

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

**Seventy-Eighth Session
February 10, 2015**

The Committee on Judiciary was called to order by Chairman Ira Hansen at 8 a.m. on Tuesday, February 10, 2015, in Room 3138 of the Legislative Building, 401 S. 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:

None



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Jason Frierson, Attorney and Counselor at Law, Surratt Law
Jill Marano, Deputy Administrator, Division of Child and Family Services,
Department of Health and Human Services
Brigid Duffy, Chief Deputy District Attorney, Juvenile Division,
Clark County District Attorney's Office
Lisa Ruiz-Lee, Director, Clark County Department of Family Services
Denise Tanata-Ashby, representing Children's Advocacy Alliance
Eric Spratley, Lieutenant, Washoe County Sheriff's Office
Chuck Callaway, Police Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
John T. Jones, Jr., representing Nevada District Attorneys Association
Leslie Godfrey, Attorney, Greenberg Traurig, LLP
Kerrie Kramer, representing The Cupcake Girls
John Wagner, representing the Independent American Party
Michael Patterson, Director of Advocacy, Lutheran Episcopal Advocacy in
Nevada
Allan M. Smith, representing Religious Alliance in Nevada
Steve Yeager, Clark County Office of the Public Defender
Sean B. Sullivan, representing Washoe County Public Defender's Office

Chairman Hansen:

[Roll was taken. Committee protocol and rules were explained.] We have two bills to hear today. We also have on the Nevada Electronic Legislative Information System (NELIS) the Summary of Court Decisions of Importance to Senate Judiciary ([Exhibit C](#)), so if you see that on NELIS and want to read it, it has a lot of good information for those of us serving on the Committee on Judiciary. If you have material that you want to have presented to the Committee and you want it posted on NELIS, you have to have it in by noon the prior morning.

Without further ado, we will go to Assembly Bill 8, and Mr. Frierson is here to walk us through the bill.

Assembly Bill 8: Revises provisions relating to children. (BDR 11-191)

Jason Frierson, Attorney and Counselor at Law, Surratt Law:

I am here to present Assembly Bill 8. Assembly Bill 8 is a bill that came out of the Interim Committee on Child Welfare and Juvenile Justice. I have a particular interest in it. For two years, I was the Chief Deputy District Attorney with the Clark County District Attorney, representing the Department of Family Services in the Child Welfare Division handling cases involving foster children. I cannot go into great detail about cases because of confidentiality, but I came across a number of cases where there were issues of what has become known as "rehoming." When I became aware of this concept, I did some research and recognized that at least a few states have started addressing the concept of rehoming legislatively. With the work that this Legislature had done in previous years on human trafficking, it was an appropriate time to address the concept of rehoming.

The word "rehoming" is somewhat of a misnomer. It is often used with respect to pets. It could be construed as a legal movement of a foster child from one place to another. Many in this field do not like to refer to it as rehoming. They prefer to refer to it as adoption dissolution or child abandonment. I think that is more accurate with respect to what it is that the Interim Committee discussed. The bill does not necessarily embrace the phrase of rehoming as much as it embraces the concepts behind it.

The original bill, as it came out, included several provisions that were not discussed during the Interim Committee on Child Welfare and Juvenile Justice meeting, mainly those dealing with guardianships. I want to compliment the drafters of the bill because it was very forward-thinking to put it in there. We had discussed Wisconsin first, which had adopted legislation on this concept and had done extensive work on the guardianship portion of their statutes. We had not discussed that in the Interim Committee. I submitted to staff and circulated to members of the Committee a proposed amendment that proposes to strike the provisions that deal with guardianship because we did not discuss them in the Interim Committee. There are several stakeholders with guardianships through the court system that would need to be a part of an overreaching discussion about guardianships and the requirement of certain hearings. We believe that the courts are quite capable of doing these things anyway. They are things that other states have visited. In order to avoid muddying up what we are trying to accomplish with the amendment that I have circulated, what it proposes to do is what we discussed in the interim, and that is to address the dissolution of an adoption.

I will keep it brief and make it fairly straightforward. The concept of rehomeing is essentially trying to adopt out a child illegally. In the state of Nevada and in most states, if not all, you are required to use a licensed agency to facilitate adoptions. The reason you are required to do that is so that the agency that has oversight can check the background of the individuals with whom this child or children are placed. When you go on the black market and try to have a child adopted on Facebook or craigslist, you have no way of avoiding the child being placed with a predator, a criminal, or a child abuser. Existing Nevada law addresses adoption agencies and how it is illegal to operate as an adoption agency without a license. It does not, as most states have not, address this new phenomenon of adoption dissolution. This bill proposes to make it very clear that it is illegal to try to adopt out—or assist or conspire in adopting out—a child without going through the proper measures. I will point out that the draft that I circulated defines this concept of dissolving an adoption, and it proposes a penalty for it. I have discussed this measure throughout the interim with the Clark County District Attorney's Office and the Clark County Department of Family Services, as well as the Division of Child and Family Services (DCFS).

