

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
April 8, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:26 p.m. on Wednesday, April 8, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Scott Hammond
Senator Ruben J. Kihuen
Senator Tick Segerblom
Senator Aaron D. Ford

COMMITTEE MEMBERS ABSENT:

Senator Michael Roberson (Excused)

GUEST LEGISLATORS PRESENT:

Senator Joyce Woodhouse, Senatorial District No. 5

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Connie Westadt, Committee Secretary

OTHERS PRESENT:

Lynn Goya, Clerk, Clark County
Nancy Parent, Clerk, Washoe County
Margaret Flint, Chapel of the Bells, Reno; Arch of Reno Chapel

Senate Committee on Judiciary
April 8, 2015
Page 2

Josef Karacsonyi
Marshal S. Willick
Andy Ebon
Kent Ervin
Suzan Reed

Janiece Marshall, Las Vegas Township Justice Court, Department 3,
Clark County

Regan Comis, Nevada Judges of Limited Jurisdiction
Sean B. Sullivan, Public Defender's Office, Washoe County
Steve Yeager, Public Defender's Office, Clark County
Samuel P. McMullen, Aladdin Bail NV, Inc.

Mujahid Ramadan
Doug Kuperman, Hangover Bail
Joel Gutierrez, Hangover Bail
Michael Schneider

Jonathan Friedrich, Nevada Homeowner Alliance
Brett Kandt, Special Assistant Attorney General, Office of the Attorney General

Chair Brower:

We will open the hearing on Senate (S.B.) Bill 395.

SENATE BILL 395: Revises provisions governing domestic relations. (BDR 11-530)

Senator Ruben J. Kihuen (Senatorial District No. 10):

We are proposing to amend S.B. 395 with the exception of sections 1, 4, 27 and 56. Senate Bill 395 is a bill to create a special fund in Clark County to promote wedding tourism. I represent the Las Vegas Strip from Warm Springs Road in the south to Charleston Boulevard in the north. Wedding tourism is a core industry in Las Vegas. It is part of our international brand. However, wedding tourism in the Wedding Capital of the World is in trouble. After decades of steady increase, wedding tourism peaked in 2004 at 128,000 marriage licenses issued in Clark County. Over 82 percent of the marriage licenses issued in Clark County are to tourists.

Since 2004, Clark County has seen a steady decline of 3 percent a year in wedding tourism. In 2014, Clark County issued only a little over 80,000 licenses—a scant 244 more than 2013—despite the legalization of same-sex marriage in October 2014. That translates to real money for

Clark County and the State. Wedding tourism produced \$2 billion in economic activity in 2014 and generated \$69 million in tax revenue. Wedding tourism is one of our iconic brands, and it is imperative that we do something to stem the loss of one of our core industries before it drops another 37 percent. Section 56 of S.B. 395 adds \$14 to each marriage license to promote wedding tourism.

Chair Brower:

Would the language in section 56 allow a board of county commissioners to impose an additional fee but not mandate that the board do so?

Lynn Goya (Clerk, Clark County):

Yes. We initially considered a statewide initiative, but the clerks from the other counties either had few marriage licenses or were not ready to impose a fee. One of the amendments we propose is to have the fee specific to Clark County.

Chair Brower:

Is the idea to allow the County to charge the fee or to require the County to charge the fee? The former would be preferable.

Ms. Goya:

That is fine with us.

Senator Segerblom:

Please note an amendment in section 27 of S.B. 395 corrects an issue that came up in *Doan v. Wilkerson*, 130 Nev. Adv. Op. 48, 327 P.3d 498 (2014). The issue relates to postjudgment motions for relief because community property or liability is omitted from the decree or judgment.

Ms. Goya:

Section 1 of S.B. 395 requires a space be provided for display outside the county clerk's office. This was introduced on behalf of the Washoe County wedding chapels. We already have a display in Clark County. We have provided a proposed amendment ([Exhibit C](#)) to change "shall" to "may."

Chair Brower:

Are you proposing to change the bill's original language "shall" to "may"?

Ms. Goya:

Yes. The amendment also expands who can put literature in the display. Section 4, subsection 2, paragraph (c) addresses collecting the fee imposed pursuant to section 56. Section 4, subsection 5 of S.B. 395 provides that any fee collected is separate and distinct from any other administrative fee charged and collected by the county clerk. This ensures that this fee remains a wedding promotion charge and cannot be shifted to some other fund.

Section 56 is the key part of the bill. It permits a board of county commissioners to impose an additional fee of not more than \$14 for the issuance of a marriage license. It requires the creation of a separate revenue fund specifically to promote wedding tourism. A friendly amendment limits this section to Clark County.

We have provided information regarding promoting wedding tourism ([Exhibit D](#)), which describes how important wedding tourism is to Clark County. We also provided a wedding tourism presentation ([Exhibit E](#)) that answers questions about wedding tourism. Las Vegas is the Wedding Capital of the World based on the number of marriage licenses issued each year. It is a broad-based industry that includes photographers, jewelers, salons and spas, event planners, florists, bakeries, caterers and entertainers. That is just the direct impact. When people come to get married, they stay in hotels, eat at restaurants, go to shows, go rock climbing and go to nightclubs. Wedding tourism is disproportionately beneficial to small businesses. People getting married often go to independent photographers, small salons and nail shops.

