

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

**Seventy-Seventh Session
April 25, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 9:04 a.m. on Thursday, April 25, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

Assemblywoman Marilyn Dondero Loop (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

William O. Voy, Judge, Family Division, Eighth Judicial District Court
Ben Graham, Governmental Relations Advisor, Administrative Office of
the Courts
John R. McCormick, Rural Courts Coordinator, Administrative Office
of the Courts
John T. Jones, Jr., representing Nevada District Attorneys Association
Carey Stewart, Director, Department of Juvenile Services,
Washoe County
Scott J. Shick, Chief Juvenile Probation Officer, Douglas County
Juvenile Probation Department
Steve Yeager, Deputy Public Defender, Clark County Public Defender
Regan J. Comis, representing M&R Strategic Services
Valerie Wiener, Chair, Legislative Committee on Child Welfare and
Juvenile Justice
Scott Black, Detective, Las Vegas Metropolitan Police Department
Rebecca L. Palmer, Acting State Historic Preservation Officer,
State Historic Preservation Office, Department of Conservation
and Natural Resources
Mark C. Davis, Chief of Planning & Development, Division of State Parks,
Department of Conservation and Natural Resources

Chairman Frierson:

[Roll was called. Committee protocol and rules were explained.] We have a fairly busy agenda but first, I want to take a moment to welcome Assemblyman Thompson to the Judiciary Committee.

We have three bills on the agenda today. We are going to go in order so I will first open the hearing on Senate Bill 106 (1st Reprint).

Senate Bill 106 (1st Reprint): Revises various provisions relating to judicial administration. (BDR 14-509)

William O. Voy, Judge, Family Division, Eighth Judicial District Court:

Senate Bill 106 (1st Reprint) came from the Commission on Statewide Juvenile Justice Reform; however, this was a previous bill from last session. Essentially what this bill does is allow the juvenile court to reduce financial obligations, whether they are owed by the parents and the youth, or by the youth after they turn 18 years of age, to reduce those obligations to civil judgments. It allows us to dismiss the remaining portions of the cases, terminate probation, and to disentangle the youth and family from the system while still being allowed to protect the victim's rights of restitution and other financial obligations owed to the county and state by the parents of the children, whether it be a fine, restitution, or other fees owed for the support of the child from the parents in the system.

Currently in existing law, all those financial obligations terminate upon the court terminating its jurisdiction, which is automatic when the child reaches the age of 21. Each year thousands of dollars in restitution and other financial obligations of the state and county are wiped off the books, never to be collected. In addition, because we attempt to collect until our jurisdiction runs out, there are many children who have now reached 18 years of age and older who need to be disentangled from the system and move on with their life. However, because of the financial obligation still outstanding, I cannot allow that to happen until my jurisdiction runs out or until the obligation is paid. If someone wants to go to Job Corps, they cannot be on probation. I have to terminate my jurisdiction to allow them to go to Job Corps and move along with their life and then the financial obligations terminate also.

For the county and state governments and the victims of crime, it is very important to be able to collect these monies. The bill also authorizes the court to waive certain community service that has been previously ordered and allow the young adult to pay a contribution to a restitution fund. A lot of victims we have, especially with juveniles, do not receive restitution because we have to write it off when the convicted juvenile turns 21 years old.

From time to time, I have had people come into court and say, "I am working full time, going to school, and I have turned my life around. I owe this community service, but can I pay you a fine instead?" I tell them they can contribute to the restitution fund on an informal basis but it is their choice. This would be the statutory authority to have that fund exist and to allow that to occur. It is the subject minor who would be paying that contribution upon good cause shown to waive the community service hours in lieu of that contribution. That is what the bill does.

Chairman Frierson:

Thank you, Judge Voy. Are there any questions from the Committee? I will address the restitution contribution fund options. My concern here is providing an alternative measure for people who can afford it. Reading it, it sounds like some people who can afford to pay to get out of community service get this option and for those who cannot afford to pay, it is not an option. It just does not ring fair to me. Was that a part of what we visited last session? It seemed to jump out at me as something new.

Judge Voy:

It is just like a fine. We have mandatory fines and for those that cannot pay, we allow them to convert the fine to community service. The system is set up in a very similar fashion. Those who can pay their fines do so and go on their way. Those who cannot pay their fines, it can be reduced to community service.

Chairman Frierson:

That seems to me to be accommodating poverty and this is accommodating wealth. It is kind of the reverse.

Judge Voy:

I can see that and it makes sense. If that provision causes too much angst with this Committee, please strike it because the first part of this bill is so much more important to me and the families and the kids that I serve here in Clark County.

Chairman Frierson:

Thank you, Judge Voy. Getting to the heart of the bill, and I believe that is what we visited last session, I remember there being some angst about this notion that when a minor is under the age of 18, that minor's ability to pay is based on their parents. Oftentimes, the minors can get jobs, but essentially, it is the parents' responsibility. This seems to be the one instance where it carries over to adulthood.