My original language proposed to make this a category C felony. It is my understanding that at least one other state has this as a category C felony. I was prepared, however, to discuss the notion of this being treated as a misdemeanor, as it is in the states of Ohio and Wisconsin. I believe the reason for that is there are circumstances where parents, for lack of a better way of putting it, do not know any better. Parents who are struggling and either have a biological child or an adopted child and come upon hard times are either embarrassed or do not have the wherewithal to know. This is not excusing the behavior but is acknowledging that it might be a lack of experience or a lack of knowledge that gave rise to that behavior. I would be perfectly fine with this being characterized as a misdemeanor because of those individuals and those circumstances.

I have had experiences as a Chief Deputy District Attorney where parents simply drop their child off because they had what in another field would be called "buyer's remorse." I was enraged by the notion that someone could take a child into his home and then just change his mind. These children have already been victimized and have gone through more life experiences than most adults. Reuters, in the last couple of years, has done extensive research on rehomeing and monitored the Internet and saw that there were hundreds of examples of children being adopted for a fee over the Internet, or on craigslist. Another writer concluded, with the advent of the Internet and technology such as Facebook and craigslist, rehomeing is here to stay. Assembly Bill 8 is presented to you because rehomeing should not be here to stay, and it certainly should not be here to stay in the state of Nevada.

With that, I will address the language in the amendment ([Exhibit D](#)) that I circulated. The amendment proposes to leave section 1 as it exists. We believe that this is modernizing the definition of "advertise" to encompass all kinds of behavior that, when this was originally written, did not exist. I am proposing to strike sections 2 and 3 of the bill entirely since I think the task of dealing with guardianships is a complicated one that will certainly require much more time and collaboration.

Lastly, section 4 attempts to address what we discussed in the interim. The language that I have circulated to the members of the Committee is language that has been provided to, at the very least, the Clark County District Attorney's Office, the Clark County Department of Family Services, and the DCFS. It is language that adequately addresses the behavior that we discussed during the interim. Subsection 1 specifically discusses what this concept is. Subsection 2 exempts behavior that is authorized to ensure we do not get good actors in the process of trying to catch the bad actors. It characterizes the category C felony, but I would be amenable to making that a misdemeanor as it is in two other states. One state, Colorado, characterized it as a felony.

You will see, at the end of the proposed language, that there is a suggestion of amending *Nevada Revised Statutes* (NRS) 200.470 to include the provision that allows a victim to seek or be awarded restitution by the courts.

I will note that Chief Deputy District Attorney Brigid Duffy and Lisa Ruiz-Lee, Director of the Department of Family Services, and Jill Marano will be testifying in support of A.B. 8.

Chairman Hansen:

Is there anyone who wants to testify in favor of A.B. 8? There are people in Clark County, so we will go to them first.

**Jill Marano, Deputy Administrator, Division of Child and Family Services,
Department of Health and Human Services:**

As Mr. Frierson said, we are here to voice our support for the bill and the amendments that have been proposed. We agree that we really need to work on ensuring that adoptions in Nevada are occurring legally and through the proper channels.

**Brigid Duffy, Chief Deputy District Attorney, Juvenile Division, Clark County
District Attorney's Office:**

I am testifying in support of A.B. 8. Mr. Frierson reached out to the Department of Family Services, DCFS, and me during the Interim Committee meeting to do a presentation regarding the rehoming of children. It was very enlightening for

us to learn what is going on with failed adoptions. Most of our research found that children who were adopted from other countries were being brought into homes that could not handle their behavior. We found many examples where they were being advertised "To a good home," "My child has reactive attachment disorder," "Has sexualized behavior," or "If anyone is interested in a little girl age 13, please contact us." Then exchanges of children were taking place in trailer parks and truck stops. Temporary guardianships were being given.

The Reuters report is very interesting and, if this Committee would like a copy of it, we do have it and would be able to provide it to you. It details all of the horrific things that are happening.

