

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON CORRECTIONS, PAROLE, AND PROBATION**

**Seventy-Ninth Session  
March 28, 2017**

The Committee on Corrections, Parole, and Probation was called to order by Chairman James Ohrenschall at 9:04 a.m. on Tuesday, March 28, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman James Ohrenschall, Chairman  
Assemblyman Steve Yeager, Vice Chairman  
Assemblyman Elliot T. Anderson  
Assemblywoman Lesley E. Cohen  
Assemblyman Ozzie Fumo  
Assemblyman Ira Hansen  
Assemblywoman Sandra Jauregui  
Assemblywoman Lisa Krasner  
Assemblywoman Brittney Miller  
Assemblyman Keith Pickard  
Assemblyman Tyrone Thompson  
Assemblywoman Jill Tolles  
Assemblyman Justin Watkins  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Chris Edwards, Assembly District No. 19



**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Brad Wilkinson, Committee Counsel  
Karyn Werner, Committee Secretary  
Melissa Loomis, Committee Assistant

**OTHERS PRESENT:**

John T. Jones, Jr., Chief Deputy District Attorney, Clark County  
District Attorney's Office  
Melissa A. Saragosa, Judge, Veterans Treatment Court, Las Vegas Justice Court  
Mark Stevens, Judge, Veterans Treatment Court, City of Henderson Municipal Court  
Kevin Burns, Chairman, United Veterans Legislative Council  
Bob Lough, Private Citizen, Henderson, Nevada  
Richard Carreon, President, Nevada Veterans Association  
Ryan Gerchman, Acting Vice Chair, United Veterans Legislative Council  
Paige Harrison, Member, Incline Village Crystal Bay Republican Women; and  
Nevada Federation of Republican Women  
Byron Brooks, Private Citizen, Henderson, Nevada  
Tim Casey, Private Citizen, Las Vegas, Nevada  
Mike Blanchard, Mentor Coordinator, Veterans Treatment Court, City of Henderson  
Municipal Court  
Chere Pedersen, Executive Director, Imagine Nurturing Our Warriors, Limited  
Sandy Heverly, Executive Director, Victim Advocate, Stop DUI Nevada  
Crystal Eller, Private Citizen, Las Vegas, Nevada  
Matthew P. DeFalco, Communications Director, Nevada Democratic Veterans and  
Military Families Caucus  
Donna K. Lee, Mentor Coordinator, Veterans Treatment Court, City of Henderson  
Municipal Court  
Dan Bernal, representing Imagine Nurturing Our Warriors, Limited  
Albert Gutierrez, Private Citizen, Henderson, Nevada  
John J. Piro, Deputy Public Defender, Clark County Public Defender's Office  
Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office  
Jennifer Noble, Deputy District Attorney, Washoe County District Attorney's Office;  
and representing Nevada District Attorneys Association  
Mark B. Jackson, District Attorney, Douglas County District Attorney's Office; and  
representing Nevada District Attorneys Association  
Cheryl V. H. Wilson, Chief Deputy District Attorney, Washoe County  
District Attorney's Office  
Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force  
Genevieve Sefchick, Victim Advocate, Washoe County District Attorney's Office;  
and representing Alliance for Victims' Rights  
Kimberly Mull, Policy Specialist, Nevada Coalition to End Domestic and  
Sexual Violence

**Chairman Ohrenschall:**

[Roll was taken. Committee protocol and rules were explained.] I will now open the hearing on Assembly Bill 286, and Assemblyman Anderson will present the bill.

**Assembly Bill 286: Revises provisions relating to court programs for the treatment of veterans and members of the military. (BDR 14-872)**

**Assemblyman Elliot T. Anderson, Assembly District No. 15:**

I have watched the veterans court progress as an idea since I served as an intern in the 2009 Legislative Session when it was enacted into law. In general, specialty courts, including the veterans court, are nontraditional courts designed to ensure an inexpensive, speedy, and accurate determination of justice for a subset of the population with particular needs. The concept of the veterans court allows for additional rehabilitation options and incentives for veterans who perform what is asked of them by the veterans court system. It brings a public and private team together in order to serve veterans. The first veterans court docket was held on October 14, 2009, in Washoe County at the district court level. Since then, the Eighth Judicial District Court, the Las Vegas Justice Court, and the Henderson Municipal Court, among others, have established programs as well.

Eligibility criteria are written in the statute. To get into this court, the defendant must be a veteran or a member of the military who appears to suffer from mental illness, alcohol or drug abuse, or post-traumatic stress disorder (PTSD). The defendant's issue must also appear to be related to military service or readjustment to civilian life, and it has to appear that he or she would benefit from an assignment to an appropriate treatment program. Furthermore, if the offense is considered a violent offense, the district attorney (DA) must stipulate to the admission of the defendant. They are not allowed in as a matter of course; the DA always has that control over violent crimes. Although this bill reorganizes those requirements, it maintains these existing eligibility criteria.

I would also like to talk about how the concept works on a day-to-day basis with implementation. In terms of jurisdiction, the idea is to have the public defender's office, the district attorney, the U.S. Department of Veterans Affairs (VA), the Nevada Office of Veterans Services, the Vet Center, and service providers meet and discuss how to help each defendant solve the underlying issue. It seems more of a collaborative process than the traditional court process where you have people opposing each other pretty fiercely. It is meant to help the defendant get back on track and to avoid recidivism in the long run.

Events in practice have necessitated some changes to the statute. As I mentioned, some justice and municipal courts have established a veterans court although the statute does not allow for them explicitly. Assembly Bill 286 changes the statute to these ends to make current practice explicitly legal. Some veterans courts accepted domestic violence (DV) and driving under the influence (DUI) cases even though *Nevada Revised Statutes* (NRS) 176A.290 prohibits these crimes from being placed into veterans court because statute does not allow crimes for which statute prohibits the suspension of a sentence or probation into veterans court. Although I think I need an amendment to make this clear, my intent is to

allow people who have not been convicted previously of misdemeanor DUI or DV into the program. This would be a one-shot chance. It would be at the misdemeanor-level offenses and a one-shot deal.

I am pursuing this change for several reasons. Unfortunately, veterans and alcohol mix too often, sometimes in the form of self-medication due to problems resulting from service. Veterans with PTSD can often move to violence too quickly. Without the lowest-level misdemeanors included, we are letting these problems linger in our community without the full power of the VA's resources behind it fixing the problem. Still, this bill contemplates trade-offs in exchange for the change in the statute. Right now misdemeanor DV cases involve about 26 weeks of coursework for offenders. Under my legislation, they would still have those requirements, but they would also have to go through a year-long program. They would be subject to the jurisdiction of the veterans court team for a minimum of a year, which is substantially more than the DV misdemeanor offender must do now.

I am accepting a friendly amendment from Judge Saragosa of the Las Vegas Justice Court to allow the court to enter intermediate sanctions as a stick to keep members of the program on track when necessary. Although there is time for those 26 weeks in terms of the stay-out-of-trouble orders—I can be corrected if I am wrong—this would be an explicit way for the courts to be able to sanction these offenders to keep them on track for over a year. I am comfortable telling you that this would be a tougher road for any first-time DUI offender than normal.

This legislation will require offenders to do substantially more than the average first-time DUI or DV misdemeanor offender normally has to do. I want to be clear that those allowed in under these provisions would get one shot and one shot only. This bill will provide both carrots and sticks to these types of defendants. In the case of violent crimes, the district attorney's office still has to stipulate to the admission. It allows the flexibility of the statute but does not require anyone to take in these offenders if they do not think it will be well suited. That is the intent of this legislation, and before I get into the housekeeping and amendments, I want to turn this over to John Jones. I am fully accepting the district attorney's amendments ([Exhibit C](#)).

**Chairman Ohrenschall:**

I do not see Judge Saragosa's amendment on Nevada Electronic Legislative Information System (NELIS), so it may not have made it yet. That is a friendly amendment too, correct?

**Assemblyman Elliot T. Anderson:**

I will be happy to speak to that when Mr. Jones concludes. I will go over what the changes are. I am not sure that she knew to put it on NELIS. Maybe she was expecting me to, so I will go over that with the Committee. I intended to have a mock-up here today, but because of the deadlines and everyone being busy I thought it was best to wait.

**John T. Jones, Jr., Chief Deputy District Attorney, Clark County  
District Attorney's Office:**

We are in support of Assembly Bill 286 with the Clark County Office of the District Attorney's amendments ([Exhibit C](#)). Assemblyman Anderson has been a supporter of veterans. He has worked with us the past two sessions trying to get an appropriation for a veterans court coordinator in Clark County.

I want to start off by saying that there are two very strong policy interests colliding in this bill. We are trying to thread the needle. First we have the Clark County District Attorney's Office. We honor the sacrifice given by veterans and understand that there are service-related emotional behavior, mental health, and substance abuse issues that arise from that service. Veterans courts are a way for veterans to address those problems. We have a second compelling policy interest because our society takes those charged with domestic violence and driving under the influence seriously. Those two crimes have left scars all across our community. That is why we take them so seriously. Our statutes currently ensure those who commit repeated DV and DUI offenses are held accountable. That means enhanced penalties for their second or subsequent offenses. What we tried to do with our amendment to this bill is to seek to bridge these two seemingly conflicting policy objectives. Over the past few years in Clark County, as Assemblyman Anderson alluded to, we have had some issues with veterans court. We have had some disagreements over which court has jurisdiction to have a veterans court. We have had disagreements over what crimes can be admitted into veterans court. Steve Wolfson, the Clark County District Attorney, has made a commitment to veterans groups and others to try to bring people together to find a compromise, and A.B. 286 is that attempt. I realize that other counties in this state have not had the problems that we have had in Clark County. Those places where no problems have arisen and where they are happy with the veterans court statute as written are being asked to bend too much with respect to DVs and DUIs. I understand their position on that, and I respect it.

Before I go through the bill, I want to let the Committee know about some starting points for my office with respect to these proposals. First of all, the current DUI statute contemplates a dismissed veterans court case being used as an enhancement on a subsequent case. I draw your attention to current statute NRS 176A.290, subsection 4, which states, "Discharge and dismissal pursuant to this section [meaning the veterans court section] is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation . . . ." It goes on to say, ". . . but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail." Our current veterans court statute contemplates a subsequent conviction and our being able to use the veterans court case as an enhancement. The problem is with how it is currently written. There is no underlying conviction for some of these enhancement cases. The language that is currently in our veterans court statute is not statutorily sound with respect to supporting that enhancement. In other words, if I, as the DA's office, try to use a current veterans court case that is without adjudication to enhance a subsequent case, we are going to have both statutory and constitutional problems.

Additionally, there are sealing issues. This has proved to be the most difficult issue to overcome. As we have stated numerous times in this Committee—and you have heard me testify numerous times—when a case is sealed, we can no longer see it. If a defendant goes through veterans court, completes it satisfactorily, gets his case dismissed, and the judge seals it, it is removed from all the databases law enforcement has access to: the court databases and the law enforcement databases. We do not even know that the conviction was there in the first place, so we cannot use it to enhance a second case. What I tried to do with our amendment is to clean up the language specific to DV cases and DUIs.

Turn to our proposed amendment to Assembly Bill 286 ([Exhibit C](#)), and I will walk you through it. Before I do, I want you to turn to section 2, subsection 1, paragraph (b) of our amendment. It says, "Has been convicted of," then it lists six convictions under our amendment that would exclude someone from participation in the veterans court. Going through the bill last night and talking with others, I think section 2, subsection 1, paragraph (b) of our amendment should say, "Has been charged with or convicted of." In other words, if you have been charged with a felony DUI or DV, you should not be in veterans court. Those cases are serious enough that this is not the appropriate treatment venue for those particular crimes. Even though it is not in my amendment, it was discovered last night, and I want to make sure that this Committee knows that we would oppose anyone charged with or convicted of those offenses being in veterans court.

**Chairman Ohrenschall:**

The language you would like to see in the amendment at section 2, subsection 1, paragraph (b) is "Has been charged or convicted of," instead of "Has been convicted of." Is that correct?

**John Jones:**

Yes, that is correct. I realize that it will affect how we deal with subsection 3 that says, "An offense that constitutes domestic violence . . . ." We would need to tweak that language.

**Assemblyman Elliot T. Anderson:**

I support that amendment. My intent is solely to get to people who have never been charged with any DV or DUI and are currently charged with a misdemeanor.

**Chairman Ohrenschall:**

Even if the charge had been dismissed and there was no conviction?

**Assemblyman Elliot T. Anderson:**

The intent is not to allow people who are charged with felony DV or DUI to get into the veterans court. This will require some wordsmithing.

**John Jones:**

I understand what you are getting at. We can say, "Has not been convicted of or not currently charged with," if you would like to phrase it that way. That would get to the intent that you are referring to. We would also have to wordsmith my amendment to contemplate

someone who has not been convicted of an offense that constitutes domestic violence. If you have a prior conviction for a domestic violence misdemeanor, you would be ineligible for the program. That is the extent of our amendment with respect to section 2.

We also propose to amend sections 4 and 5 to make clear that if a defendant is charged with a DUI or DV offense, they must be adjudicated guilty prior to admission into the program. We need some sort of admission, or at least a finding of guilt, on the record if we are going to use these cases for enhancements later on if a defendant comes back. Basic due process would tell you that you need at least an admission on the record. We are proposing that an adjudication of guilt specifically be on the record for the DUI or DV offense. With respect to section 5, we also propose to make clear that if a defendant is charged with a DUI or DV offense, the court may conditionally dismiss the proceeding after they successfully complete the veterans court program. We use the words "conditionally dismissed" for a reason, which I will get to in a moment. In our amendment we also say that the court shall automatically seal the case after seven years. A veteran would get two benefits from being in the veterans court program that would not necessarily be available to anyone else: a conditional dismissal of a DUI or DV offense, and the case would automatically seal after seven years. The seven-year term is important because that is the period of time we can use it as an enhancement for a subsequent offense.

**Chairman Ohrenschall:**

I am looking at the amendment and at the language in section 5, subsection 5. Is the seven years intentionally mentioned, or is it just mentioned by reference to the statute?

**John Jones:**

If you look at section 5, subsection 5, paragraph (b), it says, ". . . named in the court's order seven years after the defendant fulfills the terms and conditions imposed by the court . . . ." Again, this seven-year period is important because it is the same for all other DUI and DV convictions. We do not want to put veterans on any footing that is not equitable to any other defendant with respect to subsequent offenses. We think that might have equal protection problems. If you have two similarly situated people, both with second offenses, one would be enhanceable because he is not a veteran, and the other would not be because he is a veteran. This attempts to bridge that potential constitutional problem.

I did not propose language for this, but after reading case law that I will get to in a moment, we also need to amend the DUI and DV penalty statutes to make clear that either a subsequent conviction or a case dismissed pursuant to the veterans court statute may form the basis for enhanced penalties. My intern did some research regarding how we use deferred prosecutions and then later enhance a penalty based on that deferred prosecution. There are two cases that came out of Washington state that have a similar statutory scheme that the DA in Clark County is proposing here. The statute was upheld on both statutory construction grounds in *Kent v. Jenkins* [99 Wash. App 287 (2000)], and it was upheld on due process grounds in *City of Bremerton v. Tucker* [126 Wash. App 26 (2005)]. In both cases, two things were important to note: first, with respect to due process violations, the defendant must admit their conduct if we are going to use it to enhance a subsequent case,

and the second issue is that notice of the enhancement must be given to the defendant for a subsequent case. In other words, when a defendant is in veterans court, the court, prosecutor, or defense attorney must notify him that it can still be used to enhance a subsequent offense even though this case is being conditionally dismissed.

