

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
March 23, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:07 p.m. on Monday, March 23, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Greg Brower, Chair
Senator Becky Harris, Vice Chair
Senator Michael Roberson
Senator Scott Hammond
Senator Ruben J. Kihuen
Senator Aaron D. Ford

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom (Excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Connie Westadt, Committee Secretary

OTHERS PRESENT:

Bob Roshak, Nevada Sheriffs' and Chiefs' Association
Megan Bedera, Nevada Firearms Coalition
John Griffin, Everytown for Gun Safety
Vern Brooks

Chair Brower:

The hearing on Senate (S.B.) Bill 240 is called to order.

SENATE BILL 240: Makes certain changes relating to public safety. (BDR 14-955)

Senator Michael Roberson, Senatorial District No. 20:

I am pleased to introduce S.B. 240. I will provide an overview of S.B. 240 and then review the bill section by section. This bill addresses public safety deficiencies related to guns and mental illness. It strengthens existing mental health reporting requirements. It expands the purposes for which such information may be used without enacting overly restrictive gun control laws and thus upholds our constitutional rights. Senate Bill 240 strengthens the reporting requirements concerning a person's mental health and criminal history related to the purchase or possession of a firearm. It requires Nevada courts to transmit within 5 business days records regarding an individual's mental health to the Central Repository for Nevada Records of Criminal History in the Department of Public Safety for use in reviewing firearms purchases.

Senate Bill 240 prohibits criminals and individuals suffering from mental illness from purchasing a firearm. This legislation will keep guns out of hands of those who pose a threat to themselves or society. Senate Bill 240 places a duty to notify on mental health professionals when there is a legitimate threat of violence against another person. It also shortens the time for submitting information into the National Instant Criminal Background Check System.

Senate Bill 240 provides immunity from liability to private-party sellers who voluntarily perform background checks and waives the Central Repository fee to encourage utilization of the Central Repository for private-party transactions. This bill incentivizes private parties to conduct background checks when transferring a firearm by providing immunity from civil and criminal liability when a background check is conducted prior to the transfer.

Senate Bill 240 creates a prohibition under State law on straw purchasers in the State of Nevada. A straw purchase is any purchase wherein an agent agrees to acquire a firearm for a person who is prohibited from purchasing or possessing the firearm legally for himself or herself and the agent transfers the firearm to that person after purchasing it. Senate Bill 240 addresses two of the most critical issues that undermine public safety: inadequate coordination between

the mental health system and law enforcement and the problem of straw purchasers.

Sections 1 through 4, 13 and 17 of S.B. 240 require the courts to transmit to the Central Repository within 5 business days of a record of an order, judgment, plea or verdict concerning the involuntary admission to a mental health facility; appointment of a guardian for a person with a mental defect; a finding that a person is incompetent to stand trial; a verdict acquitting the defendant by reason of insanity; or a plea or a finding of guilty but mentally ill.

Section 7 of S.B. 240 requires criminal justice agencies to submit information relating to records of criminal history that they create, issue or collect within 60 days after conviction, and section 8 of the bill authorizes the Central Repository to take reasonable steps to ensure the information reported in the record is included in the National Instant Criminal Background Check database maintained by the FBI.

If a private person wishes to transfer a firearm to another person, section 14 prohibits the Central Repository from charging a fee to perform a background check for the transfer and allows the Director of the Department of Public Safety to request an allocation from the Contingency Account to cover the associated costs. Section 14 also clarifies that a private person who transfers a firearm to another person is immune from civil liability for failing to request a background check or for any other omission related to a background check if the act or omission was taken in good faith and without malicious intent.

Section 15 of S.B. 240 adds to the definition of persons prohibited from possessing a firearm those who have entered a plea of guilty but mentally ill; been found guilty but mentally ill; or been acquitted by reason of insanity from possessing or having custody of a firearm. Section 16 places additional responsibility on individuals selling or transferring firearms or ammunition by changing the standard from actual knowledge to a reasonable cause to believe the intended recipient is a known member of a criminal gang, under indictment or convicted of a felony, or otherwise prohibited from possessing a firearm under State law.

