

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

**Seventy-Eighth Session
March 3, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 8 a.m. on Tuesday, March 3, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Ira Hansen, Chairman
Assemblyman Erven T. Nelson, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblyman Nelson Araujo
Assemblywoman Olivia Diaz
Assemblywoman Michele Fiore
Assemblyman David M. Gardner
Assemblyman Brent A. Jones
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblywoman Victoria Seaman
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Assemblyman John Hambrick, Assembly District No. 2
Assemblywoman Shelly M. Shelton, Assembly District No. 10

STAFF MEMBERS PRESENT:

Diane Thornton, Committee Policy Analyst
Karyn Werner, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

Susan Roske, Chief Deputy Public Defender, Clark County
Public Defender's Office
Jason Frierson, Private Citizen, Las Vegas, Nevada
Mary Berkheiser, Director, Juvenile Justice Clinic, William S. Boyd School
of Law, University of Nevada, Las Vegas, Nevada
Kerry Kleiman, Private Citizen, Las Vegas, Nevada
Esther Rodriguez Brown, Founder, The Embracing Project, Las Vegas
Tracie Jasper, Private Citizen, Las Vegas, Nevada
John T. Jones, Jr., representing the Nevada District Attorneys
Association
Denise Tanada-Ashby, representing the Children's Advocacy Alliance
Steve R. McBride, Deputy Administrator, Division of Child and
Family Services, Department of Health and Human Services
Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's
Office
Caitlyn Caruso, Private Citizen, Las Vegas, Nevada
Sean B. Sullivan, Deputy Public Defender, Washoe County
Public Defender's Office
Brian Vasek, Private Citizen, Las Vegas, Nevada
Megan Bedera, representing the Nevada Firearms Coalition
Brian Wilson, Private Citizen, Las Vegas, Nevada
John Ridgeway, Private Citizen, Las Vegas, Nevada
Paul Schmitt, Private Citizen, Las Vegas, Nevada
Jim Sallee, Private Citizen, Las Vegas, Nevada
Bonnie McDaniel, Private Citizen, Las Vegas, Nevada
Chris Hisgon, Private Citizen, Las Vegas, Nevada
Janine Hansen, representing Nevada Families for Freedom
John Wagner, representing the Independent American Party of Nevada

Derek Clark, Private Citizen, Minden, Nevada
Tonja Brown, Private Citizen, Carson City, Nevada
Frank Capello, Private Citizen, Las Vegas, Nevada
Vanessa Spinazola, Legislative and Advocacy Director, American
Civil Liberties Union of Nevada
James Wheble, Private Citizen, Las Vegas, Nevada
Teresa Crawford, Private Citizen, Henderson, Nevada
Steve Yeager, Attorney, Clark County Office of the Public Defender

Chairman Hansen:

[Roll was taken. Committee protocol and rules were explained.] We have two bills on the agenda and we are going to go in order. The first is Assembly Bill 153. Assemblyman Araujo will present the bill.

Assembly Bill 153: Revises various provisions related to sexually exploited children. (BDR 5-622)

Assemblyman Nelson Araujo, Assembly District No. 3:

Assembly Bill 153 makes changes in the existing law to protect our sexually exploited children here in the state of Nevada.

We have a strong lineup of folks who will be testifying in support of the bill. We have received support from both ends of the state. We will also have some key testimony and presentations from Clark County experts in the field who will share more specific data regarding how this piece of legislation would truly impact, in a positive way, our children and the future of our state.

Under existing law, the juvenile court has exclusive jurisdiction over a juvenile: (1) who is alleged or adjudicated to be in need of supervision; or (2) who is alleged or adjudicated to be delinquent because he or she has committed certain crimes. With that, I would like to walk you through the bill briefly.

Under section 1 of this bill, *Nevada Revised Statutes* (NRS) Chapter 62A would be amended "by adding thereto a new section to read as follows: 'Sexually exploited child' means a child who is less than 18 years of age and who is alleged or adjudicated to have engaged or attempted to engage in prostitution or solicitation for prostitution in violation of NRS 201.354."

Under section 3, subsection 1, paragraph (i), existing law would be amended so that a juvenile court would have exclusive original jurisdiction in proceedings over a sexually exploited child.

Under section 4, subsection 3, a sexually exploited child is exempt from the provision in section 4, subsection 2. [Assemblyman Araujo read section 4, subsection 2 of the bill.]

Finally, under section 5, existing law reads as follows: [Assemblyman Araujo read section 5, subsection 1 of the bill.] Under subsection 4, the following language would be added to existing law: [Assemblyman Araujo read section 5, subsection 4 of the bill.]

Before I close, and for the record, we have had ongoing conversations with other key partners—including the district attorney's office—where we are working on a potentially friendly amendment that may address some of their concerns.

Assemblyman John Hambrick, Assembly District No. 2:

I am a cosponsor of the bill. This Committee, historically, has been extremely supportive of this type of legislation. This is perhaps one of the most important types of legislation that we will address in this building: protection of our children, particularly those who are in the most need. Those are the ones on the streets by themselves, the ones whom pimps will grab and latch on to. You see movies occasionally where youngsters are getting off buses in different towns, and you see the pimps parked across the street. Ladies and gentlemen, that is true. If you go to downtown Las Vegas to the bus depot, you will see them parked across the street watching. We need to care for these kids. It is never nice to talk about. This is truly the underbelly of our society, and we have to address these issues head-on. I would ask the Committee to have some very heavy discussions about this bill, particularly in the work session. I ask that you support this bill. You always hear that it is for the kids; well, this really is for the kids.

Assemblyman Wheeler:

I am looking at section 5, subsection 4 of the bill where it says that a child does not have to be released pursuant to this section if the juvenile court holds a detention hearing and determines that the child is a sexually exploited child. To me, that smacks of indefinite detention. It does not show what happens to the child after that. I am sure there is something, so that is why I am giving you the opportunity to answer that. Obviously, in this country, we do not do indefinite detention.

Assemblyman Araujo:

I would like to have Susan Roske in Las Vegas clarify that language. I know that is a question that has come up, specifically from the district attorney's office.

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

I represent most of the youngsters who are being charged with prostitution-related offenses. Many times, the juvenile court will detain these children because there is no safe alternative. As pointed out by Speaker Hambrick, many of these children have been preyed upon by pimps and panderers who really manipulate and brainwash these children. They will run back to where they feel safe, and that is oftentimes with their pimp. The juvenile court does like to have the ability to detain these children until safe alternatives can be found. As a concession to that, we put it into the language with the understanding that the children are only to be detained for as short of a time as possible until safe alternatives can be found.

Chairman Hansen:

We had a meeting last night about this. A specific timeframe will be amended into this bill. Is that correct?

Assemblyman Araujo:

You are correct. We are working on defining that as part of the proposed friendly amendment to clarify the language.

Susan Roske:

This bill is rooted out of recommendations from the Uniform Act on Prevention and Remedies for Human Trafficking. This was drafted by the National Conference of Commissioners on Uniform State Laws. In section 15 of that document, it calls for immunity for minors. The section provides that individuals who are engaged in commercial sexual activity should not be subject to juvenile delinquency proceedings if the individual is a minor at the time. They should be presumed to be a child in need of protection under the child protection statutes. There is a legislative note in this document that any state that does not adopt section 15, immunity of minor, must ensure that affected minors are referred to appropriate state-sponsored diversion programs. In their commentary, they note that this legislation ensures that children are treated as victims of commercial sexual exploitation rather than juvenile delinquents as we are presently doing in the state of Nevada. This policy recognizes that these children have been lured or coerced into these activities by persons who took advantage of their immaturity and special vulnerability.

In this bill, we are not seeking to treat them under the child protection statutes of the Clark County Department of Family Services (DFS) and the Division of Child and Family Services (DCFS). Rather, we are seeking to treat them as a child in need of supervision under the juvenile justice provisions. I would submit that this is an appropriate diversion program as mentioned above, which would limit the courts' ability to detain these children, and require the courts to find appropriate treatment for them. As will be discussed by my colleagues, detention retraumatizes these young people who have already suffered immense trauma. The July 1, 2016, enactment date will give communities time to develop informed treatment programs for these children.

I want to point out a couple of things. In section 4 of this bill, where it amends NRS 62B.330, it lists the acts that are deemed not delinquent. Also, in this particular statute, it lists crimes that are not delinquent, such as murder, attempted murder, and others, if the youth is 16 years of age or older, thus putting them in the criminal justice system. I want to make clear that this bill does not intend to allow prostitution charges to be filed criminally against these youngsters, and that they are to remain under the purview of the juvenile court as a child in need of supervision.

Also, in section 1, it says a sexually exploited child means a child who is less than 18 years of age. We have many youngsters still in the juvenile justice system when they turn 18. I want it to be clear that we are looking at the time of the event and, if under 18, the juvenile court can retain jurisdiction after their eighteenth birthday.

Assemblyman Gardner:

Regarding section 1 and the definition of a sexually exploited child, I have only seen a couple of these cases, so this might be the exception to the exception. There have been cases where high school students who are under the age of 18 will convince other people who are under the age of 18 to go into prostitution. In that case, my reading of this law says that both of the people who are under 18—one being the pimp who is pushing prostitution—would both be considered sexually exploited children. Is that your reading of this or am I reading it incorrectly?

Susan Roske:

That is not my reading of this. I believe the intent is to cover those who are actually engaging in the act of prostitution and soliciting prostitution. If you were to catch a pimp soliciting someone, and that pimp was under 18, perhaps it would cover that, but it was not the intent.

Chairman Hansen:

Do you have specific people you would like to testify first?

Assemblyman Araujo:

We have some key people to testify in Carson City, but we also have people in the south. Whatever is good for you is fine.

