

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session
April 9, 2013**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 8:07 a.m. on Tuesday, April 9, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Tick Segerblom, Chair
Senator Ruben J. Kihuen, Vice Chair
Senator Aaron D. Ford
Senator Justin C. Jones
Senator Greg Brower
Senator Scott Hammond
Senator Mark Hutchison

GUEST LEGISLATORS PRESENT:

Senator Barbara K. Cegavske, Senatorial District No. 8
Senator Moises (Mo) Denis, Senatorial District No. 2
Senator David R. Parks, Senatorial District No. 7

STAFF MEMBERS PRESENT:

Mindy Martini, Policy Analyst
Nick Anthony, Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

Vanessa Spinazola, American Civil Liberties Union of Nevada
Stacey Shinn, Progressive Leadership Alliance of Nevada
Janine Hansen, President, Nevada Families

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John Wagner, Independent American Party
George Karsten
John T. Jones, Jr., Nevada District Attorneys Association
Julie Butler, Records Bureau Chief, Records and Technology Division,
Department of Public Safety
Valerie Wiener
Brett Kandt, Special Deputy Attorney General, Office of the Attorney General
Mike Mieras, Chief of Police, Washoe County School District Police Department
Eric Spratley, Lieutenant, Washoe County Sheriff's Office
Marlene Lockard, Nevada Women's Lobby
Nick Vassiliadis, R&R Partners Foundation, Inc.
Steve Yeager, Clark County Public Defenders Office
Elisa Cafferata
Scott A. Woodruff, Parentalrights.org
Frank Schnorbus, Parentalrights.org
Barbara Dragon, Parentalrights.org
Stephanie Schnorbus
Marissa Crook
Lynn Chapman, Nevada Families for Freedom
Elissa Wahl, Nevada Homeschool Network
Cherie Anderson
RuDeana Dawkins
Suzan Reed
Megan Lynn Anderson
Danielle Arceo
Jane Moretto
Carmen Clark, Prophetic Justice, LLC
Angela Kleven, RISE Education Resource Center
Richard Ziser, Nevada Concerned Citizens
Kevin Schiller, Director, Department of Social Services, Washoe County
Amber Howell, Administrator, Division of Child and Family Services, Department
of Health and Human Services
Dotty Merrill, Ed.D., Nevada Association of School Boards
Lindsay Anderson, Washoe County School District
Joyce Haldeman, Clark County School District
Brigid J. Duffy, Chief, Juvenile Division, Clark County District Attorney's Office;
Department of Family Services of Clark County
Monera Mason
Juanita Clark, Charleston Neighborhood Preservation

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John McCormick, Rural Courts Coordinator and Court Services Supervisor,
Administrative Office of the Courts, Nevada Supreme Court
E. Alan Tiras, Justice of the Peace, Incline Village Township Justice Court,
Washoe County; President, Nevada Judges of Limited Jurisdiction
Chris Frey, Washoe County Public Defender's Office
Stephanie Day, Deputy Director, Budget Division, Department of Administration
Gail J. Anderson, Administrator, Real Estate Division, Department of Business
and Industry
Ali Tyler
Barry Updike

Chair Segerblom:

I will open the hearing with Senate Bill (S.B.) 388, Senator David R. Parks' bill.

SENATE BILL 388: Revises provisions relating to crimes involving certain persons. (BDR 15-927)

Senator David R. Parks (Senatorial District No. 7):

This bill repeals Nevada's "infamous crime against nature" statute, *Nevada Revised Statute* (NRS) 201.195. I have submitted my written testimony ([Exhibit C](#)).

Vanessa Spinazola (American Civil Liberties Union of Nevada):

The American Civil Liberties Union of Nevada (ACLU) supports this bill, and I echo all of Senator Parks' comments. Same-sex couples are criminalized for behavior opposite-sex couples are not. That is a violation of the Equal Protection Clause of the Fourteenth Amendment to the *United States Constitution*.

This statute is being used in our representation of a young couple in Elko County who were prosecuted under the statute. We did get the charges dropped. However, we filed federal and State constitutional lawsuits ([Exhibit D](#)). Page 6 of this document demonstrates that any criminal activity will continue to be criminalized. I have submitted my written testimony, including a small proposed amendment ([Exhibit E](#)) to section 14, subsection 6, paragraph (b). We would like to delete where it says "of the same sex."

Chair Segerblom:

If this bill passes, does the lawsuit go away?

Ms. Spinazola:

We hope so. We will have to file a motion.

Senator Brower:

If equal protection is the concern, why repeal a whole section that prohibits conduct that should be prohibited—the solicitation of minors to engage in sex acts? Why not delete the same-sex language from the statute?

Senator Parks:

It does not completely take care of the need for that provision. The simplest way would be to delete that section of statute, which would leave intact the other sections dealing with age of consent statutes, most notably NRS 200.364.

Stacey Shinn (Progressive Leadership Alliance of Nevada):

I have been working with the lesbian, gay, bisexual and transgender coalitions in Nevada on this bill. We believe it is time to repeal archaic policies and put more equitable laws on the books. We support this bill.

Janine Hansen (President, Nevada Families):

I do not support this bill. I am concerned about removing the laws that protect our children from sexual predators and the solicitation of sodomy. It was stated in earlier testimony that the age of consent is 16. This bill refers to the age of 14 and removes many of those even below the age of 14. As I read the law, it removes solicitation of a minor to engage in sodomy as a violent or sexual offense, as listed in section 2. I have 11 grandchildren and have done all in my power to protect them. I believe if this is where the idea of so-called equality brings us—to the destruction of laws, which protect our children and grandchildren against sexual predators—we have gone way too far.

Senator Jones:

I have an 8-year-old daughter. I do not want to do anything that would put her in jeopardy in any way. You say this is not covered by NRS 201.230 which covers lewdness with a child under 14 years, lewd and lascivious acts with children under 14 years, sexual assault under NRS 200.366, etc? I want to understand what would not be covered.

Ms. Hansen:

I am not an expert on the law. I am concerned about this as it appears. I do not believe those statutes you mentioned necessarily cover solicitation. This bill covers solicitation, which I think is important. Perhaps my understanding is not complete. I do not pretend to be an expert.

Senator Jones:

You have been here around the Legislature for a long time. You have read a lot of laws. That is why I am asking you to focus on what you think would not be covered. I want to protect children too.

Ms. Hansen:

Is solicitation for sodomy covered in the other statutes you mentioned? I am also concerned that the age of 14 applies when we talk about the age of consent being 16.

Senator Jones:

That is in the repealed section as well as in NRS 201.230. If you are advocating to raise the age, that is a different bill.

John Wagner (Independent American Party):

If it is a sex crime against the same sex, it should also be a crime for different sexes. If you expand it like Senator Brower suggested, that would be one thing. I believe in equality.

Chair Segerblom:

Just to clarify, we are not eliminating crimes; we are just making sure they are not specific crimes against certain types of people. Anything that is criminal sexually will apply equally to everyone. We are not eliminating or cutting back sex crimes.

