

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

**Seventy-Seventh Session  
April 11, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:21 a.m. on Thursday, April 11, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

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

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Pete Livermore, Assembly District No. 40  
Assemblyman John Hambrick, Clark County Assembly District No. 2  
Assemblyman Harvey J. Munford, Clark County Assembly District No. 6

Minutes ID: 813



**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

John T. Jones, Jr., representing Nevada District Attorneys Association  
Scott Shick, Member, Nevada Association of Juvenile Justice  
Administrators  
Kimberly Surratt, representing Nevada Justice Association  
James Jackson, representing Nevada Judges of Limited Jurisdiction  
E. Alan Tiras, Justice of the Peace, Incline Village-Crystal Bay Township  
Justice Court; President, Nevada Judges of Limited Jurisdiction  
John Tatro, Justice of the Peace, Justice and Municipal Court,  
Carson City; representing Nevada Judges of Limited Jurisdiction  
Melissa Saragosa, Justice of the Peace, Las Vegas Township Justice  
Court  
John R. McCormick, Rural Courts Coordinator, Administrative Office of  
the Courts  
Gilbert Coleman, Ph.D., Economic Consulting Inc., Reno, Nevada  
Lisa Gianoli, representing Washoe County  
P. Michael Murphy, representing Clark County  
Kevin Clanton, Library Director, Clark County Law Library  
Terri L. Miller, President, S.E.S.A.M.E., Inc.  
Jerod Updike, Private Citizen, Reno, Nevada  
Brian Daw, representing Clark County School District  
Jocelyn Diaz, Private Citizen, Carson City, Nevada  
Brian O'Callaghan, Government Liaison, Office of Intergovernmental  
Services, Las Vegas Metropolitan Police Department  
Ronald P. Dreher, Government Affairs Director, Peace Officers Research  
Association of Nevada  
Steve Yeager, Deputy Public Defender, Clark County Public Defender's  
Office  
Tim Bedwell, Director of Intergovernmental Services, City of North  
Las Vegas  
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's  
Office  
Kristina L. Swallow, Engineering Program Manager, City Engineer  
Division, Department of Public Works, City of Las Vegas

Nechole M. Garcia, Assistant City Attorney, Civil Division, City of Henderson

Cadence Matijevich, Assistant City Manager, Reno

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities

Tom Conner, Chief Administrative Law Judge, Office of Administrative Hearings, Administrative Services Division, Department of Motor Vehicles

Brittany Shipp, Policy Assistant for the Majority Leader of the Assembly, Nevada Legislature

Philip J. Kohn, Public Defender, Clark County Public Defender's Office

Kristin Erickson, Chief Deputy District Attorney, Washoe County District Attorney's Office

Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office

James "Greg" Cox, Director, Department of Corrections

Sheryl Foster, Deputy Director, Department of Corrections

Tonja Brown, Private Citizen, Carson City, Nevada

Juan High, Member, Nevada CURE

Florence Jones, Board Member, Nevada CURE

Helen Caddes, Private Citizen, Las Vegas, Nevada

Michelle Ravell, Member, Nevada CURE

Tony DeCrona, Deputy Chief, Division of Parole and Probation, Department of Public Safety

Connie S. Bisbee, Chairman, State Board of Parole Commissioners, Department of Public Safety

**Chairman Frierson:**

[Roll was called. Committee protocol and rules were explained.] Good morning, everyone. We have five bills on the agenda today as well as a work session. We will do the work session first and start with Assembly Bill 97.

**Assembly Bill 97: Revises provisions governing habitual criminals, habitual felons and habitually fraudulent felons. (BDR 15-680)**

**Dave Ziegler, Committee Policy Analyst:**

Thank you, Mr. Chairman. The first bill is Assembly Bill 97, sponsored by Assemblyman Aizley. It was heard in this Committee on February 18, 2013. The bill relates to crimes and punishments. If the prosecuting attorney charges a count of habitual criminal, habitual felon, or habitually fraudulent felon separately from the primary offense, the bill requires the charge to be filed within 30 days of the defendant's arraignment on the primary offense, unless the court orders an extension of time for good cause shown.

[Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit C](#)).] Assemblyman Ohrenschall has submitted a proposed amendment which is included in the work session document and the sponsor clarified that it is a friendly amendment.

**Chairman Frierson:**

The proposed amendment to Assembly Bill 97 is the reflection of compromise language developed by both district attorneys and public defenders.

**Assemblyman Ohrenschall:**

I want to thank you very much, Mr. Chairman, for your efforts in allowing everyone to be able to get together to work on this. I think Mr. Jones would like to speak to the amendment.

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

We appreciate your efforts in working with us. The Nevada District Attorneys Association (NDAA) is supportive of the amendment.

**Assemblyman Wheeler:**

Mr. Jones, I was originally going to vote no on this bill but in looking at the amendment, I want to ask a quick question. In my opinion, this bill originally would have removed a negotiating tool from you for plea bargaining. What about now?

**John Jones:**

The NDAA is comfortable that this will not remove a negotiating tool. In fact, absent an agreement of the parties, it refers specifically to any plea agreements that the state and the defense might reach.

**Chairman Frierson:**

Are there any questions of the Committee on the bill as a whole? Seeing none, I will be seeking a motion to amend and do pass with the amendment submitted by Mr. Ohrenschall.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 97.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Aizley will do the floor statement. The next bill on the work session is Assembly Bill 113.

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

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 113 was sponsored by this Committee on behalf of the Legislative Committee on Child Welfare and Juvenile Justice. It was heard in this Committee on February 27, 2013. The bill relates to criminal procedure, crimes and punishment, and aid to victims of crime, specifically regarding sex trafficking and related offenses. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit D](#)).]

Members, in terms of amendments, this bill is virtually identical to provisions in Assembly Bill 67 that amends the same sections of the *Nevada Revised Statutes* (NRS) and A.B. 67 was processed out of this Committee two days ago, I believe. I would suggest that what the Chairman would like to do is process this bill with amend and do pass to the extent that it is identical to A.B. 67. One thing that would have to be done is that section 1 of this bill would need to go away because it is identical to section 2 of the other bill which went away. The rest of the amendment would simply be to true up the sections of this bill with the section of A.B. 67 if there were any minor differences.

**Chairman Frierson:**

I had prepared a mock-up that contained highlights showing the provisions of A.B. 113 that were contained within A.B. 67 verbatim and so as a vehicle to facilitate any adjustments that we might need to make, I thought it prudent to move this bill to the extent that it is consistent with A.B. 67. It would likely be something that we would not need, but just in case because it is such an important issue.

Are there any questions on the bill otherwise? There is an amendment in the Nevada Electronic Legislative Information System (NELIS) and in the work session document that was proposed by the public defender offices in Clark and Washoe Counties. Because my intention is to move the bill so that it is consistent with A.B. 67, I will not be entertaining that amendment at this time. I will be entertaining a motion to amend and do pass A.B. 113 to the extent that it is consistent with A.B. 67.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 113.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Ohrenschall will do the floor assignment for this bill. Next on our agenda is Assembly Bill 194.

**Assembly Bill 194:** Clarifies that a person who holds a leasehold interest in the real property of another person may be criminally liable for the destruction or injury of that real property. (BDR 15-654)

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 194 was sponsored by Assemblyman Ellison and was heard on March 13, 2013. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit E](#)).] There were no amendments.

**Chairman Frierson:**

Assembly Bill 194, sponsored by Mr. Ellison, is a clarification of what the existing law really is. I do not believe there was any opposition or amendments proposed.

ASSEMBLYMAN WHEELER MOVED TO DO PASS  
ASSEMBLY BILL 194.

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Ellison will handle the floor assignment for his bill. The next item on the agenda is Assembly Bill 202.

**Assembly Bill 202:** Revises various provisions relating to juveniles charged as adults for committing certain crimes. (BDR 5-64)

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 202 was sponsored by this Committee on behalf of the Legislative Committee on Child Welfare and Juvenile Justice. It was heard on March 19, 2013. The bill relates to juveniles who are within the jurisdiction of the adult courts or who may be certified for transfer to the adult courts. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit F](#)).]

Ms. Valerie Wiener, Chair of the Legislative Committee on Child Welfare and Juvenile Justice during the 2011-2013 interim, worked with the interested parties and has submitted an amendment.

**Chairman Frierson:**

On Assembly Bill 202, there were several measures stricken in the proposed amendment. It is my recollection the age of 12 was the threshold and while not as strong as some states have done in raising the age, I am comforted by the fact that there is language in the proposed amendment to refer this to a study by a task force. I believe age 12 was something all the stakeholders coming out of the last interim could agree upon and certainly is better than age 8. Are there any questions on the bill?

**Assemblyman Duncan:**

In terms of the people who testified in opposition, were they in agreement with this? Are we putting this to a study, Mr. Chairman?

**Chairman Frierson:**

It is my recollection that there were some who thought the age should be higher and that we should do more. There were others who were concerned that was going too far. I believe we may have some insight.

**Scott Shick, Member, Nevada Association of Juvenile Justice Administrators:**

Originally we were in opposition. In our meetings with the Commission on Statewide Juvenile Justice Reform, we agreed with all parties that 12 years old was the best solution for right now, and that the ability for a juvenile to petition the court to stay in a juvenile detention facility prior to conviction as an adult was also amenable. What we are opposed to, based on the implications that juveniles who are certified to adult status would be housed in juvenile facilities until they are 18, was stricken and that is what we are going to be meeting on in the interim. At this point the Nevada Association of Juvenile Justice Administrators supports the amendment.

**Chairman Frierson:**

I am not convinced that 12 is enough. I think one of the examples that was given of why we needed to be at age 12 was an individual who was 13 was involved in a pretty horrendous crime. I think the fact he was involved in that with other older offenders did not, in my mind, outweigh the concern that he is in an adult prison now. That said, this is progress and while I agree with the notion of a task force and study to look at this more, we also have to take into account programming and the ability of the different stakeholders to be able to deal with this population. I think we are struggling with that.

**Scott Shick:**

I totally concur with you. Again, 12 years old is a good place to start. The rest of the bill that refers to blended sentencing and commitment, and all those pieces were visited in earlier legislation eight to ten years ago. It is a

complicated issue when you try to handle juveniles who are certified as adults; it can be done and we have testimony to support that, but it is a complex system and it takes a specific group of people to accomplish that in a treatment setting. That is discussion for another day during the interim.

**Assemblyman Wheeler:**

Could Mr. Jones comment on it? I know they had some problems with this bill. I wanted to make sure the district attorneys were on board with this.

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

The Nevada District Attorneys Association is in support of the amendment.

**Chairman Frierson:**

Are there any other questions on the bill? Seeing none, I will be seeking a motion to amend and do pass.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 202.

ASSEMBLYWOMAN DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mrs. Diaz will handle the floor statement. Next on the agenda is Assembly Bill 274.

**Assembly Bill 274: Revises provisions relating to real property. (BDR 3-417)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 274 was sponsored by Assemblywoman Bustamante Adams. It was heard on April 4, 2013. The bill relates to foreclosure sales and deficiency judgments. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit G](#)).] There were no amendments.

**Chairman Frierson:**

Are there any questions on A.B. 274? I know the stakeholders on this matter have worked really hard to try to come up with some compromise. There was, at one point, a request on the part of some of the stakeholders and members of the Committee to provide another day to possibly come up with some language; however, the bill's sponsor indicated that she does not anticipate there would be an opportunity in the next 24 hours to accomplish that. I believe that the stakeholders met with her as recently as this morning, so I think it is the intent

of the sponsor of the bill to move this bill forward and work with those who still have concerns as the bill progresses, assuming it progresses in the other house.

**Assemblyman Duncan:**

I reached out to both parties on this and I was very appreciative of the time they spent with me. I want to put my concerns on the record. From the testimony from different companies and these business models that are coming into Nevada, paying pennies on the dollar and assuming the personal guarantors, I do not condone, approve, or like that practice at all. However, I will say that from a long-term policy perspective, I am concerned about what this does to commercial lending 5, 10, 20 years down the road. Certainly 20 years ago we did not need a law like this because real estate prices were stable and when something like this happened, they could recover the value of the real estate. They would not go after the personal guarantor. As policymakers, we have to look at what our short-term solutions are going to do long term. I would love to see this fixed on this side before we send it over to the Senate. I hope those conversations are still going to continue and if we can amend it on the floor, I would appreciate it. So I am going to be voting no and reserving my right to change it on the floor.

**Chairman Frierson:**

Are there any other questions on the measure? Seeing none, I will be seeking a motion to do pass.

ASSEMBLYWOMAN SPIEGEL MOVED TO DO PASS  
ASSEMBLY BILL 274.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN DUNCAN AND WHEELER  
VOTED NO.)