In conclusion, there is no guarantee that the Nevada Supreme Court will uphold it in the same way as the Washington Supreme Court. In full candor to this body, it is a completely different jurisdiction and the citations that I just gave are not necessarily binding, but they could give guidance to the court. Our court could find differently with respect to the scheme that we are proposing. Looking at the Washington cases for guidance and the due process clause, we are on fairly strong statutory and constitutional grounds if the defendant admits guilt and we provide notice. This bill with our amendments will allow municipal, justice, and district courts to have a veterans court; allow misdemeanor domestic violence and DUI cases in the veterans court; allow DV or DUI cases to be conditionally dismissed; allow DV or DUI cases to be automatically sealed after seven years; and allow the conditional dismissal of a case. However, it will also allow the state to use a conditionally dismissed case to enhance a subsequent offense. No one who goes through the veterans court will be better off than another person who did not have the veterans court opportunity. I want that to be clear.

This is a work in progress. We are trying to bridge the gap between these two interests and we are open to any suggestions that the Committee or others may have.

**Assemblyman Elliot T. Anderson:**

Mr. Jones got me thinking about some of the legal issues. There are legal discussions about equal protection problems. I disagree that those are problems. This is under the rational basis standard. There is a rational basis here: veterans who go to war for us come back with problems that are unique to that population, and we have that nexus requirement that needs to be applied. There have been discussions from some judges, even on the record, that the nexus requirement is not being applied. The statutes require that the nexus be applied, so the nexus protects us from equal protection issues. We are making a determination that people coming back from service may have particular problems, and we have an obligation to take care of them. That is the rational basis upon which this is structured. To the extent that there are any equal protection arguments, I believe this body is protected by intent and by current law that needs to be enforced, although it apparently has not been in the past.

I also want to talk about Judge Saragosa's amendment. Judge Saragosa had a suggestion on the discharges and, although we do not exactly agree, I would like to change that to "bad conduct or dishonorable would be excluded" [section 2, subsection 6, paragraph (c)] because of some confusion over "other than honorable." Those are the folks who should be left out. Furthermore, I mentioned the sanctions amendment that is in section 5, which would tie it to professional standards regarding how sanctions should be imposed for specialty court programs. There are also some conforming amendments. *Nevada Revised Statutes* (NRS) 176A.290, subsection 4, talks about "indictment or information," so we need to add "criminal complaint" when you consider this would allow municipal courts and justice courts



that operate by complaint. There are some other conforming amendments that are straightforward. I am not able to take all of Judge Saragosa's amendments because of the broader issues we are trying to solve with the sealing. She had some substantial amendments that I do not think will quite work because of the problems we are trying to solve. We do not want to get in the way of the enhancements being used. The current statute contemplates it being used for an enhancement, and that is my intent. I am not trying to keep anyone from being charged with a second or third DUI or DV, and a third offense would lead to a felony level for each of those crimes.

**Chairman Ohrenschall:**

We have heard that therapeutic courts have a high success rate and have helped a lot of the defendants who were there. Do you know if the veterans court has a similar high success rate in helping veterans not get caught up so that we see them again in the criminal justice system?

**Assemblyman Elliot T. Anderson:**

It is difficult to get a good picture because of the way the statute is set up now in terms of sealing. It is hard to get a full picture. I would note that Washoe County, when they first started this, had recidivism statistics that were very positive.

**Assemblyman Yeager:**

In my experience, veterans courts are the most successful diversion court. The graduation rate, if I am not mistaken, is into the 90th percentile, which is much higher than some of our other courts. As far as legislative intent, your amendment was a little confusing when you went through the conviction versus the charge. Is it your intent in the amendment that someone charged with a misdemeanor battery domestic violence would be allowed in the program, but if they were convicted previously they would not be? Can you clarify that?

**John Jones:**

I discovered the issue with conviction versus charge after I proposed the amendment. For clarity, if the offense originally listed in the bill would currently be "charged with or convicted of," then we would need a new category for battery domestic violence that says, "has previously been convicted of battery domestic violence."

**Assemblyman Yeager:**

That makes sense. You talked about a provision where the case would automatically be sealed after seven years. We talked about sealing and I thought there was some general concern about doing automatic sealing based on the workload. Typically, in record sealing we make the applicant petition for it. Do you have comfort that automatic sealing would be feasible in this situation? Have you put some thought into the practicality of how it would work and who would be responsible for initiating the sealing process after seven years?

**John Jones:**

I asked Bart Pace, who handles the sealing for the Clark County District Attorney's Office, about this issue, and he is comfortable with the language that we have proposed where the

court would automatically send an order sealing the case after seven years. It would happen automatically, and they could calendar it on their own, internally, and submit the order once seven years has passed.

**Assemblyman Yeager:**

You have mentioned Judge Saragosa's amendment about intermediate sanctions. Would that require a finding of guilt? I have some potential, constitutional concerns whether a court could sanction someone who has not yet been found guilty of a crime. It may be something that we have not thought about, but the way I read the statute, the adjudication can be suspended for the person to complete the veterans court program. You were talking about DUI and DV, and those would probably need to have an adjudication for enhancement purposes for the sanctioning part. For the judge to have that authority constitutionally, we would need an actual conviction for that to be appropriate.

**Chairman Ohrenschall:**

I believe Judge Saragosa is signed in down in the Sawyer Building, and this might be an appropriate time to call her up to speak to her amendment.

**Melissa A. Saragosa, Judge, Veterans Treatment Court, Las Vegas Justice Court:**

With respect to sanctions, currently all diversionary programs operate on an incentive, sanction-based situation. It is part of the ten key components that are taught from drug courts, mental health courts, and veterans treatment courts across the nation. Sanctions are not intended to be part of a sentence; they are intended to be a redirection to get a person who is in a diversionary program, like a veterans treatment court, back on track. When there has been a violation—let us say they have a positive urinalysis at some point during the year that they are in the program—that is not something we encourage. In fact, that is something we discourage. We want to get them back on track and to stay clean. That first positive urinalysis is not going to automatically terminate them from the program, but we need to do something to correct that behavior. It is similar to a contempt of court hearing, but the contempt of court hearing statute in NRS Chapter 22 requires an order to show cause notice and a lot of very formal procedures. I am not suggesting that there will not be a procedure here because there absolutely will be.

As written in my proposed amendment, it is a notice to the offender of what the violation is, and he is given an opportunity to have a hearing and to respond to those allegations. Sometimes the response is that they do not know how the urinalysis came up positive. Other times it is an admission that they had a relapse and they have to work through it. We figure out—as a case management team including prosecutors, defense attorneys, a veterans justice outreach person, and the treatment providers—what sanction would be appropriate. Sometimes it is adding additional urinalyses. Maybe they were only testing randomly two or three times a week and now we increase it to daily. It may be adding an additional curfew to the requirements or requiring them to write an essay about their relapse. Maybe it is addressing low creatinine levels and how water overloading affects urinalysis. Sometimes it is a couple of days in jail. Community service can be a sanction. There are a wide variety of

sanctions that we use to keep people on track in this program. The idea was to give this statutory authority to look like a contempt hearing; it is not a termination hearing. In response to Assemblyman Yeager's question, I do not believe it would require a conviction.

**John Jones:**

As long as the defendant is told what the full program entails when they enter the program, including the possibility of sanctions as Judge Saragosa just explained to the Committee, we are on strong due-process footing.

**Assemblyman Elliot T. Anderson:**

This is a wholly voluntary program. No one is forced to go through the veterans court, and no court is forced to have a veterans court. That is an important thing to keep in mind as we have this discussion for both the administration of this program and for the defendant. It is all voluntary.

**Assemblyman Wheeler:**

As one of the two veterans on this Committee, I want to thank the other one for trying to clear this up. This bill is extremely restrictive to our veterans as far as the court is concerned. When I look at this bill and read section 2, both in the amendment and in the original bill, I see that people will not be eligible for veterans court if they had a prior conviction on a misdemeanor domestic violence or DUI. What I see from the veterans side is that these are the very people we need to get into these programs. If someone just gets back home from deployment and celebrates and gets a DUI, we put him in veterans court. He gets through the program as part of that 90 percent success rate. Six weeks later he gets in a fight with his girlfriend, and she charges him with domestic battery. Now he is not eligible for the court. These are the very people we want to get into the program, right? We are removing judicial discretion on this.

**Assemblyman Elliot T. Anderson:**

The statute is being opened. Right now the default is that nothing gets in. Anything that is prohibited from a suspension of sentence or probation is not allowed in. In fact, when I first met with the district attorney's office about this, I was confused about why they were doing it. Then I found out that they had talked to veterans groups and had made a commitment to try to open it a little bit for those first-time offenders for relatively nonserious DUI and DV offenses. This bill moves the ball forward. While I understand the bill may not be as perfect as some people may want it, this is the right thread of the needle when you do not have death or substantial bodily harm. When you have death or substantial bodily harm, that is an exceptionally serious charge, and I am not comfortable letting that in. When it comes down to it, I have to draw the line somewhere. I think the right place to draw the line and open the door is for the relatively less-serious offenses that do not involve lasting damage to a victim. When someone keeps recidivating, we have to draw the line. My intent with this is a one-shot deal; we cannot fully open the gate. These can progress and become very serious offenses.

**Assemblyman Wheeler:**

I agree with you that we do not want these offenses to get more serious, but what we are doing here is actually changing the law; that is what we do. We are not threading the needle, we are starting the sewing machine. When it comes to our veterans, it needs to be an industrial sewing machine. Every case is different, so we cannot remove judicial discretion from this. Your war was different from mine, and I understand that; however, we saw the same kind of people coming back.

**Assemblyman Elliot T. Anderson:**

I certainly share a lot of the sentiments that you expressed, and I think that most people on this Committee do, but as Mr. Jones articulated so well, we have very important policy objectives colliding here. We have to protect DV victims and our roads in order to make them safe. These things are very important, and this is still moving things forward. Right now there is no judicial discretion, but there will be. We are not letting everything in, like crimes of violence. Under the existing statutes, the DA has to be comfortable with letting the person in. We are creating discretion that was not there. If you and I were brothers and we lived in a two-bedroom apartment and I slapped you, that could be charged as domestic violence. We need more discretion for those cases that are not serious. In the veteran community it is not uncommon for one veteran to fight another veteran.

**Assemblyman Wheeler:**

I wonder if the DA and the Assemblyman would mind meeting with me offline so we can discuss this further instead of now.

**Assemblyman Elliot T. Anderson:**

I am always happy to meet.

**John Jones:**

The same for me, always.

**Assemblywoman Cohen:**

In section 3, subsection 1, paragraph (a), where you list the possible reasons why someone may need to avail themselves to veterans court, including mental illness, and alcohol and drug abuse, I wonder if we should include traumatic brain disorder. We are learning a lot more about that issue for some returning veterans.

**Assemblyman Elliot T. Anderson:**

I agree with you, and I think that would be a positive change. That can lead to significant mental health issues because of the way the brain bounces back and forth inside the skull and can result in a concussion. It can cause a number of behavioral problems, which is already complicated by the nexus. So that people are clear, that paragraph is the nexus requirement that I am referring to. Under the statute, the court has to make a finding that it applies. Right now it is not being done in Washoe County, as Judge Hardy's letter to the Committee pointed out. That is not an option; this needs to be applied as it is important to ensure that it is legal.

**Assemblywoman Cohen:**

I am confused about which courts have jurisdiction to start veterans courts. I have heard about veterans courts at different levels and different jurisdictions throughout the state.

**John Jones:**

As the statute is currently written, only a district court can establish a veterans court. The problem that we have seen is that other courts, like municipal and justice courts, have started veterans courts, and they argue that it was out of their inherent authority to establish a program. The problem is when they apply some of the carrots that are currently in the veterans court statute, in particular, dismissal. A court that does not have jurisdiction to start a veterans court pursuant to NRS Chapter 176A would not have jurisdiction or authority to dismiss a case after completion of the veterans court. That is one of the conflicts that we had in Clark County that led us to present the bill that you have before you today.

**Assemblywoman Cohen:**

In section 2, subsection 1, paragraph (a), that says, "Has previously been assigned to such a program," does that include any veterans court program? I have heard of someone who failed one program, had another charge, and then participated in another program.

**John Jones:**

That is a great question. I would argue that anyone who has been in a veterans treatment court program and received services would be covered by that provision. In other words, they would be excluded from being in a program in the future. The reason is that the services would be the same. We would still work with the VA and others, so we would be duplicating services that would have already been provided.

**Judge Saragosa:**

I would like to give you an example of what I see. Not every veterans treatment court is the same. Some of us across the nation take pride in following the ten key components and the best evidence-based practices to make our programs successful. My program has over a 90 percent success rate and no recidivism, but others do not have that success. I had an individual who was in a different program that he did not successfully complete. He had been returned to the judge who originally sentenced him and that judge elected to add additional requirements for him to go through my program. He went through the year-long program and was successful. He is doing amazingly, graduated about six months ago, and has a full-time job for the VA. He is clean and has been sober for over a year. I am glad he had the opportunity to come through my program. He is fortunate because another one may not have fit him. The treatment services that the veterans treatment courts offer are through the VA. When we refer someone for something like substance abuse, they go through an addictive disorder treatment program through the VA. He was already enrolled in that program. He was not duplicating services or treatment through the VA. He was continuing his treatment.

**Assemblyman Fumo:**

The number one thing that I see in my practice in criminal court is PTSD. One thing I do not like about section 2 is that someone who suffers from PTSD is likely to commit a violent crime, whether it is battery or assault. Usually it is the judge who is the gatekeeper, but instead it is the district attorney's office that is the gatekeeper. I would like to propose an amendment that it is either by stipulation of the parties, or perhaps the judge could have a hearing. Much of the time I have information that the DA does not, such as the defendant has been in the military. Once I give them the information, they may or may not care, and they may not allow it just because of that. I think it would be fairer if we could have a small hearing in front of the court and let the court decide if the defendant is appropriate for the program.

**John Jones:**

First, that is current language; we are not proposing to amend that section. With respect to a possible amendment, I am willing to talk to you and other members of the Nevada District Attorneys Association regarding that amendment. I do not want to commit to anything on the record now, but I am always willing to talk.

**Assemblyman Pickard:**

I know a lot of people have been working on this for quite some time. I recall a veterans committee meeting back in late 2015 where Judge Saragosa and I had a conversation about this. I am concerned about making what can ultimately be a life-changing decision based on a mere charge. The whole system of jurisprudence in criminal context is based on convictions. With that in mind, if a veterans court participant started the program, and might even have completed it but was charged a second time, he is now excluded. I think his being excluded creates an enhancement of itself. Before, they were given an opportunity to avoid the criminal consequences of their conduct through the treatment program, but now they are being excluded from that option. Now they must go through the regular criminal proceedings. That in itself is an enhancement, is it not? I am talking philosophically; is it not an enhancement under the law? It is a much bigger deal going through that process, is it not?