Jason Frierson, Private Citizen, Las Vegas, Nevada:

I am here in my capacity as former Chairman of the Interim Legislative Committee on Child Welfare and Juvenile Justice. I have been having conversations about safe havens with people at the William S. Boyd School of Law: Professor Mary Burkheiser, Susan Roske, and Esther Brown. We have been talking about this for quite some time. The reality is that we do not want the state of Nevada to be a safe haven for panderers to recruit underage females into prostitution and then allow them to take criminal culpability for it. When we initially started talking about this, there were some details that needed to be worked out. I know one of the main concerns has been housing. I believe that an honest conversation about this issue has to include—and maybe not this year but at some point—providing housing so that Nevada does not become a safe haven. We need to house the victims of sexual exploitation separately from juvenile delinquents and any other juveniles they would encounter in delinquency systems or child welfare systems. This bill is an effort to start that conversation and to address this need. We are uniquely situated to allow victims to fall under panderers. I want to point out, from an earlier question, that the definition of sexually exploited children would not include the pimp. The pimp would be charged with pandering. This would be soliciting, which would include the johns. If there was an underage john, technically, that would fall under this law.

With that said, housing is a unique and challenging issue because we do not want a young, underage lady who has been exposed to this life and victimized for years, to then use the system to recruit new girls. There have to be mechanisms in place to address that and to prevent those victims from recruiting nonsexualized victims. It happens and we have to be careful about it. We have to acknowledge that these children are victims, and I believe this bill attempts to take a huge step in that direction.

Assemblyman Nelson:

I am looking at section 4, subsection 2 of the bill, and the way I read it is that, if a child is a sexually exploited child, none of these things would apply to him or her. That would include violating county ordinances, violating any rule of law, or committing a criminal offense. Is that the intent of the bill?

Jason Frierson:

I do not want to speak for the intent of the bill. I believe Ms. Berkheiser, Mr. Nelson, and Ms. Brown were involved in the drafting of the original legislation and can speak to that. It was my understanding that the three subsections under section 4 apply only to the charge of soliciting to engage in prostitution, not any other charges. If they were charged with anything else, the intent of that language was to apply specifically to a charge of soliciting.

Mary Berkheiser, Director, Juvenile Justice Clinic, William S. Boyd School of Law, University of Nevada, Las Vegas:

I welcome the opportunity to be here today. Over the last several years, the students in my Juvenile Justice Clinic and I have represented several young girls who would be helped by A.B. 153. My students wanted to research how these girls could be better served by the law and not be criminalized. I will give you some background for those of you who were not on the Committee on Judiciary back in 2013 when the first piece of the sex-trafficking legislation—the bill that criminalized sex trafficking—was enacted. A number of you on this Committee were on the Committee at that time, and I thank you for taking that first step. Without it, we would not be here today.

Nevada needs to do this. The United Nations has a protocol that recognizes that children who are victims of sex trafficking are truly victims. The federal government has the Trafficking Victims' Protection Act of 2000 that protects young people from being used in these ways and from being prostituted. That is exactly what A.B. 153 would do. Under the sex-trafficking bill—which I believe was Assembly Bill No. 67 of the 77th Session—there were policies that were recognized in that bill that included the treatment of these children as victims of sex trafficking, and that there could be no consent to being trafficked. Any mistake about the age of a person by a john or a pimp was not a defense to a sex-trafficking charge. The problem is, even though sex-trafficking laws in Nevada now recognize these things, we still have a prostitution law under which underage girls—and occasionally a boy—are still prosecuted for this crime. The policies clash since one law says they are victims and another says they are criminals. There will be others who can speak to the devastating effects of treating these young people like criminals.

Another important piece of this is that, by being taken into the juvenile delinquency system, these girls are kept in detention. Mr. Frierson mentioned a significant fact: not only are they harmed by being in detention, there is nothing there that can help them, and they need specialized services. Their pimps love having their girls in detention because they can recruit even more

girls. There really is a need for separate housing for these victims of sex trafficking.

Another point to look at is that the cost of detention for a day in Clark County is \$279 per child, at least as of a year ago. The funds that are used now to detain these girls in detention could be used to put them in a safe place devoted to their needs. We urge this Committee to pass A.B. 153, the next step that needs to be taken. Obviously, there is still the third step of a safe house for later. However, not being able to do that immediately should not keep this body from moving forward with this bill in its current form. We need to establish a safe harbor for these victims of sexual exploitation by adding them to the statute on children in need of supervision. Children in need of supervision are still under the jurisdiction of the juvenile court judges and are not treated as delinquents, do not have a delinquency record, and they are given the specialized care that they need. The very term itself—children in need of supervision—tells us a lot about this bill's intent.

It is my understanding that this legislation does not intend to exempt an individual from a delinquency prosecution for crimes other than solicitation of prostitution. We are only talking about prostitution-related crimes, not other crimes. To the extent that the Committee thinks it is necessary to clarify that in section 4, subsection 2, of the bill, we would be amenable to that.

Kerry Kleiman, Private Citizen, Las Vegas, Nevada:

I am a third year student at the William S. Boyd School of Law. I am a licensed student attorney under Nevada Supreme Court Law Student Practice Rule 49.5. I am speaking on behalf of the other student attorneys who have had the privilege of working with the Juvenile Justice Clinic at the William S. Boyd School of Law ([Exhibit C](#)).

This past year, working with the Juvenile Justice Clinic, I have represented a number of girls who have been victims of sex trafficking and have been brought in front of the judge on charges of soliciting prostitution. I had the fortune of growing up in a house where I was loved by my parents and was not used as a punching bag or blow-up doll. Unfortunately, that is not what I encountered with the girls I worked with. They were abused by their guardians, by their parents, and by other members of their families. It was normal for them to feel worthless outside of what their bodies could get for them. When a man came along who showed them some affection, these girls thought it was true love. These are 14- to 17-year-old girls who have never been treated nicely. I worked with one girl whose stepfather was her primary guardian and is currently serving a life sentence for repeatedly raping her. Sex trafficking is one of the few crimes for which we prosecute the victims.

These girls are victims; they are not criminals. Federal law recognizes that, and we hope with the passage of A.B. 153 Nevada will recognize that as well.

These girls need help. I was driving one of my clients to a court-mandated therapy session when I bought her a cup of coffee. She started crying because no one had ever been that nice to her without expecting something in return. That is the mindset of these girls when they are picked up for engaging in prostitution. They think that is the only way anyone will treat them nicely. They have been victimized for years, and it is necessary for us, at a legislative level, to recognize that and to help them.

We here in Clark County are privileged to have Judge William Voy presiding over the sexually exploited youth calendar. He has been on the bench for a long time. He understands that these girls are victims, and he treats them that way. He does his best and everything in his power to work with probation, the district attorney, and the public defender's office to get these girls treatment rather than just detaining them or sending them to Caliente. We hope that, with the passage of A.B. 153, it would enshrine what Judge Voy is already doing so that subsequent judges, and judges in other parts of Nevada, would treat these girls with the same care and understanding that Judge Voy already does.

Assemblyman Gardner:

I know you have been involved in protecting these victims for years, so can you think of any way we can make this bill better? You mentioned we passed a bill in 2013, and now we have this bill, so is there any way we could wrap it all up in one bill now instead of coming back next session to draft another bill?

Mary Berkheiser:

Absolutely. You could provide a funding mechanism for a safe house. That would make everyone I know very happy and would complete the work that began in 2013. There are many options for raising money for a safe house, and we would be glad to submit the information that my students have put together. It is an entire report on all 50 states. The 50 states use a lot of different ways to get money into the coffers to provide for safe houses. If that is something the Committee would be interested in seeing, we would be glad to furnish that information.

Chairman Hansen:

We better not get too far off into the weeds on the housing issue; that is not part of the bill. What I would suggest is that the bill's sponsors, and perhaps Mr. Frierson, get together and come up with that. It would add a fiscal note to the bill, and that could be a problem. If there is an amendment, we can revisit this.

Assemblyman Thompson:

I know we are mainly talking about young ladies. What numbers are we looking at? I know we are not really talking about housing, but how many are we looking at annually that are falling into this category so we can have an idea when we do talk about the housing?

Mary Berkheiser:

Approximately 200.

Kerry Kleiman:

I was just speaking with Esther Brown and last year there were 202 children that came in front of Judge Voy, of which 201 were girls. There was one sexually exploited boy.

Mary Berkheiser:

It is nearly impossible to know how many there really are since these are just the girls who get picked up by vice cops. I do not want to sound an alarm about there being thousands and thousands, but no one knows how many there are because they are so much in the shadows. It has been pretty consistent though. I think there were 198 in 2013, and 202 last year here in Clark County. I am hoping someone in the north can speak to that up there.

Assemblyman Ohrenschall:

I believe a lot of the kids who get caught up in this have very bad home lives and are looking to run from that. Unfortunately, they run into this industry and the arms of these pimps and panderers. Can you go a little deeper into the collateral consequences of the current system? What happens now if this child is adjudicated delinquent and gets a delinquency record and is, perhaps, sent to Caliente or another place for detention, versus what we are proposing in this bill? I think those of us who have worked in the juvenile justice system understand it, but it would be important for some of the others to know.

Kerry Kleiman:

I am confident that there will be more testimony on this from some of the other people down here. There is an idea called revictimization, which is what happens when these girls—and occasionally boys—are taken into detention and are threatened with suspended commitments and going up to Caliente. It reinforces their feelings of isolation. There is research by psychologists and sociologists that talks about the isolation that sex traffickers capitalize on. Unfortunately, by punishing these victims and treating them like criminals, and not as the victims that they truly are, it counterintuitively serves to strengthen their bond with their trafficker. The girls whom I have worked with—at least during the few months of my relationship with them—consistently refer to their

traffickers as their boyfriends. It was only after months of working with them that they were able to admit to me, and themselves, that they were, in fact, their pimps and not boyfriends. They think because this man, who is usually twice their age, buys them nice things, gives them a roof over their head for a while, or takes them out for dinner, he is their boyfriend. However, a normal boyfriend does not say, "If you love me, you will have sex with this stranger." Putting these girls in detention reinforces those negative thoughts that they have been brainwashed to believe: no one cares about them except the pimp.