Judge Voy:

I guess we have to do a balance. We can keep the child, who is now an adult, under the jurisdiction of the court, subject to search and seizure, probation violations, and warrantless searches. We are holding the youth back by making them stay under the jurisdiction of the court until their twenty-first birthday because of these financial obligations. This is a tradeoff in those cases where those obligations exist, and to allow the youth to move on with their life.

The bill has been amended on the other side this session. It allows for a grace period for the judgment to be recorded or turned over to collection. It was perceived that that would give them a grace period so they could get a good start without having something on their credit report. That was the current bill's amendment on the Senate side.

Chairman Frierson:

Judge Voy, in an adult court, when there is an outstanding balance, there is the option of a civil confession of judgment. Say somebody is on probation and they owe some fees. They are due to finish probation and they have not quite paid it yet. There is the option of a civil confession of judgment that gives whoever the money is owed an option civilly, generally in small claims court, to garnish that person's wages. I do not quite see why that could not apply here and prevent a minor from having to stay on probation until he is 21 years old solely because of a balance owed, when we could possibly do a civil confession of judgment in the same manner.

Judge Voy:

There is no statutory authority in *Nevada Revised Statutes* (NRS) Chapter 62 to do so. Confession of judgment would have to be voluntary and you have to file a separate action in civil district court with a filing fee and go through that process. This bill essentially does that.

Chairman Frierson:

Are there any other questions from the Committee?

Assemblyman Thompson:

If a minor has a fine, once he turns 21, is he given amnesty? I am just trying to understand that. As long as you can make it to the age of 21, the slate is clean and you can move on, we are hoping, as a productive adult.

Judge Voy:

In current law, these families and kids will wait us out until they turn 21. They may owe a couple thousand dollars in restitution. We keep having status check hearings to see if they made a payment bogging everything down in the process. On their twenty-first birthday, the \$2,000 they owe in restitution to victims is wiped clean. That is basically what happens. The obligations that the parents owe to the county for services rendered to the children also dissipate like that.

The civil judgment would allow us to do that at age 18 against the parents in most cases and also, when appropriate, against the children who are aging out. These people and their families go on with their lives when the child turns 18

while still protecting the victims' rights and also the obligations owed to the government.

Assemblyman Thompson:

As long as a person is able-bodied, should community service not still be required? There are still victims where there needs to be some type of payment back to them and their families.

Judge Voy:

No, I cannot convert restitution to community service.

Chairman Frierson:

That applies both in juvenile and criminal court. Victims are not able to be made whole with community service. The restitution portion in both juvenile and adult cannot be converted to community service. Fees, fines, and assessments sometimes can, at the discretion of the court.

Ben Graham, Governmental Relations Advisor, Administrative Office of the Courts:

Assemblyman Thompson, welcome. I think this will be an exciting adventure for all of us.

To me, a young person who has an opportunity to get out of the community, in many cases, to go on to Job Corps, or possibly the military or some other service-oriented or educational-type thing is important. If they owe money for fines or restitution, then sorry, you cannot go off to the Job Corps. You have been on probation for 20 months and you have not paid a nickel; well, maybe there was not a nickel to pay; they did not have it. But if we keep them in the community, they are still going to be down on the corner or on the street with some of the folks they got in trouble with to begin with. Whatever we do, we need to have the flexibility for the court to let these young people go on to more important affairs in life.

I will wager that darn near every one of us has been a victim of a crime. Somebody breaks into your home and takes off with your things. They order restitution, but we do not want to talk about how many people actually get restitution. I think that would be scary.

Whatever we do, we balance the rights of the victim, which is what we did initially by making it so strong to keep a person on probation during that period. We need to be able to serve the community and the young people that need to get off of this probation for strictly these financial terms. And as the Chairman indicated, community service does not create money for anyone. Community

service may be cleaning a church's courtyard or the manure at the barns by Sunset Park, but it is not the answer to everything. We are balancing victims' rights. This is not going to happen every day, but it is going to give an option when a parent, their young person, their clergy, and attorney get together to help the young person move on with his life. The important thing is that we make our children responsible and the parents responsible to look after their children. I really appreciate the concern here to make this work to get these people on to more productive commitments.

Chairman Frierson:

Thank you, Mr. Graham. I see that point. I just do not see this bill primarily as that. I do not see this bill as being a bill that tries to help minors get on with their lives. I see this bill as a way to generate money. I am okay with generating money based on juveniles who have committed certain offenses and need to pay and be responsible for those offenses.

Ben Graham:

Mr. Chairman, I know where your heart is and I know where mine is. We will get what is good out of this legislation. Thank you.