George Karsten:

I am against this bill and the changes to NRS 201.195 and have submitted my written testimony ([Exhibit F](#)).

John T. Jones, Jr. (Nevada District Attorneys Association):

We are neutral on this bill. We do not view this as eliminating protections for children in statute. We have surveyed most of our membership and found that while this charge is occasionally levied, no one in recent memory can remember

anyone sustaining a conviction for this section of *Nevada Revised Statutes*. In fact, we still have other tools—several mentioned by Senator Jones—available to prosecute behavior that is potentially covered by this statute.

Senator Ford:

We want to make sure that no hole is left for prosecution purposes if this statute is adopted. Our counsel has said that the luring statute could apply to all people who commit this type of act.

Mr. Jones:

That is correct. Luring a child is one of the provisions. We have the attempt statutes including attempted lewdness with a minor, attempted sexual assault and statutory sexual seduction in appropriate cases. We have other tools available if this section were to be repealed.

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

We have a concern that deleting the statute altogether may impact our compliance with Title 1—Sex Offender Registration and Notification Act provisions of the Adam Walsh Child Protection and Safety Act. We want to work with sponsors to ensure this does not happen.

Chair Segerblom:

I received a letter from June Ingram, President of the Charleston Neighborhood Preservation, voicing that group's opposition to this bill ([Exhibit G](#)).

I will close the hearing on S.B. 388, and open the hearing on S.B. 414.

SENATE BILL 414: Prohibits transmitting or distributing certain violent images involving a child under certain circumstances. (BDR 15-70)

Valerie Wiener:

Two Sessions ago as a Nevada Senator, I introduced legislation that created the crime of cyberbullying. In the process of working on that measure, there was another bill working through the Assembly on bullying. Eventually the two bills merged and we discovered there was not a statutory definition of bullying, so it was created in that statute. We are now looking to refine that definition even more. Cyberbullying has continued to grow with a substantial negative impact on affected individuals.

Senate Bill 414 addresses people whose images are captured and subsequently transmitted. This bill is similar to S.B. No. 277 of the 76th Session, my sexting bill.

I have some video examples of cyberbullying that occurred in Clark County and Washoe County ([Exhibit H](#) and [Exhibit I](#)).

These events often get recorded by cell phone. Sometimes the person records something that happens spontaneously, and sometimes you can see staged or at least planned videos. In one of the videos, we heard someone say, "Wait, I am not ready to record." If you go to <http://www.youtube.com> and look for school fights at high schools, you can find many videos, some with millions of online views.

I found one graphic girl fight recorded a year ago that had 4,269,421 views. Someone suggested I go to YouTube and look up a local high school, so I put in "Bonanza High School (BHS) fight" and found a fight with 351 views and the name of the person posting the video. I also found a BHS fight from a year ago with 5,700 views and one from 4 years ago with 253,000 views. This is cyberbullying at its worst—it is perpetuating a violent crime that continues to occur over and over each time it is viewed, repeatedly violating the victim.

This bill, S.B. 414, addresses those who electronically record violence and those who use electronic means to transmit the images. In section 1, subsection 1, you can read that this involves minors.

A minor shall not knowingly and willfully use an electronic communication device to transmit or distribute, or otherwise knowingly and willfully transmit or distribute, an image of a violent offense committed against a minor to another person with the intent to encourage, further or promote such an offense or to cause harm to the minor.

I take seriously the freedoms of speech and expression, but the intent to cause harm by transmitting an image of violence perpetuates that bullying.

Senator Ford:

Is this a First Amendment issue? Have other states successfully enacted similar statutes? If so, have they withstood First Amendment challenges?

Ms. Wiener:

We did look at other states for language. Since we created this bill as an intent crime, capturing images of acts that are already illegal, we believe we are not in danger of that.

Senator Hutchison:

Since we have five lawyers on this Committee, we want to make sure we can avoid any legal challenges. In section 1, subsection 4, paragraph (b) defines the “image of a violent offense.” Has that language been vetted against its potential for being too broad? For example, an image of someone saying “I am going to get you after school” could be considered a threatened use of force. We are not after that type of crime here, but could we capture that unintentionally?

Ms. Wiener:

I am cognizant of the threatened use of force concept and would welcome discussion on that topic to make this bill concise.

Senator Jones:

We are all on the same page in prohibiting these sickening acts. We need to tighten up the definition of violent offense because we could potentially capture videos of high school kids playing football or any other physical sport.

Ms. Wiener:

I will work with the Committee on the language. I want to capture the people who are doing harm intentionally and perpetuating it. This bill proposes to impose the same penalties as we do with sexting—the first offense is a child in need of supervision, and subsequent offenses are delinquent acts. This way we can capture young people who are just making bad decisions. We can then supervise them, and if they continue the behavior, we address it differently.

Chair Segerblom:

We do not want to stigmatize people based on a stupid thing they did when they were aged 16.

Brett Kandt (Special Deputy Attorney General, Office of the Attorney General):

We support this bill. A recent opinion from the California Court of Appeal for the Second Appellate District provides some good analysis on the subject with ruling that cyberbullying is not protected speech.

Mike Mieras (Chief of Police, Washoe County School District Police Department):

The two YouTube images Senator Wiener showed from Washoe County School District were brought to us by other students. This only scratches the surface of what truly goes on. We have many incidents where kids are lured into situations where other kids wait with cell phones and electronic recording devices to record an act of violence. We are in support of this bill.

Chair Segerblom:

Do you have any remedy for this type of situation now?

Mr. Mieras:

We do not.

Chair Segerblom:

If the bill passed, what do you envision as a remedy?

Mr. Mieras:

Since the first offense is a delinquent act, we would work with the Jan Evans Juvenile Justice Center to get the message out that if someone puts an image on YouTube, there will be consequences.

Chair Segerblom:

Would school police be able to issue some kind of prosecution or would that go through the Office of the District Attorney (DA)?

Mr. Mieras:

We would submit the case to the Jan Evans Juvenile Justice Center and to the juvenile DA's office.

Senator Brower:

This conduct depicted in the videos is clearly illegal. Your officers would pursue prosecuting those individuals committing that conduct?

Mr. Mieras:

That is correct.

Senator Brower:

As difficult as it is to watch some of the videos, does having the video help you make your case?

Mr. Mieras:

Yes.

Senator Brower:

We ought to consider that as we think about this bill.

Mr. Jones:

We support this bill and welcome it as another tool prosecutors can use to go after this negative behavior. There is one distinction to think about—a juvenile who happens on a battery in progress, films it and then posts it online. I think this statute would cover that. A juvenile who conspires with another juvenile to commit the battery while the other tapes it is another type of act. Those are two distinct acts. I would charge the latter with conspiracy to commit battery, or charge with battery as an accomplice. In contrast, I would charge the first juvenile who happens on the battery under this new statute.

Senator Ford:

What about the juvenile who is taping the battery so he or she can go tell the police what is going on?