Las Vegas visitor volume has increased for the last 20 years. Even during the recession, there was just a brief dip. Last year, Las Vegas had the highest visitor volume ever—41.13 million visitors. However, marriage license issuances do not mirror the visitor volume increase. Even though there has been a 50-year decline in the number of people getting married, Las Vegas weddings increased over the last 40 years until the last decade, during which there was a precipitate drop.

We need to do something about this. Marriage license issuances peaked in 2004. We were averaging a 3,000-license increase a year. Since 2004, there has been a 3,500-license decrease a year on average. We have gone from 128,250 licenses to 80,000 a year. We stayed flat last year because of same-sex marriage licenses.

Eighty-two percent of the licenses we issue are to tourists. Seventy-five percent of the licenses are issued to U.S. tourists and 25 percent to international tourists. The average number of international guests coming to Las Vegas is only 20 percent. When people come to Las Vegas for weddings, the majority are first-time visitors. Yet only 4 percent of the visitors who came last year were actually wedding tourists. Even so, we generated \$2 billion for Clark County. Wedding tourism is good for the economy, for small businesses, for the State coffers and for Clark County. It helps small businesses as well as corporate giants, and it generates about \$69 million a year in tax revenue. The Clark County Clerk's Office generates about \$5 million a year from marriage licenses, and about \$2 million of that goes to aid domestic violence programs. The majority of the fees we collect go to supplement things other than the Clerk's Office. The \$14 fee is in addition to our other fees.

Page 14 of [Exhibit E](#) shows the total fee and where the dollars collected go. The reason we chose \$14 is that it will make our final license fee \$77—a great marketing tool for Clark County. At \$77, we are still right in the middle of the other top wedding destination fees. New York City only charges \$33 for a marriage license, but according to the knot, a wedding planning Website that does annual surveys of wedding trends, the average wedding in New York City is about \$80,000. We are not even in the top 25 states for cost, so we are still cost-competitive.

The marriage license fee is a one-time fee incurred primarily by tourists. Hopefully, locals will only incur it one or two times. The fee must be approved by the Clark County Commission. We would like to partner with existing agencies such as the Las Vegas Convention and Visitors Authority and the Commission on Tourism. I have also been partnering with the wedding industry in Clark County. Wedding business owners are excited about S.B. 395 and the opportunity to reverse the trend that has adversely affected their business. They have capacity and interest, and they are excited about having an opportunity to promote their industry. As small business owners, they do not have the clout of some other organizations. This is something the Clerk's Office can do for them. Allow us to let Las Vegas be the Wedding Capital of the World.

Nancy Parent (Clerk, Washoe County):

Washoe County supports S.B. 395. It is a great idea for Clark County. We have proposed a friendly amendment ([Exhibit F](#)). I have worked with the wedding industry in Washoe County and with county clerks across the State. Section 1

of S.B. 395 requires space for the display of information regarding marriage ceremonies. This is important in Nevada because of a law that prohibits the marriage license bureau or county clerk's office from soliciting or influencing on county property. Out-of-town people want to know where to get married after they obtain a marriage license. We can refer them to the brochure rack with information on those services. The display is an important tool for us in the Clerk's Office, and it is a service to our customers who would otherwise be extremely frustrated.

We request that the "shall" be amended to "may." Washoe County has had a brochure rack on County property since 1989. This was done pursuant to permission from the County Commission. There has always been a concern about advertising on County property. If permission is a matter of State law, then that concern can be put to rest.

Chair Brower:

Would the "may" language allow the county commission to make this decision?

Ms. Parent:

I had not interpreted it that way, but I can see that would be the case. The only reason we wanted to change "shall" to "may" is because when we drafted this language, we were not aware that Clark County had a display. We want to leave whether to have a display to the clerk's discretion. My understanding is that Clark County has had trouble with this in the past.

Chair Brower:

This is a county decision. The Legislature should not tell a county it has to do this. The county commissions should be allowed to decide how the clerks' offices are operated in consultation with the clerks. Achieving that intent would make sense.

Senator Kihuen:

I agree.

Ms. Parent:

I agree as well. The other change to section 1 of S.B. 395 is to broaden the language of who may place information in the display. Senate Bill 395 only allows commercial wedding chapels to post material. We have worked with the chapel industry in Washoe County and now propose language that would also

include an established licensed business, which operates principally for the performance of weddings in said county, or a church or religious organization that is incorporated, organized or established in the State. This accommodates notary publics, who are now authorized to perform marriages, and churches, especially those offering to provide services to same-sex couples. We had suggested removal of section 4, subsection 5. We now understand that Clark County supports inclusion of that provision.

We also propose an amendment to section 5 of S.B. 395. We propose that the collection of the \$14 fee be limited to each county whose population is 700,000 or more. In consultation with the chapels in Washoe County, it was determined that our customer base could not tolerate a price increase. While the imposition of such a fee might be appropriate in the future, we would like to see how it works in Clark County.

Chair Brower:

Is the idea to allow only the Clark County Board of Commissioners to impose the additional fee?