Mrs. Bustamante Adams will handle the floor statement. We will move on to Assembly Bill 307.

**Assembly Bill 307:**      **Revises provisions governing victims of crime.**  
**(BDR 16-743)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 307 was sponsored by Assemblyman Horne and was heard in this Committee on April 10, 2013. The bill relates to assistance for victims of sexual assault. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit H](#)).] On the day of the hearing, Heather Procter,

Senior Deputy Attorney General, submitted an amendment which was a friendly amendment approved by the sponsor. It confines the bill to sections 9, 10, and 14.

**Chairman Frierson:**

Are there any questions on the bill? I know that Clark County expressed some concerns in opposition that were of a fiscal nature. So with that, if there are no questions or comments on the bill, I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 307.

ASSEMBLYWOMAN DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Horne will handle the floor statement. Next on the agenda is Assembly Bill 378.

[Assembly Bill 378:](#)      **Revises provisions governing spendthrift trusts.**  
**(BDR 13-656)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 378 was sponsored by Assemblywoman Dondero Loop. It was heard in this Committee on April 5, 2013. The bill relates to distributions from a spendthrift trust. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit I](#)).] The sponsor has submitted an amendment.

**Chairman Frierson:**

Are there any questions or comments on the bill?

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 378.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Ms. Dondero Loop will handle the floor statement. Next on the agenda is Assembly Bill 415.

**Assembly Bill 415: Revises various provisions relating to criminal justice.  
(BDR 15-804)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 415 was sponsored by the Assembly Committee on Judiciary. It was heard on April 8, 2013. The bill relates to criminal procedure, crimes and punishments, corrections, and controlled substances. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit J](#)).] There are a couple of amendments. Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office, proposed an amendment regarding the community courts that would amend the bill to authorize each county to establish a community court and that is permissive language.

The Chairman recommends a conceptual amendment which would confine the bill only to the portion having to do with petit larceny and the portions relating to the Advisory Commission on the Administration of Justice and the community courts. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit J](#)).]

**Chairman Frierson:**

Are there any questions on the bill?

**Assemblyman Duncan:**

Mr. Chairman, there was some discussion about somehow working the habitual part of the petit larceny back in. Can you explain what happened with that?

**Chairman Frierson:**

I think that that was the conceptual amendment that Mr. Ziegler just discussed. Essentially, a third offense of petit larceny within seven years would still qualify for burglary under existing burglary statutes. That was proposed to address the concerns about the habitual offender of petit larceny.

**Assemblyman Duncan:**

Was that satisfactory?

**Chairman Frierson:**

I think it was well received compared to the original bill. I do not know that law enforcement, prosecutors, and the Retail Association of Nevada would necessarily agree with it, but I do not recall there being opposition to the conceptual amendment as it was proposed during the hearing. I would not presume to speak on their behalf.

Are there any other questions or comments on the bill? Seeing none, I will entertain a motion to amend and do pass with the conceptual amendment described by Mr. Ziegler and the amendment proposed by Chris Frey to allow other counties the discretion to engage in community courts.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 415.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will handle the floor statement. Next on the agenda is Assembly Bill 421.

**Assembly Bill 421: Revises provisions governing parentage. (BDR 11-806)**

**Dave Ziegler, Committee Policy Analyst:**

Assembly Bill 421 was sponsored by the Assembly Committee on Judiciary and was heard on April 8, 2013. The bill modernizes Nevada's laws on assisted reproduction. [Mr. Ziegler continued to read from the work session document explaining the bill ([Exhibit K](#)).]

**Chairman Frierson:**

This bill reflects a tremendous amount of work to modernize Nevada statutes with respect to parentage and I am personally appreciative of the work that went into it and Ms. Cohen's willingness to shepherd this bill as it was a huge undertaking. By virtue of there not being any opposition, I think it accomplishes what it was trying to do very well. With that, I will entertain a motion to amend and do pass.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND DO PASS ASSEMBLY BILL 421.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

Is there any discussion on the motion?

**Assemblyman Hansen:**

I am going to vote no for only one reason and that is the deleted section. While I realize I am living in the past, apparently—and I do not think there is anybody in the room who is more of an advocate for fertility than I am having eight kids and seven grandkids with one coming, so I am very much into family—one honest concern I have is, as we look over the last 40 years, what

we now call the collapse of the traditional family. We see a huge rise in children in poverty and single parenthood. The idea that any two people are basically a couple under the new law disturbs me. I think, in the long run, we have to get a grip on this because the explosion in costs to the state dealing with single parenthood and all the problems in schools is directly related to this. We should be doing everything to encourage what is now traditional families. At some point, we need to start addressing it because I think it is a huge problem in our society today.

The rest of the bill is wonderful and it is a great idea. I definitely want to support people having more children. I just want to make sure that children are brought in to this world, that they are not just a property transaction. We are talking about a brand new human being who is going to be raised by people, in the absence of that traditional mechanism as a protection for them, and I am really concerned about that in the long term.

**Assemblywoman Spiegel:**

I just want to make a comment. I have had correspondence with Ms. Surratt about changing the definition of "gestational carrier." The language that she and I discussed did not make it into this version. So I am going to vote yes but I am going to still talk to her about amending it later.

**Kimberly Surratt, representing Nevada Justice Association:**

The amendments that I proposed that were emailed on Monday to the Committee did reflect the change that you requested from me: a change to the definition of gestational carrier. You were concerned about family members not being able to act as a gestational carrier and the request is to change that. I suggested we change it to just say that she was not going to use her own gametes but a family member could act as a gestational carrier. I am absolutely in support of that amendment.

**Assemblywoman Spiegel:**

Thank you. We will make sure the language says that. I appreciate your working with me.

**Dave Ziegler:**

So just to be clear, do we hear you saying that the combination of the two amendments in the packet ([Exhibit K](#)) resolves Ms. Spiegel's question?

**Kimberly Surratt:**

Yes, the amendments I submitted before the hearing on Monday are still applicable. After the hearing on Monday, I was asked to submit anything that might be a policy concern. I summarized both of those in a document that was

emailed after the hearing on Monday. Specifically for her request, it would be to modify section 10 to read, "'Gestational carrier' means an adult woman who is not an intended parent and who enters into a gestational agreement to bear a child to whom was created by using gametes from the Intended Parent or a third party, not her own."

In that email, I also identified a policy issue about traditional surrogacy. The bill as written does not allow traditional surrogacy to be utilized in Nevada, meaning a woman could not use her own gametes. That is a policy concern; I can say it is about 50-50 across the United States. Whether or not it is a good or a bad idea to allow that, I am on the fence on it. We discussed it in the hearing. I left it out there as a policy concern for this Committee to make a decision on.

**Chairman Frierson:**

Thank you, Ms. Surratt. I appreciate that. That was one of the issues you said you were not necessarily taking a position on one way or the other, but I think Ms. Spiegel has taken a position.

**Assemblywoman Spiegel:**

I missed that change that is in the work session document on the bottom of the second to the last page. I apologize.

**Chairman Frierson:**

Are there any other questions on the bill? Seeing none, I would be seeking a motion to amend and do pass.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 421.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HANSEN VOTED NO.)

Ms. Cohen will do the floor statement. That concludes our work session for today. We will now get to the hearings we have scheduled. I would like to call Assembly Bill 54 first and then I will hear Assembly Bill 265.

**Assembly Bill 54:** Revises provisions relating to fees charged and collected in justice courts. (BDR 1-388)

**James Jackson, representing Nevada Judges of Limited Jurisdiction:**

Good morning, Mr. Chairman. I would like to introduce those who are going to present some comments on this bill. First, Judge E. Alan Tiras, who is the

Justice of the Peace in Incline Village and is also the President of the Nevada Judges of Limited Jurisdiction (NJLJ). I also have with me today Judge John Tatro who is the Justice of the Peace here in Carson City. I am also pleased to introduce Judge Melissa Saragosa, Justice of the Peace in Las Vegas Township who will be testifying from Las Vegas and then finally, Gil Coleman, an economist who has worked very closely with the NJLJ in the development of Assembly Bill 54. We will also give some brief comments as to the fiscal analysis and considerations behind this bill.

Assembly Bill 54 is a justice court fee increase bill. This is a bill that had some work on it last session but, given the circumstances, was abandoned at that time. The amended version that is before the Committee this morning comes about as a result of many hours of discussion between Michael Murphy of Clark County and myself; Judge Saragosa and Clark County Administration; and other stakeholders and interested parties from other counties and jurisdictions. It has resulted in, what I believe could be considered, universal agreement on the language that is contained in the amended version ([Exhibit L](#)). I am going to let Judge Tiras speak in support of this bill on behalf of the NJLJ. Judge Tatro will speak next about the merits of the bill from his perspective, and then turn it over to Judge Saragosa for her comments.

**E. Alan Tiras, Justice of the Peace, Incline Village-Crystal Bay Township Justice Court; President, Nevada Judges of Limited Jurisdiction:**

Good morning, Mr. Chairman and members of the Committee. I am also President this year of the Nevada Judges of Limited Jurisdiction. The NJLJ represents all the judges from all the municipal and justice courts throughout the state of Nevada. The NJLJ is here today in overwhelming support of this bill and hope that you are able to support it as well. Now I would like to turn it over to Judge Tatro.

**John Tatro, Justice of the Peace, Justice and Municipal Court, Carson City; representing Nevada Judges of Limited Jurisdiction:**

Good morning, Chairman Frierson and members of the Committee. I am an active member of the NJLJ and have served as its president on two separate occasions. I fully support A.B. 54. Assembly Bill 54 raises the justice courts' civil filing fees and in doing so, gives a portion of the fees to the local courts to use for the benefit of the local courts such as acquiring land, constructing or acquiring facilities, remodeling, renovating, or expanding existing facilities, acquiring equipment to enhance security, acquiring staff, paying for additional staff, paying for debt service on bonds for acquiring lands or facilities, and paying for one-time projects or improvement of the courts.

Justice courts civil filing fees have not been raised in 20 years. The last time they were raised was in 1993 and as a result, the counties, our funding authorities, have been required to increase funding to the courts. The percentage of costs covered by fees has reduced dramatically. Local governments have been having trouble meeting their funding needs because of the economy and the courts have been affected by this dramatically. We have outdated facilities or have outgrown them; technology and staffing are lacking.

The one area that I am going to touch on is security. The lower courts were going to bring this bill forward in the 2009 Session but we agreed with the Nevada District Judges Association to back off and wait for the next session because they had Assembly Bill No. 65 of the 75th Session which gave the district courts funding for security. I remember someone testifying back then about the need for security in the district courts and a member of this Committee interrupted, asking whether the lower courts have security issues, and the presenter said no, they do not have security issues.

Well, I am here to tell you, and I have waited four years to tell you, that yes, the lower courts have security issues. Personally, this last year, I had an experience that not only has changed my life but given me a greater respect for being a judge. On December 11, 2012 at 4:20 a.m., two bullets ripped through the door of my home, through my house, through my Christmas tree, shattering ornaments, through some back shutters, through the sliding glass door shattering the door, and all the way out into our back fence. Waking up to gunfire is not something I recommend to anybody. It was a terrible, scary experience. We are so thankful that nobody got hurt. Twenty minutes later, my wife would have been going out that front door to pick up the newspaper. She can hardly stand in front of that door now and she runs by it, to this day, months later. When we go to functions, we have to make sure it is going to be a safe function. Anywhere we go, we have to consider security. I currently am still under threat. In fact, when I came here today, I had to be escorted by security, by our marshals.

Security incidents and threats against judges are on the rise. This past year, the courts in Carson City issued six orders for individuals to be escorted by security while coming to court because those individuals posed a risk not only to judges but to our staff and very importantly, to the public. According to the Administrative Office of the Courts (AOC), there were approximately 200 threats against Nevada judges in 2012.

We sent a survey to all of the judges and we got some responses which we have submitted to you ([Exhibit M](#)). Nine of our courts do not have metal detectors. Remember, we do deal with great, upstanding citizens but we also

deal with convicted criminals, people who have a history of violence, coming through our front doors. Twelve courts do not have scanners or X-ray machines. Sparks Justice Court, which was housed in a temporary court for almost 20 years in a strip mall storefront, just moved into a very nice courthouse. Security was a big part of the planning of that courthouse. In fact, they built the "bubble" where a person could watch surveillance, direct security, secure doors, and other things. The problem is, just this week, the county denied funding to fill that position because they do not have the money. So they have the equipment but they cannot afford to staff it.