Mr. Jones:

That situation is covered by this bill.

Eric Spratley (Lieutenant, Washoe County Sheriff's Office):

We support this bill.

Marlene Lockard (Nevada Women's Lobby):

We support this bill. I have a granddaughter who attends Reno High School. Last year, there was a horrendous video all over YouTube and Facebook showing awful bullying that put a young man in the hospital.

Nick Vassiliadis (R&R Partners Foundation, Inc.):

We support this bill. I encourage everyone to log on to YouTube and look up fighting associated with your high school. The evidence will speak for itself.

Steve Yeager (Clark County Public Defenders Office):

We understand the intent behind the bill, but we oppose section 1, subsection 3, which addresses how a court will determine whether the individual is a child. This bill rightfully is aimed at protecting children, but some of the factors listed are a concern—specifically considering the opinion of a witness to the image to estimate the person's age. There should be a requirement that the person in the image be a child. If the court can inspect the person firsthand, that is more accurate than lay testimony about the person. That might not withstand constitutional scrutiny. That is my only concern with the bill—how the judge would make that determination. Other than that, I would support the bill.

Senator Hutchison:

Are you concerned about the definition for an image of a violent offense that we have been talking about in section 1, subsection 4?

Mr. Yeager:

I was not here for that discussion. I can look into that if you like. Of course, we want to make sure we are passing laws that withstand constitutional scrutiny.

Elisa Cafferata:

I am a mom and appreciate this bill. I have a 14-year-old son at home and became concerned when I saw in his Facebook feed several videos called "crazy fights." I wrote a comment under one, saying "You know, your mom doesn't approve of these." He explained he had clicked on "Like" for one of the videos, and then Facebook started sending him fight videos. We are still going back through to mark and report these posts as spam, but it shows that kids do not have total control over what appears on their Facebook pages. I do hope we could address this issue with this bill.

Ms. Wiener:

I will work with everyone on this bill to make it right.

Senator Hammond:

The Technological Crime Advisory Board that you are on has done much research about this issue. Do you have a sense of whether the fights that get put online are intended to increase the number of people who watch them? If so, has that led to an increase of actual fighting? Do you know the statistics on this subject?

Ms. Wiener:

I am not on that Board anymore, so I do not know if there is an increase in bullying incidents as a result of online viewings. There has been an ongoing interest in fighting videos on YouTube over the years, however. Some of these videos are several years old and keep getting viewed.

Senator Hammond:

Maybe this bill would decrease confrontations.

Ms. Wiener:

I hope that would happen.

Chair Segerblom:

I will close the hearing on S.B. 414 and open the hearing on S.B. 314.

SENATE BILL 314: Provides that the right of parents to make choices regarding the upbringing, education and care of their children is a fundamental right. (BDR 11-880)

Senator Moises (Mo) Denis (Senatorial District No. 2):

I was asked to submit this bill. It recognizes the fundamental duty and right of parents to parent their children. I have spent many years advocating for parents in the schools to make sure their voices are heard and that they take responsibility for the education of their children. This bill is an effort to allow parents to take responsibility for their children, but codifying this simple, natural liberty may not be so simple.

Senator Brower:

A long line of U.S. Supreme Court cases are holding up parental rights as fundamental rights. Why do we need this in statute if that long line of caselaw exists?

Senator Denis:

In other states with similar legislation, the local laws need to be there despite that caselaw. For me, this is more about making a statement about parents and what they can do as far as educating their children.

Senator Brower:

Do you have any examples of parental rights being infringed upon?

Senator Denis:

I have testifiers here to address that.

Senator Ford:

As Senator Brower said, the Supreme Court already addresses this. As we try to legislate education policy, how will this statute help us do that? Will it be a higher standard than that already provided under the *U.S. Constitution*? Clearly, we need that. Or will it be the same or lower standard?

Scott A. Woodruff (Parentalrights.org):

I support this bill. The impetus of this bill is simple—in our system of government, it is the Legislature’s job to protect the rights of citizens and give guidance to the courts. There is an important area of Nevada law where the Legislature has done absolutely nothing about how the rights of parents should be protected. I have submitted my written testimony ([Exhibit J](#)) that includes a detailed explanation about what S.B. 314 will do to help stem the downgrading of parental rights.

Senator Ford:

Can you give me examples of the downgrade of parental rights you are referring to?

Mr. Woodruff:

The case *In re Parental Rights as to A.G.*, 129 Nev. ____, 295 P.3d 589 (2013) addressed a dad and mom who were separated. The mother was a drug addict, and the father was never accused of child abuse or neglect. Child Protective Services terminated the mother’s parental rights, gave the father a case plan and took the child away. As the case proceeded, the agency tried to terminate the father’s rights. The district court said the agency could not do that because the father was never charged with neglect.

The Nevada Supreme Court agreed that the father was never charged with neglect, but two statutes create a presumption allowing him to lose his rights. The first statute says if the parent does not follow the case plan, his or her rights can be terminated. The second statute stipulates that if a parent is separated from his or her child who is in State care for 9 months, parental rights can be terminated. Because the Supreme Court applied the compelling interest standard, the fundamental rights standard, that father was able to get his daughter back home even though those statutes were against him doing so.

If the standard was only an ordinary right, not a fundamental right, this would not have happened. You can see the definitions in my handout, [Exhibit J](#). The Court could have easily determined that under an ordinary rights standard, those two statutory presumptions are rational and thus the parental right should be terminated in that case. That is what can happen if parental rights are downgraded in Nevada.

Senator Ford:

I am not sure I am convinced by that example because since 1923, we have established constitutional rights where we already apply the compelling government interest test. That is what happened in the *In re Parental Rights* case. These statutes were not looked at from a rational scrutiny; they were looked at from a compelling government interest test, and the State lost. That is the appropriate outcome. Why do we need to put into statute something that has been constitutionally established for almost a century?

Mr. Woodruff:

One kind of leadership responds to cleaning up a disaster once it has occurred. Another kind of leadership sees a credible threat on the horizon and prepares ahead for that threat.

Senator Ford:

Show me the threat on the horizon. The example you gave me does not present a horizon-based threat.

Mr. Woodruff:

My written testimony, [Exhibit J](#), lists 24 cases as examples of courts that have already begun the process of downgrading parental rights.

Senator Hutchison:

Is it your position that even though we cannot point to a case where a court has not applied the compelling state interest standard, we do not want to take this away; that this is a policy decision? This way we are telling the courts not to try to do something in the future because we are codifying the rights.

Mr. Woodruff:

Yes, precisely.

Senator Hutchison:

The reason you do that is because we are dealing with fundamental rights; the inalienable rights to which Thomas Jefferson referred. A government cannot infringe on those fundamental, inalienable rights without showing the highest level of standard or review; the compelling state interest. Is that the idea here? Those fundamental and inalienable rights did not come from government, and government cannot take them away unless they show a compelling state interest?

Mr. Woodruff:

A fundamental right can be limited by the State.

Senator Hutchison:

Of course, but it requires a compelling state interest.