Ms. Parent:

Correct. The amendments Washoe County proposes have been discussed with all county clerks, all wedding chapels in Washoe County and others who have expressed an interest. This represents a consensus by all of those groups.

Margaret Flint (Chapel of the Bells, Reno; Arch of Reno Chapel):

We support sections 1 and 56 of S.B. 395. Regarding section 1, the card rack alleviates many problems for the clerk. Regarding section 56, there are only three freestanding wedding chapels in Washoe County. My family operates the oldest-surviving wedding chapel in Reno, which we have had since 1962. The second-oldest chapel in Reno closed its doors the day after Valentine's Day. A fee increase would not be good in Washoe County. We would like to see Clark County try it; if business increases in northern Nevada and it works well for Clark County, then we will revisit the fee in the future.

Josef Karacsonyi:

I am here to address section 27 of S.B. 395. I am a family law attorney at The Dickerson Law Group. I am also a member of the Family Law Executive Counsel of the State Bar of Nevada. Section 27 has been vetted by the Family Law Section of the Nevada Bar. It has been approved by the Board of Governors. It

was vetted in Ely by 400 attorneys and judges, and to my knowledge, there is no opposition to this technical correction of the language. As Senator Segerblom mentioned, the recent *Doan* decision issued by the Nevada Supreme Court invited this Legislature to enact language such as this, which will bring Nevada into conformity with the other eight community property states.

Chair Brower:

Please tell us what section 27 does.

Marshal S. Willick:

I am a matrimonial lawyer in Las Vegas. The language in section 27 restores the law that Nevada divorce lawyers thought was in effect since *Amie v. Amie*, 106 Nev. 541, 796 P.2d 233 (1990). Last year in the *Doan* case, the Nevada Supreme Court said that even though most states have resolved this issue by judicial enactment, it believed this issue to be a legislative matter and invited the Legislature to create an action or permit continuing jurisdiction for partitioning property left out of a divorce decree.

Section 27 allows for partition of omitted assets. For example, if something gets left out of a divorce decree, the parties are given the opportunity to deal with that omitted asset when the omission is discovered, whether the omission is a matter of inadvertence or ill intent.

Nevada is an equal-division community property state. Property acquired during a marriage belongs to both parties equally. They have present, existing and equal interests, and our divorce statutes call for equal division of property accrued during the marriage. What do you do if something goes wrong and property is not divided because it is left out? Everywhere else, the answer is to file a partition motion and the thing left out is partitioned. This only happens when something spectacularly valuable is left out, usually a pension interest.

Sixty percent of the time, at least one of the two parties appearing in court is not represented by counsel. In many cases, both parties are unrepresented. People do not know that pensions are property so they tend not to list them on the face of the decree. The *Doan* case said that if anyone mentioned the word pension previously, then there is a 6-month time period during which the decree must be modified, or under Nevada Rules of Civil Procedure 60(b), nothing can

be done about it. Therefore, you have a right to the property, but you do not have a mechanism for dividing it in court.

Section 27 is that mechanism—like in all the other community property states. It is a technical correction. All of the people who would bring these motions and those who would oppose these motions are in favor of this legislation. Since at least 1986, all of the published articles on this subject have suggested that this provision be enacted either by the court or by the Legislature.

Chair Brower:

I am going to do some due diligence with Gary Silverman as the prerogative of the Chair, and we will consider this in the next day or so.

Senator Hammond:

It sounds like you are saying that this goes on a lot in other states. You are making this unlimited, and then you are saying that it is only used for things that are expensive and valuable. Divorces can be messy. I have seen people fight over the garden gnome. Is there a limitation on the value of the property?

Mr. Willick:

No. No other state has a dollar limitation or a time limitation in the partition statute. This is the law in California, Arizona, New Mexico, Washington, Idaho, Oregon, Louisiana and Wisconsin—all of the community property states—as well as in many of the common-law states. The reason behind no limitation on the dollar sum is that it is simply not worth anybody's effort to do this unless the asset is of spectacular value. I have reviewed all of the cases from all of the states that have this provision, and there are no reported cases of abusive litigation. That is what trial court judges are for.

The *Nevada Family Law Practice Manual*, an instruction manual for divorce lawyers, contains two clauses—what we call in the vernacular an *Amie* clause and an anti-*Amie* clause—allowing people to either allow or disallow motions of this type depending on whether they see the risk of omission or the risk of potential abusive litigation as higher. Section 27 of S.B. 395 is intended primarily for people who do not know that. We are trying to protect the public.

In my 30 years of experience, all of the cases of omitted assets have been pension cases. All of the reported appellate cases that I am familiar with from various jurisdictions address omitted retirement benefits. Retirement benefits are

usually the most valuable asset of the marriage. Unfortunately, especially for people who try do-it-yourself divorces, retirement benefits are frequently omitted from the face of the decree. The omission is not discovered until retirement age when suddenly no money arrives. If not correctable, this leads to an increase in welfare applications by people who should be receiving a payment stream but are not. They are forced on to public assistance. That is the underlying social rationale for why section 27 of S.B. 395 is an appropriate thing to do.

I cannot tell you that it is impossible for someone to file a partition motion relating to garden gnomes, but I will tell you that it is terribly unlikely. The garden gnome will already have been distributed by virtue of who has possession of it at the moment of the divorce.