There are numerous other issues regarding security. Some judges pull up to the front door of the courthouse, get in, and walk in with the public. You share the same bathroom and you have no security. Some of them have security 45 miles away so they have to call 9-1-1 if there is a problem. Bailiffs are only provided when they do not have other duties to perform in a community. The fact is, and I do not mean to be dramatic, those bullets through my door forever changed my life. The police are confident the person who fired those bullets was somebody I dealt with in court. Every day I walk into court and I wonder if that person is in the courtroom. It is not just about me but it is about our staff and the public that comes in and uses the courts. We are on borrowed time before a judge, court staff, victim, witness, attorney, or a member of the public is seriously injured or killed. Judge Weller in Reno, as you all know, was shot and that was over a domestic issue in his court. Every single day in the justice court, judges are ruling on a protective order for domestic violence; we are separating families and taking children away from parents, not allowing them to see each other; and individuals are being evicted from their homes on our eviction orders. Justice courts hold hearings for all felony and gross misdemeanors and every crime comes through our court before it ever gets through district court.

Assembly Bill 54 gives the justice courts in our great state an opportunity to address security and other needs. Just remember, the fees in justice court have not been raised in 20 years. We need your support on this bill. Thank you. Judge Saragosa was going to go next.

**Melissa Saragosa, Justice of the Peace, Las Vegas Township Justice Court:**

I will be very brief. Judge Tatro covered many of the issues. We have worked diligently with the county to come to this amended language that we have all agreed upon. This increase will help bring us in line in many respects with our surrounding states. Several years ago, when we first drafted this language, I did a study of our surrounding states and the fees they were charging to bring us in line with those.

I would like to highlight one area, in particular, regarding an unlawful detainer action brought by a bank which has foreclosed upon a home. As you all know, it happens many times in our state. Under our current fee schedule, that filing fee for a bank is \$28. Our surrounding states charge upward of \$350. This particular bill increases that amount to an appropriate level of \$225 and commensurate with the surrounding areas. That is an area of particular need for our state. These are large corporations foreclosing on homes and then undertaking the eviction process. So for those unique case types, this will bring us in line with the surrounding states.

Most of the uses of this funding are those areas that come at special costs like construction. They are not everyday expenses but they are expenses that come up, and when they do, we need it. We anticipate, if the State Demographer's projections stay on track, Las Vegas Township Justice Court will probably be due for another justice of the peace within two to three years. We are going to need a courtroom. We are sharing courtroom space now and doing the best we can to utilize our space to the fullest extent.

Additional staff is another area of particular need to Las Vegas Township Justice Court. Staffing from mid-level management to lower-level staff positions are all needs of our court and this could provide us assistance to equip additional staff with what we already have. At the Eighth Judicial District, when the economy took a turn for the worst and we were asked to reduce our overall budget which led to layoffs or left positions unfilled, the district court was able to successfully use Assembly Bill No. 65 of the 75th Session funds to save four positions from being laid off. They reduced their budget, then took the money out of this separate pot, and were able to fulfill the salaries for those positions. It enabled four people to continue working for the court so that we have a good access to justice and we are processing our cases efficiently. Thank you for your time.

**Chairman Frierson:**

Thank you, Judge Saragosa. Thank you all for your work on this issue. Judge Tatro, my upbringing exposed me to bullets in houses. It is a life-changing experience and so I can certainly empathize with your feelings on that.

I have a question that is actually a bit tangential. This Committee has previously considered measures regarding security and safety for judges, law enforcement, and prosecutors about license plates and whether or not it can be something that can be tagged for law enforcement and also being able to list your home address anonymously. Unfortunately, in the past, it has been a fringe issue to another bill but you mention security and one of the reasons for

this bill is being able to provide adequate security. Do you think those measures, tagging license plates or the ability to have your address be anonymous, would further that cause?

**John Tatro:**

Yes; my address can be taken from the rolls and it has been. As far as the Department of Motor Vehicles (DMV) goes, no, because people see you in your cars and everybody can, in one way or another, run those plates. That would be very helpful. Thank you.

**Assemblyman Hansen:**

This is a great idea and I totally support it. Dealing with Judge Higgins and Judge Deriso in Sparks, the idea that lower courts do not have security issues—you have the highest security issue because everyone just wanders in and out. As I recall in my experience with small claims courts, the prevailing party, or the party who wins, almost always gets his or her fees back. Is that accurate? So even though you are charging a little bit more, for the people who win in your courts, are they not awarded their fees as part of the judgment?

**John Tatro:**

Assemblyman Hansen, yes, that is the practice.

**Assemblywoman Fiore:**

As we listen to this bill as serious as it is, and I respect all of you judges, what responsibility are you taking for your own personal safety?

**John Tatro:**

I do not want to tell everything that I am doing but, trust me, if you came to my house, I will know you came to my house. I take different paths to and from work. If I go to the grocery store, I do not park in the same spot. I do not want to get paranoid and I am trying very hard not to. I have a grandchild now and I want to live a normal life but I still have to take precautions. We have taken great precautions at our courthouse; we have a great staff.

**Assemblywoman Fiore:**

I understand courthouses have specific rules about firearms but you might consider getting a concealed weapon, personally.

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

A number of judges do have concealed carry permits and also by statute, judges are able to carry concealed firearms while they are in their courthouse.

**Assemblywoman Cohen:**

How many filings are done in justice court *in forma pauperis*?

**John McCormick:**

Ms. Cohen, I do not have the specific number of *in forma pauperis* petitions that are filed. I can certainly get you an anecdotal number as to the percentage in certain parts.

**Assemblywoman Cohen:**

Do you think there is any risk that if amounts are raised, a person who could have paid \$7 but cannot pay \$75 is now going to say that they cannot afford to pay that, so you are not even going to get the \$7?

**John McCormick:**

Generally when we see *in forma pauperis*, people are truly indigent. It could be \$7 or \$700 and they are still going to need to file *in forma pauperis*.

**Chairman Frierson:**

Thank you, and for those who do not speak Latin, we are talking about people filing stuff on their own.

**Assemblyman Wheeler:**

Your Honor, I can certainly see some of what you are saying here as far as security concerns, but when I look at the bill, there is a whole lot that you are not saying. I see that you are doubling fees and the money must be put in a special account to acquire land and additional facilities, renovate, acquire advanced technology, pay debts, and security is down here at the bottom. Does the sheriff supply security for you and if not, why not? They should because you are a county employee. A lot of people are in small claims court because they cannot afford an attorney, if you want to double the fees and put the money toward security, I can see that, but to buy a new piece of land, I do not think I am on board with this.

**Judge Tatro:**

Well, we have to do business and the county has to fund the courts. We have had to, just at our court, combine our administration with the district court; we have one court administrator; our employees are cross-trained. We are down to bare bones though and we need, right now in Carson City, another courtroom but the county cannot pay for another courtroom. We are using money from Assembly Bill No. 65 of the 75th Session, the security money for the district courts, to pay for other security things. The other things we are talking about are not all security but, for instance, technology; we have to stay current. Yesterday I had a record day, and in Las Vegas, they might scoff at this as not

much but I sentenced 54 people in Carson City yesterday; that was a lot of cases. Frankly, we need another judge but we know the county cannot afford to pay one. We have to have funding to support essentials such as furniture, fixtures, courtrooms, and courthouses. The people who pay these fees use the court—they need to be able to have access, to have their cases heard, and to have their writs served and executed. We need to get these fees up to be able to take care of these needs. We are operating on the edge every day.

**John McCormick:**

I can answer Mr. Wheeler's question regarding the sheriff providing security. Statutorily, the sheriff is only obligated to provide security for the district court in counties with a population under 700,000. The justice courts are out there on their own except in Clark County where they have the authority to hire marshals. As far as other uses of the money, the Douglas County Justice Court is currently upgrading its case management system. These fees would allow them to help the county more with that project. That case management system is going to let them transfer files between various county departments and increase everybody's efficiency.

**Assemblyman Wheeler:**

Obviously, we need to look at another statute as far as the sheriffs protecting the justice courts.

**Assemblywoman Diaz:**

When was the last time these figures were determined? I am more interested in how long have we kept this fee schedule in place.

**John McCormick:**

The last time the fees were raised was in Assembly Bill No. 592 of the 67th Session, so we have gone basically 20 years on that fee scale.

**Assemblywoman Diaz:**

Everything has been rising except for court fees, right?

**Gilbert Coleman, Ph.D., Economic Consulting Inc., Reno, Nevada:**

I have looked at these fees relative to the costs they covered for the courts over the past 20 years. Part of the problem is that there was not consistent data from all the courts over that period. When you look at the charts ([Exhibit N](#)), there is a period when we do not have either Reno or Las Vegas because they just did not have the data. These are fees against what an economist would refer to as variable costs such as wages, benefits, and direct costs of operating the court. It is not against construction fees, and the reason for that

is that it does not seem to me there is a consistent way of looking at construction fees.

The basic situation was that 20 years ago, the fees for the courts covered 30 percent of the costs of operating the courts. Over the past 20 years, with some up and down movement, in general, there has been a declining trend so that now the court fees cover approximately 20 percent. So if it was reasonable to cover 30 percent of the costs 20 years ago, then it seems to me reasonable to cover 30 percent of the costs now, but those costs have risen. While it is true that everything goes up, not everything goes up in the same way which I have focused just on the costs of the courts.

With respect to the other uses of the fees, for example, for land, construction, and other things I have not considered, the answer to that is money is spendable. The money is going to come from someplace and can be used for the highest use because money is money, and so the comparison to the cost is to try to make it as consistent as possible across the various court jurisdictions. But the uses of the money are whatever is the most necessary.

**Assemblyman Hansen:**

I have somewhat of a statement. As I look at this, I think it is absolutely vital that a justice of the peace has absolutely no sense of potential intimidation in a courtroom. I do not think you should be packing a concealed weapon.

I just did some inflation calculation. For example, that \$65 in 1993 should be \$105 today, so you are not even keeping up with the pace of inflation with the numbers you are asking for. The fees have not been raised since 1993 and everyone needs to keep in mind, too, that the people who are successful in your courtroom are the prevailing parties; they get their money back. There is also the fact that this is a user fee. If I do not use your courtroom, I do not pay a penny. So I am supportive and I think it is embarrassing to think that our justices of the peace have to be packing hardware to do their job. That is just not right.

**Assemblyman Duncan:**

In Clark County, what do you see as the specific needs these fees will be addressing?

**Melissa Saragosa:**

From Las Vegas Justice Court, one of our biggest needs currently is additional staffing because we have increased our caseload over the years. We have asked several times for additional staff and have been told no from the county because they do not have the money. The other need that I see in the very

short-term near future is construction costs. We also have some security issues, we need remodeling of our traffic area, and we anticipate having to build out another courtroom at some point. Right now we are at full capacity in the Regional Justice Center.

In our surrounding areas in the county, one of the needs at the courthouse in Moapa is a private communication space for attorneys to speak with their clients. You basically walk into the courthouse doors and then you are there in an open area. They would like to use some funds to be able to remodel that entry area so people can speak with witnesses or their clients.

**Assemblyman Duncan:**

I know this is a policy committee but do we have any estimates of how much this bill would raise?

**John McCormick:**

That is one number that I forgot to bring with me. I would be happy to email that to you. I will do some estimates based on the number of filings in the last fiscal year and the average increase.

**Melissa Saragosa:**

I can answer that question for Las Vegas Justice Court. The last number was estimated at bringing in an additional \$600,000 to the general fund and about \$1 million a year to the special fund.

**John Tatro:**

Carson City is a much smaller court and we estimated between \$70,000 and \$80,000 in a year.

**Chairman Frierson:**

Are there any other questions? Seeing none, I would invite others in support of A.B. 54 to come forward.

**Lisa Gianoli, representing Washoe County:**

We just want to go on record with the amendment. We do support the bill as written.

**P. Michael Murphy, representing Clark County:**

We also want to go on record in support of the bill with the amendment.

**Chairman Frierson:**

Is there anyone else in Carson City wishing to testify in support? I see no one. I will now go down to Las Vegas for testimony in support.

**Kevin Clanton, Library Director, Clark County Law Library:**

The Clark County Law Library serves 33,000 patrons a year. We serve the bench bar and the public. Approximately half of our use has been devoted to justice court litigants. We receive no remuneration from that. We receive our funding from *Nevada Revised Statutes* (NRS) Chapter 380 concerning law libraries but in the last few decades, the demographic has shifted and we find ourselves now allocating more than half of our staff time for the litigants in justice courts whom we are proud to serve. It is just that we have that amendment in the bill and we would be interested in seeing passage because it would go a long way toward assisting us in what essentially would be an unfunded mandate with serving so many litigants of the justice court each year. We would support the bill even though I had checked off neutral.

**Chairman Frierson:**

The Clark County Law Library near the courthouse has been there a long time. Having worked in that building for quite a while previously, there is always plenty of traffic. Is there any plan to move it?