Mr. Woodruff:

Right. I want to quote from the U.S. Court of Appeals for the Fourth Circuit on page 3 of my testimony: "...This fundamental right [to bring up children as one sees fit] is not unbounded. Indeed the state can legitimately impose restraints and requirements that touch the lives of children in direct conflict with the wishes of their parents." [Exhibit J](#)

No one is arguing that parental rights should be absolute, which are the highest level of rights. Fundamental are the next level down and ordinary rights are at the bottom. We are saying that parental rights should stay at the fundamental level—in the middle—because there is a trend in some places to drop parental rights to ordinary. Once that happens, it would be difficult to fix. It is easy to address this issue now because it is not controversial. We are simply codifying the statute. But if a court downgrades parental rights to ordinary, it is a much harder proposition to change that and bring the level back to fundamental.

Senator Ford:

Do you agree the only court that can downgrade parental rights is the U.S. Supreme Court?

Mr. Woodruff:

No, state courts can also do that. There is a relationship between state and federal law, but that significant *In re Parental Rights* case I referred to is a State case. States have the ability and the obligation to create their own protections

for citizens. States could opt for the U.S. Supreme Court to define parental rights for their residents or opt to take the initiative and determine their own definitions of the level of parental rights protection to offer their residents.

Senator Ford:

I do not disagree with that premise, but we already have this. As much as a state can legislate for its own people, we cannot as a state say that your fundamental right is now an ordinary right, because the courts would rely on the U.S. Constitution, and the supremacy clause would trump that. I need to understand what the end game is here—putting something into statute that has already existed in federal law for almost a century.

Mr. Woodruff:

You are correct that the State of Nevada cannot give parental rights less protection than the U.S. Constitution provides. But if federal courts reduce rights, the states certainly can give heightened protection to parental rights, even above what the federal government provides. Seventeen states have already enacted statutes similar to A.B. 314.

Senator Ford:

Are you attempting to increase the rights, put them on par or codify constitutional law to the fundamental right to parent?

Mr. Woodruff:

We are codifying the current level of parental rights and protecting them from a future trend downward.

Senator Ford:

Are you saying the current status of parental rights as fundamental is what you want, not to increase the standard to make it more difficult for states to act in the area of education, etc.?

Mr. Woodruff:

Yes.

Senator Brower:

This is an important issue. The idea that this fundamental right is only in caselaw seems to me to be incorrect. The U.S. Supreme Court in *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054 (2000) said, "... in light of

this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." Echoing Senator Ford, the Supreme Court has spoken; this is in the *U.S. Constitution*. No state court can change that. As important as this right is, do we need to put it in statute?

Chair Segerblom:

Does this law provide remedy so a violation of the fundamental right would be a right to go to court, seek redress and seek attorney's fees?

Mr. Woodruff:

There is no provision for attorney's fees or independent right of action. Senator Brower is correct in referencing the state of the law, but the next court decision could downgrade parental rights. This law could be a gift to the future citizens of Nevada by saying this is the law, not just the opinion of the courts.

Senator Brower:

The *Constitution* will not change.

Mr. Woodruff:

What happens in court decisions is that courts interpret the *Constitution*. While the text of the *Constitution* rarely changes, interpretations change all the time. If two or three U.S. Supreme Court Justices change, it will be a whole new ball game. That can happen anytime.

Senator Brower:

Now you are narrowing the argument to what we really should discuss.

Senator Jones:

You said 17 states had adopted similar legislation. Can you give me some examples where the adoption of this language has provided additional protection parents would not have had without the legislation?

Mr. Woodruff:

In those states, it prevented parental rights from being downgraded further. It serves as a warning light to everyone in the state not to try and downgrade parental rights.

Senator Jones:

Can you give me an example of a case in which the statute was cited to contravene a particular law or court decision in one of those states?

Mr. Woodruff:

I do not have that information, but I could research it and get back to you.

Senator Ford:

You said there were 24 cases cited where parental rights have been reduced. What is the best case example of the need for this bill? I would like to look at it thoroughly.

Mr. Woodruff:

I cannot tease out just one case from the 24 cases.

Senator Jones:

I scanned through the 24 cases and most looked like a clear and convincing evidence standard was used. Why is that insufficient under a compelling government interest standard?

Mr. Woodruff:

Clear and convincing evidence is the appropriate standard.

Senator Jones:

If that is the case, why are these 24 cases a good example to make your point?

Mr. Woodruff:

Because they were backing away from a fundamental right being upheld to the judicial standard review of compelling government interest and least restrictive method.

Senator Jones:

How have they applied clear and convincing evidence?

Mr. Woodruff:

The standard of evidence—is clear and convincing, preponderance of doubt, beyond a shadow of a doubt—is a parallel issue to whether a right is fundamental and how it should be protected. We are not directly addressing that in this statute.

Senator Hutchison:

Are we talking about the difference between a standard of evidence versus a standard of review? The standard of evidence is clear and convincing evidence. The standard of review that a court applies would be the compelling state interest test, which must be narrowly tailored to be the least restrictive means in which the right is infringed.

Mr. Woodruff:

Yes.

Frank Schnorbus (Parentalrights.org):

I am a father, grandfather and an advocate for homeschooling families. One thing that concerns me is who bears the burden when these cases go to court. It could bankrupt me to save my daughter. If I have a fundamental right, the State has to prove it is making a case. I support this bill. I have submitted my written testimony ([Exhibit K](#)) and a document explaining the bill's effects on parental rights ([Exhibit L](#)).

Chair Segerblom:

Do you have something you personally experienced that this bill would change? What will happen if we do not pass the bill?

Mr. Schnorbus:

As a Court Appointed Special Advocate (CASA) volunteer, yes, it would help. But I cannot go into detail for privacy reasons. As a therapeutic foster parent, it would also help, but those are sealed cases. Many of these cases do not get seen in the headlines.

Chair Segerblom:

Are you saying you have seen the interaction between juvenile justice and family courts and what happens within families in ways you feel a parental right has been violated?

Mr. Schnorbus:

Yes. Most parents are the best protectors of their children and they need S.B. 314. We are not talking about abusive parents. The obligation of government to intervene is important. As a CASA and foster parent, I support that. When children need protection, I believe it is the obligation of the government to protect them.

Barbara Dragon (Parentalrights.org):

I support this bill. I am a mother of three grown sons. My oldest son and his wife had a baby last year. He and his wife are fearful. Many of their friends, also new parents, are fearful in the hospitals and in doctors' offices. They are fearful because nurses, doctors and the receptionists in these offices threaten to make health care decisions for their children—immunizations, recommended medical treatments, etc. My children are fearful they will be pressed to make decisions for their baby because "it's the law."

This bill would say to young parents that a law protects their fundamental parental rights. You have been talking about court cases, but young people do not know about court cases. If I could tell them to look in *Nevada Revised Statutes* for the law protecting their parental rights, it would give these families confidence to do their regular baby checkups.