The important thing that we want to address is that it is not just about transferring for the purposes of adoption. It is any type of permanent free care. Families are using powers of attorney to transfer children. They are also using guardianships. The other distinction is that it is to a nonrelative. We have an exception for relative transfers. If parents cannot take care of their children so they ask a sister to take guardianship of them, that is exempt from being a criminal act. But, if I cannot take care of my children and I advertise them on Facebook "To a good home" to strangers and give them guardianship, that is a different act. That would be a crime since I did not use a licensed facility. We want to encourage people, when they need help, to reach out to the Department of Family Services. That is why there is an exemption as well. If they cannot care for their children, they should make that connection and reach out.

Lisa Ruiz-Lee, Director, Clark County Department of Family Services:

I am here to testify in support of this particular bill draft. As we did the research during the Interim Committee, we discovered that moving in this direction is very progressive for Nevada. There are only a handful of states that have managed to start wrangling this issue legislatively and to pass laws that clearly and distinctly prohibit the actions that are related to dissolving adoptions, or this practice of rehoming. As we prepared to do the research for the Interim Committee, one of the questions that came to us was, "Could this possibly happen in Nevada?" We spent extensive time doing research, and I cannot tell you how many local Facebook sites are advertising children. If you simply type in "child" on craigslist, you will be amazed at what you get back. There are posts from people in the state of Nevada who are actively looking to find new homes for their children. I think this legislation is a good way for us to get in front of a potential problem.

Assemblyman Araujo:

The presentation was very eye-opening. Are there any proactive measures currently in place that can be taken when you see ads on Facebook? I understand it is not currently in statute and that it is not illegal at this time, but is there anything in place so that you could alert law enforcement of what is happening?

Brigid Duffy:

We do not have any policies or procedures in place. I would hope that a mandated reporter—which would be a member of the Department of Family Services, a member of the judiciary, or a member of the district attorney's office—would make a report to the intake or the hotline of one of the family services when coming across something like that. A cross report would be made to law enforcement.

Assemblyman Thompson:

As a Court Appointed Special Advocate (CASA) for years, I appreciate your doing this. When a staff member sees this happening, does he engage the family or the person posting it to tell them that there is a correct way to do this?

Lisa Ruiz-Lee:

One of the challenges that the Department of Family Services faces is that this is not something we regularly or routinely police or monitor. For example, when we were doing our research and kept coming across the Facebook sites and craigslist, we compiled all of that information. We did exactly as Ms. Duffy indicated: made a formal report which was then cross reported to the Las Vegas Metropolitan Police Department (Metro). Formal reporting is something that we should consider and focus on. The challenge that we face across the state is that we do not have many post-adoptive services for families. It does not matter if you adopt a child through a child welfare agency or a child-placing agency that is legitimately licensed. The issue is that, when you adopt children, you do not know what life is going to be like in one year or five years down the road in terms of their mental or behavioral health and what services they will need. As a state, we could evaluate post-adoptive services and connect them more closely to mental health services to support families in maintaining children who have issues that they did not expect or plan for in their home. If there is something going on within your family dynamics that needs resolution that we can assist with, or we can refer to community based services for support, we want to be able to do that.

Assemblyman Thompson:

I appreciate the Interim Committee for all their hard work, and I like the term that you used. We need this very progressive bill.

Assemblyman Ohrenschall:

You mentioned that the jurisdictions of Ohio and Wisconsin have passed similar legislation. Do you know how long that has been in effect, and how effective it has been? There was a mention of specific examples of ads on Nevada children. Do we know how many there have been? How many have you found?

Lisa Ruiz-Lee:

Of the bills that we researched, Wisconsin was highlighted in the Reuter study. They passed their legislation in April 2014, so it is relatively new. Ohio passed theirs later in 2014 as well, and all variations are based on Wisconsin. Most of the bills are relatively new. All of us collectively will be evaluating where we go and what else we need to do to address this issue.

One of the interesting things about the states that have passed the legislation was that they not only passed legislation to start addressing the issue, but they also passed legislation with requirements to study the issue. How prevalent is it, what are we seeing, and ultimately, what can we do to provide support to families in order to maintain children in their homes?

Assemblyman Ohrenschall:

Do you have a feeling as to how prevalent it is in Nevada?

Lisa Ruiz-Lee:

We do not have any idea of how prevalent it is. As Mr. Frierson indicated, one of the challenges that we have is tracking it. We see it in our cases in Family Services. We probably have around 10 to 20 finalized adoptions whose children come back to us within any given year. They usually come back to us with reports of maltreatment, or abuse and neglect. Not all of them are because the adoptive parent is seeking a new home for the child, but many of them can be.