**Kevin Clanton:**

No. I wish we could be on the ground floor. The county did not have the money to put us in an ideal facility originally.

**Chairman Frierson:**

Are there any other questions from the Committee? Seeing none, I will now invite those in Carson City or in Las Vegas to offer testimony in opposition. Seeing none, is there anyone wishing to offer in a neutral position either in Carson City or Las Vegas? [There was no one.]

ASSEMBLYMAN HANSEN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 54.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Hansen will handle the floor statement. I will now open the hearing on Assembly Bill 265.

**Assembly Bill 265:** Revises provisions relating to the offense of sexual conduct between certain employees of a school or volunteers at a school and a pupil. (BDR 14-29)

**Assemblyman Pete Livermore, Assembly District No. 40:**

Thank you very much, Mr. Chairman and members of the Committee. My intent in bringing Assembly Bill 265 is to further strengthen public safety and mitigate sexual offenses. I believe that public safety is the top priority of state government. I know many of you share this view and I am grateful. In this session many members have introduced various bills that increase public safety across Nevada. Assembly Bill 265 is no exception. Currently, pursuant to *Nevada Revised Statutes* (NRS) 201.540, certain employees of a school or volunteers who are convicted of engaging in sexual conduct with a pupil are not subject to the same penalties, requirements, or restrictions as all other sex offenders in Nevada.

Let me share with you my experience as chairman of the Carson City Youth Sports Association whose members include American Youth Soccer Organization (AYSO), Pop Warner football, Babe Ruth League baseball, Little League baseball, girls' softball, and a few other club sports. In a period of one year, I was confronted by parents in the program who wrote me expressing their concerns about a league official who had been convicted of engaging in sexual conduct with a pupil. My first response was to contact the sheriff and the district attorney. Both were aware of the case and the individual. They told me they had no ability to continue to monitor this person. They both had encouraged me to make changes to the law. In fact, Sheriff Ken Furlong, who is not able to be here today, does support A.B. 265. He gave me approval to use his name.

Mr. Chairman, from this process came the realization of how many others may fit in this. This individual whom I referenced was the vice president of the Carson Girls Softball association. The parents, in this case, either withdrew their children from the program or continued in the program with fear of this happening. Although my intent today is to introduce the bill, I have a couple people who will speak to the merits of the bill, Assemblyman John Hambrick to my left and Mrs. Terri Miller who will be testifying from Las Vegas.

**Chairman Frierson:**

I discussed this with you prior to the hearing starting that because we have had two bills already on the subject matter, we were not going to entertain a policy discussion on the substance of inappropriate relationships between teachers and pupils. We have had that discussion, we have had that bill, and we have actually moved that bill. So today, the additional provisions deal with registration and that is what we are here to discuss today. I wanted to make the folks who are wanting to present aware that we had the policy discussion and for anyone who was interested in providing insight on the policy, it would

have behooved them to come for that policy discussion. So today we are talking about sex offender registration.

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

Good morning, Mr. Chairman and members of the Committee. As was stated, the intent of this bill is to further strengthen public safety and to mitigate sexual offenses. Sections 1 through 10 amend existing statute to require a sentence of lifetime supervision and for which certain conditions of lifetime supervision apply to sexual offenses by a school employee or volunteer at a public or private school toward a pupil as defined by NRS 201.540. I will not keep on referring to that specific NRS; I will just say "the NRS" meaning NRS 201.540. Sections 2 and 3 of the bill amend existing statute to add a sexual offense by a school employee or volunteer at a public or private school toward a pupil to a list of sexual offenses which require psychosexual evaluation as part of the presentence investigation report which requires a certification that a person convicted does not represent a high risk to reoffend before the person may be granted probation or have his or her sentence suspended. Section 4, page 8, line 33 amends existing statute to require notification of a victim or a witness of an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil as defined by the NRS. Section 5, page 11, line 11, adds to the list of sexual offenses for which the sealing of records is not authorized the offense of sexual conduct between certain employees of a school or volunteers at a school and a pupil as defined by NRS.

Section 6, page 12, line 3 requires that offenses involving sexual conduct between certain employees of a school or volunteers at a school and a pupil as defined by the NRS to register as a sex offender to comply with current mandatory conditions of probation, parole, and to fulfill certain other requirements. Section 7, page 12, line 44 amends existing statute to make a person who is convicted of an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil as defined by the NRS a Tier II offender. Section 9, page 14, line 39 amends existing statutes to an enhanced penalty for repeat offenders who are convicted of an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil as defined by the NRS. Section 11, page 17, line 20 requires an evaluation by the State Board of Parole Commissioners to evaluate a prisoner's likelihood to reoffend in a sexual manner for an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil as defined by the NRS.

In summary, people who are convicted of an offense involving sexual conduct between certain employees of a school or volunteers at a school and a pupil, pursuant to NRS 201.540, will be treated in a manner that is consistent with

penalties, requirements, and restrictions of all of the sex offenders in Nevada. I am appalled by the simple fact that sexual offenders under the NRS are not required to register as sex offenders. Our communities are put at risk when employees are not made aware of the individual's criminal history of sexual offending. The sexual offender, as defined by the NRS, could easily acquire a job that has access to our children. I implore you not to let this happen and encourage you to support A.B. 265. I thank Assemblyman Livermore for bringing this bill forward and I am happy to answer your questions.

**Chairman Frierson:**

In simple terms, it sounds to me like A.B. 265 proposes to require the teachers that are prosecuted for inappropriate sexual relations with pupils have to register the way any other sex offender would.

**Assemblyman Hambrick:**

That is correct.

**Chairman Frierson:**

Are there any questions from the Committee? Seeing none, I will invite those wishing to offer testimony in support to come forward and I will start in Las Vegas.

**Terri L. Miller, President, S.E.S.A.M.E., Inc.:**

Good morning, Mr. Chairman and Committee members. I serve as President of Stop Educator Sexual Abuse, Misconduct & Exploitation (S.E.S.A.M.E). My crusade to fight against educator sexual abuse in the state of Nevada started in 1983, when I was made aware of a teacher at Pahrump Valley High School who was engaging in sexual misconduct with students. I feared for my own children's safety and I worked very hard within that community to try to get the authorities to go after the offender. In 1994 that teacher was elected to the school board but two weeks later was arrested on three counts of sexual assault of his most recent victim. That teacher consequently was sentenced to five years to life in prison in 1996 and he served 16 years of that sentence. He was just paroled last September.

I have been working for 30 years to protect our children from sexual predators in schools. In 2003 I became aware of this particular loophole that exists in the law that does not require these teacher sex offenders to register as sex offenders. When we think about where children are most present for 180 days of the year, they are in school for six hours a day. We do not know if the person in front of their classroom is one of these offenders. We do not know if these offenders who have been convicted in our state since the enactment of Senate Bill No. 122 of the 69th Session have gone to other states to enter

another classroom of children. We cannot allow these trusted individuals who have violated our children to go scot free and be able to gain access to children in any other capacity whether it is through employment or volunteerism. [Ms. Miller submitted [Exhibit O](#), [Exhibit P](#), and [Exhibit Q](#).]

I am here to ask for your support for A.B. 265. I am grateful to Assemblymen Livermore and Hambrick for sponsoring this legislation and to the other Assembly members who have also signed on as sponsors. Thank you for your time and consideration.

**Chairman Frierson:**

Thank you very much. Seeing no questions from the Committee, is there anyone in Las Vegas or in Carson City wishing to offer testimony in support of A.B. 265?

**Jerod Updike, Private Citizen, Reno, Nevada:**

[Testimony provided through interpreter Shannon Archer.]

My name is Jerod Updike and this is my third session testifying at the Assembly. I want to look at the amendment which is also on my PowerPoint presentation ([Exhibit R](#)).

**Chairman Frierson:**

Mr. Updike, if I may interrupt you for a moment. I do have several documents that you have submitted as well as amendments. Again, to be consistent, if the sponsor of the bill is not supporting, or if you have not gotten clearance from the sponsor of the bill on any particular amendment, now would not be the time to discuss amendments that have not been embraced by the sponsor.

Is there anyone else here wishing to offer testimony in support?

**Brian Daw, representing Clark County School District:**

We are offering our support for this bill since the protection and safety of our students is one of our utmost concerns. We would also like to thank Assemblyman Livermore for bringing this forward to provide additional statutory protections for our students. Thank you.

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

We are also here in support of A.B. 265.

**Jocelyn Diaz, Private Citizen, Carson City, Nevada:**

I would like to thank you for this honor and opportunity to speak in support of A.B. 265. This is an issue that I have been passionate and outspoken about for the past few years and with good reason.

Around the time that I came forward about a teacher who had, years ago, abused me, and while it was a case being investigated because this man was still teaching, I became aware of another teacher who pled guilty and was convicted of sexual misconduct with an underage student of his. I found this out by accident. This man's child and my child were at the same birthday party. His wife left her purse at the party and in an effort to find her address so I could return her purse, I searched online for their name. What I found instead were newspaper articles of this man's trial.

Approximately a decade before, in another town and in another county, this man pled guilty and was found guilty of having sex with an underage student on his basketball team; he was her coach. Along with these search results were his current affiliations with a variety of children's and youth sports organizations. A year later I also found that he was coaching basketball at my daughter's private school. This was a school that required that every parent undergo fingerprinting, background checks, and attend a class that educated adults in recognizing signs of child sexual abuse and appropriate actions to take when it was suspected.

Many parents came forward out of anger and concern—most of whom were subsequently threatened with legal action by this offender and his wife. They and their friends and family members frequently said that this was a mistake that he had made in his past, that he was breaking no law by volunteering to work with children. It was frequently stated that he should be allowed to prove himself safe to work with kids and that he should be allowed to move on with his life.

Statements such as these send a message to victims that what has happened to them is invalid, that it happened in vain, that they are not worthy of outrage on their behalf, and that their perpetrator had priority when it came to moving on with their lives. To this day, this man coaches in this town. Unfortunately, it has come to my attention and of many other concerned parents that he is not, in fact, breaking any laws. Frankly, I find this a miscarriage of justice. Since then, I have taken my daughter out of that school and although she has begged me to play sports in this town, I will not allow her to. My child has to miss out on her childhood in order for this offender to prove himself when, in fact, he already has proven himself to be an unsafe adult that lacks boundaries, integrity, judgment, responsibility, accountability, and remorse for what he has done.

The epidemic of sexual misconduct among teachers has more than once seeped into our communities, and communities all across the nation. Sadly, my own community is not immune. Rather than receiving validation,

encouragement, and support from members of the community, all too often the victim is blamed, stigmatized, and forced into exile. This act in itself is a travesty only to be worsened by the fact that in many of these cases, after the dust settles, the perpetrator is allowed to move on with his or her life. Their crimes are often forgotten by many, but the lives of their victims are forever changed and the past is never forgotten.

I stand in support of A.B. 265. I would like to thank Assemblyman Hambrick and Assemblyman Livermore for sponsoring this bill. Thank you.

**Chairman Frierson:**

Thank you, Ms. Diaz, for sharing your story.

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department:**

We are in support of this bill. Thank you.

**Ronald P. Dreher, Government Affairs Director, Peace Officers Research  
Association of Nevada:**

We are in full support of A.B. 265 and hope the Committee processes this bill as written. Thank you.

**Chairman Frierson:**

Is there anyone else in Carson City or in Las Vegas wishing to offer testimony in support? [There was no one.] Is there anyone here or in Las Vegas wishing to offer testimony in opposition? [There was no one.] Mr. Updike, I would invite you back to present your testimony including proposed amendments. I would ask that you summarize your testimony and also go over your proposed amendments.

**Jerod Updike:**

[Testimony provided through interpreter Shannon Archer.]

Thank you very much. I want to propose my amendment today ([Exhibit S](#)) and that is, for a person who is on lifetime supervision, he can be released from that after five years if he does not have any violations of physical violence, the use of force or weapons, or the threat of violence. [Mr. Updike also submitted written testimony ([Exhibit T](#)).]

There are two separate laws regarding registry. There is sexual registry informing the police where I live, where I work, and all of that information. Then there is the lifetime supervision where I have a parole officer who checks on me every month. I have to be drug tested; they come to my house and if my friends are there, I am embarrassed and I feel picked on sometimes. If I want to

go out of state, I have to ask seven days in advance for permission and if it is less than seven days, they will not give me that pass. My mistake was over ten years ago and I have been out of prison for six years. The last ten years have been really messed up. I cannot move out of state because of the lifetime supervision, not because of the registry. Lifetime supervision means I am stuck; I cannot move out of state; and I cannot do several things. That is what is really frustrating—the struggle of my life.

I would really like your support on the amendment so that I can have my life back. Thank you.