Chairman Frierson:

Thank you, Mr. Graham. I do not know that I have an issue with somebody still being responsible for whatever this balance is. I just do not know why it goes from being the parents' responsibility and then when the minor turns 18 or 21, it converts to an adult-type situation as opposed to the parents continuing to be responsible for the things that occurred. Say a 16-year-old gets into an accident and the parents are responsible. Civilly, I would imagine the parents continue to be responsible if there were a lawsuit or a settlement. That is just my concern, not so much that we do not need to recover these fees. I am concerned that we are doing this quasi-adult thing with minors becoming adults. Do not get me wrong, Mr. Graham and Judge Voy. Nobody who has been involved in this system for any period of time wants to get blood from a turnip. We realize there is a limited amount of resources from these kids. I know that is not the goal. It just seems to me that that could possibly be the consequence.

Judge Voy:

Mr. Chairman, the language of the statute is that the judgment is entered against the parents. Most of the time the judgment would be entered against the parents, but the statute is written in such a way to give flexibility, when appropriate, to assess and have that judgment entered against the now-adult who was the minor. I am envisioning using this more as a vehicle to keep that obligation owed by the parents themselves, just so the record is clear.

Chairman Frierson:

Thank you, Judge Voy. For the members of the Committee, I have read this bill several times over the last couple of years so I am probably a little more familiar with it than some of you. I am looking at section 7, subsection 6, on page 10, the determination of indigency. I think it is a practice, but has not been put into statute for some time. The 200 percent of the poverty line is what we have used in adult criminal court to determine indigency. On page 10, lines 19 and 20, my question is why is the seriousness of the charges against the child listed as a factor in determining whether or not someone can afford to pay?

Judge Voy:

That is a good question. I do not know.

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

Mr. Chairman, if I may. This language as reflected on page 10 came out of the definition for "indigent" in Administrative Docket (ADKT) 411 which was issued by the Indigent Defense Commission (IDC) convened by the Nevada Supreme Court.

Chairman Frierson:

Thank you, Mr. McCormick. In reviewing it, I thought about the same thing but there are also rates for attorneys listed as well. I think the theory is, the more serious the charge, the attorney may charge more than the average rate. That provided some clarification. Are there any other questions?

Assemblywoman Fiore:

As chief executive officer (CEO) of a company that employs over 2,000 Nevadans, we get letters from the courts all the time garnishing my employees' checks for child support. Why can we not implement that with situations like this?

Judge Voy:

Reducing the amount to a judgment would allow us to do that. I cannot just garnish someone's wages with a court order. The child support has specific statute that allows you to do that with the court order under child support laws. Having this reduced to a judgment would be one of the means of collecting which would be the garnishment. Currently, my court order which sets forth the financial obligation owed by the parents is not something that can be enforced through a garnishment, but a judgment can.

Assemblywoman Fiore:

I suggest we use the judgment then.

Judge Voy:

That is what this bill would create.

Chairman Frierson:

Judge Voy, in speaking with you previously, I think there is a frustration of the inability in juvenile court to do some of the things that judges are able to do in adult court based on statutory language. Is that, at least to some extent, where this is coming from?

Judge Voy:

Correct. What is interesting is my inherent authority as judge is so limited when I am sitting as the juvenile court judge. We are a creature of statute. All my power derives from you all and NRS Chapter 62.

Chairman Frierson:

Thank you, Judge Voy. Are there any other questions from the Committee? I see none. Mr. Graham, did you have anything to add?

Ben Graham:

You can see all the issues that we have had through here. There is a bill coming over from the Senate side dealing with judgments and what may be exempt or not exempt, so that is another whole area of discussion. With the Chairman's and the Committee's indulgence, we would love to get together and we will figure out something that accomplishes protecting the victims which was a priority when this was initially drafted, and to allow the judge some flexibility to help society and these young people.

Chairman Frierson:

Thank you. We have the Senate bill coming over and we had the Assembly bill dealing with the ability to raise fees to provide for things that justice courts need. I think we have to coordinate all of this to make sure they are moving forward together so they do not contradict each other. Thank you, Mr. Graham. Thank you, Mr. McCormick.

Is there anyone wishing to offer testimony in support of S.B. 106 (R1) both here in Carson City and in Las Vegas?

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

I am here today in support of S.B. 106 (R1). I would like to make two points, and these have already been addressed, but I want to reiterate them. First, this

bill goes a long way in helping the court help make the victims whole. I think that is a very notable goal, especially since, in the juvenile system, at age 21, the court is done with the subject minor or the child. No matter how much money they owe, when they turn 21, the court no longer has the ability to enforce the restitution order on behalf of the victim. The second reason why I think this is a good bill is it helps accountability for the subject minor or the defendant. What we are saying now as a state is, we are going to hold your feet to the fire until you turn 21 but at that point, no matter how much damage you caused the victim, the restitution order goes away. This bill helps rectify that situation.

Another point is this is discretionary. The juvenile court judge does not have to issue this order. The judge can consider all the circumstances surrounding the case. So with that, Mr. Chairman, the Nevada District Attorneys Association (NDAA) is here in support of S.B. 106 (R1). It is a good piece of legislation and we strongly urge this Committee's passage.

Chairman Frierson:

Thank you, Mr. Jones.