If you look at the "why" behind it, it is because they have reached a breaking point and do not know what else to do. For example, the parents have a friend with whom they talk and they ask if the friend would like to take the kids if they can manage them. There are all types of transfers that can occur, but the big-ticket issue is that the parents do not always know where their children are going. In absence of that licensed child-placing agency, you do not know what the background history looks like. You do not know what the criminal history

may look like. You do not know if the new home can actually meet their needs. We see just a handful of cases every year. Some of them can be attributed to this, but we do not have hard and fast numbers, just as we do not have hard and fast numbers coming from the child-placing agencies that do private adoptions.

Jason Frierson:

Maryland is currently considering legislation. As I alluded to, I am unable to talk about details because our system is designed to protect these children. In the two years that I was at the District Attorney's Office, I personally observed it, and that is what gave rise to my researching this legislation.

Ms. Duffy addressed the Reuter's study. There are several examples in that study of the types of ads that are placed on craigslist and Facebook. There were also a couple of children who were adopted from abroad and then placed with families that they thought were good families. Since they did not have the benefit of doing any research, they did not know that the families were no good. In one example, they had been previously accused of sexual abuse, had submitted fake documents, and then the family disappeared with the child. The child was 13 or 14 years of age and no one saw the child again until she was 21 and could tell her story.

Assemblywoman Diaz:

I echo the sentiments of all of my colleagues. As I am listening to the testimony and the why of this bill, it seems to me that our current statute has a loophole. Our children are being exposed and are not protected from falling into the wrong hands—not only sexual predators, but also pimps. Last session we spent a lot of time on sex trafficking and human trafficking bills. Is a category C felony in line with the felony of someone who has been caught for human trafficking?

Jason Frierson:

I actually got the amendment from the human trafficking legislation when I proposed to add that language. It was not until I had put the amended language in circulation that I realized that a couple of the states that we had relied on in our research had characterized it as a misdemeanor. I believe Colorado characterizes it as a felony, as do our human trafficking statutes.

Assemblyman Gardner:

The amendment says we are taking out section 4. Are we taking that out? I want to be very clear on which bill we are looking at. You mentioned that we were taking it out, and then you said maybe we are not. Is section 4 part of the bill that we are looking at?

Jason Frierson:

Section 4 is actually where we attempted to address what was discussed in the interim. However, the language that I provided to the Committee is a proposed substitution for section 4. I propose to take out section 4 of the original bill, along with sections 2 and 3, in lieu of putting in the language that I circulated.

Assemblyman Gardner:

How would this affect the transferring of children when the parents die? Would that be affected? What if you want to place your children with close friends and not someone related to you?

Brigid Duffy:

This is about criminalizing acts of advertising, and transferring a child to a nonrelative, so I can see why you may be confused. There are legal avenues to obtain guardianship. If both of the parents are tragically killed in a car accident and I take their child, I would have to go to court to get a document so I could enroll that child in school. If I am a person who just wants to give my child to a nonrelative, the nonrelative would also have to obtain a document to enroll that child in school or get medical care. That document, however, would not necessarily be obtained in court. If a child needs parents, they have to go to court. This bill is talking about circumventing all of that. There are ways of getting a guardianship under NRS Chapter 159 through the court process if two parents die. If I am in the military and I want my friend to raise my children, there are ways to get a guardianship while I am overseas. All guardianships must have the ability for the parent to undo that guardianship. Temporary guardianships are for six months or shorter, or they could have an end date for when the parent comes back from deployment.

This addresses the intent to divest themselves of all parenting responsibilities for that child. That would be through the power of attorney, through a written guardianship outside of court, or through a legal adoption.

Assemblyman O'Neill:

You are going to have a tough sell to me to make this a misdemeanor. I equate it to human trafficking, and I saw these issues when I was working narcotics as a law enforcement officer. People actually gave their children up for heroin, or whatever. It should not be a misdemeanor. Right now, do we have any programs that allow for failed adoptions when a parent adopts a child legally and appropriately from out of country but problems arise? Are there any avenues for that parent to seek recourse or assistance from anyone?

Jason Frierson:

As a district attorney, my initial reaction to experiencing this was exactly like your reaction. I was outraged. I share your sentiment with respect to the category of criminal culpability. The specific intent of the language gives me comfort that a court can decide whether parents intended to avoid or divest themselves of permanent parental responsibility. I am perfectly comfortable with what I submitted as a category C felony.

Assemblyman O'Neill:

What options do we have?