**Chairman Frierson:**

Thank you very much, Mr. Updike. I certainly understand the frustration of folks who have stayed out of trouble after making a mistake when they were young. When we draft these laws, we draft them out of an abundance of caution for the reoffender. I will say, as a practitioner, I have had folks end up in a situation and unfortunately, because it was two days after their eighteenth birthday, they are now lifetime sex offenders whereas had it occurred three days prior they would not be, so I understand your concern. It is a delicate and difficult balance that we have to strike with an eye toward protecting the public. Are there any questions for Mr. Updike?

**Jerod Updike:**

I have one more thing I would like to say about my amendment. The reason that I say to move out of state is because if you do not want to follow the Nevada law with lifetime supervision, you cannot just go to another state, and I do not have that. That is why I amended it; I do not want it to seem too weak, that a person can move out of state if he does not want to follow the law. That is not my intention.

**Chairman Frierson:**

I appreciate that. Thank you, Mr. Updike, for taking the time to put your materials together which we have circulated to the Committee.

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

I think Mr. Updike does bring up an important comment. This bill does not just require registration. In section 1 it would require lifetime supervision, which is a special sentence somewhat unique to Nevada, which in all functionality would prevent anyone ever convicted under this statute from ever being able to move or leave the state of Nevada. That is a consideration that I think is warranted.

I am not opposed at all to punishing offenders who engage in this type of conduct. I know this Committee heard Assembly Bill 377 about expanding

those definitions. The public defender did not oppose that; we were neutral on that. The question this bill raises is not whether those individuals should be punished, because they will be punished with a category C or B felony and, perhaps prison time, but this is really a policy determination. Are the crimes that are being discussed here of such a serious value that they should be subject to registration, lifetime supervision, the psychological panel, and all those things that play into registration?

These crimes by definition are normally consensual. There is a bit of an interplay here because, as this Committee knows, the age of consent in this state is 16 years of age so at 16 or 17, somebody can consent to sexual conduct. The position on this bill is this is an unwarranted expansion of the registration requirements that this particular crime we are discussing does not warrant the registration and the other requirements that would come along with this bill.

I have heard a lot of testimony about this being information for the community and ensuring that these individuals do not work at schools, as coaches, or as volunteers. That is really an issue that could be determined by doing any kind of simple background check. Schools can do background checks and I cannot imagine a scenario where somebody who was convicted of an offense like this, or frankly even charged with an offense like this, would be able to get a job at a school or as a volunteer. That maybe is a shortcoming on the due diligence before hiring or allowing these individuals to volunteer.

I would not necessarily have a problem with this bill if the registration requirement applied to cases where the victims were 14 or 15, but I do think when a victim is 16 or 17, there is a categorical difference because of the age of consent in this state. We have had a lot of discussion about how that does not really make sense across the laws.

There is a bill, Senate Bill 104, that came out of the Senate Committee on Judiciary that would actually get rid of the psychological panel in prison so I do not know how that would interplay with section 11 of this bill. The tier system that is talked about in section 7 may be affected by the implementation of Adam Walsh laws where the tiering is done on a categorical basis.

I would sum up by saying I have not heard any evidence that individuals who engage in this kind of conduct are more likely to be repeat offenders and frankly, I do not think we have heard any evidence that there have been repeat offenders in this type of conduct. The punishment of the felony in law already—potential prison—is appropriate. The additional requirements of registration, lifetime supervision, and what this bill purports to do are not

appropriate for the offense that we are discussing. Those conclude my remarks. I will answer any questions.

**Chairman Frierson:**

Thank you, Mr. Yeager. It seems to me that if a teacher has an inappropriate relationship with a pupil under the age of 16 that the state has the option of charging either under the teacher-pupil statute, or simply statutory sex which would be a sex offense. My question is, in your mind, does the state have options that would allow for appropriate prosecution and labeling as a sex offender if the state wanted to make sure the person was required to register?

**Steve Yeager:**

Yes, I think we typically see situations like that where we have someone who is under 16 where there might be alternative charges, one of which would currently require registration whereas the charge under this statute would not. My principle concern is when we get to the folks who are 16 and 17 years old because, absent a lack of consent, I do not think there is a charge. Currently that would require registration, so with respect to the 16- and 17-year-olds, this would be a change in terms of the registration requirements, although as this Committee knows, it would still most likely result in a felony conviction and potential prison time. Assembly Bill 377 substantially amplifies the definition of what constitutes sexual conduct between teachers or volunteers and students. That category is also being broadened a little more.

**Assemblywoman Diaz:**

As an educator, I have to get fingerprinted if I am going to work for a school. So Mr. Yeager, what would be your recommendation to ensure that teachers who do have these charges are discovered? My understanding is that it currently does not come up on an individual's record or teachers are not required to be registered.

**Steve Yeager:**

Frankly, I think what you are talking about is maybe a gap in the criminal records. Normally I would expect that information, even a charge of this kind of conduct, would appear on someone's background when running the fingerprints either through the Shared Computer Operations for Protection and Enforcement (SCOPE) system in Las Vegas or through the national systems. In terms of this bill, I would back off the opposition to this bill if what this bill sought to do was require only sexual offender registration, meaning not the lifetime supervision, because that is burdensome and costly. If it required only registration for those offenders where the victim was 14 or 15, which is under the age of consent, that would be an appropriate compromise for those cases and for this bill.

In terms of how school districts or an organization would know whether somebody had been convicted where the victim was 16 or 17, that would come up in a criminal history check. If it does not, then that, to me, is a gap in the communication between local law enforcement and whatever organization maintains those records. Those are going to come up on background checks even for jobs.

**Chairman Frierson:**

Thank you, Mr. Yeager. I will remind the Committee that in A.B. 377, there was an amendment adding provisions that empowered the school district to take administrative action for conduct that fell short of criminal prosecution but was still deemed to be inappropriate which I thought was also an important measure. Ms. Diaz's question touched on the concern about evidence which is not strong enough to convict and the teacher resigns or is terminated and then goes to a different school. I think that is a whole separate issue, administratively, than what we are talking about here today.

Are there any other questions for Mr. Yeager? Seeing none, is there anyone else in Carson City or Las Vegas wishing to offer testimony in opposition?

**Terri Miller:**

Yes, Mr. Chairman. One of my students is a college and high school student. She attends the College of Southern Nevada High School.

**Chairman Frierson:**

I am sorry, Ms. Miller. We are in opposition.

**Terri Miller:**

Yes, I just want to make note of a student, Daniella Karli, who is a college and high school student and is asking for NRS 201.550 to be added to this bill ([Exhibit U](#)).

**Chairman Frierson:**

Thank you very much. Is there anyone else wishing to offer testimony in opposition? [There was no one.] Is there anyone in Carson City or in Las Vegas wishing to offer testimony in a neutral position? Seeing none, I would invite Mr. Livermore back for any closing remarks.

**Assemblyman Livermore:**

Thank you, Mr. Chairman. I would like to close with a couple of comments. You heard the testimony earlier from the woman who is in favor of this bill. My organization did background checks and those types of things did not appear, as you also heard in her case, because it is not required. I want to

leave you with one final thought. The most heinous thing that I have heard in my life was the Jaycee Dugard kidnapping that took place just a few miles from us. That was 18 years of imprisonment of this young lady and I do not think we can be as safe as we want to be. I encourage you to support A.B. 265 to make sure our children and future children are protected. Thank you very much for hearing this today.

**Chairman Frierson:**

Thank you very much, Mr. Livermore. With that, I will close the hearing on A.B. 265. I will now open the hearing on Assembly Bill 248.

**Assembly Bill 248: Revises provisions relating to certain criminal offenses involving vehicles. (BDR 43-616)**

**Assemblywoman Michele Fiore, Clark County Assembly District No. 4:**

I am here today to introduce Assembly Bill 248. This bill would take minor traffic violations from a criminal violation and treat them as a civil fine. Currently, minor traffic violations in the state of Nevada are criminal offenses and are punishable as misdemeanors and are subject to up to six months in jail and a civil fine. This bill removes the criminal offense and makes minor traffic violations subject to a civil penalty. Please note that any statute that specifically calls for a misdemeanor, gross misdemeanor, or felony penalty for a traffic violation is not affected. Examples of violations that are not affected are: driving under the influence of alcohol or a prohibited substance, operating a cell phone, failure to stop for a school bus, failure to stop for a peace officer, failure to yield to an emergency vehicle, or aggressive driving. All of our neighboring states already have this practice in place. They all treat their minor traffic violations as a civil matter instead of a criminal manner. None of these states have experienced any problems because of the change.

The proposed amendment (Exhibit V) is in response to concerns voiced by the courts and some of the police organizations. We believe all policy objections have been answered. In addition, we are asking for an effective date of July 1, 2015 so if there are further modifications we need to make, they can be done in the next session of the Legislature without having to postpone implementing this very important policy.

Before I go over the bill, I would like to introduce Tim Bedwell who will give you an overview of the differences between traffic violations that are civil in nature versus criminal. Mr. Bedwell was a police officer in Arizona where offenses are civil, and is a police officer here in Nevada.

**Tim Bedwell, Director of Intergovernmental Services, City of North Las Vegas:**

I am here to address the concerns that have been raised by law enforcement and courts with regard to this bill. First of all, I would like to commend Assemblywoman Fiore for the bill and more importantly, her willingness to work with others on the original bill as well as with this amendment. I also want to commend everyone who came forward very quickly with their concerns so they could be addressed.

My goal here is to help with the technical aspects of this legislation. I was a police officer in the state of Arizona for six years. I came to Nevada in 2001 and I have been a police officer in North Las Vegas ever since. I am not here representing North Las Vegas; it is not a North Las Vegas bill. I would also like to tell you that traffic safety has been a major personal issue for me.

The purpose of the *Nevada Revised Statutes* (NRS) with regard to traffic laws as stated in Chapters 484A to 484E inclusive, is to establish traffic laws which are uniform throughout the state of Nevada, whether or not incorporated into local ordinances and secondly, to minimize the differences between the traffic laws of the state of Nevada and those of other states. Those are the two stated goals of the NRS.

This bill addresses a major difference between Nevada law and those of Arizona, California, Colorado, Idaho, Oregon, and Utah, among many others. Those states have a system in place that is consistent with what Assemblywoman Fiore is introducing here, that minor traffic violations become civil infractions, and misdemeanor traffic violations are serious traffic violations.

Assemblywoman Fiore asked to have this bill effective July 1, 2015. Should something come up that needs to be addressed in another bill, the interim session as well as the next session would allow for that and it could be done prior to the enactment of this bill.

[Vice Chairman Ohrenschall assumed the Chair.]

The constitutional requirements on police officers involved in a traffic stop do not change whether the violation is civil or criminal. Fourth Amendment rules apply with regard to search and seizure. That was a question that was brought to the Assemblywoman and I think it was good, as it needs to be very well clarified that a police officer's responsibilities to a person's civil rights are the same regardless of the level of the violation that the officer had reasonable suspicion to believe was committed and led to a stop.

The amendment allows that officers can continue to arrest people for refusal to sign a citation involving a misdemeanor charge. An officer would not arrest the person for refusal to sign a civil traffic violation. Working under the system where a person who is arrested for speeding and says that he is not going to sign that ticket, I, as a police officer in Arizona, would simply write "refusal" on the signature line and I would sign the citation as served. We have checked with the Legislative Counsel Bureau (LCB) and that is consistent with Nevada law with regard to a lot of things that are served on people in absence of their signature. What is different is we would not be taking people to jail for speeding or even refusal to sign a citation for speeding. That is a decision you have to make as to whether you believe a person should be arrested for their refusal to sign a citation when there is no change in the law.

One of the things that needed to be addressed quickly was the fact that the original bill caps the fines at \$250. That has been changed and the fines are still commensurate with the misdemeanor fines that are in place now. In states where there is reciprocity for suspension of driver's licenses, that would remain the same. This bill speaks to the NRS requirements to minimize differences between traffic laws of the state of Nevada and those of other states. There are minor traffic differences—for example, we have helmet law and Arizona does not—but that is somewhat of an insignificant issue. We are talking about a major issue where the state of Nevada is inconsistent with the states around us. This bill serves to address that difference. It keeps in place prosecution for all major traffic offenses and making minor traffic law consistent with the region. I will answer any questions you may have.

**Vice Chairman Ohrenschall:**

Thank you very much, Lieutenant Bedwell. I imagine this would be an incredible cost savings for the local governments and departments. Is there any estimate as to what that might be?

