the last 9 years. Thank so much for the honor of testifying before you today, and thank you to Assemblyman Hambrick for introducing this very important bill that addresses the crime of sex trafficking and specifically the exploitation of children, which is a grave violation of human rights ([Exhibit C](#)).

Polaris Project is in support of A.B. 241. It follows on 12 different states who have enacted Safe Harbor legislation which protects sex trafficked children and ensures that, rather than being treated as criminals, they are treated as crime victims. Specifically, this bill requires the Division of Child and Family Services (DCFS), in conjunction with juvenile services, to develop a statewide protocol for coordinating the delivery of services to sexually exploited children. It also authorizes DCFS to create

specialized service programs including the establishment of safe houses for sexually exploited children. It also requires a mandatory diversion program so that sexually exploited children may be diverted away from juvenile delinquency proceedings on the first offense and treated as children in need of supervision instead. It also creates the presumption that any child engaged in the act of prostitution or solicitation is a sex trafficking victim. It creates a funding stream for services for sexually exploited children. The amendments that Assemblyman Hambrick mentioned are also amendments we support.

The first amendment would amend the eligibility requirements for a child to be found in need of supervision and require that the child also be granted diversion.

Chairman Frierson:

Ms. Ellison, would you please describe which of the amendments you are looking at.

Mary Ellison:

Yes, sir. The first amendment refers to section 7, on page 4, line 41, which would make the change to say "Is a sexually exploited child in need of care or services that has been diverted away from delinquency proceedings pursuant to section 15 of this Act" ([Exhibit D](#)).

The second amendment would be to add a new section 17 and the specific language we would be adding would be, "If reasonable grounds exist to believe the child is a sexually exploited child, as defined in Section 1 of this Act, and the child is accused of or charged with another status offense or offense that would be a misdemeanor if committed by an adult in connection with the child's status as a sexually exploited child, then the court may substitute the petition alleging delinquency for the status offense with a petition alleging the child is in need of supervision and may order the child to participate in specialized programs or services for sexually exploited children." This is a very important amendment, and you should know that follows some really protective legislation that was recently passed in Kentucky.

The third amendment that we would like to speak to is really a very simple amendment that is making the law effective as of October.

Finally, the fourth amendment would allow a judge to waive a mandatory fine and you will see that is an amendment to section 13, page 13, line 17, and adds just one sentence at the end of that section to say, "In the case of an indigent defendant, the court may reduce or waive the mandatory assessment required under this section."

All total, this bill is a very important step forward for Nevada. We are aware that both Las Vegas and Reno have had cases of child sex trafficking and that too often men go to Las Vegas seeking out sex with underage girls, and unscrupulous pimps seek to fill this demand by exploiting Nevada's children. This bill would create an important safety net to protect these exploited children and we would urge your support for this bill. Thank you, and I would be happy to take any questions.

Assemblywoman Spiegel:

On page 16, section 15, subsection 6, it says that it is an affirmative defense to a violation if the person was compelled to engage in prostitution or solicitation of prostitution because he or she is the victim also. What happens with what I euphemistically call frontline supervisors who are people that, whether or not they had been victims of sex trafficking themselves, subsequently are in a position where they are sex trafficking others in an organization that is spearheaded by the pimp. I am wondering, how would it play into here with these frontline supervisors who are both victims and perpetrators?

Mary Ellison:

Thank you very much for that question. This section is really designed for the person who is a sex trafficking victim to raise an affirmative defense to a prostitution charge. You will notice in the language that it refers to the federal tracking statute as well as the Nevada statute. The person would have to show they are a sex trafficking victim. Essentially, when raising that affirmative defense, it is not designed for the person who is also a perpetrator of trafficking. This applies only to prostitution offenses; they only have an affirmative defense to that prostitution solicitation offense, not to any greater crime.

Assemblywoman Spiegel:

Thank you for clarifying that.

Assemblywoman Cohen:

What percentage of administrative assessments do we actually collect in Nevada?

Assemblyman Hambrick:

Are you talking about strictly trafficking or overall assessments, because there are many other assessments that go to the courts?

Assemblywoman Cohen:

Yes, in general. I am looking for a broad overview because I am not sure if we are actually collecting enough to do this.

Assemblyman Hambrick:

Last year there were approximately 3,700 arrests for solicitation of prostitution. We could magnify that out by multiplying the numbers but as of today, to my knowledge, there are no assessments that would address this issue. This would be the first of its kind in our state.

Assemblywoman Cohen:

Do you know, in general, with all crimes, how much we are collecting by way of assessments?

Assemblyman Hambrick:

I do not have that knowledge.

Chairman Frierson:

I think the concern is, if we are not collecting assessments across the board, it may not be clear how much we are going to be able to generate from these if a portion of these subjects are not able to pay the assessment. My concern with the amendment is, if we take into account indigency, it would certainly change the financial analysis of the impact of the bill.

Assemblyman Hambrick:

Now this is strictly a personal opinion. I believe those who raised the question of indigency might mean should a prostitute fall under this area of the bill, but anyone who solicits prostitution could be a human trafficking victim or the buyer, euphemistically called the "johns." The buyer most likely would not be able to claim indigency because they have been negotiating for a price in this area so funds should be available.

Chairman Frierson:

Thank you, Mr. Hambrick. As a point of clarification, indigency is not necessarily determined, or based, on how much money they have in their pockets, but it is based generally on the poverty standard and their income versus expenses. There is a form they fill out and submit to the court for the court to determine indigency.

Assemblyman Hambrick:

Obviously, you would be the expert on that side. Thank you, Mr. Chairman.

Chairman Frierson:

I have a few questions. I think you had mentioned making some changes and I do not recall if any of the discussed amendments addressed this. One of my concerns is, at least in the original bill, deeming a child to be in need of supervision essentially means keeping custody of that child. Would they then

be housed in juvenile detention until a program could be put in place? What jumped out at me was housing. If we are going to collectively consider these subjects victims, which I think is a good thing, keeping them as being in need of supervision means we have to put them somewhere other than send them home. How are you envisioning that portion working as far as where these children would be housed?

Assemblyman Hambrick:

I would like to defer back to counsel at the Polaris Project.

Mary Ellison:

Thank you, Assemblyman Hambrick and Mr. Chairman. The idea here is that Child Protective Services would offer these children the same types of placement that are available to abused and neglected children. In addition, it does specify in the bill that safe houses may be created and it is a model that is a very good one for children who have been sexually exploited, to give them the ability to both be housed and to be given the services.

The other thing that I want to come back to is this whole issue of funding. One of the things to keep in mind is that the bill does suggest that funds should be spent on services for these children, but it does not require it because it does say subject to the availability of funds. This is an issue that we have been seeing in other states that have taken this safe harbor approach. What they are doing is they are trying to raise the funds through the state, and also looking to federal grant programs that are available under the Trafficking Victims Protection Act of 2000 at the federal level. In some cases, states are also looking to private foundations to help set up the funding to provide the services that are necessary to assist these children. And so there are some models that are being developed out there. This bill really only requires that a protocol and a plan be developed to provide those services, but it is not required.

You also had a question in terms of the sexually exploited children and Children in Need of Supervision (CHINS) versus juvenile delinquent. Basically, the amendment to section 7, page 4, line 41, really states that "a sexually exploited child in need of care or services" who has been diverted away from those proceedings, so essentially the idea here is that we want to not treat these children in the juvenile delinquency program, but rather move them to the Child Protective Services. We do not think that it is a good idea to have them living in both worlds at the same time, so there is a mechanism to ensure that they move over to the child protective system.

Chairman Frierson:

Thank you, Ms. Ellison. Are we putting the cart before the horse by making the change before we actually have safe houses in place? Until we do have safe houses in place, it seems to me that our options are to house kids in juvenile detention which I think sometimes happens, or house them in foster homes with other foster children who have not been involved in or victimized in that way. I am a little concerned about what we do until we have safe houses, or until we have that program in place, and whether or not we should create the programs and have the safe houses ready so that we do not have these children either mixing with children who are considered juvenile delinquents, or children in foster homes who have not been exposed to the system at all in that way.