Thirty years ago, I did every single well-baby check on my babies. My kids do not want to do those now. That worries me. We can catch so many diseases and disorders with these early well checks. But if parents are afraid to go to their health providers because they think their right to make decisions about their own children will be challenged, that is what this bill will prevent.

Senator Jones:

The law does not talk about interactions between private individuals. It would only prevent a governmental entity from taking action. A doctor can still tell a parent to do something, and he or she can choose to comply or not comply. I do not think this bill would help that.

Ms. Dragon:

I disagree. We submitted testimony from a family who had an experience at Summerlin Hospital ([Exhibit M](#)). The doctor told the mother, Cecilia Rogers, she could take her baby home with bilirubin and put the baby under a prescribed light for treatment at home. The nurse did not agree and called Child Protection Services. The baby was taken out of the parents' custody. Had they known their fundamental rights, maybe the nurse could have been challenged and the situation could have ended differently.

Senator Brower:

Why would anyone be afraid to go to a pediatrician?

Ms. Dragon:

The big issue today is immunizations. People are afraid of autism.

Senator Brower:

But parents do not have to have their children immunized, do they?

Ms. Dragon:

The doctors' offices want to do a schedule of immunizations within the first year. I had a parent come to me in tears, saying she had left a doctor's office feeling so pressured.

Senator Brower:

Many doctors recommend that, but it is ultimately the parents' choice.

Ms. Dragon:

Absolutely, but the young parent does not know that. I just think the law would make a clearer picture for them to see.

Senator Brower:

I appreciate that but for the record, parental rights are fundamental rights, and parents do not have to immunize their children in Nevada if they choose not to.

Ms. Dragon:

I agree.

Stephanie Schnorbus:

I support this bill. I have a doctorate in history and studied American history, emphasizing primary education and parental choices in the era before the common schools. I also studied household government, which is the extent of control that heads of households have over dependents throughout U.S. history and how it has changed. I have read that this bill is within the spirit of both U.S. and Nevada history that parental rights are fundamental, and that the Legislature's job is to make sure those rights are protected from courts changing them.

Marissa Crook:

I support this bill. I have submitted my written testimony ([Exhibit N](#)).

Lynn Chapman (Nevada Families for Freedom):

I homeschooled my daughter in Nevada. When she decided she wanted to go to a local high school for a class, I received information that she would need to be immunized. She had seizures as a baby when she got some immunizations, so that was the end of her immunizations. I told the school I objected to the immunizations on a religious basis. I was told by the school nurse that I had to have her immunized. I understood what the law said and refused, which was the only reason I was not bullied into getting the immunizations.

Ms. Hansen:

I support this bill and want to respond to Senator Brower. My daughter had a femoral seizure as a result of an immunization. She stopped breathing and I resuscitated her. When she had her daughter in the hospital, she requested no immunizations, but they immunized her without her consent. The Ninth Circuit Court of Appeals ruled that parents' rights to control the upbringing of their children does not extend beyond the threshold of the school door. As a result, the U.S. Congress responded in November 2005 in a vote of 320 to 19, reaffirming the settled law.

Chair Segerblom:

So you agree that the fundamental right is settled?

Ms. Hansen:

No, it did not pass the Senate, so it is still a question of jeopardy. After those decisions, there have been decisions in other states, including Washington where a 13-year-old boy complained he had to go to church three times a week. The judge ruled he only had to go once a week with his parents. In Massachusetts under this rationale, a father spent a night in jail for trespassing on school property because his crime was insisting his kindergarten son be able to opt out of a lesson that included offensive sexual material. We need to affirm the fundamental right of parents because courts are jeopardizing those.

Elissa Wahl (Nevada Homeschool Network):

I support this bill. I am a mother and homeschool advocate. My concern as an advocate is that no laws in Nevada support parental rights. Clark County School District takes out an ad in the local newspapers every August that says, "No shots, no school." That is their propaganda. It is the doctors' propaganda. That does not leave me any room to say I want to do something different. I want this law because it gives parents the right to decide the medical and

education directives for their children. Parents would know they have these rights, and they would stand firm on these rights.

Cherie Anderson:

I homeschool my six children and am a licensed foster care parent in Clark County. You say our rights are fundamental, but right now they are implied. Our government is attacking that as fast as it can. I support this bill so it can protect me from organizations and individuals who want to make legislation to say homeschooling is not a fundamental right. I want the right to teach my children what I feel is in their best interests. I want the right to opt out of immunizations.

RuDeana Dawkins:

I support this bill. I previously lived in a state with nebulous and ineffective parental rights laws. If we have clear laws about the rights of children's protective service agencies, including what teachers and school administrators can do and what law enforcement can do, then the parents will understand their rights. We basically get bullied, and the government uses laws to detract us from taking care of our children in a way that is proven and effective. For example, because I chose no drugs this approach helped my son—who has severe mental retardation—to a low-normal functioning level. He is now high functioning because of choices I made. It is a problem for parents who feel like we are not allowed to make choices necessary for our children.

Mr. Wagner:

Our party platform supports parental rights, and we support this bill.

Suzan Reed:

I support this bill.

Megan Lynn Anderson:

I am 17 years old and would like you to support this bill so I know I can raise my children the way I want to.

Danielle Arceo:

I support this bill. I know one of the main concerns about this bill is its redundancy to the *U.S. Constitution*. When the *Constitution* was being ratified, many people were concerned about redundancy then. That was why they put the Bill of Rights in writing.

Jane Moretto:

I am the mother of four children and agree with everything that has been said. I support this bill.

Carmen Clark (Prophetic Justice, LLC):

As a disenfranchised parent, I support this bill. I was hospitalized at Summerlin Hospital Medical Center. My son was taken away from me because hospital staff indicated I had drugs in my system. However it was proven that I had no barbiturates in my system. My custody was removed.

I have a teenage daughter who was visiting an obstetrics and gynecology doctor; there was an altercation in the office, and the nurse took my two younger children, aged 4 and 5, and my teenager into a back room and called the police. I was incarcerated for 5 days in November 2010. I am up for a status check this month. I encourage all parents to support this bill so the illiterate, underaged, underprivileged and disenfranchised parents already affected by the children's protective services system and the juvenile system can protect their fundamental rights.

Angela Kleven (RISE Education Resource Center):

I support this bill. I believe it is an unalienable right for parents to direct the lives of their children. This is self-evident because children are born to their parents. Please vote yes for S.B. 314, which will concretely establish the boundaries between the responsibilities of parents and government.

Richard Ziser (Nevada Concerned Citizens):

With all these parents coming up today with their concerns on this issue, I want to make sure you get the sense of the problems people feel they are having. In the last couple of days, the MSNBC television network conducted a promotion where host, Melissa Harris-Perry, made direct statements about the ability of parents to take care of their own children. Here is the last sentence of what she said: "So part of it is we have to break through our kind of private idea that kids belong to their parents or kids belong to their families, and recognize that kids belong to whole communities."

There is a reason why these parents are so concerned. An attack on the family is making these parents afraid.