**Tim Bedwell:**

Actually, I think there is some disagreement. We could anecdotally argue both sides. The fact is, it is being done in other states across the country. There is a process where changes will need to be made with regard to technology and there is cost involved in that. There is a cost at the front end that probably has to be addressed; however, long term what really happens is the system stays pretty much the same. People may pay a little more quickly because they know they are not admitting to a misdemeanor criminal offense; they are admitting to a civil traffic violation. The changes in the arrest process would probably be a savings, clearly.

**Vice Chairman Ohrenschall:**

Even though we are not a money committee, we do consider the cost of the laws we pass in this Committee.

**Assemblywoman Spiegel:**

In section 37, pages 22 and 23, it talks about penalties for not having evidence of insurance whether the person is driving his own car or a vehicle he borrowed from someone else. My question is, given that law enforcement obtains records through the Department of Motor Vehicles (DMV) and DMV now has access to insurance information online, why would we still have a penalty for somebody if they cannot find their insurance card?

**Tim Bedwell:**

The law is there to allow an officer to use his discretion to issue a citation in the case where it cannot be deemed the insurance is current. Even before this information was in the computer, many officers, depending on how much time they had, would call the number on the insurance card. The bottom line is, it is a violation of law and there are times when an officer has to write that citation and then the person would then have to go in and prove that he had insurance at the time. One of the things this does is it makes it a lesser fine if you then obtain insurance in the interim between the time that you get the citation. Judges also have that discretion.

**Assemblywoman Cohen:**

My questions are about section 18 which I see in the mock-up was deleted. I want to make sure that I understand, starting with subsection 6 that was about the civil penalty for not appearing. Since that was deleted, does that mean it is still a criminal penalty if you do not appear?

**Tim Bedwell:**

I am going to speak to the intent of that which is, if you fail to appear on a civil traffic violation, it is a civil violation and the punishment for that is the revocation of your driving privileges, and then driving on a revoked driver's license is a criminal offense. Specifically to this, no, it would not be a criminal violation to fail to appear on a civil summons.

**Assemblywoman Cohen:**

Even though that paragraph was stricken from the mock-up?

**Tim Bedwell:**

That is correct.

**Assemblywoman Cohen:**

Likewise, in section 18, subsection 3, with the ten-day requirement of notifying the court—that was also deleted. Is it still a requirement?

**Tim Bedwell:**

What that does is it does not modify out a difference between a civil infraction and a misdemeanor criminal violation with regard to time limits. So otherwise, the time frames would remain the same for a civil violation as they are currently on the same charge as a misdemeanor.

**Vice Chairman Ohrenschall:**

Are there any other questions from the Committee?

**Assemblyman Martin:**

I am wondering how this would affect the little cottage industry we have in the south, Ticket Busters, the Pink Building, and others. Is this going to reduce the need for their services, make this more consumer friendly, or is it going to have no effect?

[Chairman Frierson reassumed the Chair.]

**Assemblywoman Fiore:**

Actually, it will have no effect because we still have to pay the tickets.

**Assemblywoman Diaz:**

There is a lot that is being stricken out. Could you fill us in on the conversations and compromises that brought forth this new amended bill? I compare one to the other and they are quite different.

**Assemblywoman Fiore:**

It received a lot of opposition in the beginning simply because, I believe, the courts were under the impression that this was a money grab, which it is not. In replying to them and working with the opposition toward compromise, the amendment is quite different.

**Tim Bedwell:**

It is reflective of how well Assemblywoman Fiore has worked with the people who had issues they wanted to address. Her goal was to address all of them.

**Assemblywoman Diaz:**

What does the new and improved bill accomplish?

**Assemblywoman Fiore:**

I think the new and improved bill accomplishes taking away the opposition's reasons to oppose it so hard.

**Assemblywoman Diaz:**

Currently this is happening, and now this is the new improved way by which we are going to do business in this state. I was hoping you could shed some light on the differences.

**Assemblywoman Fiore:**

As the bill in whole, I would like to accomplish getting this in the works and opening up the dialogue so, as lawmakers, we can start changing some of our archaic laws and getting with our surrounding states as the second part of NRS Chapters 484A through 484E states. With the new improved version of A.B. 248, I believe it still encompasses our original intent and goal of not just arresting anyone for anything. Does that answer your question?

**Assemblywoman Diaz:**

Not to the full extent, but I can probably have an offline conversation with you so I can better understand. Thank you.

**Chairman Frierson:**

Are there any other questions from the Committee?

**Assemblyman Duncan:**

From a practical perspective, how many other states have the same scheme that Nevada has? What happens to the person who gets pulled over for speeding right now, and how will it be after?

**Assemblywoman Fiore:**

There are 40 states including the states which border us. When someone gets pulled over right now in Nevada, we can arrest anybody for anything. We want this to put into effect more discretion of who we are arresting and the lives we are changing because it is a life-changing experience when you get those cuffs on and get put in the back of a police car. To answer your question, A.B. 248 brings our current statutes out of the archaic times and into 2013.

**Assemblyman Duncan:**

Right now, if Mr. Wheeler were to get a speeding ticket, how would that be classified? I have gotten a speeding ticket before, too, and I do not recall it being a misdemeanor infraction.

**Tim Bedwell:**

You just hit upon one of the things that Assemblywoman Fiore told me when she first mentioned this bill to me in December. People do not know that they can be arrested for speeding in Nevada. You can be. It is a misdemeanor crime in Nevada right now. While most people are not arrested, they are given a citation. I will use a real-world example. Should you, Assemblyman Duncan, be given a ticket for speeding today, and your wife says she paid the ticket but you discover it was not paid because another police officer pulled you over after you rolled through a stop sign, you will most likely be arrested for the warrant that comes from your original speeding ticket, and arrested for the violation of the stop sign because you have a prior failure to appear.

**Assemblywoman Fiore:**

To add to this real-world example, we had the Department of Public Safety (DPS) testifying that 65,000 records were found since 2007 which were not implemented in the system. The wife paid her husband's ticket and her check was cashed but it was not implemented in the system, so he was arrested and ultimately spent 26 hours in jail.

**Chairman Frierson:**

Are there any other questions from the Committee? [There were none.] I now invite those in Carson City wishing to testify in support to come forward.

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

I am happy to be here to support Assemblywoman Fiore and A.B. 248. If you have any questions, I would be happy to answer them.

**Assemblywoman Diaz:**

Maybe you can answer my question that I posed to Assemblywoman Fiore. In your experience, how is this bill changing how we currently do business in this area in our state?

**Eric Spratley:**

It changes us from being able to write a citation for any traffic offense and it being a misdemeanor violation to a civil infraction. It relieves the burden from us to have that ability to arrest violators on the side of the road for speeding or any other traffic offense. Traffic safety is our primary concern and this does not affect that. We will still be able to be out there enforcing it; we will still be able to write citations; we will still have revenue from it, but it just makes it so people are not subject to going to jail for those small offenses.

**Assemblywoman Diaz:**

Is my first traffic violation for speeding a misdemeanor or is it an accumulation of these?

**Eric Spratley:**

Today, if you are found guilty of your speeding ticket, it is a misdemeanor crime and you are a criminal. With this bill, it would just be a civil infraction. The bottom line is civil versus criminal.

**Chairman Frierson:**

In the majority of those cases where they get a speeding ticket, when they pay it, there is often the opportunity for traffic school where it gets reduced down to a non-moving violation. Would that also be considered a misdemeanor?

**Eric Spratley:**

I honestly do not know. Any of the traffic violations, moving or non-moving, are criminal violations.

**Chairman Frierson:**

If you have the wherewithal to go to court or go to the clerk to pay your fine and make those arrangements, you get it reduced, but if you pay it online as a fine, you would have a conviction for a misdemeanor currently.

**Eric Spratley:**

Correct.

**Chairman Frierson:**

Are there any other questions? Seeing none, is there anyone else in Carson City or in Las Vegas wishing to offer testimony in support? [There was no one.] Is there anyone wishing to offer testimony in opposition?

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

We are not opposed to the policy being considered herein. We think there are too many unanswered questions surrounding this bill. We also have a concern regarding collection of misdemeanor fines and fees. Currently the state relies on administrative assessments for \$30 million of revenue in the state budget and we are unsure if that funding will be collectible under this scheme.

**Chairman Frierson:**

What is your opinion on whether or not this is something appropriate for the interim and in what way?

**John McCormick:**

The courts are committed to looking at this issue as we go forward. In the other house, they have already passed a bill that calls for a specific study in this area. The courts would be happy to participate in that.

**Chairman Frierson:**

Are there any other questions for Mr. McCormick? Seeing none, is there anyone else wishing to offer testimony in opposition?

**Melissa Saragosa, Justice of the Peace, Las Vegas Township Justice Court:**

I echo what John McCormick said and that is we are not really commenting at all on the policy behind any of this. Our concern was the implementation and the practicality of the way it was written. I would like to commend Assemblywoman Fiore for meeting with us about some problematic language in the bill. They have looked to the amendments to fix these. I do not know that they fixed everything and that is the problem. We have received the amendment and our staff attorney is still looking at it. When you delete certain sections, then you have section 23 that is not deleted which still refers to sections 12 to 22, it was very confusing. We just want to fine-tune it and we are welcome participants in further discussions to make it workable for everyone. There is a fiscal aspect to it in terms of updating case management systems to process the cases in this fashion. We are not ready to say in its current form that we are in support but we are fully willing to continue to communicate with all the players involved.

**Kristina L. Swallow, Engineering Program Manager, City Engineer Division, Department of Public Works, City of Las Vegas:**

We have spoken with our municipal court and for the reasons that have already been articulated, we still have concerns regarding the bill.

**Nechole M. Garcia, Assistant City Attorney, Civil Division, City of Henderson:**

Our municipal court still has concerns also. We do appreciate Assemblywoman Fiore's efforts to work with everyone's concerns and we want to continue to work with her on this bill.

**Cadence Matijevich, Assistant City Manager, City of Reno:**

We are very appreciative of the time and efforts that Assemblywoman Fiore has put into trying to address the concerns that we have. I echo the comments of Judge Saragosa. We got a long way with the amendment but there are additional items that need to be addressed before we are comfortable endorsing the bill. Thank you.

**E. Alan Tiras, Justice of the Peace, Incline Village-Crystal Bay Township Justice Court; President, Nevada Judges of Limited Jurisdiction:**

Our municipal and justice courts really handle all the traffic matters throughout the state of Nevada. We have no comment with regard to the policy but we do have concerns with regard to implementation, in particular, the collection aspect of this bill. We would like to have our input be part of the process and wish this would be studied further. Thank you.

**Chairman Frierson:**

Are there any others wishing to offer testimony in opposition? [There were none.] I will now invite those in Carson City and in Las Vegas wishing to offer testimony in a neutral position to come forward.

**Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:**

We are in support of the concept of this bill but many of my members have concerns with the mechanics of it. I want to thank Assemblywoman Fiore for wanting to work with us and we would also like to work on the bill as well. We are neutral.

**Tom Conner, Chief Administrative Law Judge, Office of Administrative Hearings, Administrative Services Division, Department of Motor Vehicles:**

All of our concerns with the initial language of the bill have been addressed in our proposed amendment ([Exhibit W](#)) and we want to thank Assemblywoman Fiore for taking our concerns into consideration.

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

We also appreciate Assemblywoman Fiore and her staff reaching out to the various elected district attorneys throughout the state; however, we are neutral at this time for most of the reasons already discussed.

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:**

I had discussed this amendment earlier with the sponsor, but we are still neutral because we do not have civil citations. It has covered most of the minor traffic offenses. The only thing that is confusing for us right now is refusing to sign and upon refusal, they are not going to show up. We need clarification on that.

**P. Michael Murphy, representing Clark County:**

I agree with the concerns in reference to the technical aspects of the bill. We are not concerned with the issue about civil or criminal. Thank you.

**Chairman Frierson:**

Is there anyone else in Carson City or in Las Vegas wishing to offer testimony in a neutral position? Seeing none, I will invite Ms. Fiore back for closing comments.

**Assemblywoman Fiore:**

Thank you, Mr. Chairman and my peers on the Assembly Judiciary Committee. For Mr. O'Callaghan's peace of mind, we are okay with the amendment with regard to the signing of the tickets which we did talk about.

**Tim Bedwell:**

In my speaking to citizens and to legislators as well, the biggest confusion with regard to Nevada traffic law right now is with existing law. Many do not realize that a speeding ticket is a criminal offense in Nevada and if you get it pled down, you are still getting it pled down to a criminal offense even if it is a parking ticket. Recognizing that fact, Assemblywoman Fiore is asking that it become a civil infraction consistent with most other states. It takes the confusion out of Nevada law rather than adding any. Thank you.

**Chairman Frierson:**

With that, I will close the hearing on A.B. 248 and I will now open the hearing on Assembly Bill 325. I would like to acknowledge and welcome Mr. Bernie Anderson from whom I learned a great deal about chairing this Committee. Assemblyman Martin, please introduce your bill.