Finally, under section 19 of S.B. 240, if a patient communicates to a mental health professional an explicit threat of imminent serious physical harm or death to a person and the mental health professional believes the patient has the

intent and the ability to carry out the threat, the mental health professional must make a reasonable effort to communicate the threat in a timely manner to the person threatened, to law enforcement and, if the patient is a minor, to the parents or guardians. Senate Bill 240 properly ensures public safety without unconstitutionally infringing on the rights of law-abiding citizens. I urge your support.

Chair Brower:

Needless to say, keeping firearms out of the hands of the mentally ill is one of the most important safety issues confronting us. Senate Bill 240 strikes the right balance and makes a lot of sense. We have received a letter of support ([Exhibit C](#)) from Daniel Reid on behalf of the National Rifle Association, Institute for Legislative Action. We have also received a letter ([Exhibit D](#)) from Lesley R. Dickson, M.D., on behalf of the Nevada Psychiatric Association expressing support and proposing amendments.

Bob Roshak (Nevada Sheriffs' and Chiefs' Association):

We support S.B. 240. The reporting to the Central Repository is particularly important to sheriffs in the issuance of concealed weapons permits. There has been such a backlog that people fall through the cracks. This is a constructive way to help resolve that issue and provide for public safety. It is commonsense legislation. It will not impact the firearms community in a negative fashion. Straw purchases are an issue now and then. This will be another incentive to stop and think before selling a weapon.

Megan Bedera (Nevada Firearms Coalition):

We support S.B. 240. We have provided a letter of support ([Exhibit E](#)) which suggests amendments to define terms for purposes of clarity.

John Griffin (Everytown for Gun Safety):

We support S.B. 240. Everytown supports measures to keep guns out of the hands of the dangerously mentally ill, and there are provisions in S.B. 240 that make progress in that regard.

Vern Brooks:

I favor most of the proposed changes contained in S.B. 240. I especially like the shortened reporting time. It should not take more than a few days. I definitely like the idea of background checks being easier and free to the average citizen.

Several years ago, I wanted to sell a firearm that I owned to a friend of mine. I had known him for several years. I had no concerns about his background, but I wanted to do my due diligence. It took 60 days of mailing things back and forth before I received a go-ahead from the Department of Public Safety. As far as I know, the process has not changed. I welcome the idea of something that is more organized and functional so I have the option to do due diligence when I think it is appropriate and necessary.

I support the civil immunity aspects of S.B. 240. The duty to report is generally a good idea, but we need to tread carefully so as not to allow an unqualified person to change the civil rights of another on a whim.

Senator Ford:

There are good provisions in S.B. 240. I question the voluntary nature of the background checks. You have removed the fee associated with voluntarily submitting a background check. What is the rationale for removing the fee? Do you believe that removing the fee will increase the number of background checks that people voluntarily request?

Senator Roberson:

That is the rationale. Removing the fee will remove a potential disincentive to private parties obtaining a background check.

Senator Ford:

What is the fee?

Senator Roberson:

The fee is \$35.

Senator Ford:

Since 1997, only ten people have voluntarily submitted background check requests. I am not certain that \$35 is deterrent. The last background check requested was in 2010. Do you have an estimate on the potential increase? Do you have any statistics or data from other states that have removed their fee thereby resulting in an increase in requests?

Senator Roberson:

I do not.

Senate Committee on Judiciary
March 23, 2015
Page 6

Senator Ford:

Colorado did not see an appreciable increase. I wonder if \$35 is a deterrent. Is there any reason why something more than voluntary would not be acceptable?

Senator Roberson:

Do you mean mandatory background checks? There is a ballot measure in 2016 for voters to decide that question. You can bring a bill on that topic whenever you like.

Senator Kihuen:

What is the process for a voluntary background check?

Senator Roberson:

I do not know. Law enforcement would know. I will follow up and get you that information.

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Senate Committee on Judiciary
March 23, 2015
Page 7

Chair Brower:

We will close the hearing on S.B. 240. We are adjourned at 1:24 p.m.

RESPECTFULLY SUBMITTED:

Connie Westadt,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 240	C	1	National Rifle Association	Daniel Reid Letter
S.B. 240	D	1	Nevada Psychiatric Association	Lesley Dickson Letter
S.B. 240	E	1	Nevada Firearms Coalition	Letter in Support with Amendment