Mary Ellison:

Thank you for the question, Mr. Chairman. I think that is a very good point that you make. Other states have struggled with this as well. It certainly is not an unusual concern to have, but what I would say is that the interim solution for this is that this bill would allow these children to go to a diversion program. That diversion program would help to offer the services that are needed for them; it would be a good first step in moving toward being able to protect these children through more of a protection lens as opposed to a prosecution lens, or detaining them in a juvenile detention facility. What we are seeing around the country is that most states are moving toward this model where you have the diversion program set up, that longer term these children can be housed through Child Protective Services and the different alternatives that are available there. We think this bill is definitely moving in the right direction there. That option would really be the one to be most protective of the children.

Chairman Frierson:

Thank you, Ms. Ellison. I wanted to refer you to the amendment document on page 2, at the bottom where it proposes to add a subsection (4). And actually, the language is clearer than I recall. It does make the diversion program discretionary which, I think, gives the court some ability to determine the child's fate based on the child's involvement in the system. I thought it said, "shall"; it does say "may."

My last question is on section 15 of the original bill. It addresses *Nevada Revised Statutes* (NRS) Chapter 201 of the adult criminal statute dealing with, out of deference to my introducer of this bill, "rallies." It seems that NRS Chapter 201 deals with the customer of a prostitute, yet there is a proposal to add a section dealing with the child that seems oddly placed in the adult criminal statute. I am wondering if that would be more appropriately placed in NRS Chapter 62 as opposed to NRS Chapter 201 that deals with adult

criminal provisions. If the district attorney is planning on making any presentation, maybe I can ask that of the district attorney at that time.

Assemblyman Wheeler:

Mr. Hambrick, thank you for bringing this bill forward. Recently we heard Assembly Bill 311, I believe it was, and it has a good possibility, in my opinion, of going forward and that had a program that was specifically for the victims of sex trafficking. I am wondering if you would be willing to work with the sponsors of A.B. 311 to see if some of that funding would go over there where there is oversight by the Interim Finance Committee.

Assemblyman Hambrick:

The very simple answer is, "you betcha," keeping in mind the provisions of the bill before you would allow the district attorneys latitude to seek out these programs, and to cosponsor, or to merge their efforts together, and the other half assist the courts in their efforts. I think within the legislation before you there is an answer but to make a bill better, the more eyeballs and the more fingerprints on these issues, the better. I am very open to having people look at these things and make them better bills. The bottom line is we have to address this problem. If your suggestion will do that, let us do it.

Assemblyman Wheeler:

The reason I say that is that A.B. 311 gave oversight to the Interim Finance Committee, and that leaves the oversight in this body instead of moving it to two separate bodies. You may like that, and if you want to get with Assemblyman Sprinkle, he would be able to work that out with you.

Assemblyman Hambrick:

I will be more than happy to sit down with the Assemblyman. As we wrote this piece of legislation in consultation with the Polaris Project, we understood that both the district attorney and the juvenile court would have a keen interest. And then the juvenile court itself and the judges around the state would have a keen interest. We have tried to give both these bodies an opportunity to look at these things and to judge for themselves how to address these from a judicial aspect and then from a juvenile justice aspect. But I absolutely will sit down and see if they can be combined.

Chairman Frierson:

Mr. Hambrick, we have had the pleasure of meeting Mr. Dold before. I did not want to miss any opportunity for him to make any comments and introduction if he wanted. Welcome back, Mr. Dold. Did you have anything you wanted to add?

James Dold, Senior Policy Counsel, Polaris Project, Washington, D.C.:

It is just a pleasure to be before the Committee again, Mr. Chairman and Assemblyman Hambrick. We are very supportive of this piece of legislation and as Mary Ellison, our director, said, this is beginning to be the way that many states are starting to address this population because they sit within a very unique sphere. In one sense they are criminal because they have violated the prostitution statutes, but in the basic sense of the word, they are victims because they are likely to be turned out, or they are engaged in survivalist actions.

The way that we have tried to create this system is to imagine when kids are arrested right now in Las Vegas, they are coming in; they are going to baby booking; they are being processed; and then they are going before Judge Voy, or juvenile court. They are sitting there and they are either going to go to delinquency, or they are going to enter into some type of agreement. We have tried to make that a formalized process so that when you have kids who are first-time offenders who are cooperating with law enforcement and with the service system, then the diversion program would take effect. Then they would be diverted into the child supervision section which is what some of the amendments of the bill actually address.

That is the hope that it is going in that direction and is more a voluntary program for those kids based on the diversion agreement that they are entering into. That amendment should not affect any federal funding issues. We took into account what Nevada Attorneys for Criminal Justice had to say about the hearing on Assembly Bill 152. We talked to a lot of different folks and some of the amendments we have also proposed were meant to assuage some of the concerns from the public defender's office. The way this bill is drafted now with the proposed amendments is really going to create a great infrastructure for this state to effectively respond to these children. I also want to say that we worked very closely with Judge Voy and Susan Roske in the development of the language. I think there is a lot of support behind this and again, I echo everything that Mary stated. It is a pleasure to be before the Committee again. Thank you.

Chairman Frierson:

Thank you, Mr. Dold. I had the opportunity to speak with Judge Voy as well, and he made his interest in this measure very clear.

You had mentioned federal dollars and I know that Mr. Hambrick mentioned making some changes so as not to jeopardize our standing with any federal programs. My question is in section 8 where it says the child may be detained for an additional period as necessary. In your opinion, does that provision

allowing for the detention of a child who is not delinquent to be held for more than 24 hours violate any federal regulations or any directives that might otherwise give us access to some federal support?

James Dold:

It is tough for me to answer that. I do not want to give an official opinion on the issue. We added that provision when we were looking at the original bill draft of A.B. 152. I think I would have to go back and take a closer look before I can give an official position on whether or not that could be violated. Looking at the diversion language that we put in the bill, that should not have any conflict with law because again, the kids have already been arrested and are being treated as delinquents who come into the system. They are being granted diversion and are voluntarily, under the diversion language, entering into this program that allows them to be treated as a kid. So with that particular language, I do not think there should be a conflict with this language. We were trying to mirror what was in A.B. 152 to make sure that, as much as possible, the bills mirrored each other.

My sense is that as long as the systems are in place that grant the right amount of due process so kids are coming before the judge and are getting a hearing, and that it is being decided early on what their process is going to be, either they are going to be treated as a delinquent or they are going to be treated as a child in legal services.

Mary Ellison:

The Trafficking Victims Protection Reauthorization Act (TVPRA) that was just recently reauthorized and signed into law does include a program that specifically is a federal grant program that is going to be made available to four states starting in fiscal year 2014 that have taken this approach to protecting sex-trafficked children. We can more closely review the language of that particular section of the TVPRA. It does have some language around having a nondetention policy, but I believe that it is more concerned with nondetention policies that are mandatory versus permissive. What you have here is more of a permissive detention. We will certainly double check that and Mr. Dold can get back to you on that.

Chairman Frierson:

Thank you. Are there any other questions? [There were none.] At this time, I will invite those here in Carson City to offer testimony in support of A.B. 241 to come forward.

Marlene Lockard, representing Nevada Women's Lobby:

The Nevada Women's Lobby feels it is very important to find and develop a safe haven for these children and we strongly support this measure. Thank you.

John T. Jones, Jr., representing Nevada District Attorneys Association:

Thank you, Mr. Chairman. We are here in support of A.B. 241 and we want to thank Assemblyman Hambrick for bringing this bill forward. I just wanted to answer a few questions that have been brought up during the presentation of this bill. The first is the use of juvenile detention. Right now, specifically in Clark County, we do utilize juvenile detention for the victims of sex trafficking that are brought in. We use detention until we can find some other alternative place for them to go, to keep them from falling back into the cycle of exploitation. We, in Clark County, also try to use a global positioning system (GPS) to help monitor the victims and make sure they stay where they are supposed to stay. We are trying to move toward this system where we have a safe house in place and until that safe house is in place, we do anticipate using juvenile detention to help protect these girls from being further exploited.

Mr. Chairman, with respect to your question on section 15, NRS 201.354, which is the solicitation statute, the victims are brought in under the adult statute. The proceedings are pursuant to NRS Chapter 62; however, they are still charged with violating NRS 201.354. If that is where this Committee and others decide to put that affirmative defense, it would be appropriate just like with the possession of sex abuse images, or the sexting statute that was passed last summer which was placed in NRS 200.737 because that is the violation they are actually charged with.

Chairman Frierson:

Thank you for that clarification, Mr. Jones. My concern is that under this they are not charged with anything; they are just a victim. While in that one, they are actually being adjudicated under a statute, they are being charged under this one because they are being characterized as a victim. It struck me as odd. If that is where it goes, then that is where it goes.