**Assembly Bill 325: Authorizes a court to commit certain convicted persons to the custody of the Department of Corrections for an evaluation. (BDR 14-742)**

**Assemblyman Andrew Martin, Clark County Assembly District No. 9:**

Thank you for the opportunity to present Assembly Bill 325. I have been very pleased to work with the Majority Leader's office on this bill and as such, I am going to turn over our brief presentation to Brittney Shipp.

**Brittany Shipp, Policy Assistant for the Majority Leader of the Assembly, Nevada Legislature:**

Assembly Bill 325 is legislation that was recommended by the Advisory Commission on the Administration of Justice. During the October 10, 2012 work session, the Advisory Commission voted to recommend legislation to reinstate a diagnostic safe keeper evaluation prison term, as the Advisory Commission noted the program worked in the past and was an effective tool to deter offenders early.

At the Advisory Commission meeting held on March 7, 2012, Ms. Sheryl Foster with the Nevada Department of Corrections (NDOC) gave a presentation on the former 120-day safe keeper evaluation program, which was repealed by Senate Bill No. 74 of the 69th Session. This law authorized a court to commit persons convicted of a felony to the custody of the Director of the Department of Prisons, which is now the Department of Corrections, for a period of 120 days, during which time the offender's prior criminal record, mental and physical health, and the rehabilitation resources available to them were evaluated. The only people eligible for the program were those who had been convicted of a felony for which they might be sentenced to imprisonment and who had never been sentenced to imprisonment as an adult for more than six months.

Ms. Foster said they were unable to determine a recidivism rate based upon the data available; however, earlier testimony stated only 600 out of 2,000 people placed in the program had returned to prison. She said the Advisory Board recommended the elimination of the program in 1997 due to budgetary concerns and limited bed space. Some positive aspects of the program included the fact that an offender only spent 120 days in incarceration, and the program emphasized education and gave young offenders who were not able to go to boot camp an idea of how serious prison is. This bill would reinstate these provisions but reduces the time period from 120 days to 90 days. With the Chairman's permission, I would like to invite Mr. Kohn to explain why this legislation is necessary.

**Philip J. Kohn, Public Defender, Clark County Public Defender's Office:**

Assembly Bill 325 is an incredible aspect of the criminal justice system that is lacking right now. It is all about getting it right as to who goes to prison. As has been indicated, we had a program like this 15 years ago and it was a 120-day diagnostic. I understand that this is an expensive program, but we have learned over the years that we cannot lock up everyone. This is a tremendous tool in helping us determine which offenders we can rehabilitate and which offenders we cannot. If there are any questions, I am available to answer them.

**Chairman Frierson:**

Are there any questions from the Committee? [There were none.] I invite those wishing to offer testimony in support of A.B. 325 to come forward.

**Kristin Erickson, Chief Deputy District Attorney, Washoe County District Attorney's Office:**

As probably one of a handful of prosecutors and defense attorneys who actually utilized the 120-day program back in the 1990s, I found it to be a very effective

tool. We missed the program very much when it went away. We utilized it and we support its reinstatement at this time. Thank you.

**Chairman Frierson:**

Are there any questions? Seeing none, is there anyone else wishing to offer testimony in support?

**Chris Frey, Deputy Public Defender, Washoe County Public Defender's Office:**

We also support the bill. Thank you.

**Chairman Frierson:**

Is there anyone in Las Vegas wishing to offer testimony in support of A.B. 325? [There was no one.] Is there anyone in Carson City or in Las Vegas wishing to offer opposition? Seeing none, is there anyone wishing to offer testimony in a neutral position to A.B. 325 in Carson City and in Las Vegas?

**James "Greg" Cox, Director, Department of Corrections:**

Looking at the 120-day program in the past, we had questions concerning the number of people who might be placed in it. We did not get a number of our questions answered about that. We have not put a fiscal note on this bill simply because we do not know how many people will be involved.

Mr. Kohn and I talked about this extensively and "scared straight" programs do not work. There is a substantial amount of data, studies, and best-outcome standards that show they do not work. In fact, it has negative outcomes and negative impact for some people.

Looking at the situation in our state, it is somewhat difficult for me to come up here because I do believe in diversionary programs and intermediate sanction programs. We did have the 120-day program but with regard to the 90-day program or even a 30-day program, we have not had a process to look at how we might implement that. I am open to discussion about it. Obviously, I would like to divert as many people from jail or prison as we possibly can in our state to help reduce the cost to the taxpayers in general.

**Sheryl Foster, Deputy Director, Department of Corrections:**

I appreciate the opportunity to talk about this and I agree with the Director that we are in support of diversion programs and intermediate sanction programs as long as they have the right goal. I guess we are a little confused as to the real goal of this program. It was originally touted as a scared straight program. Research shows that these programs do not work and when you put low-risk offenders in with high-risk offenders, the effect is oftentimes negative and can

actually lead to increased or more sophisticated criminal behavior. That is one of the concerns we have.

Some of our other concerns have to do with how the bill is written. It does not put a limit on how many people can be placed in this program because that will certainly impact where and how we implement the program. It also does not mention an age limit for the program. Because of the Prison Rape Elimination Act (PREA) any offender who is sent to prison who is under the age of 18 has to be housed separately, away from sight and sound of adult offenders. The location of the program would likely be at one of our Carson City facilities and that unfortunately would impact those Clark County commitments who then would be separated from their families for visitation purposes.

I think the bill also references that this could also be utilized for females. Female offenders would obviously be housed at Florence McClure Women's Correctional Center. The only problem with that is that facility is nearing its capacity and we would not have appropriate space at that facility right now to implement a program.

We would need to have appropriate program staff available: caseworkers; a mental health counselor or psychologist who is dedicated to this program; staffing at the women's prison, staffing at the men's prison, and staffing where the youth offenders are housed. Our main concern is whether the program would actually put these low-risk offenders in danger of becoming more sophisticated in their criminal behavior.

**Chairman Frierson:**

My concern is the lack of a diversionary program would ensure that they get more sophisticated by going to prison.

**Greg Cox:**

Mr. Chairman, I certainly understand that comment. I am looking at how we may move forward with this type of program to make it a success, meaning staff or other resources.

**Chairman Frierson:**

Are there any other questions from the Committee? Seeing none, is there anyone else wishing to offer testimony in a neutral position? Seeing none, I would invite Mr. Martin, Ms. Shipp, and Mr. Kohn up for any closing remarks you might have.

**Philip Kohn:**

There was a discussion at the Commission about scared straight but that is certainly not my position on this. My position is this is a diagnostic study. I do understand NDOC's concern with regard to the number of people and that judges could overuse it. I think the judiciary would understand and use it for the most difficult cases. We can certainly put age limits on it from, say, 18 to 25, which are the most impressionable of our clients and somehow review this in two years. I am concerned that when we ended this program 17 years ago, we really did not look into a study as to whether it was working or not. I agree with the district attorney from Washoe County. I used this when I was trying cases and I believe it is an incredibly important tool for the criminal justice system. I know there are some costs involved, but with all due respect, we have to understand that if we put money at the front end, you have to put money at the back end. I know that is outside of my scope and I mean no disrespect with that. I thank the Committee for the time.

**Chairman Frierson:**

We do not look more than two years down the road at a time as often as we should but, at least conceptually, it would seem to be that this could save money over the long term when we are not necessarily incarcerating as many people and given the tools to succeed by virtue of some of these programs.

**Brittany Shipp:**

I would like to go over a friendly amendment that Mr. Martin proposed ([Exhibit X](#)). It is a technical change. In section 4 of the bill, which is only amended to add the evaluation program into a relevant statute, there is an outdated term in there, "crimes against nature," and it changes that term to "sexual activity." It has to do with when offenders are admitted into the prison, they have to undergo a human immunodeficiency virus (HIV) test and if they test positive and they are engaging in risky behavior such as battery or sexual activity, they have to be segregated from the other prisoners. Thank you.

**Chairman Frierson:**

Thank you, Ms. Shipp. Are there any questions on that?

**Assemblywoman Fiore:**

Are they tested for other sexually transmitted diseases besides HIV?

**Brittany Shipp:**

Looking at the statute, it just says HIV, so I do not know.

**Chairman Frierson:**

I would ask that someone get back to Ms. Fiore about that.

**Assemblyman Martin:**

I think Mr. Kohn said it best that diversion programs are usually very good programs. There is permissive language in section 1, subsection 1, paragraph (b) where it says the court "may," not "shall," go forward with this commitment of the defendant, and I think that needs to be weighed. I do not think the cost factors here are that significant compared to the cost of incarceration. I urge your support on this. It is a good program and I appreciate your time and effort. Thank you very much.

**Chairman Frierson:**

Thank you. With that, I will close the hearing on A.B. 325. I am willing to entertain a motion and encourage the parties to continue working to address some of those issues.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 325.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Martin will handle the floor statement. Last on the agenda for today is Assembly Bill 400 and I invite Mr. Munford up to introduce his bill.

**Assembly Bill 400: Revises provisions governing parole and probation and criminal offenders. (BDR 14-946)**

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

Good morning, Mr. Chairman. I am here today to present Assembly Bill 400 to the Judiciary Committee. I have a great interest in issues involving criminal justice and the correctional system. Since my first session in 2005, I have tried to listen to people who work with offenders as part of their careers, as well as offenders and their families. My goals are to improve the correctional system but still protect the public from those who are most likely to obstruct their safety and cause them harm. Assembly Bill 400 represents a part of that continuing effort.

I would like to go through a brief breakdown of the bill. One part of the bill is going to address postconviction deoxyribonucleic acid (DNA) testing. It is a major factor in the increased discovery of wrongful convictions. In Nevada,

current law allows persons to petition the court for postconviction DNA testing of biological evidence.

**Chairman Frierson:**

Mr. Munford, I believe Assembly Bill 233 was the same as A.B. 400 with respect to provisions allowing for an appeal or a denial for DNA testing, which we have passed out of Committee. If we could focus on the probation and revocation portion of the bill as it is policy we have not had discussion on.

**Assemblyman Munford:**

Section 2 of the bill deals with probationers who may not be following each technical aspect of their probation agreement. In such cases, people may end up back in the state's prison system when they are not a risk to public safety. We need to make sure that our system does not become overburdened with minor or technical probation violators. We should be focusing instead on protecting the public from those probationers who are actually committing new crimes.

Specifically, section 2 provides the court may not revoke probation or suspended sentence of a probationer unless it finds, based on the circumstances of the original crime and a probationer's conduct while on probation, it is necessary to protect the community from further criminal violations and activity by the probationer. The offender needs treatment that can be most effectively provided while he is in prison. The totality of violations are serious enough to warrant revoking the probation or suspension of a sentence and carrying out the sentence imposed. But the violation demonstrates that the person cannot be supervised by an officer of the Division of Parole and Probation, Department of Public Safety, if these practices and policies are not in place.

Section 2 also clarifies that the court may not revoke probation or suspension of sentences only because the probationer fails to pay administrative fees, fees for DNA testing, or criminal defense expenses. However, as the court finds that a probationer willfully failed to pay any of these costs or fees, good time credits may be lost and the period of probation may be extended. Finally, if the court does revoke the probation or the suspension of a sentence, the court must state on the record the findings in support of this decision. Also, section 6 of the bill requires the State Board of Parole Commissioners to consider the same factors in revoking parole that section 2 requires the court to use in deciding whether to revoke probation or a suspended sentence.

Probation and parole are test periods for offenders to show they can live appropriately in society. The main difference is that one happens before and,

we hope, instead of prison while the other might happen after the term of incarceration. Together, sections 2 and 6 will lead to more fair and consistent evaluations by the courts and the Parole Board.

Another portion of this bill is hepatitis C testing. The rate of hepatitis C testing in prison populations has raised a lot of red flags for at least a decade. Research shows that prison inmates are infected at a significantly higher rate than the population as a whole. Person-to-person transmission of hepatitis C occurs typically through tattooing and during incarceration. The health risk to inmates is only the tip of the iceberg. According to the U.S. Department of Justice (DOJ), more than 95 percent of prison inmates are released back into society. Many released offenders will carry undetected hepatitis C back into the neighborhoods and workplaces where they will pose a potential health risk to others. We do not know how many Nevada inmates are carrying this virus because the Nevada Department of Corrections (NDOC) does not administer a test for it upon entering. These changes will enable us to find out which inmates have been exposed to hepatitis C. Step 2 is to take precautions to keep the virus from spreading. Step 3 is to begin necessary treatments at early stages.