Assemblyman Wheeler:

I see the intent of the bill and I think I have to agree with it. When these young people turn 21 years old, some of them probably are not going to get much more than a menial job since they have been in the system already and probably have not gone to college. When they do get a job, it would seem almost a deterrent knowing they are going to have their wages garnished and they can probably make more money on state assistance.

John Jones:

Assemblyman Wheeler, I appreciate that question and it is a possibility. I cannot discount what you are saying. It is not just the juvenile who the court can order into civil judgment again; it is also the parent. Judge Voy testified to this earlier. I have a feeling that the parents are going to be the people who the order is made against most of the time. Just like with juveniles, there could be situations where parents work hard to pay off the restitution and the juvenile does nothing. In that situation, the judge may use their discretion and say, "Parents, you have done your part and I am going to hold the juvenile accountable." This bill really does give the judge tools to help the victim get the restitution he deserves and to hold the juvenile accountable, as well as the parents when they are not holding up their end of the bargain.

Assemblyman Wheeler:

Are you saying that a 17-year-old who commits a crime and is found guilty of that crime, is ordered to pay restitution and does not pay it until he is 21, and had moved out of the house three years ago, now the judge can come after the parent?

John Jones:

Quite frankly, it is that way now. When a child is supervised under the jurisdiction of the juvenile court, the parent is also under the jurisdiction of the juvenile court as that individual's parent. We have that ability now to hold the parent accountable to some extent. This bill extends that to the restitution side of it.

Chairman Frierson:

Mr. Graham, who has been around for a while, would concur with the concern. For those of us who practice in that area, the concern is that we see when these kids graduate into the adult system and the failure to take responsibility. Part of the motivation behind this is taking into account some way of teaching these individuals at a young age the value of responsibility.

I have a question. In the determination of indigency, say a minor commits an offense and is 16 years old and then ages out. Is the determination of indigency at the time when the sentence is imposed, which would have been when the minor was 16 years old, or is there some mechanism to revisit indigency at the point where the child is either scheduled to get off probation or turn 21 years old?

John Jones:

Mr. Chairman, I appreciate the question. It is my understanding that when the actual appointment is made, it is at that point that the determination of indigency is made.

Judge Voy:

It is made at the point of the appointment process, but the indigency standard is used throughout the life of the case whenever a new financial obligation arises. We also use that same standard for reimbursement for children being placed in the care and custody of the state or children being placed at Spring Mountain Youth Camp which is our county camp.

Chairman Frierson:

Judge Voy, would you clarify? You said that you could revisit indigency later?

Judge Voy:

No, what I am saying is the indigency standard that is in the bill is used not just with attorney's fees but also other financial obligations that we order from time to time such as those parental reimbursement fees that the statute says I have to consider when I send a kid to the state facility or to one of the county camps.

Chairman Frierson:

My question is, if we are looking at the minor when they are 16, are not all of them indigent by definition?

Judge Voy:

It is the parents. We are looking at the parents' financial obligation, the income of the parents or lack thereof.

John Jones:

It is the parents who fill out the financial disclosure form and it is that form that the court reviews to determine how much, if anything, will be charged for their defense.

Chairman Frierson:

Thank you, Mr. Jones. Are there any other questions from the Committee? [There were none.]

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

Good morning, Mr. Chairman and members of the Committee. I am the director of the Department of Juvenile Services in Washoe County, as well as the president of the Nevada Association of Juvenile Justice Administrators. The Juvenile Justice Administrators support S.B. 106 (R1). What this bill allows us to do is collect restitution in a more timely fashion. Currently what happens is juveniles get ordered to make restitution, as well as their parents. However, there is not a mechanism in the law to hold the parents accountable so we could have someone placed on probation today who gets ordered to pay restitution along with the parents. Even though the parents may have the financial means to pay that restitution, quite often we see that restitution issue get pushed aside until the minor turns 18. Our only recourse at that point is to enter a civil confession of judgment against the minor child when many years have gone by that, if we could order a civil judgment against the parent, we would have a mechanism to collect restitution well before the minor turns 18. So we support this bill. I can answer any questions you may have at this time.

Chairman Frierson:

Thank you. Are there any questions from the Committee? Seeing none, is there anyone else in Carson City or in Las Vegas wishing to offer testimony in support of S.B. 106 (R1)? [There was no one.] Is there anyone wishing to offer testimony in opposition either in Carson City or in Las Vegas? [There was no one.] Is there anyone wishing to offer testimony in a neutral position to S.B. 106 (R1) either in Carson City or in Las Vegas? Seeing none, I will come back to Judge Voy if you have any closing remarks you would like to offer.