John Jones:

Mr. Chairman, the way I read this statute is the child would initially be charged under the solicitation crime. At that point, we would go before a judge, and I am assuming this provides for the ability for the district attorney and the public defender, or the defense attorney, to stipulate the treatment as a CHINS case, or we would have a discussion or argument in front of the judge and the judge could then say, "I am going to divert this under the CHINS statute, or I am going to leave it where it is at under the delinquency statute." I think that is the reason it is placed there because the way I read this bill, they would be first

charged with a delinquent act, that being a violation of NRS 201.354, and then we would divert them to the CHINS statute.

I do not work for the federal government, but I think the proposed amendment to A.B. 241 that expressly states that these kids are being diverted away from delinquency provisions would help us with the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in terms of federal funding. I do see this as a workaround for that provision.

Chairman Frierson:

Thank you for that clarification.

Assemblywoman Cohen:

Do you have an answer to my question about what percentage of administrative assessments we generally collect in the state?

John Jones:

Unfortunately, I do not. I do know that John McCormick of the Administrative Office of the Courts would have an estimate in terms of collection of those fees.

George Flint, representing Select Legal Brothels of Nevada:

The Nevada Brothels Association has no appetite and it is totally repugnant for the activity that this bill represents insofar as child trafficking and child prostitution. We do not touch it; we do not believe in it; we run as far as we can from it. The main reason that I come before you this morning is that I have a great respect for Mr. Hambrick. We have become friendly through the years and I have watched him come before this Committee with this and similar legislation. He knows that it is badly needed because we cannot regulate, license, and, as Ms. Fiore said, tax this activity. So as a result, this is probably the second best thing that we have.

On page 15, section 15, subsection 1, thankfully there is the language, "It is unlawful for any person to engage in prostitution or solicitation therefor, except in a licensed house of prostitution." I am just sorry there are not more of them south of the Nye County line.

Mr. Chairman, I doubt very much if there are any assessments at all being collected in this activity as it relates to prostitution. After a young lady sits in a Clark County jail for four days and her pimp gets tired of waiting for her, they both head out of town very quickly, and finding them to assess them at all is just about impossible.

The juvenile detention idea is probably a good idea except for the fact that there are a lot of negatives to it that nobody knows about unless you are as close to the activity as I am. We can put together all these programs to help these kids; we can put together fiscal assessments; and we can do just so much. But Mr. Hambrick and George Flint will likely come back to you every two years to enhance this legislation and make it better and more comprehensive because you and I both know that we are not ready to do anything else but that.

I have been a legislative advocate for 51 years. My first session was in 1963 and I have seen more sex, prostitution, and trafficking bills introduced this session than I have in any of the 26 or 27 regular sessions and the special sessions that I have attended. That must tell us something; there is one heck of a problem. I support my good friend, John Hambrick, 100 percent. I just wish we had more ammunition to give the good Assemblyman and to you that would really cut to this issue. Thank you for allowing me to come before you. We support the bill and the concept. As in every piece of legislation that comes before you, this is far from perfect which is why we have this meeting every two years.

Chairman Frierson:

Thank you, Mr. Flint. Are there any questions? [There were none.]

Allan Smith, representing the Religious Alliance in Nevada:

We support this legislation. The Religious Alliance in Nevada (RAIN) is about the underdog in a sense. We are about the victims and making sure these people are cared for. This legislation which is proposing to create a safe haven for the victims of sex trafficking is very important. And thus, we are very much in favor of it. As was mentioned prior, there has been a lot of legislation before you and we certainly hope that you do not tire of hearing this subject to the point that you do not act. I do not think we are in danger of that; however, creating the safe haven, creating the environment that we can bring about healing and, hopefully, wholeness to these young people is very important. Thank you, Mr. Hambrick, for bringing this forward.

Chairman Frierson:

Do I have any questions from the Committee? I see none.

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

We want to reiterate for the record that our concern is ensuring that these victims have access to the health care that they need. We are particularly supportive of section 4 that talks about developing a protocol for the coordination of delivery of programs and services. We have indicated to

Assemblyman Hambrick, as well as the Attorney General's Office, that we are willing to participate in that. I am communicating with my national office because this is a national issue and I believe we should be developing additional protocols to deal with this issue across the country. That is something we are starting to work on. So we are very supportive of this bill and, if it is amended or combined with others, we hope that this focus on coordination of services actually includes their health care services, and continues throughout whichever bills are moving forward ([Exhibit E](#)).

Chairman Frierson:

Are there any questions? [There were none.]

Kim Yaeger, Director of Member Relations, Nevada Trucking Association:

We are in support of A.B. 241. We have partnered with Truckers Against Trafficking to help truck drivers and truck stop employees identify the behavior of underage children being forced to engage in prostitution and encourage them to report activity immediately to authorities by dialing 9-1-1. We believe that the truck drivers are the eyes and ears of the road. We have provided our members with a 28-minute video to share with their employees at orientation, training, and safety meetings. We also provide wallet cards that help them recognize the signs of human trafficking as well as window stickers that they can display in their trucks and in each of their offices.

The Nevada Trucking Association knows that the trucking industry can make a difference and, therefore, we are in support of A.B. 241 and we appreciate your support as well.

Chairman Frierson:

Thank you very much. Are there any questions? I see none.

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

Good morning, Committee. We are here in support of A.B. 241. This is just one more piece in our holistic approach to this problem and I think a very important piece. To the Chairman's question about the infrastructure and whether it is built, I think the Chairman is correct. We are in the process of building it, but to let the Committee know what is in the works in the north and the south is that they are both trying to get a safe house in place. In the north, an organization called Awaken, Inc., which this Committee heard from during the testimony on Assembly Bill 67, is looking at developing a safe house and again, that public/private partnership that Assemblyman Wheeler referenced is an important one and it fits nicely with this piece. In the south, it is Sojourn

that is also looking to build that safe house and get that up and running. Thank you, Committee, for your attention to this matter.

Chairman Frierson:

Do I have any questions of the Committee? [There were none.]

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

I originally signed in to testify in neutral and that was prior to seeing the amendment that was proposed this morning. We believe this amendment addresses the concern that has been expressed this morning with regard to section 8 and the reference to holding status offenders in detention longer than is necessary to determine the appropriate placement. We believe this amendment will allow for the substitution for the delinquency petition in cases where somebody cannot be safely placed within that 24-hour requirement based upon the Office of Juvenile Justice and Delinquency Prevention, the institutionalization of status offenders requirement. Thank you.

Chairman Frierson:

My question for you is, without the structure in place, would you agree that we are looking at housing these subjects in juvenile detention facilities or in foster homes until there are facilities in place to be able to house them separately? And just so you know where I am coming from, philosophically I am struggling with treating a victim like a criminal and essentially jailing a victim. I certainly understand trying to prevent them from returning to a pimp, or returning to that life, but the notion of us incarcerating a victim until we can find housing instead of finding housing before we even have that as an option is a little bit troubling.

Steve McBride:

Mr. Chairman, I understand and agree with the concern. I think it is a bit of a double-edged sword with regard to maintaining the balance between treating a victim as a victim and finding the appropriate services that may or may not be immediately available. The alternative, as far as the present law which charges solicitation as a delinquent offense, allows for that extra time to make sure that safe placement is located and secured. If charged as a status offense, that window closes to 24-hours post court.

Chairman Frierson:

Would an additional option be to allow for the development of resources but on a voluntarily basis? So it is not just to charge them as a delinquent, or find them to be a child in need, but we could not charge them as a delinquent but still make services available to them, some of whom will not take advantage of

it, but some of whom might. Would that not be an option even under existing law?

Steve McBride:

I believe we would have to get an opinion on that to find out whether or not a voluntary stay in detention under a status offense in order to secure placement would be an option. I am not sure I have the answer to that question.

Chairman Frierson:

As far as the development of a program, the statute directs the Division of Child and Family Services to develop a program to address this need. I would assume you are already developing one based on the attention, in particular this session, that this issue has received. So my question is do you need statutory authority to develop a program to address these victims of sex trafficking?

Steve McBride:

I am not sure we need statutory authority to develop the services just like we develop the services for any particular need throughout the Division. But I do not know that we have the proper services in place as of today that would be able to address this population as intended by this bill.

Chairman Frierson:

Are there any other questions of the Committee? [There were none.]