**John Jones:**

I will agree that the veterans court is set up to be a 12-month program. It is intensive in terms of the counseling and such. In that respect, it is meant to be intensive. As you read in the list of what I would call inclusions—mental illness, alcohol or drug abuse, or PTSD—that person would need to enter the program. We want a longer period of time to help address those problems. You are talking about it being an extensive program, and it is. We are also giving veterans a benefit that no one else is able to avail themselves of. If a nonveteran is charged with a DUI or DV, there is no ability for him or her to get a deferred prosecution or a conditional dismissal at the end. It would actually be illegal for a prosecutor to dismiss a provable DUI or DV case. Veterans are getting a benefit that is available to no one else, and in that respect I would disagree with the proposition that it is an added punishment for veterans.

We have reached out to victims groups for domestic violence or DUI. I do not know where they are going to stand. They will come up here and tell you their opinions themselves, but we have listened to their concerns and tried to address them in our amendment. I think we are getting closer.

**Assemblyman Elliot T. Anderson:**

We worked with Stop DUI in Clark County, and I believe they are at least neutral based on our conversations when they were working with us. I have addressed the concerns of Kimberly Mull's group, who is often here. They said they will stay neutral based on fixing the sealing issue and ensuring that it is only a one-time shot at the misdemeanor level. This is an important conversation for everyone here because there are different groups all over the state with different opinions. The district attorneys are split on this question, and so are victims groups. I wanted to add that context because it is important for everyone here to know that this has been a long-term effort that has gone back at least a year and has drawn victims groups into this conversation.

**Assemblyman Pickard:**

I appreciate that, and I agree with you with respect to the equal protection question. I think veterans have been exposed to a unique set of circumstances, so it actually puts them in a different spot. I do not think we can say that someone who has never seen combat is in any way similarly situated to someone who is dealing with PTSD. This felt more restrictive to me, particularly considering previous iterations of the various legislation that we have seen proposed. I am concerned that we are not capturing all of those who would benefit under section 2. I understand that this is about where the line is to be drawn, and I get that. Reasonable minds will disagree, but would more discretion in the court be advantageous in this circumstance to catch those outliers who might really benefit?

**Assemblyman Elliot T. Anderson:**

This is going to be a funny hearing because you think that, and the opposition is going to come up here and tell you that it is way too open and these crimes should not be in there. Right now, the statute is completely restricted. The bill is not more restrictive, but it is opening the door slightly. I cannot emphasize that enough. I would not come in here and make a veterans court more restrictive. As someone who has watched this progress since I was an intern, it is not going to come from me.

**Assemblyman Pickard:**

That was inarticulate of me. I did not mean more restrictive in the general sense. I meant more restrictive in terms of where we could draw the line. I agree with you completely in that respect.

**Assemblyman Elliot T. Anderson:**

No one else is tackling this issue. There have been other veterans court bills that have handled the jurisdiction issue, but this has been a long-term project to take a stab at the statute. It seems like no one is following the statute. This is a teachable moment because it has become a bit of a football because everyone wants to help veterans. It is a good reason

not to follow the statute. It is not pernicious at all. I get frustrated when we sit up here taking our time and working hard to get these things right, and then they are not applied correctly. That is why we are here.

**Assemblyman Pickard:**

I will second that motion.

**Assemblyman Watkins:**

This goes back to our discussion on automatic record sealing. Are we aware of any other statute in which there is automatic record sealing that takes place after a certain amount of time? I am not aware of any such thing. My concern is that it all sounds good in the bill and in statute, but seven years is a long time. We have different judges and the case gets assigned to someone else. No one knows whose responsibility it is, and if we fail to do it automatically after seven years, have we opened ourselves up for recourse, and what have we done to the veteran?

**John Jones:**

There are ways to get around that. You can put a notation in our court computer now that in seven years you have to calendar a hearing, or just a note to the judge that he needs to sign an order on a particular date. I am not saying that is the approach that we will ultimately take, but there are avenues to accomplish that objective.

With respect to automatic sealing, the veterans court statute, as currently written—and I believe the mental health court statute as well—allows for automatic sealing after completion of the program. In terms of the time period, I think this would be unique in statute. Again, we are talking about a unique group of people as everyone has indicated. That is why we wanted to come up with something that allows a basic benefit to those participants in the program.

**Assemblyman Elliot T. Anderson:**

I would also note that yesterday I had that same question regarding setting a hearing for someone who turns 21 years old. It is calendared immediately in that context, so there is no reason it cannot be done here.

**Assemblyman Watkins:**

A lot of things are supposed to happen automatically on the civil court level that do not happen. It is concerning to me that something on as high a level as sealing can have serious ramifications for someone. We may want to look at some other idea on what to do with this.

**Assemblyman Elliot T. Anderson:**

I have confidence that Judge Saragosa and Judge Stevens and all of the other judges will make that happen.



**Assemblyman Thompson:**

We need to have this court program. This question is around the program design. What are the core components of the program and the desired outcome?

**Assemblyman Elliot T. Anderson:**

I will defer that question to Judge Stevens and Judge Saragosa since they are best suited to give you a good answer.

**Assemblyman Thompson:**

My question is about the program design. Please tell us about the core components of the program and, specifically, the important desired outcomes.

**Mark Stevens, Judge, Veterans Treatment Court, City of Henderson Municipal Court:**

Obviously, public safety and no recidivism are the desired outcomes. It is important that we get these individuals back on the right track. The veterans treatment court is a very intense program. I know there is discussion about the one year, but not many of my participants in the program graduate in one year. As a judge and a Marine, I want to ensure when I am dismissing a case that I feel comfortable that they are on the right track because we all want them to succeed. One of the key components is the mentor system. We use other veterans who volunteer their services to be mentors. We are fortunate to have enough mentors at this time that we can assign two mentors to each veteran in the program. It is a critical aspect.

Frequent status checks are critical as well, so they know where the support comes from. The random drug and alcohol testing is also critical. I imagine that many of the folks who are in the program will be in it for 500 days. Every day, they have to call to see if they are testing the next day. That is a critical aspect because we want to isolate some of the issues that they have. If it is PTSD and alcohol and drug issues, or a traumatic brain injury, we need to isolate those and make sure the alcohol and drugs are not the main issue. The evaluations to determine what counseling they might need are important, whether it is outpatient counseling for substance abuse, PTSD counseling, and sometimes a combination of all of those things to include Alcoholics Anonymous (AA), Narcotics Anonymous (NA), or some other acceptable alternative. Some of these folks may have six, seven, or eight things that they have to go to every week.

**Assemblyman Thompson:**

When you open it up everyone wants to add their piece, but I would really like you to consider adding homelessness in section 3, subsection 1, paragraph (a). You already talk about mental illness, alcohol or drug abuse, and PTSD, and I would love for you to consider adding homelessness. That is the core that drives a lot of the mental illness and substance abuse. If the person does not have stability in his life, it is extremely difficult to work on anything else. Would you consider that? I do not want it to be the homeless veterans court, but that is a core issue in our communities.

**Assemblyman Elliot T. Anderson:**

We are willing to talk about it.

**Chairman Ohrenschall:**

We also had the suggestion to add the traumatic brain injury to that section from Assemblywoman Cohen. Judge Saragosa mentioned a 90 percent success rate in recidivism. Judge Stevens, what kind of success rate have you had in Henderson?

**Judge Stevens:**

We have had the program for six years and have had 119 graduates. Of those, we have had five reoffend. We try to keep statistics on this. My guess is that it is about 4.5 percent.

**Chairman Ohrenschall:**

That is outstanding. Does the data only cover veterans who were treated in Henderson and then reoffended in Henderson, or does it also cover veterans treated in Henderson but reoffended in another jurisdiction in Clark County?

**Judge Stevens:**

We usually find out because many of them stay in touch with the mentors. Typically, they have gotten arrested again in Henderson or in justice court in Henderson, and I am made aware of it, so we include that in the statistics.

**Assemblyman Elliot T. Anderson:**

I also want to touch on Assemblyman Thompson's other question. Judge Saragosa's amendment references the National Association of Drug Court Professionals. There are a number of different groups that have standards for how these programs should be run. I know that she looks into those. Beyond the sanctions element, it is difficult to tell the court exactly what standards to use. That is better suited to be handled at the court level.

**Judge Saragosa:**

I would like to answer Assemblyman Thompson's question as well. Justice for Vets is a national program that mentors, trains, and educates on the best evidence-based practices for veterans treatment courts. There are ten key components to that program that both Judge Stevens' court and mine follow. They are: to integrate alcohol and drug treatment and mental health services with justice system case processing; using a nonadversarial approach between prosecution and defense counsel to promote public safety while protecting participants' due-process rights; identify eligible defendants early and promptly and get them placed into the diversionary program; provide access to a continuum of alcohol, drug, mental health, and other related treatment and rehabilitative services; monitor abstinence by frequent alcohol and drug testing; a coordinated strategy governing veterans treatment court responses to participants' compliance—that is the sanction and incentive portion—and ongoing judicial interaction with each veteran; and monitoring and evaluation to measure the achievement of program goals and gauge effectiveness.

We are in the process of finalizing our evaluation process with an outside agency through the University of Nevada, Las Vegas. We monitor things throughout the program like what their housing status, job situation, education, and connectedness with family and friends in the community were in the beginning and what they were in the end. We determine whether

they have improved their disability or have obtained the disability benefits that they are entitled to, and whether they increase or improve their discharge characterization while they are in the program. Many of our veterans do not have a driver's license when they begin the program, so we monitor that to see if they obtain one. All of those are things that we monitor to gauge our effectiveness.

The last two key components are the interdisciplinary education that promotes effective veterans treatment court planning, implementation, and operations and forging partnerships throughout the community and community-based organizations to support and enhance the program's effectiveness.

**Assemblywoman Krasner:**

Would you enumerate the specific benefits that this program gives to our veterans?

**Assemblyman Elliot T. Anderson:**

The most important thing to talk about is the extra resources that this program brings to the justice system. Unlike most defendants, veterans have VA entitlements of health services, mental health services, counseling, and other things that we can bring into the state and use to solve some of our criminal justice issues and to stop veterans from sliding into a life of crime. That is the goal of the veterans court. The goal is to bring in these resources, the VA, and other service providers to meet with the DA, the defense attorneys, and the judge to fix this problem instead of fighting about it. That is the single most important benefit to emphasize because these are resources that we do not have to pay for. These resources will stop people from the downward slide to alcoholism problems and anger issues. That is why it is so important to expand this slightly to the first-time offenders, so we can stop this problem before it gets out of control and harms our community even more. In addition, we do not have to spend as many billable hours. It is important that we get the costs of our justice system under control because we are spending too much to jail people if we can solve these problems without a threat to the community.

**Assemblywoman Miller:**

I appreciate this bill. We know how necessary it is to serve our veterans. While I would personally like to see it even more inclusive, I understand the challenges right now. Going back to Assemblyman Thompson's question about the actual program, it appears we are dealing with grief counseling and addiction services. When it comes to the actual mental health component, are we navigating people through the system? Are they being cared for through actual professional mental health services? Do we have a family restoration or family counseling component to it, especially for a DUI or domestic violence?

**Judge Saragosa:**

Yes, there is a definite mental health component. They are treated through both the mental health clinic at the VA and the Vet Center. The Vet Center is specifically designed for combat veterans; both of the agencies treat PTSD. The VA generally treats those with coexisting PTSD and substance abuse issues. Those who have PTSD alone will generally get diverted to the Vet Center since their program is more directed toward that particular issue.

and gives them a long-based process. The treatment is ongoing for someone with PTSD. It is not "here is your three-month program and you are done." It is ongoing, and they have group counseling at least twice a week and individual counseling at least once a month. They go through whatever is necessary to get to the point where they can control their anxiety or other things that lead them to lash out. There are a variety of different programs that are uniquely designed for that individual.

[Assemblyman Yeager assumed the Chair.]

Within the veterans treatment court program, from the court's perspective, we are always working through our mentors and through the veteran himself in judicial interaction to encourage him to get back with his family members. That is part of the substance abuse recovery process for those who have a substance abuse issue. They are encouraged throughout the program. It is part of the 12-step program. They work on their recovery plan to get their community support system in place, which includes family.

I am not sure that there is any particular counseling program that would bring them together in a group family counseling environment.

**Assemblywoman Miller:**

That was the heart of my question. When we are talking about issues that are affecting veterans, especially with addiction and anger issues, a lot of times the victims are the family members. However, those victims are the ones who are going to fight the hardest and support the veterans back into the healing process. What are we doing for the holistic approach around the family unit?

**Judge Saragosa:**

We can encourage it and we do, but remember, the court only has jurisdiction over the person facing the criminal charges. I have no jurisdiction whatsoever over the spouse or the girlfriend or anyone. We encourage it and when there is an opportunity they will go, but if the spouse does not want to go to counseling, I have no means of making her go.

**Assemblywoman Miller:**

I would not suggest that, but I am looking at a service being provided like we do in family courts and such.

**Judge Saragosa:**

I also presided over our domestic violence court for Las Vegas Justice Court for two years. I am very familiar with the domestic violence counseling batterer's intervention programs that are out there. Generally, including spouses or girlfriends who are victims of domestic violence is frowned upon in terms of counseling. It puts the actions of the batterer, or the defendant, as the one who needs to be corrected. There is a family court component. I understand there is a healing process, but from a counseling perspective, we do not have

victims participate in DV counseling; in fact, they are prohibited from attending. We want to treat the batterer for the batterer's actions and not inadvertently blame the victim for the conduct.

**Judge Stevens:**

The Vet Center does provide family counseling and are flexible in that way. They provide good family support in counseling. As Judge Saragosa said, I cannot order them to do that, but frequently in those situations the Vet Center will accommodate us.

**Assemblyman Wheeler:**

You said that you had 119 in your program and, of those, only 5 reoffended. Of the five that reoffended—and that is a great success rate—were any of them sent back through the system again, or did they just go into a regular court system? If so, was that through judicial discretion or was it by law?

**Judge Stevens:**

One of the rules we started six years ago, which was not part of the legislation, was that once they were in the program they could not be in it again. My recollection is that three of them appeared in front of me, and they were referred over. That was part of the agreement that I have with the prosecutors so they were more amenable to having them in the program. When they stood in front of me, they all said they knew they could not be in the veterans court again, and they were apologetic that they were in the situation again. To my knowledge, none of them were ever accepted again, at least not in my court.

**Assemblyman Wheeler:**

That was at your discretion, correct?

**Judge Stevens:**

Yes, it was. When we started the program, we used the legislation as a basis for our court even though we are not specifically in there. We were doing it based on the inherent power of the court since it was the municipal court. We have the inherent power of the court to do some of those things, so we discussed how we wanted to operate the program well in advance of starting it. We wanted to find what made the prosecutors more comfortable with the program.

**Assemblyman Elliot T. Anderson:**

It is important to have buy-in as much as possible from the district attorneys' offices across the state. This is a collaborative process. If all parties do not feel that they are part of this and that their opinions are respected, people will not participate. We need that buy-in, so it is important to get to middle ground on all of these issues. I expect military members and veterans to follow orders. It is not something that I am just wishing for; I expect it. They get a shot that is not given to anyone else, so they better follow orders. I do not think it is too restrictive to say that they only get one shot.

**Assemblyman Wheeler**

I do not think it is too restrictive to give everything we can to our veterans, even if it is two shots.

**Vice Chairman Yeager:**

At this time we are going to move on to supporting testimony. We have a number of people signed in who would like to testify in support, both here in Carson City and in Las Vegas. Please keep your comments as brief as possible; it will be appreciated. We will work hard to get through to everyone. We will start in Carson City.

**Assemblyman Chris Edwards, Assembly District No. 19:**

I am the president of the Legislative Veterans Caucus and a retired Navy commander. Assembly Bill 286 provides important improvements to the effective operations of the veterans treatment courts. I was glad that Mr. Jones indicated that he would be willing to work on some of the amendments because I would like to sit down with him to improve them. I would also like to thank Judge Stevens and Judge Saragosa. They have done outstanding work for the veterans treatment courts that actually brought the courts to life and have made them work. It has been their leadership and steadfast support in the veterans treatment courts that have changed the lives of many and set them on the path to success. It is people like them and many of the veterans who have made the program work.

Many people still do not know what the veterans court is. I would like to briefly say that it is the most successful rehabilitation program that truly helps people who have gone astray and are going down a destructive path. There are many reasons for this, and we have discussed several of them today. In the past 16 years, the military has become a much more dangerous and stressful place. Thousands of military personnel who have served in horrific combat or intense situations have been changed, and changed for the worst. Some have returned home with physical injuries that lead to using pain killers, as would be the norm. Then they get hooked on them, and they find that they have been overprescribed. Others begin drinking heavily and keep going. Judge Stevens has certainly regaled us with why good people go astray. He mentioned some of them, and I will go into the rest of them.

What I would like to emphasize is the amazing results of the veterans treatment court. I stress treatment because it is not just a matter of being a courtroom, it is a matter of being a treatment program to fix the situation. This is perhaps the most stringent treatment program anyone can enter into. The individual will go through the intensive monitoring and oversight for a minimum of a year and often for two years. Every day you have to report in. Every day you have to do something. Every day for two years you are subjected to the possibility of testing, monitoring, et cetera, plus you have to go through counseling. This is truly intensive. You do not get this outside of the veterans court. That is part of the reason for its success.

The counseling programs are intricate. A lot of veterans try to get help from the VA, but the process to get into a program is so horrific that some people give up. I am working with

a group of veterans down south, and the problem is that they cannot get the help they need from the VA. Another benefit of the veterans treatment court is that it gives them access to the help they should have been getting all along.

[Assemblyman Ohrenschall reassumed the Chair.]

The results speak for themselves. The failure rate for the program itself is less than 20 percent, which is amazing. The recidivism rate is about 3 percent by my calculations.

In closing, the program gives veterans a second chance, a chance that they have earned by their service and by completing the program. I urge your support for Assembly Bill 286, and I thank you for your consideration.

**Kevin Burns, Chairman, United Veterans Legislative Council:**

We are the umbrella group over all of the national service organizations located here within the state of Nevada. We were elected from those organizations to carry forth the one unified voice of the veteran community. I am here today to testify in support of A.B. 286 and to thank Assemblyman Anderson, et al., for putting the legislation together.

Mr. Jones said veterans are getting a benefit that other people do not get. We tend to not look at it that way because we tend to think we earned that benefit. We have gone to places and done things that most people would never dream of or will ever see.

We have concerns about the bill. We have the same concerns that Assemblymen Wheeler, Fumo, Pickard, and Yeager brought up, but we also realize, as we go through this legislative process, that we are never going to get everything we want. The biggest problem with veterans courts right now is that there are not enough Judge Stevenses and Judge Saragosas helping veterans. Unfortunately, not every veteran in this state lives in Las Vegas or Washoe County. As you will hear from one of my colleagues who will testify shortly, we have a lot of veterans scattered throughout the state and, if you are in a rural area, you are basically "screwed" as far as veterans courts go. We would like to see that changed.

Most of the young men and women who appear in front of these judges appear because they are suffering from some kind of disability that they incurred in service to the United States of America. You, me, and the people of the USA sent them into these areas and asked them to do and see those things. I do not need to tell anyone here that the VA has struggled in taking care of a lot of these individuals, and the least we can do is give them assistance.

**Assemblyman Wheeler:**

Could this bill be better if we remove some of these restrictions?

**Kevin Burns:**

Sir, I never met a bill that could not be better.

**Assemblyman Wheeler:**

You may be a little off on your testimony about the rural areas. If we have a veteran in Douglas County who needs veterans court—and I see the Douglas County District Attorney sitting there—while we do not have a court in Douglas County, we send those people up to Carson City for treatment. The rurals do try to take care of themselves.

**Kevin Burns:**

Yes, sir. My day job is to run the Veterans Resource Center at Western Nevada College in Carson City. I had one of my veteran students proudly graduate from Washoe County last week. I understand what the Assemblyman's point is. We work and the judicial system tries, but if you are in Ely or Mina, what choice do you have there, especially if you have limited transportation available to you?

**Judge Stevens:**

I want to express the importance of specifically having municipal courts and justice courts in the statute. Obviously, we want to handle this and get these individuals on track at the lowest level possible. While it is still misdemeanors and the lesser crimes before they become felonies, it is critical that it is recognized in there. We have been doing it under the inherent powers of the court, and a lot of specialty courts have been created that way, but it is preferable if we have it in the legislation.

With regard to the statute, it is critical that the DV and DUI cases are allowed into the program. As far as DUIs, I was a graveyard police officer for four years. I made plenty of DUI arrests. As a prosecutor for seven years, I prosecuted many DUIs, so I take them seriously, as well as domestic batteries. Before I became judge, I was on the board of directors for a safe house, a domestic battery shelter. I take those seriously, but I think we have support from folks such as Stop DUI because they see the effects of our solving problems. Doing a couple of days in jail does not solve the problem, but these long-term treatment programs can. My calculation is that about 88 percent of the cases in veterans treatment court are domestic batteries and DUIs. Those are the cases and things that we would expect veterans to have when they come back from combat and from serving their country. It is critical that those cases be allowed into the veterans treatment court, so that we can stop it at the lowest level in the specific cases that we expect with drug and alcohol problems and mental health problems, like PTSD.

**Chairman Ohrenschall:**

On that 4.5 percent recidivism rate, you mentioned that a lot of the veterans who have been helped by your program have a mentor or two. How long does that relationship last? Does it last beyond the requirements of the veterans court? Does the mentor continue to help the veteran through the criminal justice system?

**Judge Stevens:**

We have had mentors from the start. Everyone gets assigned at least one mentor, and right now everyone is assigned two. Most of the time that relationship continues for a period of time, depending on the relationship. That is one of the advantages of the veterans treatment



court: once you graduate, you are still not on your own. They still have services with the Vet Center and the VA, and with their mentors and the friends they have made. That is one of the bonuses and one of the reasons the recidivism rate is low. We have a couple of mentors here to testify.

**Judge Saragosa:**

I have run the veterans treatment court in Las Vegas since January 2015. I have seen some areas where we could use some improvement, and this bill covers a great deal of it. I am concerned about some of the amendments that were brought up today, particularly the district attorney's amendment. I am concerned that it will become too restrictive. I realize that some of those are policy issues, and it is not my place to speak on those. Given my background and experience with running the program, I can give you some areas to think about.

The individuals I have seen who suffer from PTSD are veterans who have given to our country and have experienced trauma through their combat service. Those are the ones who will most likely end up with a criminal charge, almost always domestic violence. Making access to the program too restrictive because of a DV charge seems to add a cycle when you are most in need of it. Because of the nature of the charge, you are not eligible to get the treatment that you need through the veterans treatment court program.

I am concerned about the automatic sealing after seven years that Assemblyman Yeager mentioned. Someone has to be responsible for that. How would that happen? We have changes in judges and reassignment of cases on a regular basis, probably more so in the Las Vegas Justice Court than some of the smaller courts. I am concerned about people falling through the cracks. If we can wordsmith the language to clean it up and make it clearer, I would love to be part of the conversation.

I have concerns about one other area, and those are comments made by John Jones of the DA's office. Victims and advocate groups for DV and DUI want these offenses to be taken seriously, which they are by the veterans treatment court. The mandatory, minimum requirements for someone convicted of a DUI offense are four DUI classes, a victim-impact panel, monetary fine, and some community service. It is a program that could be completed in a period of six weeks at a rapid pace. With the veterans treatment court it is a minimum of 12 months, a minimum of 25 group sessions at 2 per week for 12.5 weeks, plus an additional 25 sessions of aftercare. That is 50 sessions of group counseling, plus 1 individual session for every month they are in the program. They are subjected to random urinalysis testing for drugs or alcohol throughout the program at an average rate of two to three times a week. In addition, they are required to come back to court every two weeks during the first six months for a status check to show proof of compliance for the DUI offense. In my program, they must come back at least every four weeks after that. I think there is a great deal of oversight and accountability, and that is what our veterans need in order to get them on the right track.

I am concerned about the suggested requirement that every defendant who is charged with a DUI or a DV must enter a plea and have a conviction before they are eligible for the

veterans treatment court. To me, that is holding them to a different standard than the rest of our community. Assemblyman Yeager and Assemblyman Ohrenschall, working in the public defender's office, you have certainly seen that there are a great number of cases, particularly those for DV and DUI. They negotiate charges all of the time to plead guilty with no conviction. We stay the adjudication for them to complete certain requirements and to earn either a reduction or a dismissal of the charge. That is not uncommon in our justice system based upon the evidence that is available. Part of that evidence should be a consideration of PTSD or mental health issues or substance abuse as a result of military service. If we tell any veteran that he must suffer a conviction to be part of the veterans treatment court program, it would be easier for that veteran to say, "No, that is okay. I will just work on these other requirements, like 48 hours of community service, pay the smaller fine, do fewer classes for DV than the veterans treatment court would require, and then get my dismissal in the end." However, he will never be made whole. He will never be treated for the issues that he suffers from. As much as I think the Batterers' Intervention Program does a good service and a great rehabilitation for some battery domestic violence defendants, it is not designed to treat someone with PTSD.

For a period of time, the Las Vegas Justice Court ran some statistics. From March of last year when I began, through the end of the fiscal year, we identified 107 veterans in the Clark County Detention Center. I notified the DA's office the morning I was made aware of the 107 veterans—before they were brought to court—that they were veterans and potentially eligible for veterans treatment court. Eight of those cases were denied by the DA, 1 indicated that he was not interested in the program, 4 were not eligible for VA benefits for a variety of reasons, 3 cases were dismissed, and 17 were not considered at all. They were not offered veterans treatment court or considered due to the nature of our system.

We are talking about misdemeanor offenses. These cases come through, and the DA makes an offer before he even knows anything about the defendant. Many times it happens in their office before they go to court. They just read the charges and make an offer. The defense attorney is obligated to convey that offer to his client, even when that offer does not include veterans treatment court. Then, the defense attorney may go back to the DA and tell him that his defendant is a veteran and that he thinks the defendant may be eligible for this program. Depending upon the nature of the negotiations, more times than not they are resolved and negotiated before anyone has a chance to assess them for PTSD or any of the eligibility criteria that are in statute. It is just happening too quickly. We are not following one of the key components of early identification for eligibility and getting them into the program as soon as possible.

Fourteen of those entered the program. One of the 14 was a DUI defendant, the only DUI defendant that was sent to the veterans treatment court during that period of time. That person withdrew once he found out that the program requirements were far more stringent in the veterans treatment court. We consider this a voluntary program, so he decided not to enter his plea in my program. He decided to go back to the DUI court because it was easier. One defendant withdrew for medical reasons.

There is some overall concern. The language of the bill is much better than what we have ever had. I support the bill, but I am not certain that I support all of the amendments that were discussed today, particularly those from the DA's office. I would love to be part of any conversation in the future about trying to make the bill better than it is right now.

**Chairman Ohrenschall:**

Thank you for all you do to help our veterans. Many of the Committee members would like the program to be as inclusive as possible to help give as many veterans as possible a chance to participate.

**Bob Lough, Private Citizen, Henderson, Nevada:**

I have been a mentor with the veterans treatment court in Henderson since July 2011. I am a Navy veteran. I also spent 25 years in southern Arizona as a deputy sheriff along the border. I worked a lot of DUI cases, as well as DV cases. I know the important issues about working a DV case from working DV cases from a patrol standpoint, and then later for follow-up investigations.

You must deal with this issue in a three-pronged attack. You obviously have enforcement or they would not be in the system. Then you have to look at education and treatment. In domestic violence, there is a cycle of violence that needs to be broken. That is what this court program does with all of the counseling, drug rehabilitation, drug testing, and anger management classes. We have taken someone who defended our country, got a little messed up, made a couple of mistakes, came back and did something stupid, and we put him or her through all the counseling and tests to make him or her better. We have made them productive members of society again.

**Richard Carreon, President, Nevada Veterans Association:**

I do not want to take away testimony from the veterans treatment court mentors, so I will talk about three other things: the culture that ensures the type of success rate that you are seeing with the veterans treatment court, the three different types of honorable discharges, and the implied benefits of the veterans treatment court program.

The first thing is the culture itself. The veterans community comes from a profession. In spite of what others have said regarding what we may or may not have done in combat, it is a profession. That profession includes a certain set of standards that ensure success. That success is then multiplied through teamwork and a sense of accountability. While we want to give each other a fair shot at getting back in the stream of things, make no mistake that veterans hold each other to a higher standard to ensure the community has a positive outlook of the veterans community.

The second thing is discharges. There are three different types of discharges that occur. One is the honorable discharge if you complete your term of service. Another discharge is upon retirement, and the third is a medical retirement. For two out of the three, you could go through treatment on the Department of Defense side, but once you leave the gates of that installation or receive your DD214, you have to start at square one. While the VA is trying

to determine the adjudication of your case, the services that you may need could come too late. The adverse effect of those delays could be a DUI, a DV, or other issues that relate to self-medication.

The third thing I want to talk about is the implied benefit of the veterans treatment court. The veterans community is a proactive community that looks for solutions before challenges become issues. The three things that we relied on to tackle those issues while we were on active duty were medical professionals, law enforcement, and the judicial system. With the benefits of the veterans treatment court, nonprofits that provide services to the veterans community have a trusted point of reference where they can go to assess any trends that may be adverse to the veterans community and to provide services to meet those demands. We go from a diversionary program to a preventive program.

Regarding Assemblyman Thompson's statement about homelessness, we have brought that forth to all of the judges to take into consideration the post-9/11 GI bill as a means to add treatment for the veteran. The veteran may have been so frustrated with the system and may not have had proper guidance in pursuing higher education or in gaining employment to be economically viable. One of the benefits of the GI Bill is a housing stipend which provides rent assistance while the veteran goes through school.

**Ryan Gerchman, Acting Vice Chair, United Veterans Legislative Council:**

I am a veteran who is also a student at the University of Nevada, Reno (UNR). I was a student at the Truckee Meadows Community College (TMCC) where I founded the Truckee Meadows Veterans Club. I then went on to UNR and became the president of the Wolf Pack Veterans Club. I am also a past Regents' Scholar of TMCC and a recipient of a DUI.

On December 7, 2014, my world came crashing down around me. All of the good things that I had done did not matter. The shame and horror of having a DUI, going through the system process, and standing before a judge and my peers, I felt unworthy of any of my past accomplishments. I tell you this because life is about choices. All of the things that I did and all the steps I took and all of the choices I made led me to these results. I have been in recovery for over two years. The beginning of that recovery was in veterans court.

I would like to share what I shared with my colleagues in veterans court when I graduated from the program. For the record, this is something that all members do who graduate from Washoe County Veterans Court. Life is about choices. We can choose to do things on our own or we can choose to ask for help. I let something else make choices for me and I refused to ask for help. I drank heavily for most of my life, and learned how to be a functioning drinker in the Marine Corps. I thought I could do everything on my own. I thought I was hard, tough, and independent. I wanted the world, but the only place I could find myself was at a bar and in a bottle. Eventually I lost my ability to make sound choices and one was made for me. Luckily for me I was given the choice of veterans court. I was required to make responsible choices, and the people in veterans court helped me to see what the right choices were. We are all able to be here in veterans court because we made a choice to serve

our country honorably. Some of us joined the military of our own free will. Some of us were required by our country to serve. We all, however, met the requirements of our nation's expectations and served honorably. We chose to do what was required of us in the military and continue on with our lives. We learned new skills and how to be proficient in the fields we served.

Veterans court is similar to the military in this regard: within veterans court are the individuals who can help you to successfully learn the skills to make the right life choices. This is going to require some work, for some of us more than others. I like to say that I am not the sharpest tool in the shed, but I will bang my head against the wall until I get a result. I did not give up in the military and I did not give up out here either. I kept banging my head against the wall and eventually I saw the light. Through veterans court I was required to make the right choices, like I was in the Marine Corps. The Marine Corps changed me in many positive ways, and I was in the courtroom because I wanted to change. If you did not want to change, you would have chosen the fines and jail, or another easy way out.

Ask for the help that these individuals offer each of us. Make the choice to work at achieving your goals. You are not alone in your struggle. Life requires each of us to work, and it is easy to make the wrong choice. Take the challenge and make the right, hard choice. Accept the help that veterans court offers and ultimately life will be better.

That is what I read at my graduation from veterans court. I ran a perfect program, but it still took over a year. It is not just a 12-month program. It is a hard, rigorous program with many check-ins and requirements other than just paying a fine or serving a night in jail.

**Assemblyman Watkins:**

Regarding your experience after veterans court ended, have the conversations continued with your connections in the community and the judicial system?

**Ryan Gerchman:**

I was very fortunate when I went to veterans court. I had already established a very strong network of support and comradery within my student-veteran community and the community of veterans at large. However, you are required to go to two meetings each week, as well as counseling of some sort. I chose to do Alcoholics Anonymous and Nevada's Recovery and Prevention Community (NRAPC), which is an on-campus resource at UNR that fosters a community of recovery, support, encouragement, and empowerment to those seeking a sober lifestyle. Most of my program through veterans court was attending meetings and group sessions through NRAPC. That was something I got into that I knew was out there. I began meetings at TMCC with NRAPC before my DUI. I was in recovery, but got my DUI during a relapse. Veterans court kept me going to the meetings.

I am a person who is "all or nothing." I often get too many irons in the fire. Veterans court helped me keep my life balanced and required that I go to the meetings. Without those requirements, I may have continued doing things in the community, but I would not have taken care of myself. I had to seek the outside support within the community. Technically,

on paper I am a combat veteran and I am eligible to go to the Vet Center on Mill Street. I began some counseling there for trauma. I continue speaking at the Vet Center and going on camping trips during the summer.

**Assemblyman Watkins:**

Did you have any opportunities after your veterans court period ended to reengage the court and let them know how you are doing? Did you mentor other people? Were there any opportunities like that provided to you, or that you were aware of?

**Ryan Gerchman:**

I know that there is opportunity to go back. Over the last year or so, I have emailed my veterans court supervisor and Judge Breen to let them know how I was doing and to invite them to different recovery events. Washoe County has a great support system within the veterans court system. There are different individuals who come in from the VA and the Vet Center and make resources available. I have not gone back into the veterans court. I would be willing to do so if I was invited back. In fact, if I send an email to the veterans court, I am sure they would gladly have me back to speak.

**Assemblywoman Cohen:**

It seems that community is very important for success. I know that the UNLV veterans group has been very successful in the last couple of years. Does the UNLV group and the UNR group work together? Is there any buy-in to the veterans court program? Do you share resources?

**Ryan Gerchman:**

Some of the UNLV group came to one of our events. We are in communication with each other and often see each other at conferences and other events. In reference to the veterans court specifically, I am not involved in an active situation. I am involved with the gambling prevention group at UNR, and I connected our key coordinator with the coordinator at UNLV to talk about preventative gambling, since that is a form of addiction as well.

**Chairman Ohrenschall:**

We are running short on time, and I want to get to the witnesses here and in the south. After these five witnesses, I want to move on to opposition.

**Paige Harrison, Member, Incline Village Crystal Bay Republican Women; and Nevada Federation of Republican Women:**

I am a retired Navy commander. The experience of modern warfare is unimaginable to those who have not gone through it. Those who do live through it are changed, very often for the worse. Clark County reports that more than half of the 2.6 million veterans deployed to Iraq and Afghanistan returned with mental health conditions related to their service. One in six suffers from addictions, and one in five has PTSD. Left untreated, these conditions make it difficult for veterans to adjust to everyday life after they return. These conditions can lead to unemployment, homelessness, and arrest. There are 700,000 veterans in the criminal justice system today, many of them arrested on charges directly related to trauma, addiction,

and physical or mental illness. The veterans treatment court provides an alternative to incarceration that offers treatment, accountability, and structure while connecting the veteran to services and benefits he or she has earned. Some of you may think this treatment is the job of the VA. The VA has been mentioned loudly and clearly in the public arena over the last few years. As a result of my son's injuries in the Army, I have learned first-hand that the VA does an inadequate job. One VA hospital varies tremendously from another, such as San Francisco offers very good services but the local hospital offers inadequate services. This is a way to help those who have combat-related physical or mental problems, and who have gotten into legal trouble. Based on what I have heard here today, it goes further than that.

Assembly Bill 286 would improve the existing veterans court program in several significant ways. Right now the law only allows district courts to establish veterans treatment courts, and a justice or municipal court that wishes to give a deserving veteran the chance of appropriate treatment rather than jail time must transfer his or her case to the district court. Assembly Bill 286 would allow a justice or municipal court to establish its own veterans treatment court.

The requirements a veteran must meet to be eligible for veterans treatment court instead of jail time are also tightened by A.B. 286. A veteran must appear to suffer from any of several enumerated conditions that are related to military service, have not previously been assigned to a veterans treatment court, have not been convicted of certain felonies, and must have received an honorable discharge. However, a veteran who received less than an honorable discharge could be assigned to veterans treatment court if the district, municipal, or justice court decides that extraordinary circumstances warrant it. Assembly Bill 286 would also require that eligible veterans be assigned to veterans treatment court for at least one year.

These are important revisions to an important program. We owe a great deal to our veterans. We certainly owe them a second chance via the best and most effective treatment programs we can devise.

**Byron Brooks, Private Citizen, Henderson, Nevada:**

I am excited about today because we are having a conversation that I feel is overdue. It is fantastic. There are a lot of positive changes that can come from this bill, particularly those that empower municipal and justice courts to continue the hard work and efforts in helping veterans through a treatment court program.

One of the main reasons the veterans treatment court program is so successful is the way it is devised and the compelling incentive program. As a mentor, we hold our mentees to a much higher standard, much like we do in the military. If you have served in the military, you can easily relate to why a veteran is having problems; but if you have not served in the military, you may not fully understand some of the things veterans face.

Things happen upon completing military service, and sometimes well after. Sometimes it is the initial integration back into the community, and other times it takes a little while.

It is like a bad car crash: you may not have initial back pain, but six months down the line you start to hurt. That is what happens to veterans. When we come back from deployment, there are some things that we are just not equipped to handle right away. They may not know who they are. Sometimes they have problems for economic reasons and sometimes it is the physical or mental ailments from when they left service. They may go to see a civilian doctor or one through the VA. They may get hooked on pain medications, and may self-medicate. Then they do something they should not do which lands them in the veterans treatment court program.

It is exciting to educate those who may not be particularly familiar with the veterans treatment court program so that they have a better understanding. As a mentor, I have not had one mentee who has gone 12 months in the program; it is 18 or 24 months easily. It is a very stringent program that benefits the veteran after an 18- or 24-month cycle because of the amount of time they spend in this treatment and the amount of time it takes away from their family and work. If they are working, their employer has to give them some type of leeway for drug testing, counseling sessions, et cetera. It is an invasive program that takes over their entire life. It may not be just for a year, but could go for two years. After the two years are up, there should be some type of reward for them. We want that type of reward to encourage them to volunteer for the program. Veterans come from a culture where one does not ask for help. We just want to patch it up and keep going. This program forces a veteran to ask for help and to receive it. After receiving this treatment for two years or so, having the record sealed and the case dismissed upon graduation is valuable to them so they can continue on and become employed.

As for the bill, I am thankful for the language adding the municipal and justice courts. The seven-year automatic was longer than what we considered, and I think the better way to go might be upon graduation. Upon completion of the program, the veterans frequently have the opportunity to continue their relationships with their mentors. It has been fantastic for me to be a part of someone's graduation and for them to get in touch with me later. They stay in contact, and I see the positive changes the program has had on them. One particular mentee was at a veterans facility because he was homeless, but after the program he was able to find a job, sustain himself financially, and now has his own apartment. That is a huge success for that individual, and there are many stories like that for people who have entered the veterans treatment program.

If someone is looking for more education on the veterans treatment court program, I suggest they look at [justiceforvets.org](http://justiceforvets.org). Justice for Vets is a national program that helps facilitate and set policies and procedures—or at least suggestions for policies and procedures—for treatment courts across the nation. It is a fantastic organization. There are a lot of spokes on the wheel we call the veterans treatment court, a lot of which have already been discussed.

**Tim Casey, Private Citizen, Las Vegas, Nevada:**

I am a graduate from the local treatment court and it saved my life. I am here to mention a couple of things. Assemblywoman Cohen, thank you for your comment on traumatic brain injuries. That is a very big thing, as well as military sexual trauma. Across the



United States, those are issues that are being dealt with. When individuals join the military, they make an agreement with the federal government and with us as a nation. We tell them that we are going to put them in harm's way and if they come back broken, we will fix them. That is what happens in the veterans treatment court. I ask that these deliberations include that as a nexus. I ask that judicial discretion be upheld and protected in this program. When talking about charges versus convictions, let us be careful going down the rabbit hole because they are not one and the same. I will leave you with a number: 22. That is the total number of people on the field at one time during a football game, but more importantly, it is the number of veterans who take their own life each and every day. This bill works toward getting this number down.

**Mike Blanchard, Mentor Coordinator, Veterans Treatment Court, City of Henderson Municipal Court:**

I have been in the program for a little over four years. I started out as a mentor and have now been the mentor coordinator for about 1 1/2 years. I am a 26-year career officer in the Air Force.

I have seen so much growth in the individuals who have gone through this program that I cannot imagine anyone being against it. The primary objectives of the program are rehabilitation and treatment, not punishment. In the course of the program, we use a carrot-and-stick approach, and the judge needs the ability to provide sanctions to keep the participants on track. Having your record sealed and your case dismissed is a tremendous incentive to finish the program. That is an incredible carrot, but we have people who, when offered this program, declined because it is too tough to complete. I think that is the reason for the low recidivism rate and why there is no program that can match us. Judge Saragosa's court's recidivism rate is down to 10 percent, and we are closer to 5 percent. Those are incredible numbers and lower than a normal court has. Please support this bill.

**Chere Pedersen, Executive Director, Imagine Nurturing Our Warriors, Limited:**

I am here to speak to you not only for my organization, but as a mother in support of this bill. I have been with many organizations, including the National Organization of Mothers of the Military. Our children go away and come back as someone different. That speaks to every military mother. Speaking about the military following orders, it is not that easy when they have a traumatic brain injury or are suffering from PTSD. Mental illness is just an illness, and impulses, anger, and rage are hard to control. I have had a lot of interaction with Judges Stevens and Saragosa personally, and they understand there may be more than one or two incidents that get someone in trouble. It is important to give discretion to the judges to decide who can come into the program. It is a difficult program, and I have witnessed that firsthand. It is also important that the other courts let veterans know this program is available to them.

**Sandy Heverly, Executive Director, Victim Advocate, Stop DUI Nevada:**

I am here today on behalf of the thousands of DUI victims that we represent to support Assembly Bill 286. Although I do not have the honor of being a veteran, I can at least claim some family ties. Many in our organization are veterans and/or have family military ties similar to mine.

I know some of you are surprised that Stop DUI would be in favor and support of this proposed measure, given the hardline stance we have always taken on mandatory penalties and sanctions for DUI offenders. But make no mistake, those hardline positions remain alive and well. However, this bill addresses a specialized segment of individuals unique to no other and second to none: our military veterans.

Because of their extraordinary service and sacrifice for our country, we believe if they meet the requirements, that puts them in a class deserving of special consideration by the judicial system. That special consideration is called veterans court. With 22 veterans committing suicide every day due to having lost hope, struggling with drug addictions, psychological issues, getting caught up in the criminal justice system, and a host of other reasons, maybe courts such as these, with the correct intervention conducted by a skilled jurist, can help restore that hope and eventually reduce the national disgrace of 22 veteran suicides a day down to zero—one veteran at a time—and hopefully give us fewer drunk drivers to worry about.

Stop DUI has been in support of the veterans court concept since Judge Stevens introduced it to his courtroom about six years ago. Participants learn quickly that nonsense and excuses for noncompliance are not tolerated. I have attended a number of graduations in Judge Stevens' court and most recently in Judge Hastings' courtroom. To say I was impressed on many levels would be an understatement. The graduates extend heartfelt and emotional appreciation to the judges, their staff, and mentors for not giving up on them, giving them the opportunity to get their lives back on track and to become productive members of society once again. This we fully support.

Thank you Judge Stevens, Judge Saragosa, and Judge Hastings for the time, effort, creativity, and dedication you have devoted to helping these veterans regain their dignity, self-respect, and purpose for living. I also want to thank all of the veterans who are here today for their service. In conclusion, I respectfully request favorable consideration for A.B. 286.

**Crystal Eller, Private Citizen, Las Vegas, Nevada:**

I am a 24-year resident of Las Vegas. I have been a criminal defense attorney dealing with domestic violence and DUIs for over 21 years. I am currently running for judge for municipal court.

I look forward to this bill passing, and I think it is important that it passes. Judge Hastings, who does the veterans court in the Las Vegas Municipal Court, needs the authority to be able to continue his court, which is what this bill is going to provide.

What I would like to do today is briefly give you a perspective that has not been seen yet. My father was in the Air Force for 20 years and retired as a master sergeant. He came back from Vietnam and committed innumerable acts of domestic violence, and felony with substantial bodily harm domestic violence on my mother. He had at least ten DUIs that I know of. He continued to drive although he was an alcoholic. He was violent when he drank. I wholeheartedly believe that if this program had been available back then, my father, when he was sober, would have gotten the help he needed. You could have called him "John Wayne" because he was the best man you could ever meet, but the demons he had inside came out when he drank and they were never dealt with. Eventually he drank himself to death at the age of 54. The program could have saved my family the pain and suffering they went through and could have saved his life.

That is one of the reasons I became a criminal defense attorney. I want to help others. This bill is extremely important, and I agree with Assemblyman Wheeler that it is too restrictive, especially with the DA's amendments. The people involved in the case who know the facts and have met the people—the defendant, the victim, the DA, the defense attorney, and the judge—should have full discretion to decide whether the defendant should be in the program and whether he will benefit from it, not legislators, a district attorney program, or any other groups who have never met these people. I think the best people to determine whether the defendant is going to do well in the program and benefit from it are the people who know the facts of the case. Nonetheless, this bill does expand on what we have, and if we need to take baby steps, then that is what we have to do. We need to support this bill.

**Matthew P. DeFalco, Communications Director, Nevada Democratic Veterans and Military Families Caucus:**

I am here today to fully support this bill. I left UNLV for the United States Army in 2008 during the scourge in Iraq. I deployed overseas in support of Operation Enduring Freedom. When I came home, I was a different person. I did not have PTSD, but I rode my motorcycle too fast and drank too recklessly. To be honest, I was vulnerable. The transition between soldier and civilian is a very vulnerable time when many people get off track and spiral out of control. It only takes one or two incidents for that to happen. Joining the Army is a high-stress, high-energy, intense environment. You are a soldier in the greatest military in the history of the world. You are a combat fighter and are trained to kill the enemy. It is tough. When you come home as a civilian, it is just the opposite. You are not the same person and you do not have that leadership structure looking out for you that you had when you were in the Army.

The veterans court really helps those soldiers, sailors, and Marines to not fall through the cracks and to not go down a destructive path. Many times substance abuse or mental health or behavioral issues end up leaving these soldiers behind bars or sending them in the wrong direction. We have the opportunity here to do the opposite. There is no doubt that veterans deserve a judicial system that shows empathy and compassion. It must get them treatment and support instead of throwing them behind bars for something that probably happened because of behavioral or mental health issues that came directly from their service to our nation.

**Donna K. Lee, Mentor Coordinator, Veterans Treatment Court, City of Henderson Municipal Court:**

I am a retired Navy veteran of 20 years from the Vietnam era. I am the female mentor coordinator for the veterans treatment court in Henderson under Judge Stevens—my mentor—Judge Hastings' court, and Judge Lee's court in North Las Vegas. I am actually the only female coordinator in southern Nevada. I would like to tell you my "why." My "why" is the veteran treatment court, and the reason it is my "why" is that it has helped me get through a lot of the issues I deal with.

Veterans do keep in contact with us beyond the veterans treatment court. I have been in contact with a lot of the veterans since 2014 when I started in the program. The reason I decided to testify today is that my brother might have still been here today if we had this program back in the 1980s when he got out of the Marine Corps. After he discharged from the service, he became an alcoholic and got a couple of DUIs. Then he got killed in a car accident. In the 1990s, if this treatment court had been available for my children's father to have gone through instead of our paying for three DUIs, we might still be married today. Instead, I had to leave the East Coast in the middle of the night to get to the West Coast. One of our four children, at the age of 14, would not have ended up on a milk carton for a year. Had we had the ability to get my youngest son—who was in the Marine Corps for eight years—into the veterans treatment court, he may not have gone through the issues that he went through. At 29 years old, he was on his third marriage, had five children, and attempted suicide three times after his service. This court is very important to me as a parent, a veteran, and a mentor to other veterans. I have seen the successes of the treatment court, have lived through the success of the treatment court, and it has helped me help other veterans get through the treatment. I am totally in favor of the treatment court and how it helps veterans, and I urge you to pass this bill.

**Dan Bernal, representing Imagine Nurturing Our Warriors, Limited:**

We have heard a lot of great comments, and I have one additional thing to add. I am an Army veteran and a former graveyard patrol officer with the Las Vegas Metropolitan Police Department. I have arrested veterans and, as a veteran, I have been arrested. The 107 incarcerated people whom Judge Saragosa commented about may not have been known to be veterans, and were therefore not availed the opportunity for the treatment court.

With regard to A.B. 286, I am fully in support of the bill. Sections 8 and 9 require the judge to ask defendants if they are active duty military or veterans. I have worked in veteran services for the last five years in southern Nevada and across the country, including working for Justice for Vets. When does the intersection occur between a criminal-justice-involved veteran and the sea of goodwill that is available to help those veterans? The answer is, as soon as possible. I recommend that law enforcement officers, at the time of arrest, identify veterans. As was mentioned in earlier testimony, if it is the first time a veteran gets arrested, his world feels like he is drowning in the sea of goodwill. If there is a lifesaving device, it needs to be thrown to him as soon as possible. Sometimes the first appearance for arraignment can be four to six weeks after arrest. A lot of downward spiraling can occur between the time of arrest and the first appearance. If it is not in front of a veterans court

judge, or they do not get the information that the veterans court might be available, it may still be another four to six weeks. If at booking an arresting officer annotates the booking sheet that the defendant is a veteran, that information will get to the veteran outreach community and assistance can be given to the veteran before his first appearance. That would really help for the whole process.

**Chairman Ohrenschall:**

We are running a lot longer on this bill than we thought. The other two bills on the agenda regarding presentence investigations will be reagendaized because we are not going to get to them. We will complete the hearing on Assembly Bill 286, but we will not get to the other two bills.

**Albert Gutierrez, Private Citizen, Henderson, Nevada:**

I am living proof that this program really works. I graduated a year ago, and I am going to be a mentor soon. I have been through other rehabilitation programs, but none of them seemed to work. This program is a tough program. It is demanding and there were times I wanted to quit, but I needed a tough program. That is the only way I could make it. I have not had a drink in two years and have been sober all of this time. I am breaking new ground. I got my family back. I lost them, but I finally got them back after they saw what I have been doing here. God bless Judge Stevens. He was asked a question about follow-up and what happens after the program. I still go to AA meetings. Yesterday, I saw my counselor. I am still seeing my psychologist even though I do not have to. I could have discontinued it when I graduated, but I know I still need this program. When I was going through the program, I was worried that I would not make it after completion of the program. I was forced not to drink or do drugs. When the time came, however, I was ready. The program is demanding in many ways: financially, emotionally, and physically. I needed it, and I made it, and there is a great need for others to go through it.

**John J. Piro, Deputy Public Defender, Clark County Public Defender's Office:**

We are in support of this bill; however, we do echo the concerns that Assemblyman Wheeler and Judge Saragosa have brought up that some of the amendments are making this program too restrictive. Furthermore, we also agree that it should be the judge who makes the decision whether a veteran gets into the treatment court. That decision should not rest solely with the district attorney. In this Committee, we have discussed how there are two sides to the scale, and both of us play our own part. The judge is there in the middle to call the balls and strikes, so we should let the judge do that part. That is what they are elected to do.

I would also agree with some of the other comments that have been made regarding the sealing of records. This is not an easy program by any means. I have been lucky enough to represent quite a few clients through this program and have watched their successes. I have cheered them on throughout the program. I believe when you finish the program you should be eligible to seal your records in this instance. It is easier to go through the regular DUI programs and DUI court, or the regular domestic violence program in DV court as compared to this program which, as many people have pointed out, takes a lot longer than one year, even if you are doing your best to complete the program.

Those are changes we would like to see in this bill, but we support it nonetheless because some progress is better than no progress.

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

I echo the sentiments and comments of my colleague, Mr. Piro. I have been fortunate to represent a number of veterans from 20 years of age, all the way up to my first gentleman who is a veteran of the Air Force and is now pushing 70 years of age. I would note for this Committee that veterans of all ages need help. I believe what has already been touched on is the social impact of what I commonly refer to as "milieu therapy." In addition to the clinical therapy for mental health treatment and drug treatment, the benefit of sealing their record may be why veterans courts are so successful; it is such an important program that we desperately need. I am willing to work with all of the stakeholders in this room to wordsmith this bill to get it right.

**Chairman Ohrenschall:**

Is there anyone else in support here in Carson City? I see no one, so we will move on to opposition. Is there anyone who would like to speak in opposition, here in Carson City or down in the Grant Sawyer Building?

**Jennifer Noble, Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:**

To my right is Mark Jackson. Mr. Jackson is the elected district attorney of Douglas County and a former president of the Nevada District Attorneys Association. Also at the table is Cheryl Wilson. Ms. Wilson is a team chief for the Washoe County District Attorney's Office, and she oversees a team that routinely handles DUI and DV matters. Both Mr. Jackson and Ms. Wilson will explain some of our concerns with respect to this bill.

**Mark B. Jackson, District Attorney, Douglas County District Attorney's Office; and representing Nevada District Attorneys Association:**

There is an asterisk there. You have heard from John Jones, Chief Deputy District Attorney from Clark County, and you know that the Clark County District Attorney, Steve Wilson, is in support of the bill based upon the amendments that have been proposed and accepted by the sponsor of the bill.

This is one of the more difficult testimonies that I have had to give in the last two decades that I have appeared before the Assembly Committee on Judiciary speaking on behalf of the district attorneys throughout the state. It is difficult because it involves three of the things that we hold most dear: our members of the military and veterans, our victims of domestic violence—primarily the women, children and the elderly—and our victims of DUIs, which are the most senseless and preventable crimes that we currently have in the state. We have seen a lot of deaths associated with those by the perpetrators of those particular crimes.

Prosecutors throughout the state share my feelings. As we discussed this bill back in the fall of 2016, we were made aware that it would be coming forward. The basic premise of the bill would be to change how the DV and DUI cases would be handled, specifically to allow for

a deferral and a dismissal of domestic violence or DUI convictions if the perpetrator was a member of the military or a veteran. It was through that discussion—we had 14 of the 17 elected DAs present—that 13 of them said we would take a position in opposition with respect to that issue.

Many of the prosecutors throughout the state, as you may know, are veterans. There are some who currently are active members of the military through the Nevada National Guard. Others have a connection to the military through a loved one. For example, my father was a captain and a fighter pilot in the United States Air Force. He was killed in a plane crash when I was a young boy. Every single day I honor him. Assemblyman Wheeler has been in my office and he knows that I have photographs on the wall of my father flying his F-102 jet when he was stationed in Thule Air Base in Greenland. This is something that I really take to heart. I do not think there is a person in this room who is not in support of the military. All of the district attorneys in the state and all of the prosecutors that I have spoken to are fully in support of expanding the veterans courts to include the courts of limited jurisdiction, our justice courts and our municipal courts. They serve a vital role. What we have seen, especially in the rurals where we do not have veterans courts within our jurisdiction, is that we utilize the veterans courts in Carson City or Washoe County. That is where we in Douglas County send people who are accused of a felony offense when they are looking at a potential incarceration in prison for a minimum of one year. The benefit they get for going through the veterans court is a dismissal of that particular type of crime.

I do want to say that I have reached out to veterans within Douglas County, and we have two Veterans of Foreign Wars (VFW) posts in Douglas County. Perhaps the most active organization that we have in Douglas County is referred to as "WAVE," Welcome All Veterans Everywhere, Inc. They do a great job in assisting any veteran who goes through our criminal justice system in Douglas County. I have spoken with these veterans and the WAVE group. I discussed this bill with them, and those veterans have all stated that we do not honor veterans by compromising the safety of the very people they fought to protect. In other words, they understand we are trying to do as much for the veterans as we can. I am in support of doing as much as we can for our veterans, but when it comes to compromising the safety of DV victims or DUI victims, it causes great concern when someone is given an extra bite of the apple when they know they can have an extra bite of the apple without specific consequences.

The crux of our issues associated with this particular legislation goes to sections 2 and 3 of the bill. Section 2 of the bill, as proposed, essentially allows for a deferral and dismissal of a first or second DUI or DV, but based on the amendment that was proposed by Assemblyman Anderson, he made it clear that the amendment would give one shot and one shot only. Nevertheless, it still allows a deferral and a dismissal only for a person who is a member of the military or a veteran. Our current statutes that define a member of the military are in *Nevada Revised Statutes* (NRS) 176A.043. A member of the military means, "a person who is presently serving in the Armed Forces of the United States, a reserve component thereof or the National Guard." A veteran is defined under NRS 176A.090 as, "a person who has served in the armed forces of the United States, a reserve component

thereof or the National Guard and has been discharged or released therefrom." Chief Deputy District Attorney John Jones, in the proposed amendment, makes it clear that, although a veteran is defined as anyone who has been discharged, the amendment would specifically exclude anyone who was dishonorably discharged. If we went off the current definition of veteran, someone who was dishonorably discharged would be able to get the benefits of this particular program.

I had an opportunity, but I have not been able to spend the time on the research that would be required to really examine all of the veterans courts that are currently in existence in the United States. I am aware that the very first veterans court was created by the Honorable Robert Russel in Buffalo, New York, in 2008. By the end of 2009, there were over 90 veterans courts across the country. In 2014, there were over 220. How every state and every jurisdiction has handled their veterans courts has been tremendously different. Looking at just the definition of a member of the Armed Forces or a veteran can be very restrictive, and would only include a person who was actually engaged in combat on foreign soil, in foreign air space, or foreign waters—basically someone who could join the Veterans of Foreign Wars (VFW) by meeting those requirements. It would not include someone who went into a branch of the military but was never deployed outside the United States or was in a clerk position in Los Angeles. If they had never been deployed, they would not be able to enter the veterans court. There are other strict requirements: there has to be a specific finding by a licensed psychologist or psychiatrist that the PTSD, the traumatic brain injury, or the mental health issue has to be directly related to that combat service. There are some very restrictive requirements out there. Assemblyman Pickard made a comment earlier about it being less restrictive in connection with the proposed amendments from the district attorney's office.

Some of the requirements from the initial veterans court are that they specifically exclude domestic violence and DUIs. If you look at Cook County in Illinois, which incorporates the Chicago area, they have major problems. We all know about the number of murders and domestic violence murders, but DUIs and DVs are specifically excluded there. If you go through all of the veterans courts, you will find that a large portion of them still exclude DUI and DV.

Those are some of the concerns we have. We want to be able to continue to protect the victims of domestic violence and DUI, and still give as many services as we possibly can to the veterans. If we did not have the veterans courts—but we do—it would still allow them to go through the entire program just like someone who was charged with a DUI would be able to go through a diversion-type program. It will not result in a dismissal, but they still get the benefit of being a better person in the end. That is ultimately what all of our goals should be. With respect to specifics regarding unintended consequences associated with this proposed language, I would now ask that it be turned over to Cheryl Wilson.



**Cheryl V. H. Wilson, Chief Deputy District Attorney, Washoe County  
District Attorney's Office:**

I currently oversee our misdemeanor unit. I train all of the new deputies that come into the office. The vast majority of the cases that we prosecute in Washoe County in my misdemeanor unit are DUIs and domestic violence cases. In reviewing A.B. 286 and some of the written amendments that have been proposed by Mr. Jones, I do not quarrel with most of the proposed legislation.