Senator Hammond:

You have answered my question.

Andy Ebon:

I am a wedding marketing authority based in Las Vegas. I am a public speaker, blogger and business coach primarily for small businesses in Las Vegas and across the Country. I am the cochair of a group in Las Vegas called the Las Vegas Wedding Network. Section 56 is a brilliant and creative way to get out in front of the problem of declining weddings. What is shocking about the decline is that it has been roughly 3 percent every year for the last decade. We have gone through a boom, a recession and now a recovery. I am encouraged that funds will be raised so that research can be done about the reason for this decline and the best way to administer the money.

I also do work for a high-tech wedding marketing organization called WeddingWire. Most brides and grooms these days are finding out about hotels, services and weddings through smart phone technology.

Kent Ervin:

I oppose S.B. 395. It is unfair to charge same-sex couples a higher licensing fee but not provide them the full protection of the law.

Chair Brower:

I do not think we are doing that. There is no intent to charge same-sex couples a different fee. That is not the intent of the bill.

Mr. Ervin:

Are same-sex couples excluded from the \$14 licensing fee in Clark County?

Chair Brower:

No. If we pass this bill as amended and the Clark County Commission decides to tack on an additional \$14 fee, the fee would apply to all applicants regardless of gender.

Mr. Ervin:

That is why I am against the bill. Same-gender marriage has been legal in Nevada since Governor Brian Sandoval declined to appeal the U. S. Court of Appeals for the Ninth Circuit decision. Even if there is a change at the U.S. Supreme Court, legally married same-gender couples in Nevada need the full protection of the marriage statutes to guarantee their contract rights under Article I, section 15 of the Nevada Constitution. Without S.B. 395, these couples will have to litigate the applicability of Article 1, section 15 of the Nevada Constitution.

I must oppose S.B. 395 in its gutted form because it is unfair to charge marriage license fees, especially additional license fees, to advertise to same-sex married couples without giving them the full protection of the law.

Chair Brower:

The \$14 fee if approved by the Clark County Commission would not apply only to same-sex applicants. Do you understand that, and if you do, I do not understand why you would oppose that part of the bill?

Mr. Ervin:

I oppose changing the bill.

Chair Brower:

You support the full bill, which previously addressed same-sex marriage.

Mr. Ervin:

Yes. The full bill treats same-gender couples the same as other couples both for the license fee and under the other areas of the law.

Suzan Reed:

Charging an extra fee is not necessary. People come to Las Vegas randomly, get drunk and get married all the time. Extra brochures are not needed.

Chair Brower:

If S.B. 395 is enacted, the Clark County Commission will have the option of charging an additional \$14 fee. I suggest you contact your County Commissioners and make sure they know your feelings.

Senator Kihuen:

I agree with Mr. Ervin that same-gender couples should have equal rights. We removed the same-sex marriage provisions from S.B. 395 because we are waiting for the ruling from the U.S. Supreme Court.

Chair Brower:

We will close the hearing on S.B. 395 and open the hearing on S.B. 369.

SENATE BILL 369: Revises provisions relating to overcrowding in certain county jails. (BDR 16-1044)

Senator Ruben J. Kihuen (Senatorial District No. 10):

Janiece Marshall, Las Vegas Township Justice Court, Department 3, Clark County, reached out to me about a year ago about an issue she has been working on for the last few years to alleviate the overcrowding in our jails in Clark County. Judge Marshall put together a working group that spent the last year on a solution to this problem. Senate Bill 369 is the product of those discussions. Senate Bill 369 uses *Nevada Revised Statute* (NRS) 211.240 as a starting point and makes four changes to address overcrowding in Clark County.

Chair Brower:

We do not want to hear a debate about the overcrowding issue. We want to hear why the Legislature, as opposed to Clark County, the Las Vegas Metropolitan Police Department and the courts, should micromanage—I am not using this term pejoratively—this overcrowding issue.

Janiece Marshall, Las Vegas Township Justice Court, Department 3, Clark County:

Nevada Revised Statute 211.240 only permits the chief judge of the judicial district to order the release of prisoners from the Clark County Detention Center

when it has reached operational capacity. The law allows the chief judge to release a nonviolent prisoner who has served 75 percent of his or her sentence. The law does not allow misdemeanor defendants, who are the lower level defendants in the Detention Center, to be released. On any given day, there are 500 to 700 misdemeanor defendants in the Detention Center. Clark County has provided a proposed amendment ([Exhibit G](#)) to S.B. 369.

The purpose of S.B. 369 is to allow both the chief judge of the judicial district and of the justice courts in the judicial district to order the release of prisoners, depending on whether the prisoner is under the jurisdiction of the district court or the justice court. Senate Bill 369 would allow the chief judge of the district court or the chief judge of justice courts to permit the release of a nonviolent prisoner who has served 50 percent of his or her sentence. Then prisoners who are within 30 days of their scheduled release dates could be released. Thereafter, a catchall permits the district court or the justice court to identify additional prisoners for release to reduce the number of prisoners to operational capacity. There are approximately 4,043 prisoners under the control of the Detention Center.