Kevin Schiller (Director, Department of Social Services, Washoe County):

We have a difficult job because we are mandated to investigate abuse and neglect. That involves removal of children, but it also involves keeping families together and reunifying them. Sometimes after removing children from a setting, we are talking the next day about how to get them home. Several mandates from the federal level force us to include and engage parents. We would work on amendment language to help ensure we still have the ability to protect children.

It concerns me that statements have been made here saying we remove children without any legal basis. We have to go before courts; we have standards, checks and balances. It is not a simple or easy process.

Senator Hammond:

Your opposition is interesting because you are worried about something that is, according to the lawyers on this Committee, already a fundamental right. Why are you concerned about it?

Mr. Schiller:

The Ninth Circuit Court of Appeals and the courts have clearly directed our mandate at a federal level. I am not in opposition to the fundamental right, which already exists. In the way this bill is written, one of the key issues I see is the creation of extensive challenges within our court process in terms of how we make decisions. We already include parents in this process.

Senator Hammond:

Let me see if I understand. You are basically saying that when you have the child in your custody, you have to decide where to send the child to school, or what doctor to send the child to—you are just talking about the technical aspects, not whether the parents have rights. Is that correct?

Mr. Schiller:

Yes. As we carry out our daily case management in those decision-making processes, we include that parental right, and we are mandated to do so.

Senator Hammond:

You are saying you would not fundamentally change the bill; you are basically talking about technical details.

Mr. Schiller:

That is correct.

Senator Hutchison:

Can you give us an example of where you would be disrupted by codifying that the State has to have a compelling state interest before infringing on parents' rights to raise their children?

Mr. Schiller:

If we remove a child, that is a compelling reason. Once we remove the child, as we reunify the child with the parents and go before the court and follow the checks and balances, we are responsible for every aspect of that child. There could potentially be arguments, such as whether there is a foster care home within close proximity of the child's school, that may hinder our work significantly. If the parent opposes that, in terms of reasonable perspective, we need to include that parent's information as we go before the court. Currently, we go before the court to get approval or denial on issues like that, and we are held to that standard.

Senator Hutchison:

We are not talking about when you routinely go before a court to discuss various administrative aspects. We are talking about when there is a clash between a law and the parents' fundamental rights to raise their children. The court then applies the standard review of the compelling state interest. Are you opposed to that compelling state interest standard being imposed in those circumstances?

Mr. Schiller:

I am not opposed because it already exists federally. The issue would be that it is open to interpretation on how much that would be litigated.

Senator Hutchison:

We spend thousands of hours in our Country's court system litigating constitutional issues. You are not opposed to the compelling state interest?

Mr. Schiller:

Correct. A fiscal impact would also be allocated.

Senator Ford:

The standard many family courts apply is the best interest of the child. Is that standard typically applied when you are dealing with these issues?

Mr. Schiller:

Yes.

Senator Ford:

After you have removed the child and are deciding about his or her education and other related things, does that standard apply?

Mr. Schiller:

Yes, it is best interest, but in those decisions state and federal mandates specify how we apply that best interest standard and how the parents' engagement with us is part of that process.

Amber Howell (Administrator, Division of Child and Family Services, Department of Health and Human Services):

We support the premise of this bill, but we have concerns about language and how it would impede the ability of child welfare agencies to perform their duties to protect children and to remove them if abuse is suspected. We also believe this fundamental right already exists.

Chair Segerblom:

Do you oppose the bill because you are concerned it might go too far?

Ms. Howell:

Yes.

Dotty Merrill, Ed.D. (Nevada Association of School Boards):

In section 1 of the bill, starting on line 3, I believe this would apply to the Department of Education as well as each school board in the State. It is possible to imagine a situation where a parent would believe graduation requirements should not apply to his or her child, or that a child should not take a particular assessment or be subject to the established attendance requirements. The challenges involved in these discussions would end up in the courts and we would all be engaging in a lot of litigation over things already well established through public hearings.

Lindsay Anderson (Washoe County School District):

I agree with Dr. Merrill. We are concerned about zoning and getting into battles involving processes we already have in place.

Joyce Haldeman (Clark County School District):

We are concerned that we would be in court all the time, defending what we do as a normal course of activities. There was some reference made to our immunization policy. August is National Immunization Awareness Month, so in conjunction with Clark County Social Services, we make sure people are made aware of free immunizations. Our policy and Clark County School District Regulation 5151 also provide the exemption process for parents who do not want their child immunized. We do not discriminate on that basis.

Senator Hammond:

I understand the consensus from some of the testimony that the bill goes too far. I also understand that fundamental rights are already in the *U.S. Constitution*. The only purpose of this bill is to codify these rights so they do not slip from fundamental rights to ordinary rights. Now people are saying maybe parents will decide their children do not have to follow the school requirements. We can find a compelling state interest for all those things. If we give someone a diploma saying he or she graduated, it should mean the same for everyone. Do you see any problem with creating a standard?

Ms. Haldeman:

It is not that those compelling interests do not exist. It is just that we could be constantly defending them. We live in a litigious society, and this would provide an opportunity for everyone who is unhappy about anything in the schools to come to us and say, "I am a parent, I have a fundamental right to these things." We could potentially be in court a lot.

As a parent of five children, I also believe in fundamental rights. We have to honor the established organization the schools have already set up so we can proceed on a normal basis and not utilize our resources to defend what is public practice.

We have one of the most liberal homeschool policies in the Nation. Parents simply declare they are homeschoolers. The next time they have to check in with us is 13 years later. Other states require constant testing and monitoring to make sure parents are teaching their kids well, but we do none of that.

Senator Hammond:

I agree that we live in a litigious society, but judges are pretty good about throwing out things that have no merit.

Brigid J. Duffy (Chief, Juvenile Division, Clark County District Attorney's Office; Department of Family Services of Clark County):

We are opposed to this bill and ditto the comments of our northern counterparts, Ms. Howell and Mr. Schiller.

I specifically want to point out that the case Mr. Woodruff brought up in testimony—*In re Parental Rights as to A.G.*, 129 Nev. ____, 295 P.3d 589 (2013)—contains a section regarding parental constitutional rights where it breaks down many of the cases discussed earlier. If the Committee would look at Arizona law, this bill is very similar to *Arizona Revised Statute* 1-601. However, a section 1-602 also carves out areas where it does not authorize a parent to engage in unlawful conduct or to abuse or neglect any child in violation of any laws of the state. I recommend this Committee consider that in working on this bill.

Monera Mason:

As a parent, I could tell you the reasons I am against the bill, from children's rights to bankrupting our schools. However, the clearest reason I am against the bill is because I do not want the government to define what it means to be a parent.

Juanita Clark (Charleston Neighborhood Preservation):

We support this bill, and I have submitted my written testimony in the form of a letter signed by June Ingram, our organization's president ([Exhibit O](#)).

Senator Denis:

Parental rights and how we are allowed to raise our children are important issues. What I heard from the lawyers is that these rights are already in the *U.S. Constitution*. It seems there is a need for this bill since so many people feel like they may get sued. I will work with anyone on this bill.

Chair Segerblom:

I have received a letter of support from Carson City attorney David A. Kallman ([Exhibit P](#)), and a letter from Vanessa Spinazola of the ACLU in opposition of

the bill ([Exhibit Q](#)). I will close the hearing on S.B. 314 and open the hearing on S.B. 224.

SENATE BILL 224: Revises provisions governing driving under the influence.
(BDR 43-668)

Senator Barbara K. Cegavske (Senatorial District No. 8):

This bill involves drivers who operate a motor vehicle under the influence. I have submitted my written testimony ([Exhibit R](#)).

Chair Segerblom:

To summarize: specialty courts are good, and you hope to use money from fines to help people with drug and alcohol problems so they do not end up with a felony and will get the treatment they need. We do not have to jail them, which costs the State \$25,000 per person.

Senator Cegavske:

That is correct.

Senator Hutchison:

Are you confident that after all the administrative assessments are paid, there will be something left over to fund the specialty court?

Senator Cegavske:

Yes. I know there are the indigent, and that is why there is flexibility with the amendment ([Exhibit S](#)). This would be one time the judge could say if the person cannot pay anything, the court would understand. Some have indicated it is hard to find community service jobs in lieu of paying the money, but I beg to differ. Even a dollar a month reminds offenders of what they did that caused them to be in this situation.

Senator Hutchison:

You are okay with amendments?

Senator Cegavske:

Yes.

Chair Segerblom:

Back in the old days, finance used to provide money for courts. We need to get back to that point. We have tacked on so many fees and fines to run the court system that it is really unconscionable. At some point, we have to go back to the old days and make the society pay for the courts and just punish people for what they did.

Senator Hutchison:

I am all in favor of citizens paying for the government they want. There should not be hidden fees and hidden ways that citizens do not get to appreciate the costliness of government.

Senator Cegavske:

I like this because the user pays the fee. The person who facilitated the charge and needs the treatment is helping to pay—not only for their treatment but that of other people as well.

Chair Segerblom:

Only one little segment of society already has this huge issue. An offender who just got a DUI likely has alcohol and drug problems and then has to pay another \$500. The truth shows this is really a problem for all of society. All of us see advertising on TV for alcohol and the fun of drinking. This is something we could all afford to pay.

Mr. Jones:

The Nevada District Attorneys Association supports this.

Lt. Spratley:

The Washoe County Sheriff's Department supports this bill.

**John McCormick (Rural Courts Coordinator and Court Services Supervisor,
Administrative Office of the Courts, Nevada Supreme Court):**

We are concerned with the bill's funding mechanism. We have opposed similar funding mechanisms for other services in the last three Legislative Sessions. Collections of administrative assessments overall have been declining for the last several years. This funding source may well be tapped out. Also, adding any fee before a fine is paid could conceivably take money away from the Distributive School Account.

Chair Segerblom:

The amendment flipped that so the fee occurs after the assessment is paid.

E. Alan Tiras (Justice of the Peace, Incline Village Township Justice Court, Washoe County; President, Nevada Judges of Limited Jurisdiction):

I am president of the Nevada Judges of Limited Jurisdiction which represents all justice court judges and municipal court judges in the State. Our members are strong supporters of the specialty courts programs. Many of our members are specialty court judges. We oppose this bill because many, if not most, of our defendants already cannot pay the statutory fines imposed on them as a result of a DUI conviction. A significant number of imposed fines are already converted to community work service. The imposition of an additional fee would increase collection costs of the courts. It would also increase the caseload due to warrant issues because of the defendants' failure to comply with the payment of this new fee. Many of these defendants are indigent and would thus be unable to post the appropriate bail, increasing their jail days.

The second reason we oppose this bill is that most justice courts and municipal courts are seeing a decrease in revenue. This new fee will make it less and less likely that city or county governments will collect their portions of the fines, which according to the bill are only paid after all the other fees are collected. This will result in a diversion of funds currently paid to cities and counties and their specialty courts.

The third reason we oppose S.B. 224 is because the substantial increase in the fines and administrative fees could also have constitutional impacts that significantly raise expenditures and use of court resources in processing and dealing with DUI offenses. It could potentially require the addition of judges and courtrooms throughout the State. It appears the bill would charge the assessment to parties who may have been charged with a DUI but not convicted. We sometimes see defendants charged with a DUI who, after discovery, have the charges dropped or amended by the district attorney, not the court, to non-DUI offenses. Often, these defendants should not have been charged with a DUI and should not have to pay that assessment.

The proposed amendment grants the courts the ability in certain instances to convert this fee to community service. Although we appreciate the discretion this affords the courts, we wonder what the additional hours of community service really do to promote or raise money for the specialty courts.

Finally, requiring courts everywhere in the State to collect fees that go to specialty courts supporting only those areas that have them is unfair to the collecting courts and the local governments. Some might say this is a new tax, unfairly apportioned to both those paying it and those benefitting from it. We strongly support specialty courts, but not this bill.

Chris Frey (Washoe County Public Defender's Office):

We have one primary concern with this bill—the discretion or apparent lack thereof in section 1, subsection 1 with respect to the imposition of the fine. The amendment might cure our concern, but I echo what Judge Tiras just said about community service not funding the courts. The intent should be clear that judges have the discretion to tailor the fee to the financial circumstances of the client. We are neutral because we want to encourage the continued existence of specialty courts.

Chair Segerblom:

I have a letter from District Judge Linda Marie Bell from the Eighth Judicial District Court in support of the bill ([Exhibit T](#)). I will close the hearing on S.B. 224.

SENATOR HUTCHISON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 224.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Segerblom:

I will now open the hearing on S.B. 476.

SENATE BILL 476: Revises provisions relating to the compensation of certain special counsel employed by the Attorney General. (BDR 3-1122)

Stephanie Day (Deputy Director, Budget Division, Department of Administration):

The Attorney General's Office is authorized to employ special counsel. This position is to be paid out of the Reserve for Statutory Contingency Account,

which is a General Fund account. This bill requests to expand that to allow for other funding sources to include federal grants and the Highway Fund.

Senator Brower:

I understand the Reserve for Statutory Contingency Account has nothing to do with contingency or contingent fee agreements. That is entirely separate. This seems to be pretty straightforward.

Mr. Kandt:

The Attorney General's Office is neutral on this bill.

Chair Segerblom:

How can you be neutral on this bill?

Senator Brower:

That was my question, too. Is this necessary? If not, why are we doing it?

Mr. Kandt:

I was just instructed that we are neutral on the bill.

Senator Brower:

Why does the administration believe this is necessary if the key beneficiary of the change does not seem to care?

Ms. Day:

Statute requests that all funding for any special counsel employed by the Attorney General (AG) be paid out of the Reserve for Statutory Contingency Account from the General Fund. It does not allow for any other funding source to pay for that special counsel. For example, if the AG was to hire special counsel on behalf of the Nevada Department of Transportation (NDOT), the counsel would be paid out of the General Fund. We want the option of other funding sources to cover this.

Senator Brower:

That makes sense. It seems like the Attorney General's Office would be in favor of this because if the AG needs to hire special counsel to defend certain claims, such as claims against NDOT, the AG's Office would want the special counsel to be paid. This seems to assist with that.

Mr. Kandt:

That is certainly correct. I think our position is neutral simply because we will continue to employ special counsel whether or not you make this change.

Senator Brower:

I gather that you do not see this affecting the way you hire counsel. It might affect how special counsel is paid, but that is something someone else does. You are assuming that if the administration thinks this is a better way to do that, you are okay with it, although you are not endorsing the bill.

Mr. Kandt:

We are neutral simply because we will continue to carry out our statutory responsibilities whether or not you make this change with S.B. 476.

Chair Segerblom:

I will close the hearing on S.B. 476.

SENATOR JONES MOVED TO DO PASS S.B. 476.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Chair Segerblom:

I am going to pull S.B. 418 and not hear it today.

SENATE BILL 418: Revises provisions relating to pari-mutuel wagering.
(BDR 41-1106)

Chair Segerblom:

I will open the work session with S.B. 383.

SENATE BILL 383: Revises provisions governing time shares. (BDR 10-916)

Mindy Martini (Policy Analyst):

I have a work session document explaining this bill and the proposed amendment ([Exhibit U](#)). The bill revises provisions governing time-shares. The

amendment was presented by Gail Anderson, the Administrator of the Real Estate Division. She continued to work with the interested parties and submitted a more recent version.

Gail J. Anderson (Administrator, Real Estate Division, Department of Business and Industry):

I worked with representatives of the time-share industry, and we are in agreement on this amendment.

Senator Hutchison:

Was one of the parties you worked with the American Resort Development Association?

Ms. Anderson:

Yes, that was the party with which I worked.

Senator Hutchison:

The Association was on board with the amendment?

Ms. Anderson:

Yes.

Chair Segerblom:

I will close the work session on S.B. 383.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 383.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Segerblom:

I will open the work session on S.B. 420.

SENATE BILL 420: Revises provisions relating to the issuance of subpoenas.
(BDR 14-1108)

Ms. Martini:

I have a work session document ([Exhibit V](#)) explaining this bill and the proposed amendments from Steve Yeager of the Clark County Public Defender's Office and John T. Jones of the Clark County District Attorney's Office. This measure authorizes a prosecuting attorney or attorney for the defendant to issue subpoenas for witnesses to appear before a court in a preliminary hearing.

Senator Ford:

This bill should be passed. It is both a matter of fairness and cost savings.

Senator Brower:

It sounds like the Clark County Public Defender and the District Attorney talked about this as we suggested. It also sounds like they have not finished talking and working out their differences.

Mr. Jones:

That is correct. I have submitted a letter explaining what ensued ([Exhibit W](#)). Even though we remain opposed, we would not oppose the bill being sent out of Committee and on to the Assembly where, hopefully, we could have some type of resolution.

Senator Brower:

You are opposed, but you are not opposed. I will not support the bill until Steve Wolfson, the Clark County District Attorney, says it is okay.

Mr. Jones:

They have had fruitful discussions, so we are hopeful they will reach a resolution.

Senator Hammond:

I will also reserve judgment until it comes back to us. It will move to the Assembly, and there will be a conference committee at some point. If we hammer out a deal, I would support the bill then.

Senator Hutchison:

I encourage the parties to get something done before the bill gets to the Senate Floor. I will vote no now but would love to vote for it when you work out a deal.

SENATOR FORD MOVED TO DO PASS S.B. 420.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS BROWER, HAMMOND AND HUTCHISON VOTED NO).

* * * * *

Chair Segerblom:

I will close the work session on S.B. 420 and open up the floor to public comment.

Ali Tyler:

I am here to speak for my friend Jerod Updike. I have submitted my written testimony ([Exhibit X](#)), the written testimony from Jerod ([Exhibit Y](#)) and his slide presentation ([Exhibit Z](#)).

Jerod has an amendment that would reduce the time from 10 years to 5 years for sex offenders being able to petition the courts to be removed from lifetime supervision ([Exhibit AA](#)). The main concern we have with S.B. 388 is in section 6 regarding lifetime supervision. A listing of the offenses requiring lifetime supervision under NRS 176.0931 can be found in this handout ([Exhibit BB](#)).

Barry Updike:

I am Jerod's dad. He has been preparing to testify for months because he has been discriminated against for years. I understand the significance of this law as it applies to normal sex offenders, but he was trumped up on these accusations that were unsubstantiated. I do not understand why he assumed this bill was not associated with what he came to testify for.

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Chair Segerblom:

This bill does not apply to those issues. Please apologize to Jerod for us. I will close the hearing and work session of the Senate Committee on Judiciary at 10:47 a.m.

RESPECTFULLY SUBMITTED:

Linda Hiller,
Committee Secretary

APPROVED BY:

Senator Tick Segerblom, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	2		Agenda
	B	9		Attendance Roster
S.B. 388	C	2	Senator David R. Parks	Written Testimony
S.B. 388	D	14	Vanessa Spinazola	ACLU of Nevada complaint
S.B. 388	E	2	Vanessa Spinazola	Written Testimony
S.B. 388	F	1	George Karsten	Testimony
S.B. 388	G	1	Charleston Neighborhood Preservation	Letter from June Ingram
S.B. 414	H	NA	Valerie Wiener	DVD
S.B. 414	I	NA	Valerie Wiener	DVD
S.B. 314	J	7	Scott A. Woodruff	Testimony
S.B. 314	K	1	Frank Schnorbus	Testimony
S.B. 314	L	12	Frank Schnorbus	Pamphlet: The Right of Parents to Raise Their Child
S.B. 314	M	5	Cecilia Rogers	Letter
S.B. 314	N	1	Marissa Crook	Testimony
S.B. 314	O	1	Charleston Neighborhood Preservation	Letter of Support from June Ingram
S.B. 314	P	1	David A. Kallman	Letter of Support
S.B. 314	Q	1	ACLU of Nevada	Letter of Opposition
S.B. 224	R	7	Senator Barbara K. Cegavske	Testimony
S.B. 224	S	8	Senator Barbara K. Cegavske	Proposed Amendment 7924
S.B. 224	T	1	Linda Marie Bell	Letter
S.B. 383	U	14	Mindy Martini	Work Session Document
S.B. 420	V	5	Mindy Martini	Work Session Document
S.B. 420	W	1	John T. Jones	Clark County Public Defender Email
S.B. 388	X	4	Ali Tyler	Testimony
S.B. 388	Y	4	Jerod Updike	Testimony

S.B. 388	Z	7	Jerod Updike	Presentation
S.B. 388	AA	1	Jerod Updike	Proposed Amendment
S.B. 388	BB	1	Jerod Updike	Offenses Requiring Lifetime Supervision