Assemblyman Ohrenschall:

Thank you for going into that. Many of us do not realize that these children have not had the kind of advantages that most of us and our kids have had.

Chairman Hansen:

Is there anyone else in Clark County who would like to testify in favor of the bill?

Esther Rodriguez Brown, Founder, The Embracing Project, Las Vegas, Nevada:

The Embracing Project is a nonprofit organization in Clark County that works directly with the victims of sex trafficking and sexual exploitation. Our programs have been providing services for the victims since 2007. Every Wednesday I am in front of Judge Voy advocating for the victims to try to find an alternative solution to detention. Unfortunately, the only safe place that we have now is detention. Incarcerating children exposes them to further crime and retraumatizes them.

On my way here, I received a phone call from a 16-year-old girl who has been working since she was 14 years old. She was returned to Los Angeles, where she is from, about six months ago. She is on probation because she was charged through the courts so we could keep an eye on her. When she got home, her mother told her that her new boyfriend—who had just gotten out of prison—did not like little girls and that she knew what the girl had done, so she had to leave the house. Because of that, she ran again and was back in Las Vegas. She had been shot in the leg and was living house to house. When she called me, she said she was in need of help with clothes, personal items, and other things. She was afraid to turn herself in because she was afraid she would be treated like a criminal and be sent to Caliente. I told her it was very likely that is what would happen.

By passing A.B. 153 we are allowing these kids to reach out to the advocates in the community to pick them up and bring them back. They need to be told that they will not do time because they are not criminals, they are victims. We have these services in place and will be able to help them. I believe A.B. 153 will

do that. We already have things in place that we can bring to the table. We need to reinforce the law by arresting the johns and clients who come to this town and solicit sex from our children. We need to hold them accountable. These are children in need of supervision, and once these victims step up to the plate, they can access all of the services that they cannot now because they are adjudicated as a delinquent and not as a child in need of supervision. I work with them every day and see their struggles. I support this bill.

Tracie Jasper, Private Citizen, Las Vegas, Nevada:

As a survivor of sex trafficking, I have been through the juvenile justice system. Going through it, I was told that, at the age of 14, I did not have the capacity to make rational decisions like that on my own. I had an adult male figure in my ear. While going through the system, I was confused why the law could punish us like delinquents who were there for robbery, battery, et cetera, when those of us who were there for prostitution were actually victims. It was also embarrassing and degrading—as much as my actions were—to be called a prostitute by law enforcement, and to have that on my record. You should not call a child a prostitute because they are victims, and there is no such thing as a child prostitute. I support A.B. 153 because I believe it supports the idea that a child is a victim and not a prostitute. It acknowledges that we are victims and not criminals. I would like to think that, if this bill were passed, there would be more children turning themselves in to get help.

Assemblyman Thompson:

Thank you for having the courage to share this with everyone. I would like to thank Ms. Rodriguez Brown because we have worked side by side on many issues in the community and I know her heart is deep. We will eventually get this safe haven for these young ladies.

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

We are in support of A.B.153. I want to say at the outset that all of those who testified are absolutely right that, in many respects, we are revictimizing victims of sex trafficking. People have worked on this specific issue for years, and frankly, we are probably approaching decades. This is an extremely serious issue and is a good idea. The problem is that sometimes a great idea crashes against a big wall of reality.

We have some issues with this bill, and I want to thank Assemblyman Araujo and Speaker Hambrick for working with us on those issues. One of the issues will be discussed by Steve McBride. There are some issues with federal funding if you classify certain children as a child in need of supervision and still detain them. You have heard testimony today that, unfortunately, detention is the only safe place we have for some of these children. It is a sad reality that we

face right now, and that is why a safe house is an extremely important piece of this conversation. I think Mr. Frierson is absolutely correct about that. I want to voice the Association's support for this bill. We appreciate the sponsors' working with us, and I think we will be able to reach a resolution that will be beneficial to all.

Chairman Hansen:

If someone wants to mention the safe house, it is fine, but I do not want to focus too much time on that because it is not part of the bill yet. If it is a consistent thread in all of the testimony and we have to look at that to make this program work, it may be something that Assemblyman Araujo will have to work on.

Assemblyman Nelson:

I would like to ask you the same question that I asked earlier. In section 4, subparagraph 2, this carve-out only applies to prostitution and solicitation. Is that correct?

John Jones:

Yes, I think that is the intent of this piece of legislation. An argument could be made that it could expand to other crimes. If we tighten up the language, we can make it clear that the sponsors' intent is what is written on the page.

Assemblyman O'Neill:

Years ago, I used to work prostitution. Lots of times I would arrest a prostitute for a non-solicitation crime. I would find something just to get them off the street. How do we address that with juveniles?

John Jones:

What happens now in practice is that the officers book the kids under solicitation or some other type of prostitution-related crime. The district attorneys, especially in Clark County, will work with Ms. Roske and other defense attorneys to find some other non-prostitution-related crime to plead them to. Often it is trespassing even though the crime they pled to is a non-sex-trafficking crime.

Assemblyman O'Neill:

That is what I meant. I would often bring them in for something as nefarious as littering or trespassing because they were prostitutes. I knew they were, but they did not solicit in front of me because they knew me from prior associations. Can they be addressed in this bill also? Can we do something for them?

John Jones:

We can absolutely work on that if it is the will of the Committee. There are situations where a child will come in on a different offense and tell us that she is a victim of sex trafficking. We do have the system set up to help those kids as well. We have a vice detective come in to work with them and try to find the person who is trafficking them. We do have a system that is set up now to help find victims of human trafficking beyond just those who are arrested for solicitation or loitering.

Assemblyman Ohrenschall:

You mentioned that you had concerns about the bill regarding the possible loss of federal funding. Could you please go into more detail about that? The way I am reading the bill, if one of these children was found to be a sexually exploited child, they could still be held by the juvenile court and receive services, treatment, and alternative housing so that they are not back in the same situation. What could cause us to lose federal funding?

John Jones:

That is a great question and Deputy Administrator McBride can enlighten you better than I can on the federal funding piece.

Chairman Hansen:

Why do we not wait until Mr. McBride gives his own testimony.

Denise Tanada-Ashby, representing the Children's Advocacy Alliance:

We are 100 percent in support of this legislation. It is the next step in ensuring that children are seen as victims and not as criminals when they are sexually exploited.

**Steve R. McBride, Deputy Administrator, Division of Child and Family Services,
Department of Health and Human Services:**

I am signed in as neutral as the bill is written. Do you want me to give that now or wait?

Section 5, subsection 2, line 24 extends the period of time that you can detain a status offender, or a child in need of supervision, for an additional 24 hours. The standard for the Juvenile Justice and Delinquency Prevention Act (JJDP) of 2002 is 24 hours before court and 24 hours after court. That particular provision is in conflict with federal law. That is the only issue that the Division has as the bill is written. We have had discussions already with the bill's sponsors and authors and are encouraged with the amendment.

Assemblyman Ohrenschall:

Maybe I am getting confused here and may need the presenters to help. The way I understood the intent of the bill, I thought this would no longer be a status offense. Did I miss something? Could you please explain that?

Chairman Hansen:

Let us hold off on that. We had a discussion with Mr. McBride and the bill's sponsors on this issue. Perhaps Assemblyman Araujo can clear this up when he comes back up. There are amendments to go along with this issue.

Steve McBride:

I can comment on that. The bill is proposing to change from a delinquency offense to a status offense—a child in need of supervision—which is what triggers the JJDPA timeframes. You either have the delinquency offense, which gives you the ability to detain beyond the 24 hours, or you have the status offense which limits, based on the federal law, the 24-hour window. I understand that the intent is to identify victims of sexual exploitation as such and get them programed into proper services. That 24 hours of detention is a very brief period of time to assess, determine, and place; however, if it is going to be determined as a status offense as the bill is written, that is the window of time in which the federal requirement gives us to work within.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

This bill has our full support.

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

We, too, support this bill.

Caitlyn Caruso, Private Citizen, Las Vegas:

I am a high school student and have just turned 18 years of age. When I was 13 years old, I almost turned to survival sex. My family and I were living in the Budget Suites. My mom was on social security and we often did not have enough money to feed me and my nephew every month. I felt pressured, not necessarily by pimps, but by the system to enter this really harsh and violent field of trying to survive and save my family. I am really appreciative of this bill being brought to not further victimize and traumatize these youth who are just trying to survive. They are just trying to live. I am excited about the bill, and I hope you will all work with Assemblyman Araujo on this bill and get our youth in a safer environment.

Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office:

We are in full support of this bill. We have often heard in this Committee, and other committees, that society is judged by the way it treats its most vulnerable persons, and I think this bill accomplishes a very important measure for victims at such a tender age. I am fortunate that I do not have to see a lot of these types of cases in my line of work at the Washoe County Public Defender's Office, but I have talked with colleagues in the private sector that have dealt with this type of case. Most notably, I saw one last year where the pimp or pandarer had resorted to physically branding, like cattle, the young lady victims in that case. It was morally offensive to every person in the courtroom. Other than that, I offer my office's full support of this bill.