Lisa Ruiz-Lee:

It depends upon the agency from which you adopted the child. If you adopted a child from a private agency—which is where most of the international adoptions take place—to my knowledge there is no formalized postadoption support system. There are avenues within various communities to seek support systems; for example, support groups through the adoption exchange where they can receive peer-to-peer support. They can also access state mental health services for children and receive referrals to community-based services, particularly if the issue is mental health related. We do offer some postadoption support services for individuals who adopt through our child welfare agencies. All of us would probably agree that those postadoptive services are not nearly as great as they need to be, or could be, to support our families.

Assemblywoman Fiore:

I want to touch on babysitting. Let us say a couple who adopted here in Nevada were leaving to go out of the country for two weeks and could not take the child. Their neighbors were very close and have the same age children who played together and went to school together. However, they were not related. It takes a long time to go through a process like you are discussing for someone to babysit someone else's child when they are not related. I am concerned that a bill like this would hinder that. I am also concerned about the ramifications. We already have laws on the books, and it is a heinous and criminal act for anyone to trade children. I have seen that sometimes the intent of the bill mucks up normal good people trying to do the right thing. How do we address a neighbor who babysits a child who is not related?

Jason Frierson:

The language exempts babysitting by definition. The bill reflects an intent to divest oneself of permanent parental responsibility. I do not believe that babysitting, or any care of a temporary nature, would be covered by this bill at all. I was surprised to be unable to find this behavior already covered in statute.

Our human trafficking statutes deal specifically with immigrants. I looked at child abandonment, child abuse, and human trafficking and was at a loss to find legislation that actually addressed this particular conduct. This is a relatively new concept because of the Internet. We have an opportunity to get to the front of this before we have more children being victimized, and being victimized multiple times by virtue of being adopted and then readopted. The time seems right to address this before we have more victims.

Brigid Duffy:

In the language circulated by Mr. Frierson yesterday, under the exclusions, there are designations for short periods of time with a specified, intended time period for the return of a child due to a vacation, school-sponsored function or activity, incarceration, military service, medical treatment, or incapacity of the parent. It does not say babysitting, but it does say if the parents leave for a vacation. That section would allow for any other short-term period that this Committee might find relevant to exclude from the criminal behavior.

Chairman Hansen:

Are there any other questions? Seeing none, is there anyone else who would like to testify in support of this bill in Clark County? [There was no one.]

Is there anyone else who would like to testify in favor of A.B. 8?

Denise Tanata-Ashby, representing Children's Advocacy Alliance:

We want to show our support for the bill with the amendment proposed by Mr. Frierson. We are also heavily in support of the harsher penalties for this criminal activity.

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

It was complete ignorance that I did not sign in to testify on this bill. I did not think it applied to the Washoe County Sheriff's Office. I apologize. Today marks the twenty-third year that I have been in law enforcement. It never ceases to amaze me that criminals or people will always find loopholes in the law and do something stupid. This rises to that level. Let us close that loophole. We are certainly in support of this bill, and I agree that it should be a felony. That makes it easier for us to enforce when we come across it, versus having to go through other entities to come up with a plan to deal with it.

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

We are here today in support.

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

We are also here in support of this bill.

Chairman Hansen:

Is there anyone else who would like to testify in favor of A.B. 8? Seeing no one, we will move to opposition. Is there anyone who would like to testify in opposition to the bill in Carson City or Las Vegas? [There was no one.] Is there anyone to testify in the neutral position in Las Vegas or Carson City? [There was no one.]

I will close the hearing on A.B. 8. We will go to Assembly Bill 108 and open the hearing.

**Assembly Bill 108: Revises provisions governing victims of sex trafficking.
(BDR 14-750)**

Assemblyman Elliott T. Anderson, Assembly District No. 15:

This morning I am bringing forth a measure that makes a small addition to our existing sex trafficking law. It has the potential of making a big change in people's lives. Assembly Bill 108 expands upon the continuing goal of this state to help victims of sex trafficking or related crimes get their lives back after years of living in shadows and pain.

Two sessions ago, now-Speaker Hambrick brought Assembly Bill No. 6 of the 76th Session to this Committee to address a criminal records problem that those who were victims of human trafficking faced. Unfortunately, many victims of trafficking had prior convictions for engaging in prostitution, soliciting, or trespassing. These marks on their records made employment opportunities very difficult, if not outright impossible. It kept those victims in a never-ending spiral.

Assembly Bill No. 6 of the 76th Session provided a chance for those victims of trafficking to start over. This bill expands on that bill. It allows for convictions for unlawful trespassing to be vacated by trial court judges under the same conditions and requirements that apply to vacating those convictions currently for prostitution or solicitation. You can see that addition in section 1, subsection 5, paragraph (a), subparagraph (2). That is the bill; it is simple.