John B. Simms, Chief Juvenile Probation Officer, Department of Juvenile Services, Carson City/Storey County:

I support Assemblyman Hambrick's bill and I think it is a big step taking it out of the realm of delinquency and putting it in the realm of child and youth supervision. As a past administrator of a detention facility for ten years, I think detention facilities in Nevada are very sensitive when we get kids that have come in to that environment for a variety of reasons, not just exploitation. What I would like to do is represent just briefly the rural communities that are not going to have the resources to put safe houses together. It is going to take some time to find an appropriate facility. I know in Carson City we have had a couple of kids and it is not something that we can do overnight, or even in a couple of days. Unfortunately, those kids do have to remain in detention but under sensitive care. But I still believe that being in detention is a lot safer than where they came from. Thank you.

Chairman Frierson:

Are there any questions from the Committee? [There were none.]

Lisa Moseley, representing Clark County Black Caucus:

Good morning, Mr. Chairman. I also am a member of the Clark County Citizens Advisory Committee on juvenile justice as well as Purple W.I.N.G.S Organization, the organization that rescues young girls from sex trafficking. I am here in support of Mr. Hambrick's bill and to express my gratitude to Mr. Hambrick and also the Committee for hearing this bill. I urge you to support this bill in passing, and although I know it is not perfect, and I clearly hear the concern regarding housing, but as the gentleman who spoke prior to me, I do believe it is much safer for these young girls to be in a detention setting rather than being on the street. I am in support of this bill.

Chairman Frierson:

Thank you very much. I will say, in an ideal world, it would be an easy decision, but without adequate resources, I am still troubled at the notion that a child victim of sex trafficking would be exposed to say, a female child victim that is not in any delinquent situation whatsoever and the recruitment that occurs, and possibly that foster child even being introduced subsequently to that victim's pimp. I think this is a troubling mix. It is not the only area in Nevada where we are not providing the resources necessary to take care of this kind of problem.

If, for whatever reason, a loved one of mine ended up in foster care, the notion that they would be in a home with a child that was exposed to sex trafficking, especially over a great period of time, I think is a big concern. I remain concerned about putting the cart before the horse as far as us not having the housing to be able to separate them prior to enacting anything that would cause them to be incarcerated.

Lisa Moseley:

Mr. Chairman, I share your concern as well and in an ideal world, we would have those resources but I submit to you that the resources on this are much less than it is trying to rehabilitate a young girl as an adult, or an older girl whose self-esteem has been demolished. Trying to rehabilitate them back to a state of normalcy, I think the cost is less on this end than it would be and I think maybe we should take that into consideration as well.

Chairman Frierson:

Thank you very much. Are there any questions from the Committee?

Assemblywoman Fiore:

I do not know if it is a question or more of a concern when I think about having these victims incarcerated because our wardens and our corrections officers do not distinguish the difference between the victim and an inmate. I really think

we have to clarify some things before we keep proposing putting new laws on the book.

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

I am here representing the Washoe County Sheriff's Office and the Nevada Sheriffs' and Chiefs' Association and we express our support of A.B. 241.

Chairman Frierson:

Thank you. Is there anyone else here in Carson City wishing to provide testimony in support? Moving down to Las Vegas then, I will invite those up wishing to testify in support.

Arthur Gafke, representing Nevadans for the Common Good:

I commend the Committee for its attention to all these bills related to sex and labor trafficking this year. The time has come for your good action. There are many people watching. We particularly commend Mr. Hambrick and the other sponsors of A.B. 241 that we support. I remember the Committee's hearing on Assembly Bill 67 which is the keystone for all these legislative proposals. The question came again and again from Committee members about what are the services; what is the safe harbor for these victims. This bill provides the infrastructure for that and it is a very helpful supplement to A.B. 67.

Charles Redmond, representing Nevadans for the Common Good:

I want to speak in support of A.B. 241 and the work that Mr. Hambrick is doing because in the past three weeks here and in the Las Vegas area, the arrests continue. The disturbing story for me was a 14-year-old who was being pursued. The gentleman pursuing her was arrested but it made me stop and think about three or four years ago when a 15-year-old was picked up, arrested, but let go because there was no safe place for her to go. She was found dead a few days later. And this 14-year-old being arrested made me think we must do something to provide safe harbor because we do not need to continue to put these young girls in jail and we do not want to put them on the street to be pursued again. I come to speak in support of A.B. 241 and I thank the Assembly for hearing me.

Arthur Gafke:

Mr. Chairman, I appreciate your concern about passing this bill before there are safe houses. And as I am aware of the fundraising going on in Clark County, the funding sources are going to be much more positive if the infrastructure is in place. I think the passage of this protocol bill will enhance the possibility of raising the sufficient funds to fund safe houses both north and south. Thank you.

Karen Hughes, Lieutenant, Las Vegas Metropolitan Police Department:

I want to suggest that this is the right thing to do. It has been the right thing to do for many, many years. I applaud Assemblyman Hambrick and all those who are behind this, specifically the Polaris Project who has helped us craft some very special language that treats these young kids as victims, as they should be treated.

Just from a law enforcement perspective, I run the vice unit down here in Clark County and we are in the business of making arrests. We enforce the statutes and the ordinances; it is disturbing not to just me but my entire unit when we are arresting these young girls; predominantly girls, but in the last two years specifically, 238 of them. There needs to be an avenue and I believe that this is quite the first step in very good language to treat them as a child in need of supervision versus being a delinquent in violation of the state law for soliciting. These types of kids are a very special population and I am sensitive to your comments, Mr. Chairman, regarding the recruitment from within those facilities. But we are dealing with that right now and we have been talking about safe houses for as long as I have been involved in this fight. There is no surprise that we have this many bills coming before the legislative session this year.

This is an epidemic in Clark County and there is plenty of discretionary money coming in to Las Vegas as should be, and also in to Reno. We want to make sure that our tourists are not given opportunities to solicit these young kids and that we have measures in place to protect them and to discourage the trafficking of these kids in our communities. We have many partnerships and you have heard of a few of them today with local community members, churches, and advocacy groups, who have come together in order to support the way we are treating these kids as victims and not as suspects.

I would like to comment on some early commentary with regard to the amount of soliciting charges and if the assessment fees would be able to support the types of programs that are being proposed. I will tell you that the Las Vegas Metropolitan Police Department (Metro) does a lot of things; we keep stats and within my unit, for example, over the last few years on an average quarterly basis, we are making anywhere between 600 and 900 soliciting arrests on adults. That does not include the juveniles who are caught up in this trade, so with the safe harbor statute that is being proposed, there are going to be plenty of assessments even though we may not have a history of that currently. The arrests are there; they are not going to go away and I think it will send a strong message to those people who visit Nevada that our kids are not for sale. I want to reemphasize that this is long overdue and I support it as does the local law enforcement here in southern Nevada.

Chairman Frierson:

Thank you, Ms. Hughes, and so we are clear, I do not think that anybody doubts the number of arrests and the seriousness of the situation, but there are at least a couple of Committee members who have spent years in court and recognize that not very many of those folks that are arrested ultimately end up paying those fees. And while restitution is not allowed to be converted, oftentimes fees and fines are converted to community service. I think there is a concern about whether or not we can consistently rely on that, but I do not think anybody disagrees with the concept, especially for those who can pay. I appreciate the amendment that addresses indigency and I think it is a straightforward way of dealing with a practical reality. Do I have any questions from the Committee? I see none.

Susan Roske, Chief Deputy Public Defender, Juvenile Division, Clark County Public Defender's Office:

Mr. Chairman, I have represented children in this community for over 25 years. I have represented hundreds of children who have been arrested for solicitation of prostitution and I would like to emphasize the preamble to this bill that says the Legislature finds that arresting, prosecuting, and incarcerating victimized children serves to retraumatize them and to increase their feelings of low self-esteem which only makes the recovery process more difficult.

Presently in our system, we incarcerate children who have been arrested for solicitation or loitering for purposes of prostitution. There have been some questions about why we would want to incarcerate them. And this bill would hopefully be a baby step toward no longer incarcerating these children. There is nothing in this bill that allows for placement of these children in foster care. This bill specifically deals with NRS Chapter 62 and it would be a starting point to divert these children to CHINS which would limit the court's ability to prosecute them. I do have objections to section 8 which allows indefinite incarceration until a placement can be found and would urge this Committee to consider eliminating that.

Chairman Frierson:

Ms. Roske, just so I am consistent, in all fairness, that would mean your testimony should be in opposition recognizing that you support the concept. Please continue but understand that for those that are to follow, if you support it with any change that has not been expressly adopted by the sponsor, that would be considered opposition as difficult as it might be to oppose something that, in theory, you support. But it helps us keep straight some of the testimony.

Susan Roske:

And I do see that passing this bill as written now would be a baby step toward the future complete safe harbor bill which I believe was alluded to by the Polaris Project. And also, in opposition to this bill, if this bill supports a \$500 assessment fee for the sellers of sex, I would like to point out that the average age of entry into prostitution is 13. I have represented children as young as 10 for solicitation of prostitution. Many of these children grow up in this lifestyle and young adults 18 through 25 years of age who are engaged in prostitution are really victims of a lifestyle that had started well into their infancy. So I would oppose any fine that was imposed against the seller. Thank you.

Chairman Frierson:

Are there any questions for Ms. Roske? I see none.

Teresa Harder, Private Citizen, Las Vegas, Nevada:

Good afternoon. I am a resident here in Las Vegas and I am in support of A.B. 241. I am a survivor of human sex trafficking. This life started at a very young age and I was just considering if these bills had been in place, would my life have changed?

When I was about 13 years old, I would go to this corner to visit my so-called uncle who I found out later was a pimp. My mother was also in this lifestyle of prostitution. I would visit this corner and one day, suddenly I was surrounded by several police cars; I was very startled and frightened. I was handcuffed and taken to a jail facility; hours had gone by and I was by myself in a cell crying. It was very cold and I was very distraught and frightened. As the officers would come back, they said that "let this be a lesson to you; this is how we treat young girls who want to be prostitutes for pimps." I told them I was not a prostitute. Hours had gone by and my mother came. I was placed in a room and I was told by the officers that they wanted to frighten me; to scare me from this corner that was known for prostitution. My mom was a prostitute, and little did I know, I was already being formed to become one too. So I am in support of this bill. I presented my experience to you and hope that the decision will be made based upon the benefits for the children who are being groomed for this type of lifestyle. I am just here as a voice begging that action be taken now. Thank you, Assembly, for your time, and thank you, Polaris Project.

Chairman Frierson:

Thank you for sharing your story. This is, in this bill anyway, the first time we have heard from someone in your situation and I think it certainly gives us perspective. Do I have any questions from the Committee? I see none.

Craig Christiansen, Vice President, Nevada Association of Public Safety Officers:

We support this bill. I also have the opportunity to work with the victims of these crimes in the juvenile detention setting and while it may not be the most ideal setting to house these victims, it does offer a dual service: it gives us the opportunity to keep these victims safe and to give them the medical and psychological services they initially need, and it also keeps the traffickers at an arm's length where they do not have the ability to come back in and take these girls out of that setting. I do realize the safe houses are an integral part of this effort but currently the juvenile detention environment does serve a very beneficial service to these victims.

Chairman Frierson:

Are there any questions from the Committee? I see none. I now invite those in Carson City and Las Vegas wishing to testify in opposition to A.B. 241 to come forward.

Amy Coffee, representing Nevada Attorneys for Criminal Justice:

I have been a public defender for the last 13 years but I want to make clear that my views expressed today are not those of the Clark County Defender's Office; however, I have been doing this kind of work for approximately 20 years. I want to start out by saying that Nevada Attorneys for Criminal Justice (NACJ) supports the idea and the concept of diversion programs which is a very worthy one. If statutory authority is necessary to give the judge the ability to do that, then we would support such a bill. We do understand that technically, if you are soliciting or engaging in prostitution, it is a crime and it is a delinquent act; however, this obviously is an area, just with certain drug offenders and certain DUIs, that is appropriate for diversion programs. We certainly support those programs and understand the need for those programs and for some of these people, changing their lifestyle is going to require intensive programs. But we are opposed to A.B. 241 because this bill, as drafted, does not have much to do, necessarily, with getting the right people into the programs.

The first thing I would like to address in opposition is in the preamble to this bill and we do understand the purpose and overall goals; however, on page 3, lines 4 through 7, it goes beyond what is necessary when it says that the Legislature finds that protection of child victims of sexual exploitation shall be accomplished by presuming that any child engaged in prostitution or solicitation of prostitution is a victim of sex trafficking. As with the last bill, which I believe was A.B. 152, we had issues with casting the net so wide, and it is something that I know people do not necessarily want to testify about. But the fact of the matter is that some people voluntarily engage in acts of prostitution. Not every prostitute is, in fact, a victim of sex trafficking. While a lot, or some of them,

certainly are, many of them choose to do this. As anyone who has been doing defense work will know, there are prostitutes out there and again, I am talking about adults who might have a 30-page rap sheet because they have been offered services and counseling yet they voluntarily go back into the lifestyle. There are people who engage in this for drugs or for other reasons and it is not something that is really pleasant to discuss, but it is true. In order to craft good laws, you have to start with accurate presumptions in order to service the right people and to address the correct problem. You have to fully understand and be truthful about what exactly is the problem. This takes everything too broadly. I will go through the various sections and again, I will try to be brief; I know there has been a lot of testimony.

Section 1 includes the definition of sexually exploited child. We do not have a problem with the federal definition. I would note that if anyone looks up *United States Code* (U.S.C.), Title 18, Section 1591, that definition describes people who are victims of sex trafficking or commercial sex acts by means of force, threats of force, fraud, coercion, or any combination and again, there is a definition of coercion that involves force, threats of force, or threats of the kind as we heard from the testimony earlier. We do not have a problem with the federal definition and it is an appropriate definition; however, under section 1, it takes it a step further to now say that anyone who has engaged in prostitution or solicitation is a sexually exploited child. We think that is too broad.

I will move on to this issue of supervision versus delinquency. This is a very confusing bill because on the one hand, we say these children are not criminals at all but are victims. If they are, in fact, victims, I am not sure why they could be under supervision or delinquency if, by definition, they are a victim. I am not sure what authority the court would have over them just as any victim of any other crime who comes in to testify in juvenile court. It seems very contradictory, however, looking at the distinction between supervision and delinquent acts. Supervision clearly is reserved for things like truancy, runaway, and those types of things. The way our juvenile code is set up, a delinquent act is a criminal act. I do not see the problem with having this remain a delinquent act. The key is not so much whether it is a delinquent act or under supervision; it is that diversion could be offered. If diversion is offered and it is a delinquent act, then you do not have the issues of the housing. I am not sure how it can ever be a delinquent act if it is not, in fact, a crime. So there is an inherent contradiction in this legislation and I am not sure how it can be resolved because again, I do not know how the juvenile court can do things for the victim. There was some talk earlier about Child Protective Services and CPS handling issues of child abuse. Unless you want to completely upend the scheme here and treat this as a CPS matter, I think that would involve a whole

different type of legislation. Regarding detention, I am not sure you can hold a child who is a victim; I am not sure any person would not have a civil suit if they were, in fact, held and they were also statutorily a victim.

I think this Committee understands the problem as to the \$500 and \$2,500 assessment which probably, and realistically, will not be collected. For indigent clients who already get assessed, they either do community service or it does not get collected. There has been a lot of effort to try and come up with funding for safe houses but unfortunately, based on those of us who work with indigent clients and who are a big part of our criminal justice system, we know that these assessments often do not actually get paid. I would note one thing about this and that is there is a companion bill on the agenda that would put people in prison for solicitation of an underage prostitute. Of course, if these johns go to prison, they are obviously never going to pay the assessment.

Chairman Frierson:

Ms. Coffee, because it is on NELIS and you may not have it, there was an amendment that acknowledged the need for discretion for those who are indigent.

Amy Coffee:

Mr. Chairman, I do see the amendment ([Exhibit D](#)). I think having these kinds of assessments sort of mandatory on the books and then giving the judge discretion, I do not really know exactly how that will play out. I do know that every time these laws add one more fee, it is just one more thing the judges pile on and as you know, someone who is indigent, is indigent. There is only so much you can get out of that person. I am not sure that is a fully adequate remedy.

Section 15 is peculiarly under NRS Chapter 201.354; however, subsections 4 and 5 seem to deal with the juvenile justice criminal procedures so they do seem oddly placed. If this person is a victim, I am not sure what authority the court would have over them. This also is contradictory because on the one hand, they are never going to be determined a delinquent if they are a prostitute, yet this mentions delinquency throughout so that is very confusing.