A person who goes to jail leaves jail with the same problems he or she entered with. During my 5 years as a judge, the majority of the people I have seen are in the Detention Center because of addiction, mental health or homeless problems. They leave with those problems. They have no opportunity to address those problems while incarcerated. The Detention Center is a city in and of itself. There is no opportunity for adult education, counseling for addiction or addressing chronic homelessness. We have no capability whatsoever in Clark County to release a misdemeanant to reintegration transitional housing. When released, misdemeanants are released to the street. They have no place to spend the first night out of jail. Transitional housing would provide supervised house arrest.

Chair Brower:

The goal makes sense. *Nevada Revised Statute* 211.240 allows the sheriff to apply to the chief judge to release prisoners pursuant to the provisions of that section. Subsection 4 of NRS 211.240 provides that a prisoner is eligible for release only if the prisoner meets the stated criteria: has served 75 percent of his or her sentence, is not serving a sentence for a crime for which a mandatory sentence is required by statute, is not serving a sentence for a crime which involved an act of violence and does not impose a danger to the community.

Does the judge not have the authority to do all of the things you are asking for without new legislation?

Judge Marshall:

No. *Nevada Revised Statute* 211.240 does not release a sufficient number of prisoners when operational capacity is reached.

Chair Brower:

Is that because those four criteria are too stringent?

Judge Marshall:

Yes.

Chair Brower:

Your point is that 75 percent of the sentence is too much.

Judge Marshall:

It also must be nonviolent.

Chair Brower:

Seventy-five percent is just a number, but what is wrong from a policy perspective with the criterion that the inmate not be serving a sentence for a crime involving an act of violence?

Judge Marshall:

That particular criterion remains in the amendment. The amendment reduces the served sentence from 75 percent to 50 percent. On any given weekend in Las Vegas, 50 percent of served sentence will not be sufficient. The Detention Center will be over its maximum capacity for health and safety, and there is no available option. There is also the issue of district court versus justice court. Misdemeanants are under the jurisdiction of justice court. The proposed amendment allows both the district court chief judge and the justice court chief judge the option to release prisoners under their respective jurisdictions. It is preferable to release the misdemeanants as opposed to those prisoners in the Detention Center who have not yet been convicted. The prisoners who should be released are the 500 to 700 misdemeanants.

Chair Brower:

Are you saying that the chief judge cannot order the release of misdemeanants under NRS 211.240?

Judge Marshall:

The chief judge of the district court does not have jurisdiction over misdemeanants who are under jurisdiction of the justice court.

Chair Brower:

Does the law allow the chief judge of the justice court to order the release of misdemeanants?

Judge Marshall:

Senate Bill 369 allows the chief judge of the justice court to do so.

Chair Brower:

Is there no way for the chief judge of the district court to order the release of a misdemeanor under the law in cooperation with, with the agreement of or in conjunction with the chief judge of the justice court?

Judge Marshall:

No. I do not believe the chief judge of the district court would be able to do that.

Chair Brower:

I am not sure the law does not allow the chief judge of the justice court to release those misdemeanants.

Judge Marshall:

It may be the case that the chief judge of the justice court could do it in conjunction with the chief judge of the district court. Even if that is correct, we are still at the point that we could exceed operation capacity on any given weekend.

Chair Brower:

The number of eligible prisoners may not be big enough to provide the relief necessary. That gets us back to the violent offender issue. I am not sure the Committee is willing to allow the release of violent offenders.

Judge Marshall:

I would not want to release violent offenders. What S.B. 369 permits is the release of prisoners who are within 30 days of their scheduled release dates. Section 1, subsection 7 addresses transitional housing. This section would allow misdemeanants to serve their sentences in transitional housing. This would allow prisoners to be offered high school adult education, counseling, vocational training and things of that nature.

Chair Brower:

Do you believe the judges have the power to do that under the law?

Judge Marshall:

We do not have transitional housing, and it is not an option under the law. There is no provision for transitional housing.

Senator Segerblom:

Is it cheaper to put someone in transitional housing than in the Detention Center?

Judge Marshall:

Transitional housing is less than 50 percent of the cost of the Detention Center. It also reduces recidivism. The recidivism rate for misdemeanants at the Detention Center is 80 percent.

Regan Comis (Nevada Judges of Limited Jurisdiction):

We support S.B. 369.

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

We support S.B. 369. We understand that S.B. 369 only applies to Clark County, but we still lend our support.

Steve Yeager (Public Defender's Office, Clark County):

We support S.B. 369.

Samuel P. McMullen (Aladdin Bail NV, Inc.):

We support S.B. 369. I have provided a proposed amendment ([Exhibit H](#)). Inside the jail, there is a list of bail bond agents and their telephone numbers. The list does not include the business name. We have an amendment drawn from the *Nevada Administrative Code* 697.355. Our amendment would allow the posting

by the jail of a single business name for a licensed bail agent along with the agent's name and telephone number.

Mujahid Ramadan:

I am a member of the Las Vegas Muslim community. We provide services to inmates in the Detention Center. My understanding is that S.B. 369 allows the sheriff discretion to release prisoners based on overcrowding. We support allowing the sheriff to make that determination.

Chair Brower:

Senate Bill 369 says the Clark County sheriff shall establish the operational capacity for the jail, and in the event the number of prisoners exceeds the operational capacity, the sheriff shall notify the chief judge of that fact.