Judge Voy:

Thank you, Mr. Chairman. This is my second go-around on this bill. I get a little frustrated, but I understand the concerns. As Mr. Jones pointed out, this issue frustrates us all in the system. It frustrates the public defenders, the district attorneys, and the court. We are really confined to what NRS Chapter 62 allows us to do. In that regard, you sitting there in the Legislature and myself, we are joined at the hip. We can only do what NRS Chapter 62 allows us to do, and so I see this bill as another tool we have in a huge system. Our attempt to collect restitution bogs down our system. The only way I can force the collection of any financial obligation through a parent is the cumbersome, time-consuming, inefficient process of contempt proceedings. We cannot even give these orders to collection agencies to collect in the normal way because most of the amounts are so small that collection agencies told us that unless you have a civil judgment, they are not going to do it. It is too expensive to turn these orders into civil judgments and then collect on them. Those are the financial obligations owed by the parents that I am speaking of.

This bill would allow the court and the system to get out of debt collection because that is essentially what we do. I have the hearing master who sits one afternoon a week doing collection attempts by parents coming in and making their monthly payment, taking up the entire calendar. That is only a small percentage of the financial obligations owed to the Clark County system. Those are just a handful of the cases that the hearing master is able to hear during that four-hour period. This bill would give us the ability to get out of the debt collection business. Thank you for your consideration.

Chairman Frierson:

Thank you, Judge Voy. With that, we will close the hearing on S.B. 106 (R1). I will open the hearing on Senate Bill 108 (1st Reprint).

**Senate Bill 108 (1st Reprint): Revises provisions governing juvenile justice.
(BDR 5-518)**

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

Senate Bill 108 (1st Reprint) does four basic things. First, the bill requires that if a child violates a county or municipal ordinance which imposes a curfew on loitering solely based on age, the child is to be treated as a child in need of supervision (CHINS) under *Nevada Revised Statutes* (NRS) Chapter 62 rather than a delinquent act. The second thing this bill addresses is that currently a child may be held in detention for up to eight days while awaiting the filing of a petition regarding delinquency. This bill changes that to say four days while waiting on the complaint to be filed and then the district attorney may ask for an additional four days from the juvenile court. That portion was negotiated as a compromise amendment on the other side.

The third thing this bill does, under certain offenses regarding substance abuse and alcohol, is require the juvenile court to suspend or delay the driver's license of a youth under their jurisdiction. This bill allows that if the court finds that suspension or delay imposes a significant hardship on the child or the family, they may order the Department of Motor Vehicles (DMV) to issue a restricted license. The final thing this bill does is it updates the language in NRS Chapter 62G regarding the policy of the state with the system of youth interventions in the civil arena to improve outcomes rather than to rehabilitate delinquent children. It updates the policy of the state.

Chairman Frierson:

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

Assemblywoman Cohen:

On page 3, line 4, does that loitering mean the skateboarder kids?

John McCormick:

Thank you for the question. That would be loitering based solely upon the age of the child. If the skateboarder kids were loitering somewhere, and they were not supposed to be loitering solely based on age, it could not be a delinquent act. It would be a CHINS act if they decided to pursue that in juvenile court.

Assemblywoman Cohen:

When you see the sign "No Skateboarding" say, at a municipal building, is that what we are talking about?

John McCormick:

Yes, that would be a CHINS as opposed to a delinquent act.

Chairman Frierson:

Are there any other questions?

Assemblywoman Diaz:

Would you explain what the difference is to be treated as a child in need of supervision?

John McCormick:

In NRS Chapter 62 governing juvenile justice, there are two types of offenses. A delinquent act is an act that would be a crime if it were committed by an adult—burglary, assault, those types of things. A CHINS is our statutory language for what we call a status offense that is solely a crime or an offense because of the age of the person. Truancy, for example, would be a CHINS offense versus a delinquent act.

Chairman Frierson:

If I may, Mr. McCormick, I try to simplify for layman's sake sometimes. Basically, we are saying we are not going to treat a child blowing curfew as a misdemeanor anymore. We are going to say we need to get with the parents and find out what is going on.

John McCormick:

Thank you, Mr. Chairman. That is much more articulate than my explanation. Yes, that is what I am trying to say.

Assemblyman Thompson:

Most of these are probably first-time offenders. In southern Nevada, we have what we call the diversion court. Would this be the type of youth that would potentially go into diversion court? There is a lot of data; the court has been around for close to two years trying to deter the youth from entering into the system; and there is also the Disproportionate Minority Contact (DMC). Would the youth be referred to a community program, a mentor, even a faith-based organization that might have someone that can do the supervision?

John McCormick:

Thank you, Mr. Thompson. That is the idea here as this is a less serious offense. It is based upon their age, so the CHINS needs a lower level of intervention than a delinquent. These children would much more likely be diverted into a separate program or have the probation department work with the parents and community programming to nip it in the bud before that child's

behavior could escalate into actual delinquency. These would be the types of kids we are looking to intervene with to get them disengaged from the system before they get in deeper.

Assemblyman Thompson:

My biggest concern is the overall coordination of that because I know you have probation officers, juvenile justice, and others. How are we going to coordinate that so it works well, and that it allows for probation officers to really work with the hardest-to-serve youth.

Judge Voy:

I am sorry to interrupt, but I am here to help you out, Mr. McCormick. Let me get to the heart of it. By putting more offenses into the CHINS arena, these children would be referred to the system and be cited in to meet a probation officer. That would be the extent of most of these referrals. The probation officer, at least in Clark County, has limited resources to refer these families and kids to.