On page 2 of the amendment, the last three lines of section 4 state, "and may order the child to participate in specialized programs . . ." seems like diversion type language that we could support. My problem with section 4 is that you have to also commit another crime other than prostitution. I do think that language generally is the type of language we would support which says it is delinquent; however, you could be diverted.

Finally I want to go back to section 15 under NRS 201.354. Looking at subsection 6, it says it is an affirmative defense if you are the victim of sex trafficking as defined by the 18 U.S.C. § 1591; however, it says, "An offense involving pandering or prostitution" If you look at section 15, subsection 6, paragraph (b), subsection 6 would apply to adults as well as children. So if any adult prostitute comes into justice court and has a misdemeanor trial and says, "hey, I had a pimp," I think they have to be acquitted. That is all they would have to say; I am not sure how much the state would be able to rebut that because that would be a full defense to any act of prostitution whether it is an adult or a child the way this section is written. It is not limited to children. I think this would probably go a long way toward eliminating a lot of the crime of prostitution if that was the intent, and I am not sure if that was the intent here. But again, this is very broad and should probably be limited to the *U.S. Code* which involves force, or even pandering, but it is unclear the way it is written.

Section 15, subsection 7, on page 16 of the bill says a child who violates subsection 1, which is prostitution, is presumed to be a victim of sex trafficking and violation of 18 U.S.C § 1591, however, that is not the case. There are many prostitutes who do not come under 18 U.S.C § 1591 which involves force and threats of force. If you engage in prostitution, there are people who do it voluntarily; in other words, that is a subset—the ones who are trafficked or force is involved is a subset of this bigger set of prostitution. I think it is fundamentally wrong and that when you have a statutory presumption, it is a very serious presumption and it underlies the whole body of law in this area and I think that is faulty. That could have a lot of serious consequences and it might perhaps have many unintended consequences by setting the net so wide.

Nevada Attorneys for Criminal Justice certainly supports helping young men or women get out of this lifestyle and we certainly wish there were more programs available, but we do not feel this legislation is the way to effectively do that. Thank you.

Chairman Frierson:

Thank you, Ms. Coffee. Are there any questions? I see none.

Lisa Rasmussen, representing Nevada Attorneys for Criminal Justice:

I want to emphasize that we are proposing a bill where we are taking people who have committed a crime that is currently under the statutes and we are then proposing to not call them criminals but to call them victims, and then proposing to be able to hold them, or monitor them, through a global positioning system. This is some Pollyanna version of how we are going to

treat certain people and, by lumping everyone in this category, we are ignoring people who may be on their eighteenth arrest and may have decided they did not want help, did not want lifestyle changes, and they are repeatedly coming back. You cannot just call all of these people victims. And if we are going to call all of them victims, we cannot subject them to a program, or to GPS monitoring—we are just asking for a lawsuit. In theory, the court has no jurisdiction for someone who is a victim. It is so problematic and I agree with Ms. Coffee—we understand the goals; we support the goals, but it cannot be affected by saying that no crime has occurred.

The way it can be affected is by giving a diversion program that is equivalent to drug court, or boot camp, where there is intensive supervision to really effect a lifestyle change and then to wipe the record clear if that has been completed on the inside of the criminal statutory scheme. Thank you.

Chairman Frierson:

Thank you, Ms. Rasmussen. Are there any questions? I see none. I do not see anyone else in Las Vegas to testify in opposition. I will come back to Carson City and invite anyone wishing to offer testimony in a neutral position. Now would be the time both here and in Las Vegas. I see no one. I would invite Mr. Hambrick back for brief closing remarks before we close the hearing.

Assemblyman Hambrick:

Now you can understand the problems that we have and the diversity of the opinions, but I offer a paraphrase of President John F. Kennedy at his inauguration when he was talking about tomorrow—many people asked why, and he dreamed, why not? Ladies and gentlemen of this Committee, why not? We have got to help these kids and I understand that term is used a lot. You now have got some hard work ahead of you and I am very grateful for your time and consideration in this matter. Thank you, Mr. Chairman.

Chairman Frierson:

Thank you, Mr. Hambrick. With that, I will close the hearing on A.B. 241 and now open the hearing on Assembly Bill 280.

Assembly Bill 280: Revises provisions governing certain sexual crimes involving minors. (BDR 15-9)

Assemblyman John Hambrick, Clark County Assembly District No. 2:

Thank you, Mr. Chairman and members of the Committee. This is the bill I have been waiting a long time to discuss. All of you know my passion for this issue, but this issue in particular has never been brought to bear before this Committee the way this bill will bring it to bear. I want to make it very clear. We are not

talking about the solicitation of prostitution in this bill. The language is there, but what we are talking about is the solicitation of rape—rape of our children. Men are coming into our communities; they are coming into Hot August Nights, into the bowling tournaments, into Elko, Winnemucca, Battle Mountain, the community events. They are coming into Las Vegas during Consumer Electronics Show (CES) and they are bringing extra money in their pockets and soliciting rape, pure and simple. There are some you may hear from in a few moments in opposition of the bill that may offer that this is not a crime of violence. I cannot understand that. I would ask any parent, any woman, that is listening to explain to me how the rape of a minor is not violent whether it is the buyer at the time or the trafficker that might be 20 miles away. You tell me, and you tell those victims, why this is not a crime of violence and why these perpetrators should not be punished to the full extent of the law. We need to change the law. Where does personal accountability come into play. We must send a message far and wide that our children cannot be rented. You cannot come into our community and solicit for rape without a consequence.

I like to use humor many times and there is a philosophy in the Mary Poppins movie that says, "a spoonful of sugar helps the medicine go down." Well, ladies and gentlemen of this Committee, there is no sugar for this medicine; this is a bitter pill. It is a bitter pill for our youngsters who will have to withstand rape. There is a member of this Committee who used to say many times on other issues that the only reason that someone has regret is because they regret they got caught. If these solicitors for rape are not caught, they will rape our youngsters. There is no question that you and I, those in this room, those in Las Vegas, those listening on the Internet, and as a society, must address this issue. We will be judged by our Creator and by the victims now that we are aware of these problems and do nothing. Their spirits are calling out to you.

In my floor session on Assembly Bill No. 380 of the 75th Session, I tried to have you picture a young girl full of life, giggling and laughing with her friends, and that spirit gone because a trafficker, a pimp, had killed that spirit. I want you to address today, and hopefully in your work sessions, going after these solicitors of rape and telling them that this community has no room for them. There is no other way I can put it. I have Mary Ellison with the Polaris Project who will go through this bill. Mr. Chairman, we must address this issue squarely. Will we allow men to come into our communities and solicit rape of young girls and boys? With every thrust of that rape, they are not only raping our children, they are raping the spirit of our community. With every thrust of that rape, they are sending a message that they do not care; they are viewing these youngsters as chattel. We have got to send a message loud and clear that our youngsters cannot be bought and sold; they cannot be solicited for

rape. At this point, I will calm down and defer to my experts with the Polaris Project in Washington, D.C.

Mary C. Ellison, Director of Policy, Polaris Project, Washington, D.C.:

Thank you, Mr. Chairman and members of this Committee. Polaris Project is here to offer our support of A.B. 280. This bill increases penalties for those who are profiting from the sale and exploitation of the children of Nevada. This bill is a great step in addressing the demand that fuels the sex trafficking across our country and across the world. In order to address the demand that fuels sex trafficking, we need to hold the perpetrators of the purchasing of children and of adults accountable for their actions ([Exhibit F](#)). That is what this bill does. In section 1, it amends the pandering statute and provides that a person who knowingly accepts, receives, levies, or appropriates any money or other valuable thing without consideration from the proceeds of any prostitute who is an adult, is guilty of a category D felony. If it is the proceeds of any prostitute who is a child, the penalty is a category B penalty. This statute is designed to go after the pimps who are profiting and receiving the proceeds of the crime and, therefore, holding them accountable.

Section 2 of the bill amends the solicitation section and increases the penalties. In particular, section 2, subsection 3 says a person who violates subsection 1 by soliciting a child for prostitution and the child is:

- 16 years of age but less than 18 raises the penalty to a category C felony.
- for children between the ages of 14 but less than 16, the penalty would be a category B felony.
- for children who are less than 14 years of age who are solicited, the penalty would be the penalty of life with the possibility of parole and a hefty fine.

We have seen other states increase penalties for both pimps and those who are purchasing—the johns, or the ralphs, as Assemblyman Hambrick likes to call them. When you look at the phenomenon of sex trafficking, there are always three parties who are involved: the seller, the buyer, and the trafficker or the pimp. And so we are trying to ensure that those who are pimping and trafficking women, girls, and boys, as well as those who are purchasing those acts, are held accountable through strong penalties and through significant fines. I am happy to take any questions.

Chairman Frierson:

Thank you. Are there any questions from the Committee?

Assemblywoman Spiegel:

In section 1, subsection 1, paragraph (b), where it talks about a child who is pimping, for lack of a better term, my question is what happens if they are doing it under duress and they are also a victim? That gets back to my frontline supervisor question from before.

Mary Ellison:

In reading this section, first of all, I want to make sure everyone understands this is about the person who is pimping the child. Section 1, subsection 1, says a person who knowingly accepts or receives the proceeds from any prostitute who is a child. So if a pimp is accepting the proceeds, and the child is going out on the street making money, and then that pimp is accepting it, that pimp is going to be guilty of a category B felony. So here we are already looking at a situation where the child is the one who is being prostituted and so I am not sure that I can completely understand your question because we are looking at the child who has been in the situation of prostitution, and somebody else is benefiting and receiving the profits from that person.

Assemblywoman Spiegel:

Then I would like to clarify my question. My understanding is that there are times when a pimp will take a child who has been sex trafficked and turn them into a supervisor of other children who are being sex trafficked. This is what I am referring to as a frontline supervisor. My question is, if you have somebody who is in between the child who is being sent out to prostitute but is forcing that child to go out on behalf of the pimp under physical threat, and that person is also a child, according to this bill, is that person, who I call a frontline supervisor, a victim or a perpetrator and how is that handled? If you have a 17-year-old overseeing a 16-year-old and ultimately the 17-year-old is taking the money from the 16-year-old, and is turning it over to the pimp but receiving shelter, clothing, food, and other kinds of consideration, would that fall under here as a perpetrator even if they were doing it only under the penalty of death, or tremendous bodily harm from the pimp? Would you please clarify for me the legislative intent behind this section in this scenario?

Mary Ellison:

Thank you for the clarification. With all criminal statutes, the prosecutor always has discretion in charging and if there is a situation where there is the 17-year-old who is profiting in some way from the trafficking and pimping of another child, then the prosecutor could look at this statute and say that person is receiving something of value and, therefore, that person could potentially be charged but again, the prosecutor would be using discretion. In addition, because of the bill that we discussed earlier, that child would be able to raise an affirmative defense. If that 17-year-old is able to show that he is under duress

and is being controlled by a third party and can prove that he is a victim, he would be treated like a victim. So here it depends on the facts of the particular case, and there would be both the ability to raise the affirmative defense and for prosecutorial discretion to be exercised.

Chairman Frierson:

Are there any other questions?

Assemblyman Martin:

I have a question for Assemblyman Hambrick. When you were writing this bill, did you consider adding any penalty provisions for the condoning of the practice if they are doing that at the hotels, or actually penalizing the casinos themselves? You can walk through these casinos in the evenings and you know what is going on. I have to wonder if the enforcement, the prevention, and the detection is as important as the actual increase of the penalties.

Assemblyman Hambrick:

Yes. We tried to avoid having too many topics in a single bill. Should I return to this body in a future session, I would not be surprised to see a facilitation bill coming before this Committee that I believe would address that issue. We did not try to include that in this bill because it would become very cumbersome at this point, but the answer is yes.

Assemblywoman Fiore:

This is one of my favorite committees because the bills that come before us have such great intentions, especially for victims, for children of violent rape. As you gave that emotional testimony, it sparked a question in my mind that as we propose bills for bigger penalties and more jail time, we are obviously still having this issue—it is horrible and it is a lot. How serious can we make this bill when we look at traffickers and pimps and maybe amend this bill to a serious level of castration for the people who are caught? I am putting this out there to you because I hear constantly, more money, more jail time. Is it stopping them? No. So as a mother and a grandmother, if a trafficker ever touched one of my children, I probably would not be a lawmaker today. My question is how serious and how much are you willing to stop this and make it a serious issue? If you are going to brutally rape a child, then the state of Nevada will castrate you. How open are you to that?

Assemblyman Hambrick:

Whether I am open to it or not, and I think this Committee knows where I come down on this issue, I think that might send the American Civil Liberties Union (ACLU) into orbit. According to Matthew 18:6, "but if anyone causes one of these little ones who believe in me to sin, it would be better for him to have

a large millstone hung around his neck and to be drowned in the depths of the sea." I also think that would be a nice amendment to this bill. I am very serious about this bill but there are some practicalities and realities in life. I am not sure if any court in this country would uphold a castration. It has certain merits and we tease, but you raise a serious question.

Assemblyman Duncan:

My first question is either for Mr. Hambrick or for the Polaris Project folks. In the other states that you mentioned that had passed similar solicitation statutes, do you have any data or numbers that show whether the actual number of solicitations on children had gone down? I was curious if the other statutes look similar to this.

And then, Mr. Hambrick, do you know of any other areas in Nevada law that, for a solicitation crime, another underlying crime for the solicitation carries a category A felony? Are there any other crimes that this is analogous to?

Assemblyman Hambrick:

I will have the Polaris Project address that first and then we will see whether I will go beyond that.

Mary Ellison:

Assemblyman, thank you for the question. Whether or not other states have enacted this, and as a result have incidences of solicitation of children gone down, these types of laws are so relatively new, at least in the solicitation of a child for prostitution, we do not have any statistics right now. But I think we could look to statutory rape law and see that, since the beginning of those types of laws and putting those in place, it has had an impact on individuals who are raping children who are under the age of consent. We expect this would go a similar way. We have seen through our public outreach and awareness raising that people are becoming more and more concerned about this issue and certainly concerned about those who are purchasing children for sex. I think between public opinion as well as looking to analogous types of statutes, we could at least get an inkling of what the answer might be.

In terms of whether or not the statutes look like other statutes to increase penalties, it is certainly within the range. What we are seeing is a variety of different forms that these increased penalty bills are taking. Some are simpler in some ways than this one where they are raising penalties across the board, and not necessarily making a distinction between whether the child is under the age of 18 or under 16 or under 14. There are other states that are going in a similar direction to Nevada, especially states where the sexual assault laws have distinctions based on age. They are trying to make any increases for purchasing

sex from a child be similar in the way they are set up. It certainly falls within the range of what we are seeing in the other states.

Chairman Frierson:

Thank you. I now invite those in support of A.B. 280 to come forward here in Carson City and in Las Vegas. I see no one. Is there anyone in Carson City or in Las Vegas wishing to testify in opposition?

Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office:

Good morning, Mr. Chairman. The Clark County Public Defender's Office is in opposition to this particular bill. I think it is important when we talk about section 2 of this bill, soliciting prostitution, for the Committee to understand exactly what solicitation is. Solicitation is the agreement between the customer and the potential prostitute to engage in particular sexual conduct. It is not the conduct itself; it is the actual agreement. So when we look at the categories and the penalties that are proposed here, keep in mind that what we are talking about is the agreement itself, not the actual conduct. If there is actual sexual conduct that takes place, that could be prosecuted under other statutes.

It is interesting to note here that the under-14 category A ten to life, as far as I know, there are no other category A felonies in *Nevada Revised Statutes* that apply in a strict liability setting. What do I mean by that? When we are talking about solicitation, there is no requirement in this statute that the person requesting the sexual activity actually know the age of the person. That means that if a solicitation happens, and the customer believes that the person is over the age of 18 years of age but it just so happens that she turns out to be 13, that is not a defense for the customer. So under this statute, that person would be looking at a category A felony mandatory ten to life in prison. I am not aware of any other statute that would work in that way as *Nevada Revised Statutes* are currently contemplated. That also applies for the other categories here. This could be a reasonable mistake. You might want to think about tourists who come here a lot of times and encounter these individuals in a casino setting, in a place where one could reasonably expect that the person they are talking to is 18 years of age or over, or 21 years of age or over in the gaming part of the casino. Also, I would be remiss not to mention that, like it or not, there is a perception, at least with respect to Las Vegas, that either prostitution is legal or, if not legal, tolerated. I do have some concern that for businesses and conventions this kind of statute might result in a whole lot of trouble for individuals who are coming here not necessarily intending to break the law, and certainly not necessarily intending to solicit anybody who is underage. Obviously, a statute like this would result in normal fiscal consequences when we are talking about dramatically increasing the criminal

penalties. Right now, soliciting of a child is a category E felony, the lowest grade possible. This bill would dramatically increase those penalties.