Brian Vasek, Private Citizen, Las Vegas, Nevada:

I am speaking on behalf of the Juvenile Justice Clinic. I am a student at William S. Boyd School of Law. I would also like to voice my support for A.B. 153 as a Clinic student. While I did not work with any sexually-exploited youth myself, I did attend Judge Voy's calendar regularly with some of the other clinic students. I would like to say what an asset Judge Voy is to our community. I would also like to say that Judge Voy may not always be there for the community, and I hope that a bill like A.B. 153 would make the treatment of sexually exploited youth universal throughout our state. I support A.B. 153.

Chairman Hansen:

Is there anyone else who would like to testify in favor of A.B. 153? [There was no one.] Is there anyone who would like to speak in opposition to A.B. 153 at this time in the north or south? [There was no one.] Is there anyone in the neutral position in the south or north? [There was no one.]

Assemblyman Araujo:

I want to thank you for taking time to hear this bill. I feel that I am echoing everyone's sentiments that came forward today in support of the bill. We are really talking about our children and our most vulnerable population. I would urge you to please support this bill because we really need to do something. They really need us, and we now have the opportunity to make sure we are applying the right sanctions and that we are protecting them in every way possible.

Assemblyman Ohrenschall:

I would like to advise this Committee that my day job is a deputy public defender at the Juvenile Division of the Clark County Public Defender's Office. My supervisor, Susan Roske, has been testifying on this bill. I have checked

with legislative counsel and have determined that I do not have a conflict of interest with respect to A.B. 153 pursuant to Assembly Standing Rule No. 23. The bill does not affect me any differently than any other practicing attorney in the state who represents juveniles in delinquency proceedings. Since I do not have a conflict of interest, I have been participating in discussions and I do plan on voting on this bill.

Chairman Hansen:

We will close the hearing on A.B. 153. We will move into Assembly Bill 171. We have Assemblywoman Shelly Shelton to present the bill.

Assembly Bill 171: Revises provisions relating to the use of force in defense of persons and property. (BDR 15-817)

Assemblywoman Shelly M. Shelton, Assembly District No. 10:

I am here today to present Assembly Bill 171, which is a public safety measure. I understand that Senator Roberson has introduced Senate Bill 175, which includes similar language. [Read from written testimony ([Exhibit D](#)).]

Assembly Bill 171 is simply codifying what has already been accepted for many years, and that is the right for a person to defend himself from attack without persecution and civil liability. The police are not and cannot be everywhere. [Continued to read from written testimony ([Exhibit D](#)).]

The reason I had to bring this bill forward and what I want you to remember is that this bill is to protect the innocent victim. Please remember that it is bad enough to be put in the position of having to protect your life, but then you have to take someone else's life to protect your own. You would then have to go to criminal court and defend yourself. On top of that, you can be sued by the assailant's family. The nightmare has to end.

Megan Bedera, representing the Nevada Firearms Coalition:

We strongly support this legislation because it clarifies and reaffirms the basic human right to defend oneself and one's family while in one's home or automobile, and it clarifies that, if they must use force for legitimate self-defense, they will be protected from both criminal and civil charges. This legislation that clarifies the existing justifiable homicide statute includes an occupied motor vehicle, as in the case of a carjacking, as well as clarifying when deadly force would be justified. Additionally, it provides civil protection, as well as existing criminal protection, to citizens who must use deadly force against someone who is threatening them with death or serious bodily harm. If a citizen is forced to use deadly force in circumstances that are compliant with state law, that citizen deserves the full protection of the state, including

protections from criminal and civil prosecutions. We are in strong support of this legislation.

Assemblyman Elliott T. Anderson:

I want to talk to you about the existing self-defense laws since we have quite a lot of them. We have *Nevada Revised Statutes* (NRS) 200.200, NRS 200.120, and NRS 200.160. Those statutes bring in the defense of home, self-defense in general, defense of property—my reading would include a vehicle, which is personal property—defense of others, et cetera. I wonder why all of these existing laws are inadequate. Have you seen any cases in Nevada that have specifically said that they have tried to use these defenses but to no avail? We not only have these statutes on the books, but since 1990 we have had case law on the subject, which we codified in 2011. Could you expound on why and how those existing laws have not protected people who are defending themselves?

Megan Bedera:

These laws have actually been on the books since 1861. If you look back in the Nevada Statutes, in section 25, it goes into the definition of justified homicide. They added the Castle Doctrine back in 1983. These have already been in statutes; this law just gives clarity. Even though the end of the bill says property—which includes vehicles, vehicles' trailers, and motorhomes—we are just clarifying that you have the right to protect yourself in your motor vehicle.

Assemblyman Elliot T. Anderson:

I take issue with saying that we are clarifying that vehicles are personal property, but the presumption is a whole different animal. That is basically a rule of evidence saying that, if you unlawfully enter in any way—if I stick my foot across the threshold at your door—that is now an unlawful entry if it was not consented to. Because of this, the potential prosecutor would look at that and say that the defendant has nothing, even if he put his foot across the threshold, and it will be hard for them to show that it was not reasonable to shoot someone that did that. If a child goes into someone's garage, that is now an unlawful entry, which is presumed to be a felony under NRS 205.065. This would trigger the provisions of that presumption. Could you expound on the presumption and what it does? I do not read that it is rebuttable and that the prosecutor would not be able to offer any evidence to disprove the claim of self-defense.

Assemblywoman Shelton:

I would like to point out that NRS 200.130 specifically states that the circumstances need to have excited fear, reasonable fear, from the person, and that the act of killing was under the influence of those fears and not in the spirit

of revenge. You were getting to the point that just anyone can be shot if they step a foot in your house, but that is not the case whatsoever. You have to be in fear for your life.

Chairman Hansen:

That is a question for our legal counsel, but unfortunately, he is not here today. It is beyond the scope of Assemblywoman Shelton to get into the legal hairsplitting on some of that stuff. For now, we will leave that for Mr. Wilkinson to address in the future.

Assemblyman Thompson:

We are talking about adding cars. As we know, cars are mobile, unlike a home that is stationary. If a car is in a public place, parked on a public street or parking garage, and a situation like that occurs, would you say this increases the risk of innocent bystanders being shot if a shootout occurs?

Assemblywoman Shelton:

The purpose of this is to protect the victim. This bill does not address having a shootout at the park or such because you are fearful when someone walks up to you.

Assemblyman Thompson:

I want to be clear. A person is in a car and is being attacked. He most likely is not a law enforcement official or someone who is specifically trained for firearms. Does that not increase the chance that gunshots could hit innocent people?

Assemblywoman Shelton:

I think you are wrong in that statement. I think this bill adds more public safety for the citizens of Nevada. If I understand you right, your opinion is just the opposite. This bill allows a person to protect himself when he is in his own vehicle—which is part of his property—if he feels his life is being threatened.

Assemblywoman Fiore:

As you were testifying and there were a lot of questions, it was obvious that the law is not crystal clear, but this bill would make the law clearer. I fully support this bill. This is something that we really need.

Assemblyman Gardner:

My question is along the lines of Assemblyman Thompson's. He was talking about what would happen if you had a shooting. Correct me if I am wrong, but I understand that carjackings do not happen in the middle of crowded areas.

These crimes do not happen when there are a lot of people around for the reason that you talked about earlier. Carjackers want to get away, so they will do it when no one else is around. I would think that, if there were a lot of people around, the crime would not happen. This bill would help when not many people are around. Is that correct?

Assemblywoman Shelton:

That is correct.

Assemblyman Araujo:

I did some research as I was looking into this bill. Are you familiar with a study that Texas A&M conducted that showed an 8 percent increase in homicides in states that have stand-your-ground laws?

Assemblywoman Shelton:

This is not a stand-your-ground law. This is the Castle Doctrine that we already have in law that gives innocent victims more rights. This bill adds that you are allowed to protect yourself in your vehicle as part of your property. It also adds that, if you are found not guilty in a court of law in a criminal case, civil charges cannot be brought against you.

Assemblyman Araujo:

If this bill passes, are you concerned at all about the possibility that there may be an increase in lethal shootings here in Nevada?

Assemblywoman Shelton:

Again, the purpose of this bill is to give protection to the victim of a crime. This allows victims to put an end to their nightmares.

Assemblyman Ohrenschall:

I understand that, in 2005, Florida passed a bill similar to this. The research that I have done shows that justifiable homicides have tripled since that bill passed. Does your organization have any studies regarding what this law may do to justifiable homicides in Nevada?

Megan Bedera:

I do not have that information with me. I will gladly look into it and get some information to you after the hearing.

Assemblyman Ohrenschall:

There is research that says, when states pass laws like this, there is a racially disparate impact. If the shooter is Caucasian, oftentimes it is found to be justifiable, but if the shooter is African American, he is oftentimes found guilty.

What are your thoughts on that? Do you think this bill might have that effect in Nevada?

Assemblywoman Shelton:

This law has already been in statute for many years. The only thing we are changing is adding the vehicle. I do not see an increase, nor do I see racial profilings starting if it has not already. I do not see it affecting one group over another since it is already in statute. We are giving some relief to the innocent victim.

Assemblywoman Diaz:

Section 2, subsection 2 would presume that the circumstances were sufficient for this bill if the shooter has reason to believe that the person killed was attempting to enter a motor vehicle. This would cover a situation where someone walks up to the wrong vehicle because it looks exactly like his, and he tries to forcefully enter because his keys are not working. Can someone who spots him shoot him because he is attempting to commit a felony?

Megan Bedera:

You are correct that it says with force. But it also says "knew or had reason to believe that the person who was killed was committing or attempting to commit a felony." This is not your basic misunderstanding of stepping across a line; this is knowing that a felony is taking place.