Some of these would be handled in our diversion court, to answer Assemblyman Thompson's question, depending on other factors. I am confident that these kids would be sent to services in Washoe County since they have many services there. Again, this is another way of keeping kids from getting into our system because we find that kids, especially kids of color, when they get into our system, have a tendency to escalate in the system.

Assemblyman Thompson:

Will this start their juvenile justice record or will it be an opportunity to not get labeled or ingrained into the system?

Judge Voy:

Essentially that is how it works already. You will get a printout of the juveniles' citations into the system whether they are being cited into us with a traffic-like ticket, or being brought in in handcuffs and booked accordingly. That record exists, whatever it is, including truancy cases and any violations of city ordinances. That record exists. They would not be in the delinquency side of the house and again, we would not be putting these kids under formal supervision. So actually, in that regard, it is keeping them out of that formal system because we would not be putting them into a formalized system nor do they need to be at this point.

John McCormick:

Currently, some counties may say this is a delinquent act so this is a criminal act. What this bill says is, "No, it is not. It is a status offense. It is not as big

of a deal as you may want to think it is." The impetus behind this is to clarify that it is a child in need of supervision, and not an actual delinquent act, to lessen the impact perhaps.

Chairman Frierson:

Thank you. Are there any other questions?

Assemblyman Martin:

Mr. McCormick, in your opening remarks, your third point was dealing with substance abuse by a juvenile and the issuance of a driver's license because they live in a rural area, or for work or medical reasons. My question is, would that license be greatly restricted? Do we have the ability to restrict the license if they are pulled over for something?

John McCormick:

To address that again, the juvenile court would need to make a finding that the suspension or the delay in the issuance of the driver's license would be a severe or undue hardship on the child or the immediate family, and the kind of license that would then be issued is a restricted driver's license pursuant to NRS 483.490 which is that restrictive license that says school to home, or home to work to school to home.

Chairman Frierson:

Are there any other questions from the Committee? [There were none.] Mr. McCormick, just so we are clear, this does not deal with whether or not a complaint or a petition can be filed. This deals with whether or not the minor can be detained. Reducing it to four days is not saying that the state cannot file unless they get it done in four days. It is saying they either need to file it within four days or at least let the delinquent out if they need more time. If there is something that warrants more time, they can ask for four more days, but this is not precluding the state from filing that petition.

John McCormick:

Thank you, Mr. Chairman. That is correct.

Chairman Frierson:

Thank you. Are there any other questions from the Committee? Seeing none, thank you, Judge Voy. Thank you, Mr. McCormick. I invite those wishing to offer testimony in support of S.B. 108 (R1) to come forward.

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

We are in support of S.B. 108 (R1). All of our issues were addressed on the Senate side. With respect to the differences between a CHINS and a delinquent

offense, one of the major abilities for delinquent kids is you can put them in detention, whereas a CHINS case, you cannot place them in detention.

Scott J. Shick, Chief Juvenile Probation Officer, Douglas County Juvenile Probation Department:

I stand in support of this bill. It follows a trend in the last ten years with juvenile services trying to work on the front end with families and kids and keeping kids out of the system, keeping them in school, and working with our district attorneys and our public defenders to accomplish that through our programming and our grants.

Steve Yeager, Deputy Public Defender, Clark County Public Defender:

Good morning, Mr. Chairman. We would like to also express that we are in support of the provisions of this bill. Susan Roske, who heads our juvenile division, is very much in favor of the changes that this bill makes. Thank you.

Regan J. Comis, representing M&R Strategic Services:

We would like to voice our support of the reforms in this bill.

Chairman Frierson:

Thank you. Is there anyone else wishing to offer testimony in support of S.B. 108 (R1)? Seeing none, is there anyone else wishing to offer testimony in opposition either here in Carson City or in Las Vegas? [There was no one.] Is there anyone wishing to offer testimony in a neutral position either here or in Las Vegas? Seeing none, thank you very much. I will close the hearing on S.B. 108 (R1) and now open the hearing on Senate Bill 237 (R1).

Senate Bill 237 (1st Reprint): Revises provisions governing certain graffiti offenses. (BDR 15-71)

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

Thank you, Mr. Chairman. Good morning, members of the Committee. I am here before you to present Senate Bill 237 (1st Reprint) that was brought to the Judiciary Committee at my request as the Chair at the time.

I would like to give a little background and the reason we have come forward to tweak legislation from last session. I was at a middle school where a young person asked me why the laws are so tough when it comes to graffiti. I told that child and those who were in the audience that it is theft. It is stealing the value of someone's property and he got a little smug about it. Do not be surprised if the laws get a little bit tougher. I asked my staff back then to look

at what the laws were in all of the states across the country and that is what lent support to my bringing the bill last session.