The next phase of the bill is dealing with tours of correctional facilities. As lawmakers, we hear from many people including citizens who come and sit where I am now sitting. I am here to give you their suggestions. Inmates do not have the ability to present these ideas directly to us. I certainly appreciate the job that the Director of NDOC and his staff do to report to us about what is happening in the prisons and the system. However, there are times when it is best to investigate it ourselves. Section 5 of this bill authorizes elected officials to tour and inspect facilities of NDOC, to converse with offenders, and the permission of the warden and the Director is not necessary. However, the visits must be preceded by reasonable notice subject to appropriate safety precautions established by the Director. The current Director has given elected officials the opportunity to tour facilities. Sections 5 and 6 simply secure that opportunity for future governmental leaders. My position is that whenever I get the desire, or when I am asked by someone whose family member is incarcerated to take the time to visit him, I think it is good that we should have that privilege and opportunity. As an elected official, I have visited many of the facilities on many occasions and I think we should be able to make an unannounced visit once in a while. On a day-to-day basis, there are things that occur in some of those facilities that our appearance might help to change and correct. I am very strong on that. In my district, I have many constituents who have family members who are incarcerated and I get calls constantly for different requests. I am open for questions.

**Chairman Frierson:**

Thank you, Mr. Munford. Are there any questions from the Committee?

**Assemblyman Wheeler:**

Assemblyman Munford, have they ever turned you down when you made a call asking to visit an inmate who is one of your constituents?

**Assemblyman Munford:**

No, but they have given me a timetable as to when I can come and when I cannot. Maybe my schedule will not fit with their schedule. I might want to go immediately.

**Assemblyman Wheeler:**

I understand what you are saying, but I am worried about security concerns if you just show up and there is something going on. Have you taken that into consideration?

**Assemblyman Munford:**

Most of the time when I have visited, I have not been required to go through as extensive a security check as the average family member or friend who visits an inmate. We are almost waived in terms of security; we are given a pass, basically, and we almost walk through. I do not think there is any risk when we come to visit. They have guards there and they should be doing their jobs.

**Assemblyman Wheeler:**

My security concerns are for the prison itself, not of us bringing something in. They have a facility that they have to manage and I understand that and sometimes it can be a disruption if you just show up. That is what I am saying.

**Assemblyman Ohrenschall:**

Mr. Munford, I applaud you for being so connected to your constituents and to their families, and to reaching out to the families of the incarcerated. My question has to do with page 9, section 6, subsection 4, line 37 that adds some new requirements for revoking parole. What was the background on that? It adds some new standards for parole release.

**Assemblyman Munford:**

That section of the bill is referring to an inmate who has not been released and is still incarcerated. He is eligible to come before the Parole Board to determine if he going to be granted parole.

**Assemblyman Ohrenschall:**

No, I do not believe so. Parole has already been granted but is subject to revocation because of a violation.

**Assemblyman Munford:**

You know, most of the infractions are very slight. Many of my constituents who are out on parole come to me and tell me this. That is why I introduced this portion of the bill because they say the parole officer is ready to charge them with something that might reincarcerate them.

**Chairman Frierson:**

Are there any other questions for Mr. Munford? Seeing none, I will now invite those in Carson City and in Las Vegas wishing to offer testimony in support of A.B. 400 to come forward.

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

We are in support of A.B. 400. I did want to note one thing for the record. There was some talk about A.B. 233 that passed through this Committee as being identical to section 1. I think the one difference is in section 1, line 3, of this bill which takes out the exclusion for a category A or B felony. This proposal would allow anybody convicted of a felony to be able to petition or appeal a dismissal. I think the other bill that was considered still only applied to category A and B felonies so I think there was just that one difference.

**Tonja Brown, Private Citizen, Carson City, Nevada:**

I wholeheartedly support A.B. 400. I would like to comment on a couple of things that were discussed. Because of computer glitches which NDOC has acknowledged and is making recommendations so errors do not occur, an inmate was threatened by his parole officer of going back to prison because he did not have a job. There was an error of attempted escape charges in his file which delayed his parole by 90 days. He was taken down and sustained a shoulder injury that required surgery. When he got out of prison, he lost his job as a heavy equipment operator and has to be retrained. He is still in therapy. His parole officer is threatening to send him back to prison because he does not have a job even though he is going to college. Also, he has been paying his fees but they are not getting recorded right away. A parole officer can revoke someone's parole for whatever reason and this is just one example as to why we should pass this bill.

**Chairman Frierson:**

Thank you. Are there any questions for Ms. Brown? Seeing none, I invite those in Las Vegas wishing to testify in support of A.B. 400 to come forward.

**Juan High, Member, Nevada CURE:**

My name is Juan High, Mr. Chairman. I would like to speak in support of A.B. 400. I spent 27 years in NDOC from 1983 until April 5, 2010. I was pardoned by Governor Guinn. Senate Bill No. 325 of the 69th Session was a bill related to certain parole conditions for sex offenders and it was to be applied to offenders convicted after its enactment. However, NDOC and Parole and Probation have been applying this bill to all offenders released. I was in a treatment program for approximately nine months. However, because of not being able to work, I was not able to pay the fees required for attending the classes weekly. I think it was \$30 a week. She was upset about it. I spoke about Senate Bill No. 325 of the 69th Session in a particular class on June 9, 2011 and two hours later, I was arrested by my parole officer and taken back to prison. There was no due process, protections, or mechanisms in place for my being terminated from the treatment program. It was a unilateral decision by the treatment provider without me being able to provide any witnesses, testimony, or evidence relating to why I was terminated. After I got back to prison in July 2011, I appeared before the Parole Board. I was immediately reinstated by the Parole Board because they had made a determination that the written violation report by my parole officer was not substantive enough to warrant my continued incarceration. That was on August 23, 2011. However, because of some of the other mechanisms that have been put in place, such as the psych panel, I was not released until February 2012, which was six months after I was reinstated on parole. As it stands now, a parole officer, whimsically or arbitrarily based on any reason that he may have, can have you returned to prison.

I am in support of A.B. 400 because I have been personally affected. I am caring for my 76-year-old mother who has health issues. She had to watch me be arrested right in front of her eyes by three parole officers. I also support the bill because none of the NDOC classification procedures are based on whether inmates being housed together have contracted the hepatitis C virus. I am also here on behalf of Nevada CURE.

**Florence Jones, Board Member, Nevada CURE:**

Good morning, Mr. Chairman and Committee. I am Director of the Legislative Committee of Nevada CURE, a retired Nevada educator, and a third-generation Nevadan. I am absolutely in support of A.B. 400. I did submit two amendments which I did not see in any of the paperwork, so I do not know if I was not timely.

**Chairman Frierson:**

Ms. Jones, I would ask you to speak with Mr. Munford. We do not typically have amendments when the sponsor is not aware of them or at least part of the

conversation. Are there any questions from the Committee? Seeing none, is there anyone else wishing to offer testimony in support?

**Helen Caddes, Private Citizen, Las Vegas, Nevada:**

I also support testing for hepatitis C and for our representatives to visit without notice. I know that you were not addressing the DNA testing element of this today but I had submitted an amendment and some language regarding DNA testing. I wanted to make sure it was read into the record. I wanted to add on page 5, section 1, subsection 12, line 34, "In the instance where the petitioner will bear all costs for genetic marker analysis and provide proof to the court that said funds are available, the court shall not deny said petition. If a previous petition has been denied by the court, issues raised prior shall be available to the petitioner for use in any new petition." That is all I have. I support A.B. 400.

**Chairman Frierson:**

Thank you very much. Is there anyone else in Las Vegas wishing to offer testimony in support?

**Michelle Ravell, Member, Nevada CURE:**

I will be extremely brief. I support A.B. 400.

**Chairman Frierson:**

Thank you very much. Are there any questions from the Committee? Seeing none, I invite those in Carson City or in Las Vegas wishing to offer testimony in opposition to come forward. Seeing none, I invite those in Carson City or in Las Vegas wishing to offer testimony in a neutral position to come forward.

**James "Greg" Cox, Director, Department of Corrections:**

Mr. Chairman, some of the Committee members know that I have steadfastly looked at transparency for the system. I meet as often as I can with advocacy groups with regard to the system and its operations. I have not ever denied Assemblyman Munford's ability to tour the facility even when I was a deputy director. There are rules in place in this profession to ensure safety. We have a very good process when it comes to grievances and we are extremely litigated.

With regard to hepatitis C, most states do not test for hepatitis C. There is a substantial cost for the testing and then there is a substantial cost for the treatment. If we are going to test, then we would have to treat. I do not want you to think that our state is the only state that does not do this testing; most states do not. Most of the large states, for example California and Arizona, do not do it.

**Sheryl Foster, Deputy Director, Department of Corrections:**

We are asking for a clarification on section 2, subsection 2, paragraph (b) having to do with the probationer can be revoked if he or she is in need of treatment which can most effectively be provided if in prison, and in section 6, subsection 4, paragraph (b) having to do with the parolee can be revoked if he is in need of treatment which can most effectively be provided if he is in prison. What are they referencing in this bill with regard to treatment—medical, mental health, substance abuse, or some other type of treatment? Depending on what is intended, it could result in a fiscal impact should we require additional resources that are not currently available.

**Tony DeCrona, Deputy Chief, Division of Parole and Probation, Department of Public Safety:**

I would like to comment on the revocation issues as far as technical violations. Absconders from supervision are considered to be technical violators. A sex offender with a child in a prohibitive situation is also a technical violation. Violations and returns for revocation are offender driven. The money matters are addressed if they are not paying fees but it is not the sole reason for their revocation. There are due process safeguards in place if the offender is arrested for a violation of his supervision. The court and the Parole Board are the final decision makers as to the revocation of the offender. They are neutral on this.

**Connie S. Bisbee, Chairman, State Board of Parole Commissioners, Department of Public Safety:**

The Board is neutral on this bill. Under section 6, this does not have anything to do with parole officers. It has to do with the Parole Board and what we consider when we determine whether or not to revoke. In terms of being neutral, this is the only section that concerns the Board. Thank you.

**Chairman Frierson:**

There being no one else, I would invite Mr. Munford for closing remarks.

**Assemblyman Munford:**

I hope you give this legislation deep and serious thought. It has a lot of merit to it. On many occasions, I made phone calls to probation officers and asked for information related to a particular probationer or ex-offender. They hardly ever returned my calls. When they did return my calls, they were very rude and disrespectful. I do not know if there exists in statute now anything to require them to respond in a more professional and responsible manner. I have had so much difficulty in trying to reach a probation officer. Other than that, I do not have too much else to say. This is something that has been a part of me since I came up in 2005. I have been a strong advocate of trying to bring about

inmate and corrections reform. I owe commitment to my constituency because many are, in some way, affiliated or connected to the correction system.

**Chairman Frierson:**

Thank you, Mr. Munford. With that, I will close the hearing on A.B. 400 and briefly allow for public comment. [There was none.] With that, today's meeting of Assembly Judiciary is adjourned [at 12:30 p.m.].

RESPECTFULLY SUBMITTED:

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Thelma Reindollar  
Committee Secretary

APPROVED BY:

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Assemblyman Jason Frierson, Chairman

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

## **EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** April 11, 2013

**Time of Meeting:** 8:21 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 97	C	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 113	D	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 194	E	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 202	F	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 274	G	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 307	H	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 378	I	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 415	J	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 421	K	Dave Ziegler, Committee Analyst	Work Session Document
A.B. 54	L	James Jackson, NJLJ	Amendment
A.B. 54	M	John Tatro, Justice of the Peace	Court Security Survey
A.B. 54	N	Gilbert Coleman, Ph.D., Economic Consulting Inc.	Civil Fee Percentages
A.B. 265	O	Terri L. Miller, President, S.E.S.A.M.E., Inc.	Testimony
A.B. 265	P	Terri L. Miller, President, S.E.S.A.M.E., Inc.	Educator Sexual Abuse Data Collection
A.B. 265	Q	Terri L. Miller, President, S.E.S.A.M.E., Inc.	S.E.S.A.M.E. Report

Assembly Committee on Judiciary

April 11, 2013

Page 60

A.B. 265	R	Jerod Updike, Private Citizen	PowerPoint
A.B. 265	S	Jerod Updike, Private Citizen	Amendment
A.B. 265	T	Jerod Updike, Private Citizen	Testimony
A.B. 265	U	Terri L. Miller, President, S.E.S.A.M.E., Inc.	Testimony of Daniella Karli
A.B. 248	V	Assemblywoman Michele Fiore, Clark County Assembly District No. 4	Amendment
A.B. 248	W	Tom Conner, Chief Administrative Law Judge, Office of Administrative Hearings, Department of Motor Vehicles	Amendment
A.B. 325	X	Brittany Shipp, Policy Assistant for the Majority Leader of the Assembly, Nevada Legislature	Amendment