Assemblyman Gardner:

I was reading the bill and, as far as I can tell, it does not talk about race at all. It does not talk about anything related. That kind of stuff would be decided by a jury or the district attorney. Do we know if the reason justifiable homicides went up was that those people who were defending themselves were being prosecuted prior to this law being passed? They might have been going through the same thing that you were talking about. Do we know if that might be the reason they were not being listed as justifiable homicides before?

Assemblywoman Shelton:

I do not have any statistics on any other state; however, that could be a possibility. Here in Nevada, we already have statutes on justifiable homicide. Section 2 includes the right not to retreat before using deadly force. We already have that in our statutes. Maybe the other states did not have this in their statutes.

Assemblywoman Seaman:

I think the hands of law-abiding citizens are often tied so they cannot protect themselves. As a woman and a concealed carry weapon (CCW) holder, I feel

like my hands are tied from protecting myself. This bill gives me comfort that I can protect myself from a carjacking or being alone at night.

Assemblyman Elliot T. Anderson:

I do not believe that this bill is clarifying. We have to talk about the presumption more. You are no longer saying that you are going to be judged by 12. As the line goes, it is better to be judged by 12 than to be carried by 6. The presumption says that you are no longer going to be judged. Under NRS 205.065, if you are attempting to enter any house, vehicle, et cetera, it can be reasonably inferred that you have felonious intent, which would trigger the provisions of your presumption. There is nothing in there that says it is rebuttable. Once someone is presumed to have that felonious intent, there you go, that is it, that is the ballgame. The jury has nothing to do with this anymore. The district attorney is not going to charge half of these cases because of your presumption. This is not clarification. I will let it go with that, but I think we need to hear from the district attorney and the public defender's office about how this will alter the rules of the game.

Chairman Hansen:

I am sure there will be testimony from the law enforcement people.

Assemblyman Wheeler:

I would like to get back to some of the previous questions. This is obviously not a stand-your-ground law to me. This is more like a Castle Doctrine type law. I do not see a racial issue in this. Getting back to one of the original questions that Assemblyman Thompson asked about people being around, do you have a right to defend yourself if there are other people around?

Assemblywoman Shelton:

You are right. That is the part of this bill that allows you to protect yourself; not only in your home, but also in your vehicle. The law is not clear right now. If you look at the back of the bill, it lists your vehicle as a type of residence. Does that mean you are living in your car? I am not sure. This just clarifies that if you are in your vehicle taking your kids to school, you have a right to defend yourself and them if the unfortunate happens.

Assemblyman Gardner:

If you look at NRS 201.170, it talks about the burden for proving circumstances of mitigation or justifiable homicide. You cannot shoot someone and just walk away free; you still have to prove it was justified. It is presumption, and that is always rebuttable. It is built in.

Assemblywoman Diaz:

I am thinking about the recent road-rage case that happened in southern Nevada. It involved two parties in two vehicles. One was a mother taking her daughter driving. There was an altercation and the mother dropped off the daughter, picked up her son, and went looking for the person in the other vehicle. The mother ended up losing her life. What keeps daunting me is why on earth we should require law enforcement to simply take someone's word that they shot and killed someone legally. I believe we are infringing on law enforcement's ability to properly investigate all of the circumstances. You are potentially throwing out a homicide case. Under this new revision, this individual may not have to account for his actions because he felt threatened by the other party. You talked about innocent people being protected, but what about the family that lost a family member?

Assemblywoman Shelton:

I think you are wrong in thinking this is not going to help the police because this is already in statute. Statute already states that a person can protect himself in his home if he feels threatened that someone is going to kill him. It also states that, if he acts under the influence of those fears and those fears are not spirited by revenge—and I do not know all of the facts about the case in Las Vegas because it keeps changing—there are things in place to handle that situation. I do not think they were actually in the car, but I do not know all of the circumstances so I cannot speak on that.

Chairman Hansen:

I remember years ago we had an extremely popular district attorney in Washoe County. His name was Mills Lane. In the debate on the Castle Doctrine, a case came up in which a man heard a noise outside of his two-story house, so he went outside and saw a man breaking into his daughter's window on the second floor. He shot and killed the man, and there was a big cry to have the man prosecuted because, technically, the man was not inside the house. Mills Lane said that there was no way in hell he would prosecute a man who saw someone breaking into his daughter's second-story window and shot him. It is just the opposite, and we should give him a bounty. Mills Lane was probably the most popular politician in Nevada's history. Mr. Lane had a common-sense factor that I think is true for law enforcement in general.

We will go to the proponents of the bill and start in Clark County unless Assemblywoman Shelton has someone to testify in Carson City.

Brian Wilson, Private Citizen, Las Vegas, Nevada:

We have all been in a situation where we pull into a parking lot and race another car for a spot. As a young man in my twenties, this happened to me. I was actually in the passenger seat, and we won the race and got the spot. The person behind us did not like that outcome. His answer was to attack the driver with a crowbar. Fortunately, that day I was armed. I leveled my weapon across the hood of the car at him, and that was the end of it because he walked away. The reason I am telling you this story is that it makes no difference whether you pass this bill. I will tell you the honest truth that it does not affect whether I shoot. It is not going to make a difference on how I defend my life. I will defend it any way necessary. In this instance, there was no need to fire; I was able to stop the threat. Had I needed to defend myself with a gun in that situation, I was not thinking about criminal prosecution or a civil trial. It would have been absolutely justified to protect my life. As a young man, it would have destroyed me financially, since there was nothing I could have done to answer those charges. I could not afford a lawyer. I would have been at the mercy of a public defender and no civil defense whatsoever.

Chairman Hansen:

Your testimony basically states that this further clarifies an already existing right.

John Ridgeway, Private Citizen, Las Vegas, Nevada:

There have been a lot of questions about the statutes that we already have. What is not shown on this black and white printout of the bill is the colored markings that give more clarification and shows all of the changes. As was mentioned earlier, it expands instead of limits. People need the ability to defend themselves. The bare fear element is cleared up in this bill. You are putting the onus on the victims, so they get victimized twice. First they have to defend themselves, then they have to go through voluminous amounts of paper to determine if they are going to be prosecuted. When you have a nanosecond to make a life-and-death decision, what is the problem? Where is the presumption of innocence to the victim who is being assaulted and terrified? You put the pressure on the person who must defend himself.

If you go to NRS 200.130, section 2, subsection 1 of the bill, it changes from "shall not be" to "is not." It is too bad that someone who has been victimized is sued by the criminal's family—that benefited from his criminal activity—for a wrongful death because there is a "T" not crossed or an "I" not dotted in some statute that should not even be there. There should be zero gun-control laws out there. All gun-control laws do is create unarmed victims. It is the same way with those extremely deadly gun-free zones like in your mass school

shooting situations. This bill helps protect the victim from being double jeopardized.

Paul Schmitt, Private Citizen, Las Vegas, Nevada:

I am a CCW holder in the state of Nevada and other states where we have reciprocity, which has been removed from this bill and will be handled under other legislation. I am in favor of A.B. 171 as it is currently written. My primary reason is that my wife and I are avid motorcycle riders. We spend many hours in the saddle of a motorcycle. We also ride with a Christian organization that does ministry at various motorcycle events around the state of Nevada and the country. Because of the ministry that we do, we are oftentimes in parts of the city and parts of the country that are dangerous and tend to cater to unsavory types. We are intentionally—because we feel we are called by God to do it—putting ourselves in positions where our safety and security are at risk. My wife rides her own motorcycle, I have two daughters-in-law who ride their own motorcycles, and my grandchildren ride motorcycles. Sadly, when you are on a motorcycle, you do not even have that piece of glass mentioned before between you and someone who decides he wants to take your motorcycle or life by force. We do carry when we ride our motorcycles and we carry when we go to most of the events, but the reality is that, without this expansion or clarification of the Castle Doctrine, we are jeopardizing our financial future if we should have to take action. Thank God we have not had to up to this point, but I believe that the citizens of this state, including my children and grandchildren, deserve the right to protect themselves whether they are in their home or sitting in the saddle of a motorcycle or in the seat of a motor vehicle.

I have to take issue with a comment that presumed that, because we are ordinary citizens, we are not trained to use our firearms. First, when you go through the concealed weapons training in Nevada, one of the first things you are taught is that your use of a weapon is not to kill; it is to stop the threat. For those of you who think that every CCW holder out there who carries a firearm for personal safety is out to shoot and kill someone, that is the last thing anyone wants to do. What we want to do is stop the threat to ourselves and our families. I spent over 30 days last year at a large training facility in Nevada learning defensive techniques for both myself and my family. My family has also been out there. I have trained with police officers who have said that the training you go through at this facility out by Pahrump is better than the police academy. If your assumption is that an ordinary citizen does not know how to handle a firearm, I would challenge you to go to a firearms training center or attend a CCW class, so you know the truth.

Chairman Hansen:

Are there any questions for these gentlemen? I see no one.

Jim Sallee, Private Citizen, Las Vegas, Nevada:

I have lived in Clark County for 31 years. When I came to Las Vegas, it was a very small community. It was a simple town. With growth comes prosperity, but with growth also comes more incidents of crime. Assemblywoman Shelton gave a good overview of what this bill is about. I would like to reiterate what Mr. Schmitt said since he put forth a lot of good points. People are not out there just to shoot other people. People are taking more firearms training. As you know, in southern Nevada, we have Front Sight Firearms Training Institute, and many people go out there. More women are also purchasing firearms; they see a need to defend themselves. The National Rifle Association, the Gun Owners of America, and *The New American* magazine are constantly printing articles on how the mere possession of a firearm will stop a potential crime and the criminal will leave.