Talking with law enforcement, we realized the intention we had with the bill did not capture everything that we wanted to do, so we brought the measure to address that. Since then, with the first reprint before you, an amendment was offered just prior to the testimony that I gave before the Senate Committee on Judiciary to address buildings that are over 50 years old. The language that you see addresses the gaps that we did not know we had until we put it into practice. We hope that this covers everything in our intentions addressed in the first round.

For any specific details about how it is applied, we have Detective Black who deals with this day in and day out in Las Vegas. He dedicates his life to this, and we have a very supportive community and state in addressing graffiti violations. These are not artists. They are not learning how to hone their craft. They are graffiti vandals. Graffiti in the southern part of the state, conservatively, comes to about \$30 million a year in property damage. It is the number one property crime in southern Nevada.

When this went through last session, it was deemed the toughest graffiti law in the United States and I am proud of that and so we are here to tweak it. Thank you, Mr. Chairman.

Chairman Frierson:

I recall last session and several incidents that gave rise to concern about this bill including Red Rock and some of the iconic locations in Las Vegas. I appreciate your continued passion about this issue. Are there any questions from the Committee for Ms. Wiener? [There were none.]

I have a question. I know, for example, with Red Rock, there was no need for there to be a sign that warned of the consequences of graffiti violations. But for the municipal and state parks for anything that is over 50 years old, what kind of things are we looking at that would not be obvious that this is historic?

Valerie Wiener:

Mr. Chairman, that was actually the late request for the amendment, and we have experts here to talk about that as to why they brought it. As I recall, Spring Mountain Ranch is one of those buildings that would not qualify anywhere else but would qualify with that amendment. As I said in the other hearing, I consider this a gateway crime. This type of crime indicates very focally through paint and damage that the neighborhood that has been touched

and harmed by this behavior is a vulnerable neighborhood—the streets, the homes, and the people. We need to be on course with this and not leave the loopholes out there.

Chairman Frierson:

Thank you. I will go ahead and go to Las Vegas and make that part of the introduction of the bill and then we will come back up here.

Scott Black, Detective, Las Vegas Metropolitan Police Department:

Thank you, Mr. Chairman. I would first like to also thank Senator Wiener. She has been a champion of this subject for us the last couple of years. This is a very serious crime we are dealing with statewide. My direct knowledge is the damage that we are dealing with in southern Nevada.

Before I forget, I would like to touch on the story that Senator Wiener spoke about with that particular 25-year-old. A couple of sessions ago when we had made the original changes to *Nevada Revised Statutes* (NRS) 206.330, which is placing graffiti in the state of Nevada, we arrested this individual. He expressed to us that he was going to be relocating and the reason he was going to be relocating was, in his words, "You guys are getting too serious about graffiti here." That is the type of message that we are really trying to send to all the graffiti vandals.

Here in Las Vegas, we have the arts district downtown which welcomes artists that do these large murals on the sides of buildings and things like that. The folks that are doing the \$30 million in damage are not the same people and we do not want to confuse the two. The graffiti vandals we are dealing with here go into the arts district and vandalize the artwork that is down there. We feel that this piece of legislation and the changes to the law are very important because one of the trends that I have been dealing with for the last several years is that the graffiti vandals are targeting more high-profile and important locations. It is not just in the neighborhoods on the power boxes and the walls. We find that, increasingly, these folks are targeting locations that are going to give them greater credibility in the graffiti world, what they would refer to as fame. One of the ways they gain fame more quickly and gain that status that they crave is by hitting locations that are very significant and historically important, and also just shocking. Red Rock is an example. That is the case that we all know and that is the case that serves as the baseline for a lot of these changes that we would like to make here.

[Assemblywoman Diaz assumed the Chair.]

Another trend here that we are seeing is vandalizing public buildings and public property such as police cars. I would say several times each year I get cases, major cases, where graffiti vandals have vandalized Las Vegas Metropolitan Police vehicles. In one of these cases, they did not even use paint. They actually used sharp objects to gouge their graffiti writings into the glass of this vehicle, and what that does is it maximizes the type of damage that they are doing. It cannot just be easily removed. If you have paint on the vehicle, you might be able to remove it without having to repaint it. What they do is they gouge it in to the object and that maximizes the monetary damage by permanently damaging it.

That is a look into the mind set that we deal with here. They are not trying to express any kind of art. They are trying to inflict as much damage as they possibly can. We are seeing that same type of damage at our local government buildings; for example, the Regional Justice Center here in Las Vegas. They get a lot of that type of damage. They cannot take spray paint through security in there, but they have their keys and other small devices that they can go into the bathrooms and carve their graffiti monikers or their tags into the woodwork, glass, mirrors, or on the countertops. It is the same type of mentality that is leading them to go for more of these locations such as the "Welcome to Fabulous Las Vegas" sign, a very high-profile target. The folks that are doing most of the damage that we are discussing here today are the graffiti vandals. They are targeting these high-profile areas and they are the ones that are doing most of the \$30 million in damages that we discussed. If you have any questions, I am ready to help you out as best I can. We support this as written now.