As you know, a great deal of convictions come from plea bargain arrangements where defendants plead guilty to a crime with a lesser penalty to avoid going to trial and getting a harsher penalty. Cases may exist where a victim of trafficking agreed to accept a trespassing conviction in lieu of the possibility of conviction of solicitation or something higher. However, the trespassing remains on their criminal record and still may have to be explained to a potential employer, which can keep them from starting their life over. That was the intent in 2011. This bill will open the courtroom doors to those victims seeking to vacate that trespassing mark and start fresh.

For those of you who do not know, in Las Vegas, prostitution occurs frequently inside our casinos. It is not that hard to understand, I suppose, but what you may not know is that oftentimes casinos may simply trespass them—perform a citizen's arrest and just kick them out. The casino will usually charge them with trespassing because it is a relatively simple crime to charge, and the casinos want to avoid liability. If they were to try to arrest them on solicitation or prostitution charges, they can leave themselves open to liability because they are not always well-trained police officers, albeit they are relatively trained.

Leslie Godfrey, Attorney, Greenberg Traurig, LLP:

I am here in support of A.B. 108. I became familiar with this bill through pro bono efforts with the Legal Aid Center of Southern Nevada. We were assisting victims of trafficking and addressing their problems associated with their criminal records. My comments echo Assemblyman Anderson's. In 2011, this Legislature passed *Nevada Revised Statutes* (NRS) 176.515, which allows a court to vacate a conviction for engaging in prostitution or solicitation of prostitution, if that conviction was a result of the defendant being a trafficking victim as defined under Nevada's involuntary servitude statutes. This change in the law was very significant. Prior to 2011, a victim of sex trafficking would be further harmed by the criminal convictions resulting from their victimization. These convictions made it even more difficult for people to escape the trafficking circumstances and rebuild their lives in society.

After NRS 176.515 was passed, Nevada Legal Aid and others began working to help victims of trafficking vacate these convictions. Unfortunately, additional issues arose. Specifically, we discovered that, because prostitution and solicitation were forced to occur in and around casino properties, these victims also had a number of trespassing violations that could not be vacated under this existing law. As a result, the victim's past victimization was still impacting their criminal record. The proposed legislation would resolve this lingering problem ensuring that trespassing convictions relating to a victim's trafficking experience would also be vacated.

Kerrie Kramer, representing The Cupcake Girls:

I am here in support of A.B. 108 on behalf of our client, The Cupcake Girls. As a nonprofit organization geared solely toward the support and rehabilitation of individuals in all facets of the adult entertainment and sex industry, they support this legislation 100 percent.

The Cupcake Girls was founded four years ago by Joy Hoover, and since that time has provided 1,076 meetings for peer support; 142 professional sessions with doctors, dentists, and lawyers; 83 instances of providing mental health assistance; 55 resume-building and career development sessions; 53 bills paid and care packages delivered; 37 new parent and family resources; 36 financial advisory sessions; 25 new housing and moving support; and 1 self-defense class. All of these things are provided by donations, volunteers, and community partners.

As a conduit for individuals coming out of this industry, they help facilitate getting these individuals whole again. One major aspect of this is helping these individuals find employment; however, one of the biggest barriers they face is the multiple trespassing convictions that must be divulged in the application process. Oftentimes defendants are able to plead down to trespassing charges from prostitution or solicitation; however, one look by a prospective employer at multiple trespassing convictions usually leads to the conclusion of prostitution or solicitation, thus making gainful employment outside of the industry very difficult.

The Cupcake Girls support this legislation wholeheartedly as it will only bolster their efforts to help those in need get back on their feet. It will give the victims of sex trafficking the ability to get out from under a life of convictions that they are trying so desperately to leave behind.

Assemblyman Gardner:

I was looking at statutes near NRS 207.200 and NRS 207.203, which specifically talk about trespassing on gaming land. I was wondering why that was not the one in the bill or why, if that is the intent, it is not included as well.

Assemblyman Elliot T. Anderson:

It is funny that you asked that since I am the one who put in that statute in 2011. I worked as a security officer at a gaming property, and I saw two types of people engaged in prostitution: women who knew what they were doing and were not being trafficked or being taken advantage of, and women who were being taken advantage of. That bill sought to create a stricter penalty for people who knew what they were doing and provided the diversion programs for those who were trying to get out but were forced into it. This is another

effort along that second branch. The reason that is not in there is that this chapter deals with judgments and vacating judgments. It would not be appropriate to put it in the criminal statute.

Assemblyman Ohrenschall:

The existing language in the statute talks about filing the motion with due diligence once you are past that period of your life. Theoretically, it could take years for someone to get past that and to the point of going to court and filing the paperwork. What has been your experience with statutes of limitations? Have the courts been open to people seeking these motions? Has any court said that you waited too long?

Leslie Godfrey:

Currently, it takes some time. Typically, the prosecutors and district attorneys have not been opposing this once due diligence has determined that this person was subject to indentured servitude as opposed to voluntarily engaging in solicitation, and we have prepared the motions. Therefore, that has not become a problem yet. I would welcome any comment from anyone else who may have had that experience, but to this point it has not become a problem.

Assemblywoman Fiore:

You said there were two types of prostitution going on in the hotel where you were working security. You said that one type was definitely related to sex trafficking, but the other type was women knowing what they were doing. Can you elaborate on that?

Assemblyman Anderson:

As a security officer, I had conversations with a number of women in the course of my work. They told me that they were never going to stop doing it because they make a lot of money. Those conversations are why I brought the measure forward in 2011. Those women were using up the resources of the Las Vegas Metropolitan Police Department (Metro) and knew what they were getting into. Then I learned more about sex trafficking and how there were many women who were forced into it. That bill was an effort to get at both ends of the spectrum to try to solve the issue. That measure was supported by a wide variety of stakeholders, including the public defender in 2011, the district attorney, Metro, and gaming.

Assemblywoman Fiore:

How do you think it is working?

Assemblyman Anderson:

I have had some conversations with Metro, but they could answer that question better since they are the ones involved day to day. I got out of gaming after the 2011 Session because I started working at law firms. I would not be the right person to answer that question any more.

I think I may have misunderstood Assemblyman Gardner's question. I think what he was asking was if we should put the citation to NRS 207.203 into the bill. If that is what you were asking, that might not be a bad idea just to ensure there is as much flexibility for the judge as possible. We are here because Leslie Godfrey had a problem with whether she had enough statutory authority to get the motion vacated. She would have had to do a lot of legal policy and non-statutory arguments. I would not have any objection to making it even clearer.

Chairman Hansen:

I will have Mr. Wilkinson address that.

Brad Wilkinson, Committee Counsel:

I do not think it is necessary to reference NRS 207.203. That is not actually the substantive crime of trespassing. The crime is actually NRS 207.200, and NRS 207.203 is how you treat the crime. It would not be necessary to include a reference to that.

John Wagner, representing the Independent American Party:

We feel that sex trafficking is almost like slavery. These poor women are tied to whoever is governing their lives. If they can break away and get free from that, we should do everything we can to help them, including taking care of some of their trespassing convictions and whatever else is necessary.

Michael Patterson, Director of Advocacy, Lutheran Episcopal Advocacy in Nevada:

I want to give our support for this bill.

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

We are here in support of A.B. 108. As you know, human trafficking is on the rise. Our numbers this year are higher than they were in 2014. Hotels and motels tend to be one of the common areas where this type of activity occurs. As Assemblyman Anderson stated, trespassing seems to be the way it is handled when these folks show up and are in the hotels loitering for the purposes of prostitution. The hotels typically charge them with trespassing rather than wait until they actually solicit someone for prostitution.

These victims tend to rack up a lot of charges for trespassing. One of the hardest things with human trafficking is breaking that psychological and physical hold that the panderer has over the victim and getting them out of that lifestyle. As was stated, being able to clean up their criminal record is one step toward getting them out of the lifestyle, so we are supporting this measure.

Assemblyman Gardner:

Are there any other crimes typical with prostitution or solicitation that should be included in this bill besides trespassing or the actual prostitution solicitation?

Chuck Callaway:

My understanding is that most of the other categories were captured in the previous bill, which included soliciting for the purpose of prostitution. I would defer to legal counsel to ensure those areas were captured.

Brad Wilkinson:

It is a policy choice as to what additional crimes are included. Right now, it just covers solicitation for prostitution under NRS 201.354, and this bill proposes to add trespassing. There are laws in other states that are broader and that cover any crime, so it would not need to be specifically identified. It would cover lesser offenses, which would probably include something like trespassing. It is up to the Committee to decide what approach is appropriate, whether you want to add one more crime to this list or something that would be broader.

Chairman Hansen:

We will leave that up to Assemblyman Anderson if there are any proposed amendments. Is there anyone else who would like to testify in favor of A.B. 108?