Bonnie McDaniel, Private Citizen, Las Vegas, Nevada:

I have lived in Las Vegas for 55 years. Fifty-five years ago, Las Vegas was tiny and everyone knew everyone else. I am here in full support of A.B. 171. I do have one comment though. Last week when we heard this, someone mentioned that the word "occupied" needed to be in front of the words "motor vehicles." Do you know if that has been added or if it will be added? When you say property or habitation, will that include a boat or a travel trailer that does not have a motor? I would like to see that included in the bill because a lot of people travel with trailers that are parked while the truck goes another direction. Perhaps the spouse and/or children are left in the travel trailer. Will that be included so they are also protected if they have a CCW? I am in full support of the bill and I hope you will all look at it realistically.

Assemblyman Thompson:

You said that the bill should include that the person should be inside their vehicle. Was that what you were alluding to?

Bonnie McDaniel:

No. Last week when we heard this bill it was said that the word "occupied" should be in front of the words "motor vehicle." I did not know if that has been put in the bill. Someone stops at a gas station and the wife and kids stay in the car while the husband goes in to pay for the gas, but when he comes out he sees someone trying to break into his car. He has his CCW and his weapon. Will he be allowed to defend and protect his family even though he himself is not in the vehicle? I can tell you that I will defend my family whether I am in the vehicle or not.

Chris Hisgon, Private Citizen, Las Vegas, Nevada:

I am a U.S. Army veteran. I shot as a sharpshooter with the M-14 and as an expert with the M-16. Recently, as part of a CCW class, I shot 298 out of 300 and was told that was good.

I would like to answer the question that was raised earlier. "'Residence' means any house, room, apartment, tenement or other building, vehicle, vehicle trailer, semitrailer, house trailer or boat designed or intended for occupancy as a residence." I think that part of the statute would cover it. Of particular interest—which I understand is not currently in the law—is the immunity from civil suits. I think that is important. The only people I can think of who would object to that would be, as I would refer to it, the ambulance-chasing bar. No offense to bar members otherwise.

The other thing to note is that, in addition to microstudies done by Texas A&M and other institutions, you must be careful because a lot of times they do not control for the gun control regimes and the localities they are studying. The best work on this is by John Lott, who is an economist. He originally started out being antigun, but the more he researched the gun issue, the more he realized that more guns in the hands of law-abiding citizens meant less crime. He has controlled for that in his study. His book on this issue is in its second printing and has been revised to include additional information. I have not seen any refutation of his work that is complete. I speak to that issue not as a gun owner or a person who has taken the CCW class, but rather as a person who has a double math degree in pure and applied math. My applied math specialty was one year programming the analysis of statistics and probability. If you want to go head to head with me on what studies mean and how to interpret them, I would be glad to do it anytime.

Instead of considering the effect of what happens regarding shootings when gun ownership is more prevalent and the use is available to law-abiding citizens, rather, consider what happens overall. Many years ago, Phoenix was the carjacking capital of the world. They corrected this by a number of measures, including extending their Castle Doctrine to include vehicles. I do not know of any recent carjackings in Phoenix. The issue here is not to have wild shoot-em-ups or whatever, but simply to prevent crime. The law-abiding citizen properly armed can do that.

The unfortunate case here in Las Vegas recently has me bothered, because every time I pick up the newspaper, not only has the story changed, but the reporting coming out of Las Vegas is incomplete. The only complete reporting I have seen on it is from the London *Daily Mail*. I should not have to go to a foreign newspaper to read about what is happening in my own city. There is

considerable evidence being withheld from the citizens. It is making an informed understanding of this issue very difficult. I am waiting to see the outcome of this case. At first blush, it looks like mutual combat and has nothing to do with the bill.

Chairman Hansen:

If you are in favor of the bill, please come up. If you do not have anything new to add, you are welcome to say "ditto."

Janine Hansen, representing Nevada Families for Freedom:

I fully support this bill. I have thought about this scenario many times, especially since I moved to Elko nine years ago. During the legislative session, and often other times of the year, I am on the road alone at all times of day and into the evening. A month ago, I was driving home and I thought about this. I have a CCW and have had it for 17 years, so I have been trained. Statistics show that less than 2 or 3 percent of crimes include someone actually shooting someone else. Most of the time, if they merely brandish a weapon, that is enough to scare the assailant away. When driving and stopping at lonely, scary rest stops along the road to take a nap, I set my weapon on the dashboard or the seat, so that anyone coming up to the car while I am asleep will see it and know that I am not the person they want to victimize. It is important to know that we have the right to defend ourselves, and that we would be protected if we choose to do that. I hope I never have to confront the situation where I would actually have to shoot someone. I have gone through this in my mind, and I would be willing to protect and defend myself or my family. This is a reasonable law that extends to motor vehicles and gives people on lonely roads the right to defend themselves.

John Wagner, representing the Independent American Party of Nevada:

We support this bill. I was the one whom the woman referred to about the gas station, but that was for another bill. The thing that bothers me about the use of force is, if you have to shoot a juvenile, you are in a lot of trouble. Little Johnny's mother is going to say what a great kid he was. If he has a gun when you shoot him, but the gun is picked up by a friend who flees, you will be prosecuted or sued, and I would not like to see that happen.

Derek Clark, Private Citizen, Minden, Nevada:

I am retired from law enforcement after 33 years. The bottom line is that this bill is a self-defense bill. I think a person has the right to defend himself, whether he is in his car or home, and to be protected from civil liability. I fully support the bill.

Tonja Brown, Private Citizen, Carson City, Nevada:

I support this bill. Something came to my attention that has not been touched on. You may not know that I am an advocate for children. Three years ago, I saw a possible child abduction. I saw a young girl standing behind a tree and a man motioning for her to get into the vehicle. Naturally, I was concerned. As we drove down the road, I passed him in hopes he would go toward the traffic signal so that I could stop him at the signal. The light turned red and the man's vehicle was pinned in by the other stopped vehicles. I got out of my vehicle since I was not going to let this child leave with this man at this time. Nobody else knew what I had witnessed, and I had to find out if it was a child abduction. I was not armed. I walked back to the man, told him that I was speaking to the young lady only, and asked her if she knew the man. She said she did, and I was glad. Hypothetically, if this happened after this bill had passed, what would happen in a similar situation if I was shot because he was fearful of me when I was only trying to protect the child?

Frank Capello, Private Citizen, Las Vegas, Nevada:

I support the bill. I think everyone in this room, and probably the entire building, would defend themselves and their families. This bill protects you in a vehicle, but it also helps to prevent the financial ruin of a person who is being victimized. I fully support the bill.

Chairman Hansen:

Is there anyone else in support of the bill? Seeing no one, we will move to the opposition. Who would like to speak against the bill at this time?

Vanessa Spinazola, Legislative and Advocacy Director, American Civil Liberties Union of Nevada:

I put a letter on the record ([Exhibit E](#)). First, I would like to say that I know where Assemblywoman Shelton is coming from. I appreciate what she is trying to do. We exchanged voicemails talking about this, but I think there are some unintended consequences on how broad this particular bill is. I want to reiterate that NRS 200.200 absolutely protects everyone, no matter where you are, because you have the right to engage in self-defense. Nothing is going to take that away. We believe this is not just a clarification, but an expansion.

I want to note that motor vehicle is defined much more broadly than it is in other statutes, such as the driving under the influence statutes. It refers to any vehicle that is self-propelled. I will not go off into the absurd, but vehicles could be bikes with motors on them, scooters, motorized wheelchairs, et cetera. I believe NRS 200.200 would cover those people without having to expand this law.

Our first concern is due process considerations. I think the information about the Las Vegas case points to this. It is incredibly difficult in these heated moments to find out what happened when, who saw it, and what did they see. By expanding this, we are encouraging a "shoot first and figure it out later" scenario. The courts are the best place for that to be discovered. If you engage in self-defense, under current law, it will be brought out in court that you legitimately engaged in self-defense, whereas this bill expands the law. It will communicate to the public that they are permitted to shoot someone, to take a life just to defend a piece of property. That is the message we will send by passing this bill.

It has been noted on the record that there is more than just the Texas A&M study that talks about homicides going up in states with these types of bill expansions. The Federal Bureau of Investigation did a ten-year report after the Florida law was passed. The American Bar Association has a 40-page analysis on stand-your-ground laws. These do not protect public safety. Homicides go up 8 percent in states with stand-your-ground laws. States that repeal or do not have stand-your-ground laws have seen a decrease of 5 percent in homicides over the last ten years. There have been 600 more homicides per year across all of the states with stand-your-ground laws in the past ten years. It is a significant risk to public safety.

The next thing that we are concerned about is the racial impact. There are victims and survivors on both ends of this scenario. We talked about this last week in Senate Bill 175. Yesterday was the three-year anniversary of Trayvon Martin's death. The Florida jury in the Trayvon Martin case was instructed on stand-your-ground laws, and that is how they came to the decision that they did. There are statistics that show young black men are victimized by stand-your-ground laws. They are the ones who die. Black men are the ones who do not get to use this defense. They are far less likely to use this defense, and still go to jail.

The final issue is how this will affect the mentally ill out on the streets. I am sure we have all had interactions with people who do not appear to be in full control of what they are doing; that causes legitimate fear. I have been very afraid of people who have approached me, and I can tell that they are either on drugs or have some type of mental illness. I am concerned about what encouragement a shoot first and ask questions later type of scenario will have on the mentally ill people who walk our streets.

James Wheble, Private Citizen, Las Vegas, Nevada:

I stand in opposition of A.B. 171 because, as Ms. Spinazola said, it does expand our stand-your-ground laws to a point that I feel is unnecessary. As has been

pointed out previously, we do have stand-your-ground laws that advocate for people to defend themselves without having to retreat. This bill does not clarify, but it seeks to expand those rights. This also does a disservice to CCW holders who are denied due process because they are not allowed to explain or justify their actions.

Chairman Hansen:

What is your understanding on the difference between stand-your-ground laws and the Castle Doctrine?

James Wheble:

Stand-your-ground laws are to defend property and Castle Doctrine defends things around the home. The name Castle Doctrine comes from defense of the home. Stand-your-ground laws are more for defending the person without the duty to retreat.

Caitlyn Caruso, Private Citizen, Las Vegas, Nevada:

I am here in opposition to A.B. 171 and I have some photos to show you ([Exhibit F](#)). Throughout the country we have seen many victims of kill-at-will laws.

There was Sherdavia, who was nine years old. Her assailant claimed the kill-at-will law. Trayvon Martin, 17 years old; his murderer claimed kill-at-will law. Jordan Davis, whose mother spoke on Senate Bill 175 last week. You may have seen her testimony. It was very powerful. Jamontha, 15 years old; his murderer also claimed the kill-at-will law. Bo, 20 years old—and this is a very important case—was killed on a porch during a party after the Castle Doctrine was extended in Wisconsin. He was unarmed. Daniel was 29 years old, mentally ill, and shot in a parking lot by a person in a car. He was suspected of swinging a metal pipe around, but it was only a leash. Renisha McBride, 19 years old, approached a door because she was lost and was shot and killed because the man feared for his life. Jyron, 22 years old, was delivering newspapers. He was shot and the perpetrator claimed the kill-at-will law. Belinte was a 36-year-old Navaho who was in Walmart shopping and was shot and killed. Diren, 17 years old, was a German exchange student who was shot and killed after entering a garage to look for alcohol. Demetrius, 21 years old, was also a black male who was killed. Brandon, 24 years old, was a white man killed under the kill-at-will law. Pedro was 26 years old. Billy, 23 years old, stumbled to the wrong door of a home. Sarah was 18 years old when she was killed and the kill-at-will law was claimed.

Senator Kihuen testified during the hearing on S.B. 175 and asked what would happen if his mother stumbles to the wrong car and enters and they believe she

is entering with force. That is a serious concern. It sets forth a presumption. Who do you presume to be dangerous in these situations? Who is stereotypically presumed to be dangerous?

My mother was not killed, but she was a victim of the justice system here in Nevada. She was jailed for defending herself against my abusive father even though we have the kill-at-will law and Castle Doctrine. She was a small brown woman who was sent to prison for trying to defend my older sister and herself. My older sister was left with my father, who was beating my mother.

These laws are not being properly applied across the board. That is unacceptable. Furthermore, these types of laws have been proven time and time again to work against our most vulnerable, including women; lesbian, gay, bisexual, transgender, questioning, queer folks; youth; and communities of color. We see cases like Marissa Alexander in Florida where a warning shot was fired in a stand-your-ground and kill-at-will state to fend off her abusive husband. Instead of being protected, she was prosecuted by the law.

Florida case decisions have long recognized the Castle Doctrine. [See *Danford v. State*, 53 Fla.4, 13 (Fla. 1907).] Recently, under the current statute the reasonableness of the occupant's belief, is presumed so long as he or she acts within a dwelling residence or occupied vehicle as defined in Florida Statutes 776.013. They have a very similar statute to what we are proposing here. We have seen the absolute tragedies that occurred after these doctrines and expansions passed in Florida. Marissa Alexander was sent to jail for protecting herself, but Trayvon Martin was murdered justifiably. This is unacceptable. We cannot be the first state to expand our kill-at-will laws since Trayvon Martin's murder. Nevada needs to do better than that. We need to do better for our communities.

Assemblywoman Fiore:

You are telling us that your mother is in prison because she defended herself against your father who beat her. Is that what you said?

Caitlyn Caruso:

It was a couple of years ago that my mother defended herself against my father, who was much bigger than she. She grabbed the nearest item and hit him. She was taken to jail, but he was not.

Assemblywoman Fiore:

To understand this correctly, are you saying the police arrested the wrong person in this case?

Caitlyn Caruso:

The law was applied improperly.

Assemblywoman Fiore:

So, she went to jail, and from jail she went to the courthouse, and then she was sentenced to prison. Is that what you are saying?

Caitlyn Caruso:

I am not sure. This was before I was born. I am taking her word. These are real situations.

Assemblywoman Fiore:

Is she in prison today?

Caitlyn Caruso:

No, she is not.

To clarify, these laws are not being applied properly across all cases and situations. I wanted to use my mother's case as an example. She was the one sent to jail and not my father, who was the one abusing her.

Assemblyman Jones:

Trayvon Martin has been brought up on a couple of issues. How is it that we are sitting here without knowing all of the specific facts in that case and using that as an example when it went to trial, both civil and criminal, and people who heard all of the facts made a decision? Why should we be using that as an example or an excuse when we are not the jurors and we did not hear the evidence?

Caitlyn Caruso:

That is a good point. The one witness in that situation was killed, so he was not able to receive due process of the law and present his side of the situation. Had he not been shot and killed, he would have been able to give his side of the event. We would have more facts. That is what we have to talk about. If these people are being killed before they are able to explain what is happening, they are being denied due process as well, and we do not have both sides of the case.

Assemblyman Gardner:

That is what this bill is for. To take your example, what if the person intending to kill someone actually succeeds in killing that person, because this whole thing is about protecting people who are in fear of their life? That person is dead.

Now the victim has no due process rights. This attempts to at least give them a chance to live. What is your opinion on that?

Caitlyn Caruso:

I think that everyone deserves the right to defend themselves, but in this situation, the victim of the law was the person who was unarmed and killed before explaining himself. These young people were unarmed, so who is the real victim? They are being shot and killed when they are just trying to live their daily lives, although potentially committing a crime. Since when are crimes against property more valuable than our lives?

Assemblyman Elliot T. Anderson:

I want to clarify what happened with the jury. The jury in Florida said that they felt constrained by the presumption of reasonable fear. Once there is an unlawful entry or an unlawful action, it is presumed that there is reasonable fear, so they have to find self-defense. It is almost like a directed verdict. The presumption attaches and reasonable fear attaches. Besides the issue of not having witnesses, certain actions trigger that presumption, and that is exactly what we are considering here. Under the provisions of the bill, it is not rebuttable. That creates a great situation for defense attorneys.

Assemblywoman Seaman:

Would this law have helped your mother if she was being attacked?

Caitlyn Caruso:

Self-defense has always been protected in our laws. Correct? Obviously, the laws are not being applied correctly. Even in Florida where we have this expansion of the Castle Doctrine, Marissa Alexander was still sent to prison. I do not think this expansion would have served my mother as a small, brown woman who defended herself against a tall, affluent white man. We have to talk about racial bias because, in Florida, Marisa Alexander was sent to prison as a black woman defending herself, but Trayvon Martin's shooter was able to walk free.

Assemblywoman Seaman:

I am offended by that.

Chairman Hansen:

We are getting off the bill. We need to get back to the bill.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

First, I signed in in opposition to the bill because I have a couple of concerns about parts of the bill that I would like clarification on. We do not oppose people using self-defense and, in some cases, that means deadly force to protect yourself. In fact, I checked our statistics from last year and we had five homicide cases involving citizens who were deemed to have used self-defense. On that note, the reason I came to the table today was because there were some questions earlier about law enforcement's position. I thought I would clarify that on the record.

I believe the current self-defense laws are adequate to cover a situation where someone is in fear of their life, whether it is in a vehicle, protecting property, or the gas station scenario. People can use the necessary amount of force to protect themselves. As I said, sometimes that is deadly force. In all of the cases that Ms. Shelton used when she was presenting—like the lady who had the lighter fluid poured down her throat and the woman who was beaten almost to death with a can from her groceries—self-defense and deadly force would be authorized in those cases under Nevada law. If you are in fear of your life and are being physically assaulted, you have a right to defend yourself. The problem we run into sometimes in the law enforcement realm is, as was mentioned earlier about the road rage case in Las Vegas, some of these instances are not black or white, or cut and dry. Sometimes there are other factors involved: a drug deal gone bad, or someone owes another person money and shows up at the house to get their money back. In the case of the road rage incident, it is still under investigation and facts are still coming out regarding what actually took place. There are allegations being made on both sides as to what might have happened. I do not intend to speculate.

The first of the two parts of this bill that I want to get clarification on is—and I realize our legal counsel, Mr. Wilkinson, is not here today—the concerns raised by Assemblyman Anderson about the presumption in the bill. I do not want to put anyone on the spot, but I would request a pointed question be asked of the public defenders whether they believe that this presumption language would give their clients, who are potentially charged with homicide, a better chance of getting off. In a case where nothing is necessarily black and white or cut and dried—like the carjacking scenario—and an arrest was made, maybe this presumption could be used by that defendant to potentially get off the hook on that case.

The other area where I would like clarification is in section 1. The lady who testified earlier brought up the vehicle being occupied. It was I who brought that up in the testimony on Senate Bill 175, Senator Roberson's bill on the

Senate side. Under section 1, it is not clear. There could be a situation where I am sitting in my house having dinner and I hear a noise. I look outside and see someone stealing my stereo, so I grab my gun and go out to take care of business. Potentially, even with this presumption, it could be assumed that the person is inside my vehicle and I have a right to protect my property. However, we do not necessarily want to see a property crime turn into someone losing their life. There was a case in Texas several years ago where a repossession agent was shot and killed while trying to repossess a car. The shooter was acquitted on that case based on the fact that he was protecting his property and did not know that the repossession driver was there to repossess his car. He thought his car was being stolen. I am not saying this law is identical to Texas' law, but we would want to avoid a situation like that occurring here.

These are my concerns for the record, and we support people being able to use self-defense.

Assemblyman Ohrenschall:

Mr. Callaway brought up the issue of presumption that Assemblyman Anderson had brought up. I know we do not have committee counsel now, but when we do, we should get clarification on that. I do not believe it is rebuttable.

We see many kids in southern Nevada who go through shopping mall parking lots and try door handles. They look to see if there is something in the cars that they can steal quickly and then make a run for it. If this passes as is, do you see more armed citizens taking the situation into their own hands and not calling law enforcement? They may not say, "I see someone trying my car door or acting suspicious around my car door" and instead try to solve the issue themselves and end up with an injured or killed teenager.

Chuck Callaway:

I would hate to speculate and prophesy to the Committee what the outcome of this bill could be as far as numbers increasing or shootings. From the law enforcement side, if this bill passes as written, we would still investigate every case the way we currently investigate them. Currently, we go out and look at all of the facts and circumstances surrounding the case. We are going to put together the case and submit it to the district attorney's office, which will determine whether it is a self-defense case or a potential murder case that needs to go to trial. Our role will be the same regardless if the bill passes. My only fear would be that someone who was involved in something that was not cut and dried would have that presumption element that might get them off the hook when they otherwise would not be.

Assemblyman Ohrenschall:

Do you foresee fewer people calling law enforcement and asking the police to get involved because they feel they can handle this themselves?

Chuck Callaway:

I do not think so. I think most people who see something occurring would probably still call law enforcement if they have the opportunity. I would be speculating to say that, if this law were passed, someone might resort to force faster in cases where they felt law enforcement was not responding fast enough.

Chairman Hansen:

There are no more questions. Is there anyone else in Clark County who would like to testify in opposition to A.B. 171? Seeing no one, is there anyone else in the north?

Teresa Crawford, Private Citizen, Henderson, Nevada:

I oppose this bill, which appears to be identical to a portion of Senate Bill 175 and Senate Bill 171. It appears to expand the definition of justifiable homicide to include property and cars, both occupied and unoccupied. I agree with Lieutenant Callaway's concern that it is not defined as occupied or unoccupied. I also agree that the almost inevitable result, based on ten years of research, is more justifiable homicide based on presumption that someone is committing a felony, and based on ambiguous language like "reason to believe." At the hearing on S.B. 175, there was quite a spirited discussion between the attorneys and nonattorneys about what "reason to believe" means. It appears that, if someone has reason to believe that a felony is being committed, that presumption is not rebuttable, and the murder happens. That disproportionately affects people of color and young people and, as we saw from Ms. Caruso's examples, white people, too.

One night a few years ago, I looked out from my apartment balcony and saw three males breaking into my Subaru. They were making off with my XM radio and stereo setup. I am not armed. I have managed to live my whole life, and travel all over the West, without carrying a gun and still feeling safe. I retreated so they would not notice me looking at them. They could have stolen the car, but they left after just taking the radio. I did call the police right away to tell them something was going on with my car. If I had had a gun, I still would not have shot them even though I had reason to believe they were about to commit a felony and steal the car. I can see these types of scenarios taking place in the future.

The language is very ambiguous, and I hope the Committee will turn their attention to passing laws that will make us safer and not increase our everyday exposure to gunfire. Nevada has very weak gun laws already. People on this Committee have voted against expanding background checks on private gun sales. We have bills pending that would expand CCW reciprocity with many states, including felons in possession of CCWs who come to our state and are legally in possession of concealed guns. There is even a bill here that eliminates CCWs.

Chairman Hansen:

We are running out of time, so if you would please stick to the bill. We will address other bills later.

Teresa Crawford:

They are coming together as a sweep.

Chairman Hansen:

You will have every opportunity to testify on those when they come up.

Assemblywoman Seaman:

Has there been an amendment that I do not know about? In section 1, subsection 1 of the bill, it says, "in a violent, riotous, tumultuous or surreptitious manner, to enter the habitation or property, including, without limitation, a motor vehicle." The writing does not seem ambiguous to me, so I wonder if there is an amendment that I did not see since this clearly states that it has to be violent.

Teresa Crawford:

I am just reading the part that says "Knew or had reason to believe that the person who was killed was entering unlawfully and with force, or attempting to enter unlawfully and with force." [Section 2, subsection 2, paragraph (a)]. If you back up, it looks like the reason to believe is new language. That is not current language, so it is not a clarification. It is an expansion of existing language.

Chairman Hansen:

Is there anyone else in southern Nevada who would like to testify in opposition to A.B. 171 at this time? [There was no one.] Is there anyone north or south who would like to testify in the neutral position?

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

We are officially neutral on this bill but, given the discussion that took place, I want to make a couple of comments and answer any questions. What the

Committee has in front of them is a policy decision about how the law is going to read and how trials are going to look in this state. Having been in the courtroom defending cases like this, the presumption being discussed in section 2 is significant. It would affect the way a trial would occur. True, the district attorney is always going to make the initial determination whether to file charges. Maybe this bill speaks to that, but that is something that we cannot control; that is prosecutorial discretion. If a case were to get to trial, I do agree with some of the comments made here that the presumption does not appear to be rebuttable. Because it does not say rebuttable in the law, I think a court would say that it is not a rebuttable presumption. What that essentially means is that it has the ability to change the burden of proof on the defense side in a trial. There is no doubt that this language would enhance the ability to defend against a murder charge. I think any defense attorney can probably make a claim that a person was in reasonable fear and that a felony was about to happen.

This language is fairly broad. Absent the situation of someone shooting someone in cold blood, it is a pretty open-and-shut case, but there are gray areas. Defense attorneys are creative, and they certainly can make the argument that the person believed that a felony was about to be committed. From this Committee's perspective, there may be people whom you want to have this presumption, and there may be people you do not want to have this presumption as a policy matter. If this were to get to trial, the outcome in these situations would be that the judge would have to instruct the jury about this presumption. When the jury deliberated whether there was liability, they would be operating under the presumption as it exists in section 2 of the bill.

Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office:

Mr. Yeager has already articulated many of the points that I was going to make. I share his same concerns. The gray area, to touch a little further on that, would be the significant number of clients that we represent who have mental health issues. In my line of work, we have defended cases where a person simply wanders into a garage or a car to get out of the cold, takes innocuous items like spare change, chewing gum, cigarettes, or things of that nature—not even a car stereo or something significant—and is found in the car. You have a mistake-of-fact scenario that this presumption would give rise to. That is my concern. For the record, the Washoe County Public Defender's Office is neutral on this bill.

Assemblyman Elliot T. Anderson:

I am sure you are familiar with NRS 205.065, which is an inference of felonious intent whenever you unlawfully enter a house, a room, or a vehicle. The way

I understand it, if I am a kid who crosses into a neighbor's garage, that is now an inference of burglarious intent. That is a felony, which would qualify as a felony under section 2 of this bill. Do I understand that correctly? Would that lead to a stand-your-ground defense for even a slight trespass into a home?

Steve Yeager:

The key language on this is in section 2, subsection 2, paragraph (a). What it talks about is that the entry has to be unlawful, but it also says it has to be with force. I believe there has to be some degree of force. I do not think just walking into a garage would give rise to the presumption. It would be a question for a jury. Those two must be coupled together: unlawful entry and use of force. It is just that the person observing the individual has to believe in their mind that force is being used.

Assemblyman Elliot T. Anderson:

So it would have to be up to the mind of the person who is at the end of the weapon.

Steve Yeager:

I think you are right. As a defense counsel, I certainly would be arguing to the jury that what they need to look at, under this proposed bill, is what is in my client's mind when looking at all of the circumstances.

Assemblywoman Diaz:

You heard the case that they referenced earlier that happened in southern Nevada. I would like to know, from your perspective, if you had to represent this gentleman, would this change in statute change the way you defend him?

Sean B. Sullivan:

I did hear that comment and, on behalf of myself and the Washoe County Public Defender's Office and Mr. Yeager and the Clark County Public Defender's Office, it would be our privilege to represent an individual like that. I do not think the change in this statute is going to dictate the way we defend someone who may be charged with a crime. We are going to give a zealous representation to whomever comes before us. I do not know if the individual is still in the room, but I would hope that he would hear these comments, and Mr. Yeager will echo the sentiment.

Chairman Hansen:

With that we will wrap up the neutral testimony. Assemblywoman Shelton, I would like to bring you back up for a quick wind up.

Assemblywoman Shelton:

I want to touch on two things. They mentioned an amendment. I have been approached to add "occupied" and I am still checking with the Legal Division, so there is a possibility of an amendment. I am open to any discussions that anyone may have about this bill. I want everyone to keep in the back of your mind that the intent of this bill is to protect the innocent victims. We have brought all types of scenarios, but please stay with what the bill is intended to do and what the bill has stated. Please remember that, in this bill, we are talking about the person who is found not guilty. We are not talking about a person who is found guilty. We do not want the person who has just been found not guilty in a criminal trial to have to go through a civil trial.

Chairman Hansen:

[Submitted but not mentioned is ([Exhibit G](#)) and ([Exhibit H](#)).] We will close the hearing on Assembly Bill 171 at this time. We will open up for public comment. Is there anyone who has issues they would like to bring before the Committee at this time? Seeing no one, this meeting is adjourned [at 10:44 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 3, 2015

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 153	C	Kerry Kleiman, Private Citizen, Las Vegas, Nevada	Safe Harbor: Protecting Child Sex Trafficking Victims in Nevada
A.B. 171	D	Assemblywoman Shelly Shelton	Written testimony
A.B. 171	E	Vanessa Spinazola, American Civil Liberties Union of Nevada	Letter in opposition
A.B. 171	F	Caitlyn Caruso, Private Citizen, Las Vegas, Nevada	Slide show presentation
A.B. 171	G	J.L. Rhodes, Stillwater Firearms Association	Letter of support
A.B. 171	H	Daniel S. Reid, National Rifle Association of America	Letter of support