I want to note that section 1 seeks to increase the penalties with respect to living off the earnings of a prostitute when a child is involved. There is normally some overlay there with pandering in these types of scenarios. We would typically see a pandering prosecution and for the record, with respect to Assembly Bill 67, the public defenders' position on that is we would not necessarily oppose an increase in the penalties of the pandering statute itself. I think that is probably a more appropriate place to increase the penalty than the living off the earnings. With that, I would be happy to answer any questions.

Assemblyman Hansen:

Did you say that right now, if an adult knowingly solicits a child, it is only a category E felony?

Steve Yeager:

Assemblyman Hansen, if somebody solicits a child for prostitution and there is an agreement that is reached, and again, we are not to the point where there is sexual conduct, we are just talking about the agreement itself, that is currently a category E felony under the law. Now, of course, if some kind of sexual conduct results, then we are going to be in a whole different world of lewdness with a minor, potential sexual assault on a minor, where you are looking at potential life sentences. Currently as the law is written, the actual agreement, absent something else on the child's side, would be a category E felony. On the adult side, it is currently a misdemeanor.

Assemblyman Hansen:

What is the definition of a child in that situation?

Steve Yeager:

I believe the child is under the age of 18 how it is currently defined, but perhaps it could potentially be under 16.

Chairman Frierson:

Thank you, Mr. Hansen. I believe there is a range of life for age 14 or under which is 35 years to life; between 14 and 16 it is something less but life tail, and then 16 to 18, I believe, would be considered consistent with a sexual assault on an adult under existing law. Are there any other questions?

Assemblywoman Cohen:

Thank you, Mr. Yeager, for defining soliciting. I had some concerns about that and what constitutes soliciting. The scenario I was thinking of is a guy walking

down the street, maybe a tourist, who has that misconception that prostitution is legal in Las Vegas. He sees a woman on the street; they start to talk; and they agree. It is dark and he does not even see what she looks like, but she turns out to be a minor. Are you saying, at that point, once they say, "okay, it is a hundred bucks for half an hour," it is solicitation and it is a done deal?

Steve Yeager:

Assemblywoman Cohen, that is what I am saying. Typically, when you get to the scenario where a price is discussed, services are discussed, and an agreement is reached, the solicitation is, at that moment, complete absent any other acts going on. If that person did make a mistake and believed he was dealing with someone over the age of 18, and that was not the case, that individual would be liable for these penalties as listed in the bill. It is not an affirmative defense and an individual cannot comment in court and say, "I thought the person was 18 but I was mistaken." That kind of evidence is not allowed as an affirmative defense. In that sense, it is a strict liability. You run the risk of the person being whatever age they are. For instance, there have even been scenarios where the potential prostitute has a fake ID which indicates a certain age but really it is not; that is not a defense either. A reasonable mistake does not get you off the hook, so the potential customer would be looking at these penalties in that scenario.

Chairman Frierson:

Follow up, Mr. Hansen.

Assemblyman Hansen:

This might be a question for Legal. I thought we had a discussion earlier that under Nevada law, unless it is very specifically spelled out, all criminal acts are not strict penalties. What is the status of that?

Chairman Frierson:

I can have Legal get back to you. We certainly do have a mens rea that is required, or some type of criminal intent required, for most laws. The ones that are strict liabilities state that in the statute, which I believe having sex with a minor is expressly stated in the statute as being strict liability; essentially saying that lack of knowledge of the age of the subject is not a defense.

As a matter of fact, I believe in recent sessions, and also with the Internet, luring minors on the Internet was recently changed because the way the statute was originally written, the subject actually had to be a minor. So when you have sting operations, because the subject was an adult posing as a minor, it did not fall under this, but I believe within the last six years we have corrected that statute. So the statutes that do have strict liabilities state it in the law.

Assemblyman Hansen:

Does it, in fact, say if I were to solicit a prostitute in the scenario that we were just discussing, and it turns out that individual is underage and I did not know that, would that fall under the strict liability category, or would the intent come into play in that? I guess that is what we will need to have addressed.

Steve Yeager:

This is not a strict liability crime in the sense that the person actually has to intend to solicit and reach an agreement; that part is against the law so the person has to have that intent to commit this crime. Where it gets the strict liability is with respect to the age of the person they are soliciting; that is a situation where there does not have to be an actual knowledge component, or an intent necessarily, that the person being solicited is under the age of 18.

Assemblywoman Fiore:

What happens when a young lady who is 15 or 16 years old but looks 21 lies to the person?

Steve Yeager:

The person could still be prosecuted and convicted under this law despite the fact that the prostitute lied and despite the prostitute having a fake ID that said she was older. It is simply not a defense under this statute so the individual soliciting would be potentially open to these kinds of penalties as specified in those scenarios.

Chairman Frierson:

Are there any other questions for Mr. Yeager? I see none. Those in Las Vegas wishing to testify in opposition, please come forward.

Lisa Rasmussen, representing Nevada Attorneys for Criminal Justice:

Thank you, Mr. Chairman. Ms. Coffee and I both agree with everything that Mr. Yeager said. The only other thing I wanted to point out is there is a lot of disparity and confusion in the current statutory scheme about the 16 to 18 years of age category because in Nevada, 16 is the age of consent. To enhance a penalty to a category C felony for that 16 to 18 category does not particularly make sense. There is also some confusion with federal law which says under the age of 18 and then we, in Nevada, have age of consent at age 16. So I just want to point that out. We concur in our opposition on behalf of Nevada Attorneys for Criminal Justice with everything that Mr. Yeager had said.

Chairman Frierson:

Thank you, Ms. Rasmussen. Did Ms. Coffee have anything to add?

Lisa Rasmussen:

No, she did not.

Chairman Frierson:

Thank you. Do I have any questions for Ms. Rasmussen or Ms. Coffee from the Committee? I see none. Is there anyone else in Las Vegas wishing to offer testimony in opposition? I see no one. Is there anyone in Carson City or in Las Vegas wishing to offer testimony in a neutral position?

Allan Smith, representing the Religious Alliance in Nevada:

Thank you, Mr. Chairman. I chose to speak at this time rather than at the time in favor because as I understand it, there is also legislation before you which addresses penalties for this type of activity. We want to support any increasing of penalties whether they come in the form of this bill or another one. As we look at this bill and the other ones, increasing penalties is going to increase the cost to the state, but I think what we have to realize at this time is that the cost to the state of not doing something is far greater in the loss of quality of life for a number of young people. We support this also from the standpoint of creating a safe haven for our younger people. We have to also create a hostile environment for those who wish to be predators of these young people. For that reason, I support the idea of increased penalties whether it is the bill or in another form. Thank you.

Chairman Frierson:

Thank you very much. Are there any questions from the Committee? I see none. Is there anyone else wishing to offer testimony in a neutral position either in Carson City or in Las Vegas? I see no one. I will invite Mr. Hambrick up for any closing remarks.

Assemblyman Hambrick:

To answer a generic question on intent, normally when you deal through a pimp it is fairly common knowledge that the younger the victim, the higher the dollar amount. From my perspective, and I do not want to get into new testimony, the intent aspect could disappear from an adult all the way to a minor where the prices go up. I would just ask you to consider that. I truly appreciate the Committee's time and efforts. Mr. Chairman, thank you.

Chairman Frierson:

Thank you, Mr. Hambrick. And for the Committee's edification, I did get some confirmation for Mr. Hansen. Under NRS 200.366, sex assault on a victim under 14 years of age is 35 to life; 14 to 15 is 25 to life; and 16 to 17 is 10 to life, all nonprobationable.

Assembly Committee on Judiciary

April 1, 2013

Page 39

And with that, thank you, Mr. Hambrick. I will now close the hearing on A.B. 280. Having no other items from any previous meetings, today's Assembly Committee on Judiciary is adjourned [at 11:36 a.m.].

RESPECTFULLY SUBMITTED:

Thelma Reindollar
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 1, 2013

Time of Meeting: 9:12 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 241	C	Mary Ellison / Polaris Project	Prepared testimony
A.B. 241	D	Mary Ellison / Polaris Project	Amendments to A.B. 241
A.B. 241	E	Elisa Cafferata / Planned Parenthood	Prepared testimony
A.B. 280	F	Mary Ellison / Polaris Project	Prepared testimony