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

We are here in support of A.B. 108. To answer Assemblyman Gardner's question, there are two crimes currently in the bill: engaging in prostitution and solicitation for prostitution. Trespassing is to be added to this bill. That captures virtually all of the convictions we get with respect to prostitution-related activities. The only other charge that I can think of is loitering for the purpose of prostitution.

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

We are here in support of A.B. 108.

Allan M. Smith, representing Religious Alliance in Nevada:

We are here in support of A.B. 108 and anything else that has to do with helping the victims of sex trafficking. In putting that in this section, it is also

important to note that once a discovery is made, there are further protections to help these people move out of the industry.

Steve Yeager, Office of the Clark County Public Defender:

We are here in support of this legislation. There is not much I can add other than to say that a criminal conviction of any kind, even a misdemeanor, can have some severe consequences for someone getting a job and competing against someone who does not have a criminal conviction. That can be a hard sell. We are in favor of this piece of legislation because it does give victims the chance to clear their record and allow them a level playing field when competing for jobs or other benefits.

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

I agree with Mr. Yeager. I agree that giving a defendant a second chance is critical when seeking resources, so I am in favor of any program or legislation that would give that person a second chance and a fresh start toward a new life.

Assemblyman Gardner:

Can either of you think of any other crimes that may need to be included? I just want to see if there is anything else that should be included.

Sean B. Sullivan:

I had a discussion with Mr. Yeager when you posed that question, and the only other crime that popped into my head was engaging in lewd or dissolute conduct. It is under the vagrancy statute which I believe is NRS 207.030. This is something that we typically see up north when dealing with these types of crimes. That was the only other statute that I saw that may fit. That statute states, "It is unlawful to offer or agree to engage in or engage in lewd or dissolute conduct in any public place or any place open to the public or exposed to public view." I do not know if that will fit, but that is the one crime that came to mind.

Assemblyman Nelson:

Section 1, subsection 7 of the bill talks about what the court may do if it grants the motion. Paragraph (a) says that it can vacate the judgment and dismiss the accusatory pleading, and paragraph (b) says they may take any additional action that the court deems appropriate. Would that include expunging the record? Does this accomplish that?

Steve Yeager:

Vacating the judgment and dismissing the pleading does not necessarily result in a sealing of the record. If someone were to run a background check, they may

still see that arrest or that a charge was made. I would read paragraph (b) to also allow the court to order the sealing of the record. Typically, that is something that is done in a civil context, but in this situation could require some additional motion work. From our perspective, if we were bringing one of these motions we would certainly try to convince the judge hearing the motion that ordering the sealing of records would be appropriate under the circumstance. That does not happen automatically.

Assemblyman Nelson:

Do you think that needs to be added, or does it go without saying?

Steve Yeager:

I am not sure. I do not think it needs to be added in. It is a little tricky in the sense that the records that need to be sealed may depend on where the arrest was made. Certain orders have to be served on the agencies that would have the record. From a public defender perspective, as part of our motion, we would include that and prepare the order. Whether the judge hearing the motion thinks they have the ability to seal the record may be another question. Under the way it is worded, we could at least argue it.

Chairman Hansen:

Are there any further questions? Seeing none, is there anyone else who would like to testify in favor of A.B. 108? Seeing no one, we will move to opposition. Is there anyone who would like to testify in opposition to the bill in Carson City or Las Vegas? [There was no one.] Is there anyone to testify in the neutral position in Las Vegas or Carson City? [There was no one.] We will see if Mr. Anderson has any other comments that he would like to make before we close the hearing.

Assemblyman Elliot T. Anderson:

I am always open to discussing amendments regarding any of the questions. I do not want to make this too complicated. Anything that we would do I would want to do on a consensus approach with the stakeholders in the room. This is too important to the lives of so many women to not have it go through.

Chairman Hansen:

We will close the hearing on Assembly Bill 108.

We have a bill draft request introduction.

BDR 5-188—Enacts a juvenile competency standard. (Later introduced as [Assembly Bill 138](#).)

I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO INTRODUCE
BDR 5-188.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

For an upcoming work session, we want to encourage those with amendments to send them to Diane Thornton, Policy Analyst, or get in contact with her. Tomorrow we are going to have a hearing on [Assembly Bill 125](#) in Room 4100 at 8 a.m. We will open the meeting for public comment if anyone has anything of interest. [There was no one.]

This meeting is adjourned [at 9:06 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Ira Hansen, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 10, 2015

Time of Meeting: 8 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Chairman Hansen	Summary of Court Decisions of Importance to Senate Judiciary
<u>A.B. 8</u>	D	Jason Frierson	Proposed amendment