Mr. Ramadan:

We support the idea and the concept because many people could benefit from alternatives to incarceration. Incarceration is a tremendous cost to the taxpayers in southern Nevada and to any community. We want to be sure the sheriff maintains discretion to relieve overcrowding. It serves the needs of communities and families, and if the offenders are nonviolent, there is no increased harm or potential harm to the community. We support anything that can keep the community safe while reducing inmate populations and improving the quality of life of offenders and their families.

Chair Brower:

The way the bill is drafted, the sheriff has no discretion. The sheriff is obligated to notify the chief judge when there is a capacity problem. Then the chief judge has the discretion to determine what to do about it. The law allows the sheriff to apply to the chief judge to release certain prisoners. The entire Committee wants to make sure the Detention Center is not overcrowded. It is a matter of how we address overcrowding and who has the necessary authority.

Doug Kuperman (Hangover Bail):

We oppose the proposed change in S.B. 369 that would reduce the bail bond premium from 15 percent to 10 percent. To slash any industry by 33 percent with a broad stroke would be devastating. Many of the bonds in Las Vegas are set at low amounts. A first-time domestic violence bond is set at \$3,000. California starts at \$20,000 and goes to \$50,000 quickly. In Las Vegas, a felony domestic violence bond is \$15,000. Driving under the influence is

rampant in Las Vegas. A first-time DUI bond is \$2,000. Almost across the board, defendants are released on their own recognizance as soon as he or she is jailed. Domestic violence is our bread and butter—a \$3,000 bail is a \$450 bond. If you reduce the bond premium to 10 percent, that is a \$300 bond. This could be economically devastating to the industry.

Joel Gutierrez (Hangover Bail):

I was following S.B. 369 with full support with the understanding that there are overcrowding issues. Then we saw the amendment, and we were prompted to let you know that we will be forced to lay off employees. Overnight, it would completely change our whole industry in Las Vegas.

Judge Marshall:

Two triggering events resulted in the increase in population in the Detention Center. One was the justice court increased the standard bail on each count significantly. The second was the increase from 10 percent to 15 percent bail bond premium. That amount has not been in place very long. I process 12,000 cases a year. I am confronted every day with the person in custody who has to make a choice between paying the increased bail amount or hiring a private attorney. They choose to get out of jail. There has been a decrease in business for private criminal defense attorneys and an increased burden on the public defender's office.

Chair Brower:

Who increased the bail amounts?

Judge Marshall:

The Legislature increased the bail amounts in 2011, and justice court increased the standard bail amounts across the board. An individual defendant in the Detention Center has a higher bail amount and a higher bond amount because of the increase in bail bond premium from 10 percent to 15 percent.

Chair Brower:

We will close the hearing on S.B. 369 and open the hearing on S.B. 258.

SENATE BILL 258: Revises provisions relating to common-interest communities.
(BDR 18-903)

Senator Joyce Woodhouse (Senatorial District No. 5):

I am here to introduce S.B. 258, which proposes a simple change to the existing homeowners' association (HOA) ombudsman position. Senate Bill 258 moves the Office of Ombudsman for Owners in Common-Interest Communities and Condominium Hotels from the Real Estate Division in the Department of Business and Industry to the Office of the Attorney General. The Office of the Attorney General is a better location for this important position given the legal nature of that Office, and its experience in handling fraud complaints and consumer protection issues.

Michael Schneider:

Senate Bill 258 is extremely important to the people of Nevada and to the consumers of Nevada. We have approximately 2 million people in Nevada living under some sort of association. That is equal to the entire population of Clark County. Clark County is booming again. Growth is happening. Everything is in an HOA. We started this social experiment years ago. Now cities and counties almost universally require developers and builders to build in HOAs. It is a way for cities and counties to shift the burden of maintaining streets, lights, and water and sewer lines to the HOA while increasing their tax base.

In 1997, I proposed an omnibus bill on HOAs. That bill created the Office of Ombudsman. We had hundreds of hours of hearings. Then-Senator Randolph Townsend was Chair of the Senate Committee on Commerce and Labor. After a few weeks of hearings, Senator Townsend told me we had to move the Office of Ombudsman from its proposed location in the Office of the Attorney General to another location. It was a political decision. I agreed. I have tried to embellish the Office of the Ombudsman over the years. I created the Commission for Common-Interest Communities and Condominium Hotels in an effort to give the Ombudsman more strength and clarity. That worked for a short time until term limits hit the Commission, and it lost its power. It is now useless, can be done away with and should be done away with if we move the Ombudsman to the Office of the Attorney General.

This extreme problem needs to be addressed. Over the years, I have been the point man for HOAs. People from all over the State and sometimes from all over the world call me. In Nevada, attorneys prey on HOAs, rig elections and have their way with them. Homeowners would call me and ask where they could go. I would tell them to call the Ombudsman. They would call back and say there was no relief there. I would tell them to call the district attorney. They would

call back and say there was no relief there. I would say call the sheriff. No relief there. Then I would say call the Office of the Attorney General. Everyone turned our homeowners away. Finally, I said call the FBI.

The FBI investigated. After the FBI made the arrests in Las Vegas, the FBI called me and wanted to meet. The FBI told me that our law recognizing HOAs as quasi-governments gave it jurisdiction. It is an embarrassment to Nevada that we allow our consumers to flounder with no protection when they are being wronged. Nevada has the resources to protect homeowners, and we do not do it. It is morally obscene.

I know that people oppose moving the Ombudsman to the Office of the Attorney General, and I know the Attorney General does not want it. However, one party controls everything this year, so we do not have to have the political shenanigans that went on in 1997. It is time to move the Ombudsman to the Office of the Attorney General and to have a strong Ombudsman.

Senator Harris:

Do you want to move the Office of the Ombudsman to the Office of the Attorney General and get rid of the Real Estate Division?

Mr. Schneider:

I want to cut the Real Estate Division totally out.

Senator Harris:

When you move the Ombudsman to the Office of the Attorney General, do you anticipate keeping the mediation and arbitration components that the Ombudsman provides?

Mr. Schneider:

I think that would go to the Office of the Attorney General.

Senator Harris:

Your suggestion is to move the Office of the Ombudsman to the Office of the Attorney General and repeal the Real Estate Division.

Mr. Schneider:

Yes. I suggest that the Office of the Attorney General develop this office and make it more effective. The Attorney General can come back to the Legislature with proposed changes.

Senator Harris:

When there is a dispute, do you anticipate the hearing process that takes place at the Real Estate Division to occur under the auspices of the Office of the Attorney General as well?

Mr. Schneider:

Yes. If the Office of the Attorney General would like to make reforms, it should come to the Legislature. All the money collected on the \$3 door fee would go to the Office of the Attorney General. That is a substantial amount of money to run the office. In 1997, I created the \$3 door fee, and that fee can be increased if necessary.

Jonathan Friedrich (Nevada Homeowner Alliance):

I am a former Commissioner on the Commission for Common-Interest Communities and Condominium Hotels and a member of the Nevada Homeowner Alliance. I agree wholeheartedly with former Senator Schneider. The Office of the Ombudsman is a disaster. An intervention affidavit or statement of fact, which are the compliant forms, can languish for up to 4 years with the Ombudsman. The office has a revolving door for investigators.

I have submitted a chart ([Exhibit I](#)) that shows cases that came before the Commission. There are three pages divided into columns with individual(s) name; case number; association name; community association member or board member; amount embezzled or stolen; and date of hearing. If you add them all up, over \$3 million has been stolen. This does not include the cases the FBI and U.S. Department of Justice have just concluded.

What does the Office of the Ombudsman do? It deals with complaints, mostly crimes and abuses of the elderly. This afternoon before I came to this hearing, I received a call from a gentleman who has an 80-some-year-old grandmother who is trying to sell her house. She has managed to rack up \$11,000 in fines, and the association is not willing to work with her. What were these fines for? The fines are for a dead bush at the entry to her driveway and damage to her

house caused by a car a year ago. The accident did substantial damage, but not enough money was paid to cover the cost of repairs.

Senator Harris:

Please tell the Committee how housing the Ombudsman in the Office of the Attorney General helps resolve these issues.

Mr. Friedrich:

The Office of the Attorney General is much more efficient. It has professional investigators. Many of those investigators are peace officers who can arrest people. In many of the cases shown on [Exhibit I](#), people needed to be arrested. They have stolen tens of thousands of dollars.

Senator Harris:

At this point, it is just an allegation. There has been no disposition.

Mr. Friedrich:

The Commission found those listed on the chart guilty. The Office of the Ombudsman needs to be swept out. It needs a new staff and to be put in an agency that deals with law enforcement. These are crimes. [Assembly Bill 233](#) would repeal NRS 116. That will bring mayhem and chaos.

[Assembly Bill 233](#): Repeals provisions governing common-interest communities.
(BDR 10-1025)

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

The Office of the Attorney General appreciates and respects the proponents' desire to improve the enforcement of NRS 116. The Office of the Attorney General carries out the responsibilities that the Legislature tasks us with statutorily. This is a policy decision to be made by the Legislature. Traditionally, the Legislature has directed the Office of the Attorney General to perform two essential functions: to provide legal counsel, advice and representation to State Executive Branch agencies; and in a limited number of instances, to prosecute crimes. [Senate Bill 258](#) takes the Office of the Attorney General into another area entirely. This is more of a regulatory function, which would be something new for the Attorney General. It does not fit with the Attorney General's traditional role in State government.

One of the rationales for moving this function to the Office of the Attorney General is due to a significant legal, technical component to the Ombudsman's function. That legal, technical component can be found in any regulatory agency in the State. When it comes to the legal piece of it, the Office of the Attorney General will fulfill its role as legal counsel and provide legal advice and representation. That is not sufficient justification. The other component is fraud. I want to make a distinction.

Certainly, the Office of the Attorney General has some jurisdiction over fraud. The Attorney General enforces NRS 598, the Deceptive Trade Practices Act. That is within the Attorney General's jurisdiction. That type of consumer fraud does not require investigating individual complaints and certainly not representing individuals. The Attorney General is looking at broad-pattern deceptive trade practices or fraud that falls across a broad number of individuals and impacts a large number of individuals in our State. Nevertheless, the Office of the Attorney General is a creature of statute and will do as the Legislature directs. The Attorney General will respect your decision on this important policy decision.

Senator Woodhouse:

The Ombudsman needs to be in a location that has the teeth to deal with the issues of people living in gated communities that have associations. This is a proper move.

Mr. Schneider:

This is something I have dealt with for over 20 years. Now is the time to move the Ombudsman so the position can have more teeth. Yes, this is a little different from what the Attorney General normally does, but the Office of the Attorney General can create and run the Office of the Ombudsman the way it should be run. This comes fully funded. This can create 30-year careers for attorneys. It is so necessary. I am at my wits' end.

Senator Harris:

Senator Schneider, thank you for your consumer protection advocacy and your desire to help Nevada homeowners. You have given us things to think about.

Chair Brower:

I will open the work session on S.B. 38.

SENATE BILL 38: Revises provisions governing the regulation of gaming.
(BDR 41-350)

Patrick Guinan (Policy Analyst):

The work session document ([Exhibit J](#)) summarizes S.B. 38 and the proposed amendments.

Chair Brower:

You will recall that S.B. 38 started simple. The State Gaming Control Board made a couple of changes. The club venue idea was introduced. Language has been agreed upon by the stakeholders and the Board. Then the William S. Boyd School of Law language was added. Finally, the minor Nevada Resort Association language was proposed. All of these amendments have been vetted.

Senator Harris:

I have a question regarding the Law School language. The language was potentially confusing with respect to the classifications. We need to make sure that the language is tightened up and made more clear.

Chair Brower:

Are you referring to the qualified organization definition?

Senator Harris:

I am referring to the dollar amounts and the types of organizations permitted to offer which lotteries. Is that process workable? It should be clear what type of organization can engage in a charitable lottery, what the dollar amounts are and how this process works.

Nick Anthony (Counsel):

The concern is in NRS 462.140, subsection 2. The language says exceeds \$2,500, but "does not exceed \$25,000." Now that I look it again, subsection 3 provides the exception for less than \$2,500. If there are any holes, we will tighten up the language. Referring back to "legal bar," a better phrase might be "state bar." If you leave this to the Legislative Counsel Bureau Legal Division's discretion, we will tighten this language as needed when we draft the amendment.

Senate Committee on Judiciary
April 8, 2015
Page 25

Chair Brower:

Perhaps "state or county bar" would cover every hypothetical situation.

Mr. Anthony:

That would include local bar associations.

Chair Brower:

That would include the Clark County Bar Association and the Washoe County Bar Association. The phrase would be "state or local legal bar." Hearing no further discussion, I will close the work session on S.B. 38.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 38.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS ROBERSON AND SEGERBLOM
WERE ABSENT FOR THE VOTE.)

* * * * *

Chair Brower:

I will open the work session on S.B. 264.

SENATE BILL 264: Exempts spendthrift trusts from the application of the
Uniform Fraudulent Transfer Act. (BDR 10-780)

Mr. Guinan:

The work session document ([Exhibit K](#)) summarizes S.B. 264 and Proposed
Amendment 6259.

Chair Brower:

Hearing no discussion, I will close the work session on S.B. 264.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 264.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS ROBERSON AND SEGERBLOM WERE ABSENT FOR THE VOTE.)

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Chair Brower:

I will open the work session on S.B. 388.

SENATE BILL 388: Establishing additional fees for filing certain motions in a divorce action. (BDR 2-1046)

Mr. Guinan:

The work session document ([Exhibit L](#)) summarizes S.B. 388 and the proposed amendment.

Chair Brower:

Hearing no discussion, I will close the work session on S.B. 388.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 388.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS ROBERSON AND SEGERBLOM WERE ABSENT FOR THE VOTE.)

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Chair Brower:

I will open the work session on S.B. 442.

SENATE BILL 442: Revises provisions governing arbitration. (BDR 3-1138)

Mr. Guinan:

The work session document ([Exhibit M](#)) summarizes S.B. 442 and Proposed Amendment 6312.

Chair Brower:

Hearing no discussion, I will close the work session on S.B. 442.

Senate Committee on Judiciary
April 8, 2015
Page 27

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 442.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS ROBERSON AND SEGERBLOM
WERE ABSENT FOR THE VOTE.)

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Senate Committee on Judiciary
April 8, 2015
Page 28

Chair Brower:

The hearing is adjourned at 6:20 p.m.

RESPECTFULLY SUBMITTED:

Connie Westadt,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	2		Agenda
	B	11		Attendance Roster
S.B. 395	C	2	Clark County	Proposed Amendment
S.B. 395	D	1	Clark County	Promote Wedding Tourism
S.B. 395	E	18	Clark County	Economic Impacts of Wedding Tourism
S.B. 395	F	3	Nancy Parent	Letter and Proposed Amendment
S.B. 369	G	11	Clark County	Proposed Amendment
S.B. 369	H	1	Aladdin Bail NV	Proposed Amendment
S.B. 258	I	4	Jonathan Friedrich	Chart
S.B. 38	J	26	Patrick Guinan	Work Session Document
S.B. 264	K	4	Patrick Guinan	Work Session Document
S.B. 388	L	2	Patrick Guinan	Work Session Document
S.B. 442	M	9	Patrick Guinan	Work Session Document