My concern is, in prosecuting misdemeanors here in Nevada, we have four enhanceable misdemeanors that would come into play in the veterans court arena: domestic violence, DUI, harassment, and stalking. Harassment and stalking do happen outside of the context of domestic relationships. These can be enhanced to misdemeanors with more serious penalties, gross misdemeanors, or felonies if there are repeat offenses committed by the offender. We currently operate 13 specialty courts in Washoe County, about half of which are operated by the district court and the other half by our justice courts and municipal courts. The only veterans court currently operating in Washoe County is operated by the district court, and the district court will accept transfers of jurisdiction of certain misdemeanor offenders from our justice courts and our municipal courts so that our misdemeanants can have the opportunity to participate in the veterans court program.

Throughout our specialty courts in Washoe County some of our offenders are there on a diversionary status, meaning that if they successfully complete the program, they are going to have their case dismissed and they can have their record sealed. Some of the participants sitting in the same hearings, in the same class, are convicted and are there as a condition of a suspended sentence, whether it is a misdemeanor, gross misdemeanor, or felony. They will not earn the opportunity for a dismissal and a sealing of their record upon their successful completion of the program. They will have the opportunity to participate in the structured environment for their particular issues, and they will receive the benefits that these various treatment programs offer.

I have reviewed Assembly Bill 286 and the amendments and have looked at our laws and see that we are only dealing with four enhanceable misdemeanors. I see no reason why Assembly Bill 286 cannot allow DUI, DV, stalking, and harassment offenders to go to veterans court as a condition of their probation and as a condition of their suspended sentence. I would urge the Committee to ask that question since we have enhanceable offenses due to the serious public safety issues and community interests tied to DUI and DV offenses. As these issues collide—the veterans getting the treatment and structure that they need in the veterans court arena and the laws that we already have—all other states have these offenses as being enhanceable, but let them get the treatment they need in veterans court as a condition of probation and of the conviction. Should there be a repeat offense, the conviction is available for enhancement purposes as this Legislature and legislatures throughout the states have directed on DUI and DV cases where penalties are increased. Regarding the proposal to have a conditional dismissal, we do not have such a provision anywhere else in our criminal statutes, and it runs afoul of several statutes where we have

concern about the effect of a dismissal and sealing of a record. We have Nevada case law that says if a record is sealed a district attorney cannot have it unsealed to use the information contained therein to prosecute a new case.

With respect to what a conviction is for purposes of enhancement of a DUI charge or a DV charge, we have substantial statutory law and case law going back for decades that articulate what constitutes a conviction for enhancement purposes in the context of a DUI or DV case. Some of the proposed amendments to Assembly Bill 286 for conditional dismissals and automatic sealing down the road run afoul of a significant body of statutory law and case law that we already have well established in this state. Those are my concerns with the bill as a prosecutor in the trenches and in the courtroom prosecuting these types of misdemeanor crimes.

**Assemblyman Yeager:**

We heard some testimony about DUIs with substantial bodily harm. I would note from the text of this bill, the offender would not be allowed into this court even if this bill were passed.

Mr. Jackson, in your testimony you said that 13 out of 14 district attorneys who were present at the meeting voted to oppose this bill. I assume the Clark County District Attorney did not. Do we have a situation where the district attorney who essentially represents 75 to 80 percent of the prosecutions in the state is supportive of this bill, but the Nevada District Attorneys Association and the other district attorneys are opposing the bill? I want to make sure that it is on the record that it is not a proportional vote. It is one district attorney, one vote.

**Mark Jackson:**

You are correct. It is one vote for one district attorney. There are no proportions that are contributed to the size of the particular jurisdiction. That discussion arose out of some newspaper articles that ran in Clark County and Las Vegas during June 2016. There were some allegations made against District Attorney Wolfson regarding some pending litigation and that particular case being transferred from the Henderson Municipal Court to a justice court in Las Vegas. There were veterans upset that the DA was seeking to bar that case because there was no statutory provision for the creation of a veterans court in a court of limited jurisdiction. It was a DUI case and would have resulted in a deferral and dismissal of the case. That is what drove this legislation forward and why it occurred. Then everyone was talking about the victims of DUI and DV.

**Assemblyman Yeager:**

With respect to victims of domestic violence, I am having a little trouble following your argument. As I read current law, and this is on page 5 of the bill, district attorneys essentially have a veto power over any crime of violence or threatened crime of violence in terms of getting into the veterans court. I am specifically looking at lines 18 through 24 where it indicates that, if it is a crime of violence or threatened use of force or violence, the court

"may not assign the defendant . . . unless the prosecuting attorney stipulates to the assignment." As a matter of policy, could you have your deputies not stipulate for DV cases, and would that solve the concern that you have?

**Mark Jackson:**

Looking at page 5 of the bill and the language that specifically requires that the prosecuting attorney stipulate to the assignment, I have a hard time—as the elected district attorney in Douglas County—having a specific policy that just says we will not. If there is enabling legislation, but I have a policy that says that I do not care what the Legislature says and we are not going to stipulate to any of those, first I would probably be invited before the justices of the peace and the district court judges to explain why I have that particular position. When that type of language is within a statute and they give the discretion to the prosecutor, I would expect that this body would believe all of the prosecutors exercise that discretion based on a case-by-case basis and look at the merits of every case. So no, I would not have a policy that says my prosecutors will be forever barred from allowing that type of case to enter into the veterans court program.

**Assemblyman Yeager:**

I am not trying to commit you to that position and I certainly understand where you are coming from, but the way current domestic violence laws exist, you or any of the other 16 elected district attorneys and your deputies could simply say no if it is a case of concern. Why does this not resolve the concern about DV cases? You can essentially just close the door on any DV offender.

**Mark Jackson:**

It would take too long to discuss everything that I have learned in my 26 years as an attorney, especially as it refers to DV cases. We have a very special program in Douglas County that should be the model for the state on how to handle all DV cases. We devote our services to the victim during the first 12 critical hours when the offender is arrested and is prohibited from bailing out under the mandatory hold. There is contact with a special investigator and the prosecutor from my office—even after hours—getting the victims' service provider involved and the community and health wellness coalition. We provide those particular services. Some states require the prosecutor's agreement, and they also require the consent of the victim. The problem is that it puts the victim back in the hands of the person who committed the crime on them. It is not just about the violence; it is also about having control and power over that particular person. It depends on whom we listen to. We can have a victim who is all on board when we have a perpetrator in jail, but when he gets out within a few days, she comes to us and there is a recant that we turn over to the defense attorney. It is exculpatory evidence and now they can impeach that particular victim. The whole idea is that we are trying to break that cycle of violence. We are trying to focus as much as we can on the domestic violence victim.

I understand that you believe the language about discretion is paramount to how this would work throughout all of the jurisdictions in the state. We did not discuss in depth how all 17 DAs would work and what policies they would have about prosecuting these cases within

their respective jurisdictions. The crux of it comes down to that it still allows for a deferral and a dismissal, which is in contravention of what other bodies have worked on for well over a decade since those laws were first put into place to protect those victims of DV and DUI. We would ask that you please take a closer look at that before you move beyond it.

**Assemblyman Yeager:**

I understand where you are coming from, but I think we can agree that not all DV cases are created equal when we have a statute in this state that allows fights between siblings to result in a domestic violence charge. That is a very different scenario than some of the things that you were talking about. I would note that in this Committee we hear over and over from both prosecutors and judges that they want discretion and that we are to trust that they are to do justice. I just do not see a problem with giving that discretion to prosecuting agencies. Perhaps we can agree to disagree on it. Typically, when folks are in front of this Committee they are asking for more discretion, not less discretion. I see this bill as giving your office more discretion in terms of being that gatekeeper and being able to figure out how best to approach a case.

I have a question, but it does not require a comment. We heard from Judge Saragosa this morning that, when it comes to domestic violence and DUI cases, you are essentially talking about completing a number of classes that can be done in a very quick time period for a first-offense domestic violence. We are talking about 26 weeks or 6 months' worth of counseling. This veterans court program that is contemplated here is at least a year and sometimes much more than a year. Help me understand why this type of program, the veterans court program, would not be better for a defendant. Regarding that, I think the answer would be, "Well, it would be."

We talk about why an offender would choose to do a two-year program when they do not have some benefit at the end. In an ideal world they would do that, but as human beings, when looking at options where either way you are going to end up with a conviction, but you can do six months of programming and be done versus a couple of years of programming and have that carrot at the end, why would we not want to have this program available for those folks to incentivize them to do longer treatment?

**Jennifer Noble:**

I understand what you are saying, however, the problem is the nature of that carrot. About this conditional dismissal, it is important for this body to understand that a conditional dismissal will not be useable for virtually any other state to enhance these offenses. If we have a conditional dismissal in Nevada, that conditional dismissal would not be useable in 48 of the other states. There is case law on that point. For example, in Alaska they looked at the Washington statute and a case where someone had gone through their program with a conditional dismissal and they said, "This does not satisfy our state statute, which requires proof of a prior conviction." Just like Nevada, other states have the requirement that due process mandates that a prior conviction be produced in order to enhance. If we allow this conditional dismissal, what we are also allowing is for people to potentially go and reoffend in other jurisdictions and the other jurisdictions will be powerless to enhance the offense.

It is not so much that we do not want incentives for veterans or help for veterans with respect to these crimes, but the conditional dismissal is not a solution that we are comfortable with in terms of public safety and addressing the real problem of repeat offenders; the Legislature has obviously recognized that because these are enhanceable offenses since they are such a great threat to public safety.

**Assemblyman Watkins:**

We, as this body, only have control over one set of statutes, ours. We have to make policy decisions on how we want our laws to be enforced. We cannot litigate or write other states' statutes for them. Did I understand your testimony right that you have opposition to the bill because other states would not be able to use the dismissed conviction for enhancement purposes in their state?

**Jennifer Noble:**

That is part of our objection, and it is because DUI and DV are not just a Nevada problem, they are a national problem. Not allowing other jurisdictions to use our convictions in order to stop the problem in their state is an issue we think is at least worth addressing or that this body should consider. It is a public safety issue nationally.

**Assemblyman Watkins:**

My point is that we are not preventing them from doing anything. They have control over their statutes and we have control over ours. If they want to use this kind of program and completion for enhancement purposes, they can change their statutes. They can write it in just as we are writing it in here.

I want to go to Mr. Jackson because I have had a hard time following the logic that went along with the foreign soil versus just being a veteran. Was my understanding correct that you wanted this limited to only people who would be eligible for VFW? Did I understand that correctly?

**Mark Jackson:**

No, I apologize. That was not my intent. I was using it as an example to show some of the veterans courts across the country and how restrictive some of them are. There are some that only allow veterans who entered into combat on foreign soil, foreign water, or foreign air space. Only those veterans would be eligible in their veterans courts.

**Assemblyman Watkins:**

Thank you. I had a feeling I did not follow that correctly. Why would we, as a body, care about that? In this instance, the bill would require that the court find a relationship between the military service—whether in an office in Arlington or on foreign soil—and the mental illness, addiction, or whatever was related to the crime. Is that not what this is all about? We ask these people to go over and serve our country, whether foreign or domestic service, and they come back with problems that are related to that. If a court determines that those problems are related to that service, should we not take care of them?

**Mark Jackson:**

Again, the DAs across the state and all of the prosecutors that I have talked to, want to do everything we can to take care of our veterans. That is not the issue. The issue is that we also want to take care of the victims of DV and DUI, not turn our back on one in order to help the other. That is the crux of this. The language under section 3, subsection 1, paragraph (a) is written very passively. I do not know if anyone has recognized that. This differs significantly from what I have read in other jurisdictions that are much more specific. The way that it reads is, "Appears to suffer from mental illness, alcohol or drug abuse or posttraumatic stress disorder, any of which appear to be related to military service . . . ." It appears to whom? Is it just to that particular judge? Does this require something be submitted to the judge from a therapist, a licensed clinical social worker, a psychiatrist, or a psychologist? Does someone have to make the link between what the disorder is and whether it is related to their active service? There are cases, as you may well know, where we have a husband and wife who are both in the military. The husband batters the wife. They both qualify and we want to protect both of them, but now I have one who is a victim of DV and the other is a member of the armed forces. That person could just say that he has an alcohol problem. He could say it under oath and it could perhaps be accepted by the judge since the judge says it appears to him that the offender has an alcohol problem so he gets to go into the veterans court.

**Assemblyman Watkins:**

As a practitioner, I find that critique pretty weak. We ask judges all the time to make findings of fact and inclusions of law without dictating to them what those findings of facts must be or how they are to be proven. Ironically, in other bills that we heard in this Committee, the District Attorneys Association has been asking for discretion in the courts and trust in the courts to use their discretion appropriately. That is what is contemplated by this.

No one wants to discredit or disengage or forget about the victims of DUI or DV. That is not the point here, nor is it to let someone off the hook because he or she happens to be a veteran. The intent behind this bill is that it is we, as a society, taking responsibility as the actor for sending people overseas or asking for their service, and when they get some ailment that is related to that service, we the public must say that it is our responsibility. We are giving the DUI victims and DV victims a voice by taking responsibility as a collective society. The bill says one time. We are giving them this one shot to figure it out. We are going to take this hit for you, but the next time it is on you. I do not understand why we would not want to promote that with the protections that Assemblyman Anderson has put into this bill that it has to be related to the service.

**Assemblyman Fumo:**

Is your opposition to the bill that you do not want people, or veterans who have DUI or DV offenses in the program, or do you not like that they get an ultimate dismissal in the end?

**Mark Jackson:**

It is the latter part of it. We have no objection to expanding the courts to allow the courts of limited jurisdiction to create veterans courts and to allow veterans and active members of the military into the program, but for DUI and DV offenses, it should be a condition of probation and not result in an automatic dismissal.

**Assemblyman Fumo:**

I am probably beating a dead horse repeating things that other people have said, but these are veterans who have given their bodies and their minds, and have seen things that we cannot even imagine. When they come back, because of the commitment that they made to society, they are affected and can make a mistake. In reality, what you are talking about are misdemeanors, first offenses. They are not serious felonies. If the state can prevent that, why not give them the benefit of the doubt. After you commit a battery, do you have to go through six months of counseling? A second offense is a year. After you have done everything you can do for this country, you come back and they say that you get this benefit, but you still have to go through the DUI and DV programs, right?

**Mark Jackson:**

Yes.

**Assemblyman Fumo:**

After that, you have another year-long program with the veterans court. Judge Saragosa was telling us that they are out if they commit one mistake. There are punishments there too. You have actually done another year program. How can we turn our backs on them and say that they do not get the benefit and they do not get this ultimate dismissal?

**Mark Jackson:**

We agree that the veterans program is an amazing program. If I had to say what the most effective specialty court is that I have ever dealt with, I would have to say it is the veterans court. It is not just veterans who have seen and been through some of these horrible things that none of us can imagine. I know police officers who have been through that, along with firemen whom I have prosecuted and convicted for committing acts of violence or DUI, and they do not get that benefit either. In other words, as Mr. Jones has said, this is very specific. One small class of perpetrators is identified: those who are active members of the military and veterans who commit these misdemeanor types of offenses. It is not us turning our backs on the veterans, it is us recognizing that, not only do we have veterans that we honor and respect, but we also have victims of domestic violence, the most vulnerable victims, and the victims of DUI who we also want to honor and respect. We believe we can honor and respect all three of them by allowing the continuation of the veterans court programs, expanding it to allow the courts of limited jurisdiction to engage in a lawful manner without exercising inherent authority whether it is available to them, and to have the benefit to change the lives of these veterans, but in these two specific types of misdemeanor cases, because of the public safety component, not just here but throughout this country.

**Assemblyman Fumo:**

The victims of these crimes get the most benefit when perpetrators of these crimes get the most counseling and have to go through the motions. I disagree with something else you said. We do have other programs that result in reduced sentences. I do not know if you have them in Douglas County, but in Clark County they have serious offender programs and moderate offender programs for DUIs that everyone can get into if you qualify and you get a reduction or an ultimate dismissal at the end. Drug court was originally instituted so you go through a three-year program and ultimately get a dismissal at the end. It is not in conflict with other programs that we have. We still have that out there. I would like for you to give me a copy of the cases that you cited if you can. I am interested in finding and looking at them.

**Assemblyman Pickard:**

I recognize that there is a lot of discussion about enhancements and whether they are necessary in every instance. I am not going to embellish on that. I tried to focus on results, and I am wondering if you can tell me what the success rate of recidivism for DV or DUI cases might be within the Department of Corrections or within the jail system. What kind of success rate is there? Are we rehabilitating to the point that they do not reoffend?

**Mark Jackson:**

I am not aware of those figures through the Department of Corrections, and those would be felony types of offenses. We could obtain that information. As far as on a statewide level, there are annual reports on the judiciary that are a matter of public record that are available as to the number of cases. It does not track the recidivism rates. I can tell you that in Douglas County for a ten-year period from 1996 through 2006, we had a 10 to 15 percent conviction rate, annually, of our DV offenses. We had a significant number of second and third offenses. Since I initiated what I call a "special victims response team"—a coordinated community response—we have had much more accountability and a lower recidivism rate. We have dropped it by over 70 percent. We have been very successful in how we prosecute and take a coordinated response within the community. Obviously, some of those cases involved veterans. The majority of the cases that we see in our county are related to murders and domestic violence. We average one murder every two years, but in 2015, we had six. Three of those were committed by veterans who had mental health issues. They had not been involved with the system before. One of the things that this Committee has not taken to task is that we need to get more help for veterans and active members of the military before they get involved with the criminal justice system. We have not devoted enough money or attention to those individuals.

**Assemblyman Pickard:**

I appreciate that. If we are talking about a 70 percent success rate, and these programs that we are hearing about are hitting above 90 percent, would you agree that that seems to be doing a better job of protecting public safety in the future than what we are currently doing under the nonveterans court process?



**Mark Jackson:**

I cannot argue against the statistics that were presented as to a 90 percent success rate out of one court, and the other was closer to 95 percent as I recall. Those are fantastic success rates and I think it is contributable to the power of the veterans court, which I fully support.

**Chairman Ohrenschall:**

I am looking at some information that says that as of 2015, there were approximately 215 to 230 veterans courts in existence across 37 states. I assume that number has grown. I understand that change is hard, but I hope this would be something that the Nevada District Attorneys Association could embrace rather than fight. I respect your position, but there is a lot that is being done around the country to try to help veterans with these therapeutic courts. I hope we will move towards that goal here in Nevada.

Is there anyone else in opposition to the bill, here in Carson City or in Las Vegas?

**Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force:**

I have been a DUI victim advocate for over 25 years here in northern Nevada. Driving under the influence is a crime that kills over 10,000 people in our country annually, and injures another 300,000 plus. In Nevada there were 97 fatal victims of DUI crashes in 2005. That is one every fourth-day.

I want to remind the members of the Committee that DUI is a crime. It is not a mistake. It is not an "Oops, I did not mean to do it." It is not a "Gee, I made a bad choice." It is a crime under the *Nevada Revised Statutes*. Driving under the influence is driving under the influence whether it is from alcohol, drugs, or a combination thereof, and it is criminal activity. When you think of it as a mistake or a crime, there is a different connotation, and I would hope that we would think of it as a crime. The people who are apprehended and charged with a first-offense DUI are there because they were intercepted, detected, apprehended, and arrested by law enforcement before they had the opportunity to cause a crash that could be fatal. It is very serious. I cannot stress that enough.

A lot of the alternative programs in Nevada have been started with DUI offenders. The 305 Program of residential confinement was the first of its kind, letting DUI offenders out of prison with very strict protocol and criteria. In the misdemeanor DUI statutes, there are different programs available to regular, nonveteran DUI offenders who can already participate in treatment programs. I have been in front of this Legislature since 1991, and in front of this Committee and other committees throughout the building. We have always supported treatment in addition to, not in lieu of, other sanctions for DUI offenders. It was in the 1990s when treatment was becoming the treatment du jour, we will say, and the thing to do for many different offenders. I testified in support of that treatment and the opportunity for the offenders to get that treatment in addition to and not in lieu of the other sanctions for those criminal offenders. I am very supportive of the veterans court, and if this change in the law was to allow veterans to go to the court in addition to and not in lieu of the other sanctions and without the dismissal of the conviction, we would definitely be in support of that. As far as Assemblywoman Miller's comment, I believe that first- and second-time

offenders both get access to some type of treatment. First- and second-time offenders who are veterans would also have that ability if this was treatment in addition to and not in lieu of the other sanctions that are already in statute and already have the enhancements available like everyone else.

I am also the Advisory Council Chairman for the Senior Center here in Carson City, and a lot of our members are veterans. There is a very big veteran population there, and I did a straw poll asking if veterans should be treated differently, more strictly, have a higher threshold, or have the same as other citizens in our society. The people canvased were all in favor of having them treated the same. They felt there should not be a different threshold. Some of them said that, in the military, they are held to a higher standard than everyone else, so they are used to that and the structure. Holding them to the same threshold would seem very fair to all of us out there in the driving public that are on the streets and highways with these potential killers who are DUI offenders.

As for the recidivism rates, 27 years ago when I first got involved in the DUI prevention issue, 50 percent of the people were recidivists. Then the numbers came down to 30 percent. In northern Nevada, we have done some general consensus recidivism studies, and we have under 20 percent at our victim impact panels. There is other information that suggests that all of these things are making strides, but I think opening up a new set where we lower the threshold we are holding DUI offenders subject to is a move in the wrong direction for the future victims.

The deaths on our highways occur because someone has made the criminal choice to drink or do drugs and drive. It is very serious, and I would like you all to imagine if one of your family members was involved in one of those crashes. That is the reality that our victims face, that DUI has the possible and predictable consequences of causing death and injuries on our streets and highways.

**Genevieve Sefchick, Victim Advocate, Washoe County District Attorney's Office;  
and representing Alliance for Victims' Rights:**

The Alliance for Victims' Rights is a collaborative effort of agencies and individuals in Washoe County who work to improve the community response to victims and to raise public awareness of the effects of crime, while providing information and resources to those who have been victimized. We are in opposition to Assembly Bill 286. We believe in the veterans court as a condition of probation.

We have great sympathy and gratitude for our veterans. They have sacrificed a lot for our country. We also have gratitude and sympathy for the partners and their children, who also sacrifice enormously. Deployment and exposure to combat creates unique stresses on military families. There are multiple barriers that prevent military spouses from reporting violence and seeking assistance. According to data from the Department of Justice, the National Domestic Violence Hotline, and the Department of Defense, combat veterans are responsible for almost 21 percent of domestic violence nationwide, linked to the

development of PTSD. We absolutely believe in treatment and that it should be tailored to veterans and members of the military. What we do not agree with is the conditional dismissal and allowing them a free pass.

I want to quickly go over some points. It takes a victim of domestic violence more than one incident of violence to actually report the abuse and many more incidents to actually leave the abuser. Some studies say that less than 1 percent of DV is actually reported. The severity of abuse increases with every attack. It starts with a push or a shove and can end with the abuser putting his hands around the victim's neck. It always increases. Leaving an abuser is difficult enough, but in the cases of spouses of disabled veterans, there can be feelings of guilt on behalf of the victims, or they may be full-time caregivers living on a stipend from the VA. The enhanceability and prosecution of DV is lifesaving. Domestic violence is not a lesser offense as it was said a while ago. It is the unlawful use of force and, in our community, we have seen very brutal attacks against women. Attacks are prosecuted as misdemeanors because felony strangulation or substantial bodily harm as defined by current law is very difficult to prove beyond a reasonable doubt, or because battery does not involve a deadly weapon.

According to the Childhood Domestic Violence Association, five million children in the United States witness domestic violence every year. Once is too many. United Nations Children's Fund called it one of the most damaging human rights violations in the world today. Children from homes with violence are much more likely to experience significant psychological problems, both short- and long-term. Often, they meet the diagnostic criteria for PTSD, and the effects on their brains are similar to those experienced by combat veterans. Children who grow up with DV are 74 percent more likely to commit a violent crime against someone else and three times more likely to repeat the cycle in adulthood. Once is too much.

The issue of domestic violence in veterans and members of the military who have been exposed to combat should be addressed before they return to civilian life and before we have to intervene. If we wait until intervention is needed, it might already be too late and the social costs may already be too high. We will aggravate the situation at home and become complacent with the abuser if we intentionally hide it or sweep it under the rug. What is the message we are sending the partners and children of the military—that they are less deserving of protection, that their lives are less valuable than civilian spouses and children? No person exercising force or violence against another person should get a free pass.

As we pointed out earlier, one time is too many. It already takes a victim and an escalation of a series of abuses to even call for help the first time. One more time could be fatal. According to the Center for Disease Control and Prevention, on average, more than three women a day are murdered by their husbands or boyfriends in the United States.

**Chairman Ohrenschall:**

Is there anyone else who is opposed to the bill, here or in Las Vegas? [There was no one.] Is there anyone who is neutral on the measure and would like to be heard?

**Kimberly Mull, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence:**

For three years I lived with a disabled veteran who was also an alcoholic. I really understand a lot of the issues that have been raised today regarding the things family members go through when it comes to veterans. With that, the Nevada Coalition to End Domestic and Sexual Violence is here in a neutral stance today on the bill as amended by Clark County. I very specifically say that we are neutral as amended. If there were slight changes, we would still be neutral. If some of the other things that have been raised today were becoming additional amendments, we would be strongly opposed and you would hear from me.

When I speak here about domestic violence from here on out, I am specifically speaking of intimate partner violence. I am not talking about a couple slapping each other; I am talking about a man abusing his spouse or intimate partner. I want to be clear that we are in full support of keeping the prosecutors' discretion as part of this and believe it is very important. Assemblyman Yeager asked specifically if the prosecutors' discretion is in there and if so, why are they not using it? People have given some light-footed answers to that. I am before a judge every day, and I am an unelected official so I can tell you what we see from our end. Although prosecutors statutorily are supposed to have discretion when it comes to this and to take specific cases to decide whether to accept the person's agreement to go into veterans court, judges are ignoring that and issuing people into the courts without seeking the advice or counsel of the prosecutor. That has been our experience and the things that have been reported to us.

What we want to be sure of in every case is the nexus for qualification that we have talked about today. While we think that veterans need wraparound services and they need these to be addressed to help with their healing, the VA is good at mental health and drug or alcohol abuse, but their specialty is not domestic violence. That is not a program that the VA offers. It is outside organizations that are involved with that. Most people, when they think of PTSD and domestic violence, think of the soldier who is now home and wakes up in the middle of the night from a nightmare accidentally choking his wife because he thinks he is at war. Those are the people we want to help, but that is not the typical case or typical victim of domestic violence. We are talking about power and control elements that are not PTSD-related. With power and control in intimate partner violence, we are talking about the use of intimidation, emotional abuse, isolation, using children as weapons, economic abuse, coercion and threats, and other things related to the cycle of abuse in addition to physical abuse. We want to be sure of that nexus of qualification to see if this is actually a case of PTSD or a service-related occurrence, or if it is an abuser, someone who is a batterer and just happens to also be a veteran.

Unlike drugs and alcohol, there is no litmus test for DV. We cannot test them every day. We cannot have them check in and get tested to see where their levels are. The only way we can hold them accountable is by making sure they are going to a batterers' intervention or that they have a successful track record. As many people have brought up, including veterans, veterans do not ask for help; neither do their wives. When you look at the services

that are offered or you bring up things like consulting with the victims for their thoughts, that puts a lot of pressure on someone who is already in this situation. That is unfair to the victim.

Nationwide veterans courts are starting to allow DV into them, so that is one of the reasons we are neutral. We understand that is happening. We want to make sure the protections are put into place. Veterans courts across the nation are also starting to see the repercussions of graduates of the program who are still abusing their partners and possibly killing their partners. Recently in Utah, a graduate of one of their veterans court programs not only killed his spouse, but he also killed his children in a domestic violence incident.

Sometimes a person who is a batterer is a jerk. They go into the military as a batterer and a jerk, and they come out as a batterer and a jerk. Their service had nothing to do with that. We want to make sure that the person is being held accountable and that they are not given an unfair advantage for something that is not associated with their service to the country.

**Chairman Ohrenschall:**

Is there anyone else who is neutral, here or in Las Vegas? I do not see anyone, so Assemblyman Anderson, please come up for closing remarks.

**Assemblyman Elliot T. Anderson:**

It became clear to me that, because of events and practices, we have to do something this session. We have to tie these statutes down because of the political football these issues can often raise. The point that needs to be emphasized before we go forward is that this bill requires more of offenders who enter the program. All of the statistics about DUIs and DVs are extremely serious. People who go through veterans court will have to do more. This is not a free pass. This is a harder program to complete than what we are now doing. I understand the cycle of violence, especially what Ms. Mull just mentioned. Offenders can still go out and commit murder. That can still happen if you have a misdemeanor, first-time offender going through the regular justice system. This is an attempt to both require more and to get into the weeds of the issues that are particular to veterans in the long run. The whole point is to stop this cycle of violence and alcoholism. It is to be creative in fixing this problem in the long run and to require more from the people who want the benefits of this program.

**Chairman Ohrenschall:**

I will close the hearing on Assembly Bill 286. I will open it up for public comment if there is anyone who wishes to make public comment, either here in Carson City or in Las Vegas. [There was no one.] It was a long hearing today, and it is unfortunate that we were not able to get to Assembly Bill 291 or Assembly Bill 326.

**Assembly Bill 291: Revises provisions relating to presentence investigations and reports. (BDR 14-1076)**

**Assembly Bill 326: Revises provisions relating to reports of presentence investigations. (BDR 14-1117)**

We will reschedule those for Thursday, April 6. If there is no further business, this meeting is adjourned [at 12:54 p.m.].

RESPECTFULLY SUBMITTED:

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Karyn Werner  
Committee Secretary

APPROVED BY:

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Assemblyman James Ohrenschall, Chairman

DATE: \_\_\_\_\_

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to Assembly Bill 286 presented by John T. Jones, Jr., Chief Deputy District Attorney, Clark County District Attorney's Office.