Acting Chairwoman Diaz:

Thank you, Detective Black. Are there any questions from the Committee? [There were none.] I do have one question. How does graffiti in schools come into this statute? I am an educator and often I come to work and find the walls and playground areas of that school graffitied. How does that crime fit into this?

Scott Black:

Currently in Nevada, there is a special section of the graffiti law that says it is a gross misdemeanor to graffiti any educational facility and there are several other locations. A cemetery or place that is for memorialization of the dead and any religious- or education-related facility, such as a church or a school, would be a gross misdemeanor regardless of how small the damage is. That already receives additional protection. An interesting thing about this legislation before us is there are many schools where it would not just be covered by that gross misdemeanor; that would be covered by this statute here. An example here in

Las Vegas would be the Fifth Street School. There is another school in west Las Vegas and it is a registered historical location because of its significance as one of the first schools here, and it is still operational.

Acting Chairwoman Diaz:

Thank you very much for that answer. Are there any other questions from the Committee?

Assemblywoman Cohen:

I was just recently at The Morelli House in Las Vegas and that is on the National Register of Historic Places, so I am presuming that would be covered by this. When you go there, from the outside and unless you are into architecture, you do not know that it is anything special. There is an 8-inch by 11-inch plaque on the wall, but I could see someone coming along and tagging it because they are just out doing stuff and not actually going there specifically thinking they are tagging an important piece of Las Vegas architecture. I am concerned about the people who should not be doing what they are doing, and certainly they are doing something criminal, but they are not specifically seeking out an important place and they are not going out to tag something that is important. They are just going out to tag.

[Chairman Frierson reassumed the Chair.]

Scott Black:

I agree there are probably several locations and I am just speaking about here in the Las Vegas area. There are locations where people would not recognize it as something significant. Across the street from the Grant Sawyer Building we have the Mormon Fort and, if someone was going up and down the street tagging all of the buildings, I can see how they maybe would not realize they are tagging something that may be considered historically significant. It is pretty obvious that the graffiti vandals know they are targeting the high-profile locations. They usually take pictures of it and put them on the Internet so they can gain that credibility. I am not really sure how we would prevent that from happening. The odds are probably low because the areas of these registered historical locations are few. Most of them do have a plaque.

Chairman Frierson:

Thank you, Detective Black. Are there any other questions for Detective Black? [There were none.] We will come back to Carson City for testimony in support.

Rebecca L. Palmer, Acting State Historic Preservation Officer, State Historic Preservation Office, Department of Conservation and Natural Resources:

I am here today in support of the amended version of this bill as another tool for law enforcement's ongoing effort to protect this state's valuable historic heritage. By adding the Certified Local Government Program's list of significant resources and those over 50 years in age in municipal and state parks, this bill recognizes the value that these unique resources hold for the public. Our agency's national and state registers, also cited in this bill, are publicly available and the historic building stock found in state and municipal parks are readily recognized by the public. Intentional graffiti damage to such unique assets as Spring Mountain Ranch and the Elgin School House is an affront to the citizens of Nevada who value these resources and the level of public concern is reflected in the proposed elevation of the crime to a class C felony.

Mark C. Davis, Chief of Planning & Development, Division of State Parks, Department of Conservation and Natural Resources:

I am here in support of the amended version of this bill. We welcome the addition of the verbiage in section 1, subsection 9, paragraph (b), on page 3. Over half of Nevada's state parks are historic sites, and many others have historic resources within them. These resources fit within the language noted in section 1, subsection 9, paragraph (b). Graffiti painted on historic buildings can be sanded and repainted. However, it is usually not without permanent damage to the resource. Where our buildings are made from raw materials, such as adobe or Douglas fir, it is even worse. Many times surfaces like these have to be partially demolished or removed and replaced with like materials. This type of repair will never restore the resource to its original state. It will forever be marred and will damage the experience for this generation and generations to come. In cases where someone tags a rock surface near or over petroglyphs, the resource can be completely lost. With the elevated level of authority proposed in this amendment, we are hopeful that law enforcement can significantly reduce the graffiti damage that has been an issue for state parks for many years.

Chairman Frierson:

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

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

I do not have a lot to add, but I do want to put our organization on record as in support of S.B. 237 (R1).

Chairman Frierson:

Thank you. Is there anyone else wishing to offer testimony in support either here in Carson City or in Las Vegas? [There was no one.] Is there anyone wishing to offer opposition to S.B. 237 (R1) either here in Carson City or in Las Vegas? [There was no one.] Is there anyone wishing to offer testimony in a neutral position? Seeing none, I will close the hearing on S.B. 237 (R1) and briefly open up the agenda for any public comments either here in Carson City or in Las Vegas.

Seeing none, I do not think we have any other matters from any previous meeting. I will now call the Assembly Judiciary adjourned [at 10:29 a.m.].

RESPECTFULLY SUBMITTED:

Thelma Reindollar
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: August 28, 2013

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 25, 2013

Time of Meeting: 9:04 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster