

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

**Seventy-Ninth Session
April 4, 2017**

The Committee on Corrections, Parole, and Probation was called to order by Chairman James Ohrenschall at 8:05 a.m. on Tuesday, April 4, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/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:

Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1
Assemblyman William McCurdy II, Assembly District No. 6



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Karyn Werner, Committee Secretary
Melissa Loomis, Committee Assistant
Cindy Hernandez, Personal Attaché to Assemblywoman Monroe-Moreno

OTHERS PRESENT:

Nicole D. Porter, Director of Advocacy, The Sentencing Project, Washington, D.C.
James E. Dzurenda, Director, Department of Corrections
David Tristan, Deputy Director, Programs, Department of Corrections
Alanna Bundy, Intern, American Civil Liberties Union of Nevada
Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office
John J. Piro, Deputy Public Defender, Clark County Public Defender's Office
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
Eric Spratley, Lieutenant, Intergovernmental Services, Washoe County Sheriff's
Office
Richard P. McCann, Executive Director, Nevada Association of Public Safety
Officers
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Otis Lang, Private Citizen, Las Vegas, Nevada
David Cherry, Communications and Intergovernmental Relations Manager, City of
Henderson
Barbara E. Buckley, Executive Director, Legal Aid Center of Southern Nevada
John T. Jones, Jr., representing Nevada District Attorneys Association
Kendra Jepsen, Attorney, Clark County Public Defender's Office
La Wanna Calhoun, Private Citizen, Las Vegas, Nevada
Sashia Whitmire, Private Citizen, Las Vegas, Nevada
Bruce W. Nelson, Deputy District Attorney, Vehicular Crimes Unit, Clark County
District Attorney's Office
Mike Palzes, Staff Attorney, Nevada Legal Services
Amy Ayoub, Private Citizen, Las Vegas, Nevada
Sophia A. Romero, Consumer Rights Project, Legal Aid Center of Southern Nevada
Kerrie Kramer, representing The Cupcake Girls
Charlotte Bible, Assistant General Counsel, Las Vegas Metropolitan
Police Department
Lori Dunn, Law Enforcement Support Tech Supervisor, Records Sealing Unit,
Las Vegas Metropolitan Police Department
Julie Butler, Division Administrator, General Services Division, Department of
Public Safety
Don Soderberg, Director, Department of Employment, Training and Rehabilitation

Chairman Ohrenschall:

[Roll was taken. Committee protocol and rules were explained.] I will open the hearing on Assembly Bill 303. We have Assemblywoman Monroe-Moreno to present her bill, and on the phone we have Nicole Porter from The Sentencing Project.

Assembly Bill 303: Requires that core correctional services be provided only by the State or a local government. (BDR 16-1103)

Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1:

Joining me over the phone today is Nicole Porter, Director of Advocacy for The Sentencing Project, an organization that works for a fair and effective United States criminal justice system by promoting reforms in sentencing policies, addressing unjust racial disparities and practices, and advocating for alternatives to incarceration. Cyndy Hernandez, my attaché, is also joining me and will be assisting us with the PowerPoint presentation ([Exhibit C](#)).

Assembly Bill 303 would require that core correctional services be provided only by the state or local government and would ban private corporations from running our state and local prisons, jails, or detention facilities. Section 1 of A.B. 303 would require state and local jails, prisons, and detention facilities that house prisoners to be under the direct oversight of the state of Nevada or a local government. These core correctional services would be performed by employees of the state or local government. Section 1 also prohibits the performance of core correctional services by private entities.

As elected officials, we have a responsibility to protect the best interests and well-being of all of the citizens whom we represent. Regardless of whether they are able to vote for us or not, we represent the prisoners within our districts and throughout our state as much as we represent everyone else. The current for-profit prison industry treats these citizens as commodities to be sold. These prisoners are not goods to be bargained for or property to be bought. They are our fellow Nevadans, and more importantly, they are human beings and should be treated as such.

The Declaration of Rights of the *Nevada Constitution* states, "No person shall be deprived of life, liberty, or property, without due process of law." We have seen for-profit prisons evade this promise in other states, such as the "cash for kids" scandal in Pennsylvania. It encourages judges to sentence the accused with harsher and longer sentences with terms that would normally be unnecessary. Previous scandals have shown these for-profit prisons incentivize judges to give harsher sentences by offering benefits to prosecutors and judges, further ensuring that prisoners will stay in the corrections system for as long as possible, making the private companies even more money. It is the job of judges and prosecutors to ensure justice, yet the influence of for-profit prisons obstructs this ideal. I believe it is our job as legislators to make sure we protect them.

For-profit prisons are first and foremost a business, and their main goal is not to provide for the well-being and safety of those residing within their business, but to grow their corporation and increase the wealth it generates. As a result, for-profit prisons operate

in a way that is not conducive to the rehabilitation of the prisoners. Prisons should not be viewed only as a place to punish crimes, but instead should be seen as a site of reform for these citizens. The objective of sentencing these individuals to serve prison time is to rehabilitate them so they do not make the same mistakes once they are out of prison. Unfortunately, many Nevadans are not provided with the same level of education and resources that we assume to be standard, and these individuals are systematically more likely to enter the prison system. The time prisoners serve can become an occasion of learning and reformation so that they leave their sentence as better citizens than when they first came into the prison. However, this goal is unattainable through the structure of a for-profit prison system in which concepts such as educational programs that reduce the likelihood that a first-time prisoner will commit crimes in the future are disincentivized. This comes as a result of the fact that for-profit prisons thrive when freed prisoners follow the all-too-common cycle which leads them back into the prison system within a short time.

If the point of a prison is to ensure justice and to provide for the welfare of our citizens, the use of for-profit prisons is entirely defective. Today's prisons have not proven to be a strong deterrent from crime, and often treat prisoners with little respect or regard for their well-being, and oftentimes do not address their behavioral health and mental health concerns. Assuming we all want to limit the crime Nevadans face, moving forward we must focus on finding alternative solutions to our current system, which is both faulty and insufficient.

I would now like to turn the presentation over to Ms. Porter because we only have her for a short time. When we come back, I will walk you through the bill.

Nicole D. Porter, Director of Advocacy, The Sentencing Project, Washington, D.C.:

As was mentioned, I work at The Sentencing Project. Our priorities include fair and effective United States criminal justice systems, including promoting policy solutions for sentencing policies, addressing unjust racial disparities, and advocating for the restoration of rights for people with criminal records.

Assembly Bill 303 is a critical step in the right direction for this Committee to consider. It is an honor to submit our statement of support for the record. The role of for-profit prison companies is generally looked at to meet prison capacity demands, either as a result of policy priorities that were adopted in the 1970s and 1980s that underlie the U.S. criminal justice system, or policy approaches like the war on drugs and harsher sentencing policies. This includes the mandatory minimum sentences that caused the dramatic expansion of the nation's prison systems. The resulting burden on the public sector caused the private companies to step in and meet the demands during the 1970s and to fill capacity needs within state and federal prison systems. During 2015, private prisons held over 126,000 of the 1,500,000 state and federal prisoners in the United States, representing 8 percent of the total population. That same year, Nevada reported no prisoners in private facilities. However, as I understand it from engaging with Nevadans, because of A.B. 303, there may be state prisoners in for-profit facilities in other jurisdictions. With A.B. 303, Nevada lawmakers have an opportunity to codify the practice of not incarcerating state prisoners inside private

prisons. At least nine other states, including Missouri, Nebraska, and West Virginia, did not utilize private prisons in 2015. In some of those states, that practice is codified into state government code.

In recent years elected officials at various levels of government have considered similar proposals to A.B. 303, and some are taking steps to implement them. In many instances, these policy initiatives are animated by outcomes of prison populations and the lack of transparency when the function of corrections and public safety is outsourced to the private sector. Proponents of prison privatization project cost savings as a benefit of contracting correctional services, and many supporters of privatization believe that for-profit companies are more efficient and effective. Yet when it comes to corrections, the space between marketing and outcome is centered on public safety, ensuring that persons incarcerated for criminal code violations receive access to quality rehabilitation programming and services in order to achieve lower rates of recidivism or returns to prison following their exit from prison.

An important goal of corrections is public safety. Those public safety goals are often hard to achieve in private prison facilities where the main objective is to maximize profits while receiving public monies that are contracted away as part of private prison agreements. Private prison managers often minimize costs by reducing labor expenditures, providing lower salaries and staff benefits, and less access to professional advancements than in publicly run facilities. Furthermore, private prison employees receive on average 58 fewer hours of training than their publicly employed counterparts. Consequently, there are higher employee turnover rates in private prisons than there are in publicly operated facilities.

Practical solutions to achieve prison population reduction can result in correctional savings. These conditions may contribute to the security and safety issues within private prisons. Federal researchers have documented higher rates of escape and contraband violations in private prisons. Research indicates that assaults in private prisons can occur at double the rate of public facilities, and privately operated prisons appear to have systemic problems in maintaining secure facilities. In addition, a national survey of private prisons from the U.S. Department of Justice (DOJ) found that private prison staff are assaulted by prisoners at a rate that is 49 percent higher than the rate of assault experienced in public facilities.

To adjust this, elected officials of several jurisdictions have taken steps to phase out the jurisdictional practice of contracting with private prisons. This effort gained the most attention last year when the DOJ, under the Obama administration, announced plans to phase out the use of private prisons. State policymakers in a few states have also taken similar steps. Texas lawmakers chose not to renew two private contracts in 2013 due to prison population reductions. North Carolina, in recent years, cancelled two contracts with the Corrections Corporation of America, now CoreCivic, the largest private prison company in the nation. California instituted a similar ban. Arkansas ended two contracts with Wackenhut Corporation, now GEO Group, in 2001. In the most recent years, southern states like Mississippi and Kentucky have also terminated private prison contracts. Some states have considered similar proposals to A.B. 303. Those states include New Hampshire,

Vermont, and Minnesota. The jurisdictions have been able to scale back their contracts with private prisons and some have worked to codify the policy and practices that limit the states' ability to contract out with private companies.

Assemblywoman Jauregui:

You have your background in corrections and law enforcement, so was the prison you worked for a for-profit prison or a state prison?

Assemblywoman Monroe-Moreno:

I worked for the City of North Las Vegas Police Department. It was a city facility.

Assemblywoman Jauregui:

When they are private facilities, are state employees employed there or are they private employees?

Assemblywoman Monroe-Moreno:

Those are private employees.

Assemblywoman Jauregui:

How many for-profit prisons do we have in this state?

Assemblywoman Monroe-Moreno:

Currently, we have none. There is one federally operated facility in southern Nevada, but that is federal and not state or local.

Assemblyman Fumo:

In your amendment ([Exhibit D](#)), you addressed the concerns of the Department of Corrections (NDOC) when they said they had trouble with the Interstate Compact clause and transferring prisoners. I see that there is a sunset clause in there and I would like you to explain that.

Assemblywoman Monroe-Moreno:

In doing the research for this bill and working with NDOC, I was impressed and happy with the Director of the Department of Corrections. The direction that he wants to take our facility design addresses the needs of the actual prisoners and what brought them into custody, but the state of the facilities that we have are in desperate need of repair. Those facilities are the ones that are housing our hard-to-house classification inmates. He has made attempts to find places within the state to move those inmates while he conducts the needed repairs at those facilities. However, the fiscal note of doing that is extremely high and, because of their classification, our local county and city jails cannot handle them.

In preparing this bill, we realized that there was a need to send people out of state to other facilities on a temporary basis. The compromise was to put in a sunset clause. There are two facilities, and the estimated construction time on each facility is two years. They would each be done one at a time. I put in a sunset clause of five years to give enough time in case

there is a work stoppage or it takes longer than anticipated. The five-year sunset clause would extend to the prison to ensure we are keeping the prisoners safe. Also, our safety concerns are for the officers and staff working within those facilities.

Assemblyman Elliot T. Anderson:

Would you help me understand what would be excluded from the core correctional services definition? I understand what qualifies as core correctional services, but I am hoping to get some clarity on what would not be included. I can think of a couple of things, like education, but are there any more?

Assemblywoman Monroe-Moreno:

Yes. Customarily prisons and jails contract out with vendors for food service, medical services—including behavioral and mental health care—janitorial, transitional and reentry programs, life-skills classes, as well as educational services.

Section 1 of the bill requires that the core correctional services be performed by state and local government. These core services are defined as the care, custody, and control of detainees as it relates to housing of inmates: protecting, safeguarding, and disciplining the prisoners. It prohibits the performance of the core correctional services by private entities and voids current contracts with private entities that perform core correctional services. That line is amended by the sunset clause. It is important to note that this bill does not include any federal prisons, jails, or detention facilities currently operating in the state of Nevada. As I stated earlier, we have at least one federal facility in operation in southern Nevada.

The core correctional services refer to those duties assigned to professional Nevada Peace Officers Standards and Training (POST) employees, otherwise known as POST-certified corrections officers. Exempt from this definition would be the various contracted services that I mentioned earlier: medical, behavioral health, mental health, janitorial, transitional, reentry, and educational services.

Section 2 removes the ability of the Director of NDOC and the Board of State Prison Commissioners to enter into contracts or agreements with private entities to provide core correctional services.

Section 3 states that contracts and agreements the Director of NDOC and the Board of State Prison Commissioners may enter into with public and/or private entities include the following: transitional housing, treatment pertaining to substance abuse or mental health, training in life skills, vocational rehabilitation and job skills training, and other services required by offenders or parolees who are participating in correctional or judicial programs. It maintains the existing law that allows the Director of Corrections to provide referrals to such programs, and to apply for and accept gifts, donations, and grants. It describes the reporting requirements of any public and private entity in any agreement or contract with NDOC. It defines the scope of training in life skills.

After meeting with the Director of Corrections and the Deputy Director of Programs, it was discovered that there is a need for a short-term period to use out-of-state correctional facilities, both public and/or private. Those needs were addressed in the amendment that you have before you ([Exhibit D](#)) and, to emphasize, it does have a sunset clause. The only reason we came to this agreement was for the public safety of the inmates who reside in our jails and the staff who are working there. The facilities that they use, however, must meet the core correctional standards of the housing, custody, medical and mental health treatment, and programs that are established by *Nevada Revised Statutes* (NRS) and *Nevada Administrative Code* approved by the Board of State Prison Commissioners. These requirements shall be specified in any contract entered into by the state. The NDOC shall give priority for transfer to such out-of-state facilities to those prisoners who are not permanent residents of Nevada. The NDOC shall also ensure that video visitation is provided for these prisoners to assist with maintaining family relationships.

The NDOC shall be required annually to provide a report to this Legislature by December 31 of each year as to the number of inmates who are housed out of state, their veteran status, the inmates' identification numbers, their custody level, offense category, home state of residency, programs that are available to them and the programs that they have completed, and their date of release or expected date of parole. The NDOC shall perform an onsite audit no less than biannually to ensure compliance with all contracted services. This is an overview of [A.B. 303](#) and the proposed amendment.

Chairman Ohrenschall:

There are letters of support on the Nevada Electronic Legislative Information System (NELIS) from Dr. Emily J. Salisbury, Associate Professor, Department of Criminal Justice, University of Nevada, Las Vegas ([Exhibit E](#)); Lisa A. Rasmussen of the Nevada Attorneys for Criminal Justice ([Exhibit F](#)), and Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada, ([Exhibit G](#)).

Could the core functions that would have to be provided by the state staff, under your bill, be contracted out to a nonprofit? The services would have to be performed by the state employees.

Assemblywoman Monroe-Moreno:

Yes, that is correct. They would have to stay state employees.

Chairman Ohrenschall:

We will take testimony in support of [Assembly Bill 303](#), either in Las Vegas or Carson City.

James E. Dzurenda, Director, Department of Corrections:

I am speaking for the state prison system and the issues in this bill that affect my operations in the state prisons. In our state prison system right now, about 28 percent of our offenders are not from the state of Nevada or do not have residency in Nevada; we call them transient offenders. Currently we do have state-sentenced offenders who are in private prisons around the country for their protection, our protection, and the community protection.

Those offenders include Las Vegas Metropolitan Police Department (Metro) officers, Nevada Highway Patrol officers who were arrested and sentenced by the court, domestic terrorists who were arrested and sentenced by the court, and those who were considered informants for turning information over to the government for purposes of arresting people engaged in corruption or terrorist activities in Nevada. It is important that these offenders stay under the Interstate Compact and remain in those facilities. If we ever have them return to our system, it could be detrimental to our staff and the state of Nevada as a whole.

The other issue is that we are approaching the situation where our prison system is overcrowded. Currently we are approaching 600 inmates who are now sleeping in unconventional housing areas, which means that we have replaced dayrooms and program rooms with beds to be able to house offenders. We currently have a facility in southern Nevada called Southern Desert Correctional Center that has one building for restrictive housing—which is our most dangerous offenders—that is in desperate need of repair and needs to be either closed or remodeled within the next six months. There are 200 inmates in that housing unit. It can hold 400, but we have to close that unit down for repairs, or permanently. There will be 200 inmates who will need to be dispersed throughout the agency, which is already overcrowded. I have no place to put them. They are high security and the most dangerous inmates. That unit is in the most desperate need of transferring these 200 inmates out of Nevada, which will most likely be to a private facility outside of the state. Where that could be depends on the request for proposal (RFP). We can put anything we want in the RFP. I would make sure that the RFP would minimally include exactly what we do in the NDOC already, our regular core practices and programs. I am also going to be adding something we do not do in our prison system already. I am going to make sure those facilities that take our offenders have video-visiting capabilities so they can have communication with Nevada, whether it is for family or support services.

When I transfer offenders out of the state, I look at those inmates who are the most dangerous gang leaders and who are extorting our offenders. They extort family members of our inmates and are extremely disruptive to the population, and they control the drug trade within the prison system through the Mexican Mafia. I need to make a statement to those offenders that we will not tolerate their targeting new offenders coming into the system, and I would like to have those offenders be first priority out of the state to the private prisons. Most likely those offenders will be nonresidential offenders anyway. As I said, we have 28 percent of our population who are already nonresidents. If I have 400 offenders whom I have to transfer out of state, priority will be those who are nonresidents of Nevada to ensure I am not separating them from their community. However, I need to make the point that we will not tolerate their targeting our offenders and making them susceptible to being in gangs. They are being forced into gangs—or the families who visit them are being extorted—to ensure they do illegal activities in the prison even though they may not want to.

David Tristan, Deputy Director, Programs, Department of Corrections:

I would like to add that we have gone through every single available bed that we have in our institutions and, as the Director said, we are out of conventional beds. Not only that, but we

met with public works last week to address the issue of the bed shortage. While we really do not want to go out of state or anywhere else we can send our offenders, as was said already, we really have a need for public safety and for conditions of confinement as it relates to all of the physical needs of toilets, showers, law libraries, visiting, and every service that you can think of that we have to provide for these inmates.

Chairman Ohrenschall:

How many inmates do we currently house out of state at private correctional facilities?

David Tristan:

We do not house any inmates in private facilities except out of state through the Interstate Compact, and those are typically states where we have an agreement to take some of their inmates. We can send ours to any prison in all 50 states that are participants of the Compact. It is probably in the neighborhood of a couple of hundred who are out of state or are safekeepers from other jurisdictions.

Chairman Ohrenschall:

I may have misunderstood. Currently all inmates are housed at out-of-state public facilities. Do you feel there may be the need to house some offenders out of state in private institutions? Is that correct?

James Dzurenda:

That is not accurate. We transfer to another state. We have a lot of offenders under the Interstate Compact that we send to other prisons like Hawaii. Unfortunately, Hawaii does not have room for them, so they transfer our inmates to Arizona into private prisons. We have offenders who are in private prisons around the country, but we did not transfer them directly from us to a private prison. We transfer state to state and the state has the option to send their offenders to private prisons, and a lot of those are ours.

Chairman Ohrenschall:

Do you know the number of inmates who are out of state through the Compact?

James Dzurenda:

There are about a couple hundred, but we could narrow that down to where they were transferred to. They can go from private prison to private prison. We could say that they were transferred to a private prison and, if they came back to the state, to another private prison through the state that we transferred to. We will provide that information.

Assemblywoman Krasner:

I can see where this might be a good idea. In addition to the safety standards, we are also providing jobs for construction companies here in Nevada: workers, electricians, and builders. Have you looked for any federal matching funds that might be available to help with the fiscal note in building a prison facility here in Nevada?

James Dzurenda:

I do not believe so. I am not sure if there are any that exist for the building of a prison. I will look into it and give you a definite answer.

Alanna Bundy, Intern, American Civil Liberties Union of Nevada:

The American Civil Liberties Union (ACLU) of Nevada strongly supports A.B. 303, and we work across the country to end private prisons. The first issue we have is the lack of accountability. Private prisons are not government entities and are not covered by public records laws. Private prisons are accountable to their shareholders and not the public. The focus of private prisons is on maximizing profit, not rehabilitation and community safety. Prisons are often paid per inmate that they house, and that is an incentive to produce more inmates and keep those inmates incarcerated longer. Some private prison contracts include an inmate quota, which guarantees minimum occupation, and there is no incentive to curb recidivism. Private prisons can and do censor the information that the public has access to, and CoreCivic, which is the largest corrections company in the United States, has been embroiled in several scandals for falsifying records and omitting data related to prison conditions, inmate deaths, and staffing.

The next issue with private prisons is staffing. One of the main ways that private prison companies reduce cost is by cutting staffing expenses. Private prisons typically staff their facilities with fewer employees than in the public sector, pay lower wages, offer fewer employee benefits, provide less training, and leave unfilled positions vacant for extended periods of time. These are often violations of contracts with states. These practices result in significantly higher turnover rates in private prisons compared to public sector prisons. Several private prisons have been caught understaffing their facilities in violation of their government contracts. Most government contracts include the required staff-to-inmate ratio to ensure a safely run facility.

There are safety concerns and human rights violations within private prisons. Studies have shown that inmates have a higher rate of recidivism, and there are higher incidents of inmate-on-inmate assaults and inmate-on-staff assaults in private prisons. Several private prisons have experienced rioting and escapes due to lack of adequate staffing and security. Private prisons have also been the subject of several lawsuits based on inhumane and unsafe living conditions and lack of adequate medical care. The ACLU has been involved in several of these recent cases, and there are ongoing cases as well.

Then there is the cost savings. While many think that the incentive for private prisons is to save cost for the state, there is little evidence that this is actually true. Evidence of cost savings is very mixed, and some studies showing savings for the state have been financed by the private prison industry itself. Private prisons may produce reduced costs based on unsafe staffing cuts, providing inadequate health care, and offering fewer rehabilitative programs. Private prisons often cherry-pick their inmates, which distorts cost comparisons between the public sector and the private sector. Private prisons will often only select inmates with few medical or mental health problems and decline to take on maximum security or death row

inmates, leaving the costs for the public sector to appear higher than the cost of the private sector. Some private prisons also have a cap on medical expenses that they must pay. Medical expenses above the cap are paid for by the local or state government.

Chairman Ohrenschall:

Do you have any data as to the ratio of inmates to prison staff? I have heard that it is not that great here in Nevada. I wonder how that compares to privately-run prisons around the country compared to what we have in Nevada. Do you have that information?

Nicole Porter:

I can follow up with you after the hearing. That is one of the outcomes that is typically looked at when addressing comparisons between private prisons and public ones. The staff-to-inmate ratio is usually lower in privately-run facilities when reducing costs through cutting labor expenses. This and other operating expenses are reduced as a way to maximize profit. I can follow up with you with specifics.

Overcrowding is an issue. Nevada is among the category of states that have experienced crimes in your state prison populations since your peak year in 2007. As of 2014, the last year for which we have an analysis, Nevada's prison population declined by more than 6 percent since the peak year in 2007. Other states have cancelled private prison contracts or have moved to phase out the practice of private prisons altogether, and, with the ability of the federal government to make similar steps in this direction, last year—under the leadership of the prior administration—changes in practice led to prison population reduction.

For the correctional leaders, I can certainly empathize with the pressure on the system and the need to find space for inmates in common areas and places within the prison but outside the cell. Focusing on contracting is not an evidence-based solution, given the experience that we have had over the last 35 to 40 years since the prison population nationally has grown so significantly. At this time, in 2017, states are looking to practical solutions to manage down their prison population by changing admission practices and looking at release practices. The correctional leaders, along with other Nevadans, including lawmakers and the stakeholders you have in your hearing today, can look to solutions that would help to reduce the population without relying on contracting with private companies.

There are more unspecific recommendations that we can put before you, but I know that Nevada has worked in consultation with the range of stakeholders within the state and outside of the state to address ways to manage downsizing the prison population, addressing overcrowding, and the technical assistance that is still available to you. There is a lot of interest and motivation to address these challenges head-on without relying on prison privatization as the safety valve of the solution to managing overcrowding.

Assemblyman Pickard:

It is interesting because I have not paid close attention to this in the past, but what I am hearing today, particularly from the testimony that has been given so far, is that there are no

instances across the country of a successful private program and that we have no examples of well-run private incarceration systems. Is that a fair statement, or are there outfits that do this well and we just have not touched on them yet?

Nicole Porter:

The research between private prisons and public facilities is mixed in terms of outcome, and that is because the overall challenges of incarceration are complicated, given the large growth in the prison system and the population challenges that correctional officials have had to manage. That is why even stakeholders who track prison population trends have prioritized reducing population with the focus of maintaining public safety while taking into consideration cost concerns and more efficient ways to run correctional services. The short answer is the outcomes are mixed, so I do not want to say all private prisons programs are bad. The challenges that complicate for-profit contracting are the ones that have been mentioned by several people this morning, including the primary goal of maximizing profits. The goal for national corrections, including Nevada, is around public safety outcomes and reducing recidivism for the incarcerated populations so that, when they return to their sending community, they do not return to prison and engage in harm along the way.

Assemblyman Pickard:

We are talking about a mixed bag of results. I wonder if there are best practices. Every for-profit business is in business to make money and to provide a particular service that they are set up to provide. It sounds to me like you are conceding that there are some that do well. Is there a way to incorporate those best practices? We hear the same kind of outcome problems with the current public prison system. Can we analyze those services or has the best-practices analysis been done? I am thinking about transfers right now so that we can focus on those systems that actually do it well.

Nicole Porter:

As I understand your transfer policy, there may be some best practices that can be codified into the transfer agreement that the NDOC currently operates. In terms of the mixed bag in adopting the best practices, if the state were to ever contract with a for-profit prison company outside of the state jurisdiction, I would just say that the mixed bag is also because of poor outcomes in the public facilities, and that is because prison populations have gotten too large in the last 30 to 40 years as a result of the high growth of incarceration. Those experiences have led to the need to contract out with private prisons. They have also led to overcrowding challenges within public facilities that compromise the ability of correctional staff to offer rehabilitation programming and other recidivism reduction initiatives. I would direct the lawmakers within this Committee who are looking at correctional privatization as a possible practice to look at pragmatic efforts around prison population reduction and evidence-based practices that can help contain costs and align the goal of public safety with efficiency in serving the correctional needs of the state.

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

We want to register our support for this important piece of legislation. We believe that it would ensure the best possible treatment, care, and services that are provided by NDOC and

ensure safety for all the inmates in Nevada. We appreciate Director Dzurenda and Deputy Director Tristan testifying. We appreciate their amendment as well, and we fully support this measure.

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

We would like to thank Assemblywoman Monroe-Moreno for bringing this important piece of legislation. For those of you who do not know, we both practiced in the same courtroom in North Las Vegas while she was a corrections officer and I was the public defender in that courtroom. She was always looking for solutions, and this piece of legislation seems like another solution that will move Nevada in the right direction. Given the well-thought-out amendment that Director Dzurenda put forward and has been accepted by the sponsor, I think this will benefit the incarcerated people in our communities.

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

We are happy to come to the table in support of the bill. As you may remember from a couple of sessions ago, there was a bill that did the opposite of this and allowed for the privatization of correctional facilities, and we opposed that bill at the time, so it is only proper for us to come forward and support this bill today.

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

We run the Washoe County jail and are happy to support this bill.

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:

We will ditto everyone else's comments so that I am not redundant. We support A.B. 303.

Chairman Ohrenschall:

I was reminding the members about what happened in 2001 at the Summit View Youth Correctional Center when a private company ran it. Things turned out very badly. I do not think that is something we want to see repeated, either in an adult facility or a juvenile facility. Is there anyone else in support of A.B. 303, either in Carson City or Las Vegas? Seeing no one, I will move to opposition. Is anyone opposed to A.B. 303, either here or in Las Vegas? [There was no one.] Is there anyone who is neutral? Not seeing anyone, it seems you have a lot of support for this bill. Do you have any closing comments to make?

Assemblywoman Monroe-Moreno:

As you stated, Nevada has tried using private prisons in housing both our juvenile and adult offenders. Neither was successful. I call your attention to the last slide [slide 13, ([Exhibit C](#))] about the Southern Nevada Women's Correctional Facility. We do not need to repeat the mistakes of our past. The focus of our correctional facilities should work to improve public safety; ensure we maintain a safe and humane environment that provides rehabilitation initiatives; prepare individuals for successful reintegration into society by giving them the tools they need to self-improve; properly address, treat, and manage

behavioral health care issues; and assist with job skills, thus reducing recidivism. I am in no way saying that our system is perfect; it is not. Having a career in corrections, I know firsthand the need to improve our criminal justice system. It is our mission to put our people first and not dollars.

Chairman Ohrenschall:

This is a great bill, and I am proud to be a cosponsor. I will now close the hearing on Assembly Bill 303. We will open the hearing on Assembly Bill 316. This is another very meritorious piece of legislation in my opinion.

Assembly Bill 316: Revises provisions relating to offenders. (BDR 16-961)

Assemblyman Tyrone Thompson, Assembly District No. 17:

Assembly Bill 316 is focused on prisoner reentry. I want to read to you the Department of Corrections (NDOC) mission statement: "The Nevada Department of Corrections will improve public safety by ensuring a safe and humane environment that incorporates proven rehabilitation initiatives that prepare individuals for successful reintegration into our communities." This is perfect timing for this bill. I am very pleased and honored to have been recently appointed to the Governor's Reentry Task Force. I will be continuing this work post-session. What I really value is that I have developed a pretty good working relationship with our director of NDOC. I have with me in Las Vegas Director James Dzurenda and Deputy Director David Tristan, who oversee the programs.

To give you a little background on how I am going to present the bill, I will give you context about the bill. We will go over the proposed conceptual amendment ([Exhibit H](#)), which is uploaded on the Nevada Electronic Legislative Information System (NELIS). As you will see, it was also in conjunction with NDOC, and then we will be open to any questions.

This year and every year there are thousands of inmates who are being released back into their community. I say "their community" because most of them have committed their crime in Nevada and are going into our prison system and then are coming back. It is incumbent upon us as a Legislature to ensure they are not released into homelessness and that we try to do what we can so they can have gainful employment and make sure they have mainstream programs that they may need if they qualify for disability programs, et cetera. That is what is really important about this bill.

Individuals who have served time in prison face overwhelming obstacles for reentry into society. Reentry programs are designed to assist formerly incarcerated individuals with a successful transition into their community after release. Research has consistently shown former offenders who receive assistance from a reentry program are less likely to return to prison than counterparts who do not receive that assistance.

The proposed changes to the bill will provide mediation services to the offenders and the offenders' families, and provide program options prior to their release to better prepare them for reentry. Reentry into the labor market can often be one of the most difficult barriers

former offenders face. Employment significantly reduces recidivism, and providing offenders with reentry program options can assist them with employment opportunities that can make a big difference. That connection with family and friends is critical to offenders' success upon reentry into society, so mediation helps resolve disputes and builds relationships between incarcerated individuals and their families. It also provides offenders and their families with services and support as they prepare for reentry. For example, in Maryland, a successful program called "Community Mediation Maryland" has found that fostering supportive family relationships can reduce recidivism. Here in Nevada, we previously had a program through the Neighborhood Justice Center that the Legislature actually created years ago. It is a free mediation program that used to be inside the prisons that offered mediation prior to release.

I would like to walk you through the proposed amendment ([Exhibit H](#)). Section 1, subsection 1 says that, "Before an offender is released from prison by expiration of his or her term of sentence, by pardon or parole, the Director may provide mediation services to the offender and the family members and friends of the offender who provide emotional, psychological and financial support to the offender." Many times when people are arrested and sent to prison, there is no opportunity for closure, especially for grandma or a significant other to say how they really feel about what happened. You need to offer that opportunity and the space for them to resolve those differences so that when they are discharged they can be made whole. This will also help us with housing. If grandma is angry that her grandson or granddaughter did something wrong, and grandma's house was the main source of housing and we have not created the opportunity to have that communication, she will likely not allow that person to come back to the house, and then that person becomes homeless.

Section 1, subsection 2, says "A minimum of three (3) months" This is the beauty of working with the professionals at NDOC because I originally had "three months" to ensure the work begins right before their release, but they made it very clear that it needs to be done at least three months prior. You should start the reentry process around 6 to 18 months prior to release. The amendment says:

A minimum of three (3) months before an offender is projected to be released from prison by expiration of his or her term of sentence, by pardon or parole, the Director may provide the offender, who is deemed eligible for reentry programming based on the Nevada Risk Assessment Services instrument, and subsequently enrolled in programming services under the reentry program at correctional facilities with designated re-entry programming staff or community based reentry programs, with one or more evidence-based or promising practice reentry programs based on space available to obtain employment, including, without limitation, any programs which may provide bonding for an offender entering the workplace and any organizations which may provide employment or bonding assistance to such a person.

I wanted to make sure we put in "promising practice" because that is the ultimate when you talk about an evidence-based program. It is a very high bar, and that is where we want to be.

We have had programs in and out of our prison system, and there has been some great work done. Now is the opportunity that we need to build a sustainable reentry system within our prison system. When I refer to promising practice, those are the programs that are not quite evidence-based, but are on the trajectory to become evidence-based because they are bringing in great data and great outcomes. We are not about output anymore. We do not want to say that 100 prisoners came through the program; we want to say of those 100 prisoners X number received employment, X number maintained their housing, et cetera. We want it to say there are programs within the prison system, and we know there are some very successful community-based programs.

"The Director is encouraged to work closely with the Governor's Reentry Task Force to align statewide reentry strategies and implementation." I am sure you have probably heard my comments when we talked about reentry that it is all about alignment. If we have a plan for our state and if we do not align the different programs in the different departments, we are really just working in silos. I appreciate that the director, whomever that will be, will know that working with the Reentry Task Force is a must.

James E. Dzurenda, Director, Department of Corrections:

This bill does not appear to have a negative fiscal impact. If we do it correctly and this bill gets implemented, we will see a positive impact. There is nothing negative that you can say about conducting better reentry programming and doing actual programming to make offenders successful. A lot of you have heard my talk over and over again, but 88 percent of our population have sentences of less than 18 years. What that means is, if we never arrest another person in Nevada, we will see approximately 12,000 offenders released back to our community within the next year to 18 years. We have to start doing something with our reentry program. We need to start looking at better programs that are going to have those outcome measures that are acceptable to our communities to keep victimization down and make these offenders successful. A successful offender, to me, means less victimization in our community. We have to start doing things and passing laws that will protect our residents so we can make our offenders more successful, which means we will be better protected in our communities.

[Assemblyman Yeager assumed the Chair.]

Vice Chairman Yeager:

Deputy Director Tristan, do you want to make any comments?

David Tristan, Deputy Director, Programs, Department of Corrections:

Assemblyman Thompson has been working with us. He and his staff have been working very closely with our staff. This codifies our mission, so we want to thank him for that.

Assemblywoman Miller:

You know that I am absolutely passionate about prisoner reentry programs. I am glad to see that this is the direction Nevada is going in now. We have discussed some of my experiences

and creating a prison reentry program offline. There are federal funds out there to help support programming here. I urge you and the task force to seek out those federal funds that can assist with this.

The program that I ran was actually funded by the Department of Labor, as well as our Department of Justice. It was the Department of Labor because we know that the number one factor that we need for reentry along with housing is employment. Without employment we know what happens. I urge you to look into those. I am glad that you mentioned family reunification. Hopefully, we can move in the direction toward servicing families while the family member is incarcerated. The children suffer immensely when they have a parent incarcerated. We also need to address these needs if possible.

Assemblyman Thompson:

Yes, we will look at the federal grants. Director Dzurenda has an amazing team that knows how to look at grants. A great thing about the state of Nevada is that we are one of a few states that received an approximately \$1.5 million planning grant to look at reentry in our community. Additionally, we have had some great conversations when talking about the different programs. One of them is the Sesame Street program which actually allows for the offenders, while they are in prison, to read books with their kids. It is a cool grant program that we will be working on to make it happen. We will work with literacy and foster communication with the parent who is incarcerated, since children are made whole when they are involved with both of their parents.

Assemblywoman Jauregui:

This is a great bill. Do these programs include employment programs? Do they include educational and skills-based programs? Maybe not to get them a job, but to enter them into a program that will help them develop skills?

Assemblyman Thompson:

I do not have all of the information, but I believe the College of Southern Nevada is inside the prisons—and the Director could probably explain that—working on higher education needs or on getting their high school equivalency or general education diploma. I am also working with Workforce Connections so the offenders can have that connection with the workforce. They may have some additional suggestions on that.

James Dzurenda:

It includes skills and employment-based training. We now work very closely with the Department of Employment, Training and Rehabilitation (DETR), probably closer than ever before. They do studies to determine which job sets out in the community are having difficulty placing residents who are not skilled enough for those professions, and jobs that are frequently kept vacant. This addresses going in and teaching job skills for the offenders so they become more employable in those agencies, making them more successful. It opens up their résumé a little so they can be more successful.

The grant that we received from the Second Chance Act that Assemblyman Thompson mentioned was about \$1.5 million that has been granted for the first year. If we are successful with the combination of the reentry program and this bill, it will mean getting an additional \$2 million spread over the next two years to continue this reentry program. It will all go through the Reentry Task Force as mentioned.

Assemblywoman Jauregui:

I want to make sure this is not just placing them in a job, but that you are also giving them the skills they need: training and education.

Assemblywoman Krasner:

Obviously, it is very important that we have reentry programs for people who have done their time and paid their debt to society. What type of reentry programs do we have now for those persons who are being released from prison, and how will the new programs differ from the old ones?

Assemblyman Thompson:

There are many reentry programs. I hate to mention some and not the others, but I will mention some that you probably already know. We have HOPE for Prisoners, which is a big program, which reminds me that Jon Ponder will be submitting a letter of support. They work directly with people who have been incarcerated, and they have a mentoring program. You know I am into mentoring. We also have Foundation for an Independent Tomorrow in southern Nevada. There is Ridge House here in northern Nevada. There is a coalition of reentry programs. We are really trying to capture the data. By capturing the data and telling our story in Nevada, that goes back to—I know we are a policy committee—our getting those resources and federal dollars. That is where we get sustainability. We have had programs come in and out of our prisons, but we need to continue to build the continuum and make it sustainable.

Assemblywoman Krasner:

I am glad to hear that you are looking into matching federal money. Director Dzurenda also mentioned that. There is a \$4 million fiscal note on this bill, and I wonder if the \$2 million that Director Dzurenda just mentioned would reduce this or be enough to take care of it? Could we eliminate the fiscal note if those funds are there?

Assemblyman Thompson:

From my understanding, the fiscal note will be eliminated because we changed it from "shall" to "may" in the amendment. I am trying to build this correctly. Sometimes with legislation you cannot do everything right the first time. I am trying to work with it now, and in the interim I will be on the Reentry Task Force along with the Director and other departments. When we come back in 2019, things might be better. We might have a fiscal note, but it is going to be okay because we are going to have all the information we need to have the appropriate programs. As the Director said, we already have some great seed money to help right now. There are dollars and resources for the programs that I mentioned before as well.

David Tristan:

To explain in more detail, the reason for the fiscal note was that the "shall" required NDOC to provide reentry programs for every single inmate who was going to leave our facilities to either parole or expire. We do not have those kinds of resources nor the physical space in which to do it in our more remote prisons from which some of our inmates are being released. Nor do we have the space in our more urban prisons like Southern Desert Correctional Center, High Desert State Prison, Warm Springs Correctional Center, or the Northern Nevada Correctional Center. We would not have the space to even begin to transfer inmates to those places, even though we have a little more program space. It was really going to bind us where we would not be able to perform. That does not mean we would not make every effort to try. While working with Assemblyman Thompson, we began to craft language that would provide us with the opportunity to place in law that we would do as much as we can for all of the inmates.

I would like to elaborate a little more on what we are doing. For example, our Nevada Offender Tracking Information System, or NOTIS, which is our automated system, was not able to capture the risk assessment in enough detail that we could actually work out a case plan for an inmate. From our perspective, reentry for the shorter term inmate begins at the point of entry into our prison system, so we can place the inmate in the appropriate educational program, vocational training program, industries program, or evidence-based program to change either substance abuse or criminogenic thinking. We are now in the process of testing our automated system so that caseworkers will be able to discern from the automated system what programs they will go into. That is one of the changes that will really help us in the future.

The other thing is that this is the beginning of our Second Chance Act grant, as the Director mentioned. We have two more years and, hopefully, we will be successful. At the present time, we have met every requirement as it relates to the Second Chance Act grant and have been reporting our progress to the federal government. In addition, it requires that we work more closely with our community partners just as Assemblyman Thompson mentioned. We have sought grants in all types of areas. The Director encouraged us to go after the Vera Institute of Justice grant for segregation housing for inmates, which allows us to work more with inmates who have been placed in segregation. We were able to obtain a grant from the National Institute of Corrections to assist us with the development of our mental health program, which will allow us to work with the mentally ill inmates as they roll out to the community. We are starting to work very closely with the College of Southern Nevada. Hopefully, we will be able to improve our educational services inside the facilities. We have been working with the trade unions and others so the inmates will go out with employable skills. We also work with the Department of Motor Vehicles and are almost to the point where we will be able to formalize an agreement between them and NDOC. We are working in a lot of areas to enhance our inmates' abilities to program and successfully reintegrate back into society.

Vice Chairman Yeager:

With the amended version of the bill, there would be no fiscal note from the Department of Corrections. Is that correct?

David Tristan:

That is correct.

Assemblyman Wheeler:

Are these programs voluntary for the inmates, or are they required to take them?

Assemblyman Thompson:

I would say they are voluntary because there are so many that would want to be in them. I would allow the Director to answer that.

David Tristan:

It would not be a situation in which we would coerce inmates into going into the programs, but there are meritorious credits that can be awarded for successful completion of these programs. They would have the opportunity to go before the State Board of Parole Commissioners sooner than if they had not. It is more of an incentive to go into these evidence-based reentry programs.

Assemblyman Wheeler:

I like the idea of this. Obviously, if we bring recidivism down, it saves the state and the counties a lot of money, and it integrates people back into society. There is no doubt that it is a good idea. Has a cost-benefit analysis been done through existing programs like HOPE for Prisoners or Ridge House or anything like that?

David Tristan:

There is a cost-benefit analysis, but I do not have the numbers off the top of my head. The fact that we are able to reduce recidivism at an average cost of about \$22,000 to \$25,000 per inmate would be a tremendous savings to the state and the taxpayers.

Assemblyman Wheeler:

If you would send that to me, I would love to see it. I would like to be able to use it when talking to other people. Assemblyman Thompson, you said, "We want to make sure the prisoners are not released into homelessness." About a month ago Director Dzurenda was in my office and we discussed that about 600 prisoners were still in prison because we will not let them out—and this is after their parole or release date—because there is nowhere for them to go. Do we not release them into homelessness now? That is confusing to me.

Assemblyman Thompson:

It is happening. We have to keep this real. As you see in the bill, when they are released they can be given up to \$100. You are given a \$100 check, you do not have identification, you have not talked to grandma about going back to her house, so yes, many people are homeless. I was previously the regional homeless coordinator for southern Nevada.

The resources are so scarce, we have many people who are being released at no fault of the prison system. This bill is the opportunity for us to build something where people can be made whole when they are released. Either way, they will be going to a transitional home. That is another thing that we were discussing. There is a way to connect with the Continuum of Care, which is the homeless arena trying to see if there are some programs and resources where we can get people into transitional housing. What we are really trying to do is get people into permanent supportive housing like Housing First. Take a person as they are, and then build the resources that they need. This is our opportunity to really look at this without looking the other way. It will help because it will not drain our social services system any more.

Assemblyman Wheeler:

When Director Dzurenda and I spoke about it, it was the lack of transitional housing that we were talking about, and we have been dealing with some zoning issues in our two largest urban centers to try to fix that. I was under the impression that we would not let anyone out unless they had somewhere to go.

Assemblyman Hansen:

Most of my questions have been answered. You are essentially restructuring existing programs within NDOC and just trying to fine-tune them. I am not familiar with the concept of an evidence-based reentry. What is that? Are there some that are not evidence-based?

Assemblyman Thompson:

Yes. There is a combination, but we are working on the directive of the Second Chance Act grant. Recipients of the grant are trying to steer communities to evidence-based programs, meaning to collect data and show that your program works and that it is sound. It is not just us saying that it is a great program. We have the data element aligned, and it shows that the program is successful. The reason I put in "promising practice" is that we may not have all of the evidence-based programs that can suffice to meet the needs of the demand.

Assemblyman Hansen:

My question is about bonding. I did not realize that someone, when they are released, could get bonded. What are they bonding against?

Assemblyman Thompson:

When you are an ex-offender, there is usually an issue around employment. Maybe Director Dzurenda or Deputy Director Tristan can step in as well. Sometimes that is a condition of employment. That is a conversation we will talk about in other bills. Employment is a challenge for these people because they are automatically set up with barriers even though they served their time, they have the skills, and they have the work ethic, but some employers want a guarantee before they employ that person.

Assemblyman Hansen:

I see where you are coming from. I was not familiar with that. As you know, I have employed a lot of ex-felons. I have never asked them to provide a bond in case they go

haywire on me. I think the whole concept is great. It is all voluntary. You mentioned grandma and getting your place to live back. If Ira robs a bank, does his time and gets out, and he has the "tie a yellow ribbon round the ole oak tree" concept, is that where you are going? Do you want the people to know where they are going before release? They need to bond with their families although they may not welcome them back, right?

Assemblyman Thompson:

Exactly. Reunification, like Assemblywoman Miller said, is what it is about. Some may not have family, and that will be fine. Since they are going to be working on this at least three months prior to release, they need to start thinking about that. We cannot just release them and say, "It is your time to go even without a plan."

James Dzurenda:

I have two things that are important to address with Assemblymen Wheeler and Hansen. The numbers that I gave Assemblyman Wheeler were brought up. Yesterday we had 530 inmates who have already been approved for release on parole, but they are homeless. They have nowhere to go and no address. They stay incarcerated until either we can find them a transitional center, halfway house, or some housing; but unfortunately, the majority do not get any placement. We, NDOC, lose jurisdiction over that offender at the end of his sentence, and eventually these offenders come to the end of their sentences. If these 530 come to the end of their sentences, there will be 530 inmates who will be released from prison with no place to go. We give them a pillow and a blanket and we tell them good luck. That is dangerous, and that is why I think it is so important that we start these things right away. We have to start figuring out how to work on the reentry to try to find some type of shelter that can follow up with community programs and to give them a residence so they can get Medicaid and all of the other services provided to them if they have an address. Right now they do not have one.

Best-practice programming is not our term. This is a national term. A program is only considered a best practice after you have had three years of consistent data to show that the program reduced recidivism or that it achieved the intent of the program. If the intention was to reduce those who are addicted to certain narcotics, if it showed proof over a three-year period that the majority have succeeded in that statistic, then it becomes a best-practice program. There are programs out there, as Assemblyman Thompson was mentioning, that are very good programs, really good. Some inmates benefit from them, but they do not meet the standard for best-practice programming because the majority do not succeed. Those are the programs that you need to stop doing and refocus, and move to better programs in which we know the majority will succeed.

We have programs now that we believe are succeeding and that have shown proof in the first two years, but have not been through the third year yet to prove as a best practice. It is going in the direction that we know will be a best practice, so we continue those programs because we know they will be successful in reducing victimization in the community.

Assemblyman Pickard:

We had a conversation about this when you were looking for signatures and I mentioned that, if you could work out the details with the Director, I would be happy to sign on. I am happy to amend on if you will have me. How do we define "promising practice?" What are the criteria for establishing what promising practice is, and how do we make sure we are looking at programs that are actually promising and not just labeled that way?

Assemblyman Thompson:

Thank you for joining the team. I can get that information from another bill that I am working on. I am working with social and behavioral health experts so I can get that to you. In a nutshell, promising practice is basically what Director Dzurenda said. He said that some programs are almost there, but not quite there. We want to work with those grassroots programs with some guidelines. The goal is to want and desire to become an evidence-based program. We would categorize those as promising practices, meaning that they are doing some good work but they have not met the level of evidence-based.

Assemblyman Pickard:

Maybe Director Dzurenda can elaborate a little on that. I wonder if we should codify what a promising practice is, like two out of three years of positive data or something like that.

David Tristan:

The way we are looking at it is that it is similar or identical to what I would refer to as a best practice. Normally, as the Director mentioned, you would have three years of an independent source vetting that program to see if the outcome measures are being met. There are programs in the community that have not had the resources to tie into something like a university for research, or other programs like that to be able to garner the data. We are working with the Second Chance Act grant to provide some of those metrics and the data and the outcome measures. When we partner up with a community-based program that has not really been evaluated from an evidence-based program perspective, we will be able to look at that data three years from now to see if it was successful. It is a point in time when we begin a program and we look at it and what the measurements ought to be: how many people are going to be successful as compared to how many people went into the program, the length of time they stayed relapse-free from substance abuse. Then, as time progresses, we may be able to provide the data that says these have migrated into evidence-based programming.

Assemblyman Pickard:

I appreciate that and fully agree with you that the training and rehabilitation needs to start as soon as they get there, and not just 3 to 18 months before it is critical in addressing the real problems.

Assemblywoman Tolles:

All of my questions have been answered. Congratulations, Assemblyman Thompson, for being appointed to the Governor's Reentry Task Force. That is amazing. I was inspired by

touring the Ridge House and the Northern Nevada Correctional Center and seeing in action how these programs are changing the trajectory of these people's lives. The bill is incredibly important.

Vice Chairman Yeager:

At this time we will open it up for testimony in support of Assembly Bill 316 if anyone would like to testify. I do not know if there is anyone in Las Vegas. If so, please make your way to the table. We will start in Carson City, where we have folks in support.

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

I would like the record to reflect that I am sitting next to Chuck Callaway at the table in support of this bill. This is critical, considering 95 percent of the prison population in the United States will eventually reenter society. It is critical that they have the appropriate interventions and rehabilitative training while in prison and when exiting back into the community.

I also want to offer some support and guidance. I have a background in reentry programs. The National Institute of Justice did an analysis of the Ridge House's program and gave some guidance on what evidence-based means. I do not know if they did that for HOPE for Prisoners. They gave them some good measuring criteria to see if the program is successful. I would be happy to assist with any further amendments.

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

We are here in support of the bill, obviously, for all of the reasons that have been stated. It mirrors what we are doing on the local level with the HOPE for Prisoners program. We all know that if we do not provide an avenue for success when folks get released, they will wind up right back in the criminal justice system.

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

We are here in support of A.B. 316. I want to reiterate our support for reentry programs.

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

We support this bill.

Vice Chairman Yeager:

Let us go to Las Vegas because we have one speaker at the table.

Otis Lang, Private Citizen, Las Vegas, Nevada:

This bill is very important. I was directly affected by the reentry programs at High Desert State Prison and Southern Desert Correctional Center. It is a great program on paper. In reality—I hate to be the bearer of bad news—it is just not out there. When you are in prison, the programs are there, and you learn everything you need to do to get back into society and to be successful. A lot of people who are locked up do not have a driver's license

or any identification or a social security card. They help you get those, but once you get out and are on the street and start networking, no one wants to hire you. I have been out of prison for over five years and was not able to get a job. I am very capable and very skilled in many positions. I created positions, and I now work for the union. I am a roofer and I bring in other inmates. It is frustrating to get out of prison with nothing, no help or anything. On paper, it is a great program, but in real life it does not help. When you get out and have nothing, there is no real help out there. They throw you out to find your own way. That is where the recidivism is coming from: you have no hope. I like the name "HOPE for Prisoners," and the name sounds good, but there is no real hope.

I was in prison, and I have a son who is in prison right now. We are trying to break this cycle. He was paroled on March 23, 2017, and he is still in prison. I have a home and my family have homes. There are halfway houses. We are so desperate that we got a motel on Las Vegas Boulevard, but they denied that too. I spoke to the Division of Parole and Probation on Friday [March 31, 2017], and they said they would allow him to go to my sister's house since she is a pastor. Why is this not being accepted? He has resources. He has a job. I have him hooked up with the union when he gets out.

These programs are very important. We have families, and I could be your next-door neighbor. I am your brother or your uncle. I have to get started. If it were not for God and my sheer will to live and be successful, I would not be here today. I am here talking to the same people who may be the ones who locked me up. I shoot movies now. I am the head director on the movie *The Other Side* out of Hollywood. I have given out over 75 bikes to Child Haven. I have been doing this throughout the last few years through my car club that has five state chapters. I did not get any help from the prison system at all.

My son is getting out. I have talked with people in this city, county, and state. I also work with the Las Vegas Metropolitan Police Department (Metro) and their mentorship programs. My son is getting out, and he and I need all the help we can get. Even though he has family, he still has to integrate into society and the community and to be accepted. That is what they are not doing. They are not accepting people coming out of prison, because they do not have to. Accountability is everything. I have talked to my foremen and union representatives because so many people come to me when getting out of prison, as if I was the reentry program. I have talked to them about setting up a program to bring these people in from prison. If I can get the help from you, we can get the ball rolling. I have been hiring people myself who are straight out of prison and have not been on the streets for even one day when we have jobs for them. If I can get some discussion going with you or someone else, I can get a lot of people hired.

I am in support of the bill. We need more checks and balances, and more people to check on people who have been incarcerated—just as Parole and Probation checks on them to see if they have living arrangements—to check on them to see if they have a job, to check how they are doing. What do you have for them? Let us bring everything to the table. I have a better dialogue than the prison system because I spent 12 years in prison. A lot of people call me, both federal and state. I did the same thing in prison; I tried to help people. I got in trouble

for it. They wanted to lock me up and send me to another state for inciting a riot for trying to help people get out of prison. The warden had to answer to 85 people because of me. I am doing the same thing on the streets. Give me a hand. Help me out with this. There are a lot of people who know what I do, including in your forum.

Vice Chairman Yeager:

Thank you for what you do. We will connect and see how we can work together. I think everyone is aligned in thinking that we need to get this right and we need to do a better job. Thank you for providing your testimony this morning and being willing to work with the prisons and Assemblyman Thompson on improving these programs.

Is there anyone else down in Las Vegas who would like to testify in support of A.B. 316? I do not see anyone, so we will come back up here to Carson City.

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

We are in full support of the bill. I appreciate Assemblyman Thompson's bringing forth this important piece of legislation. I would note that the language contained in section 1, subsection 1, states, ". . . the Director may provide mediation services to the offender and the family members and friends of the offender who provide emotional, psychological and financial support to the offender." This is extremely critical as Assemblyman Thompson said, not only for the offender, but also for the family members who are dealing with reintegrating and reunifying with the offender. They also need to reunify with this person who may still be struggling with mental health or substance abuse issues. In fact, this is so critical that one of the judges I practiced in front of in adult court would hand me literature in court as the defendant was being sentenced to NDOC, not to give to the offender, but to give to the family members for dealing with what the offender may be going through and the reunification process when he is released.

I appreciate the legislators going out to visit places like Ridge House and looking at the success rate. I do not have the cost-benefit analysis studies or the data, but I do have the anecdotal data. One of the highest compliments that I can be paid as a public defender is when I run into these people who have gone to the Ridge House after their period of incarceration has been served and are working the steps and doing everything they can to reintegrate back into society. I usually run into them at Walmart or Sam's Club and they thank me. I support this measure.

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

We, too, stand in support of this measure. I think Mr. Sullivan said it best. We are both on the same page when we say that we want to see our clients out in the community doing well rather than back being represented by us. I think this measure goes a long way toward putting that into effect.

**David Cherry, Communications and Intergovernmental Relations Manager,
City of Henderson:**

I am here in support of the bill on behalf of the City of Henderson and would like to echo the comments of those who have spoken about the importance of reintegration and how that will prevent recidivism. I would also say to the sponsor that you have created quite an amazing coalition in support of your bill, which says a lot about its merits.

Vice Chairman Yeager:

Is there anyone else in support of A.B. 316? [There was no one.] Let us take opposition to the bill if there is anyone opposed. I do not see anyone. Is there any neutral testimony on Assembly Bill 316? I do not see anyone, so I will ask you back for any closing remarks.

Assemblyman Thompson:

I appreciate Otis Lang. I have been working with him for quite a while in the community. He is a real-life scenario. His son is on the verge of being released by NDOC. What an opportunity for us to connect. This goes back to reunification. It sounds like he is going to have a home to go back to. He is fortunate. He is still going to need some other resources for employment, et cetera, but at least he will not be homeless; there are many who will be. I want to thank NDOC for the partnership and for their mission statement. That alone looks at the reintegration. You start work as soon as people come in, and look to help them when they get out. This is our opportunity. In all of the dialogues that we have, we are always talking about wasteful spending and return on investment.

Vice Chairman Yeager:

We will close the hearing on A.B. 316. We will open the hearing on Assembly Bill 327. We will invite Assemblyman McCurdy to the table along with any copresenters.

**Assembly Bill 327: Revises provisions relating to records of criminal history.
(BDR 14-658)**

Assemblyman William McCurdy II, Assembly District No. 6:

At the table with me today is John Piro of the Clark County Public Defender's Office. We also have Kendra Jepsen, and in the south we will hear from former Speaker Barbara Buckley. She will introduce some other people as well.

Assembly Bill 327 authorizes people who were dishonorably discharged from probation to apply to the court for the sealing of records of criminal history related to their conviction. Existing law authorizes a person who is granted an honorable discharge from probation to apply to the court for the sealing of records relating to the conviction; however, existing law also provides that a person who has been given a dishonorable discharge from probation is not entitled to such a privilege.

Section 1 of A.B. 327 authorizes a person who has been given a dishonorable discharge from probation to apply to the court for the sealing of records relating to the conviction if he or she is otherwise eligible to have the records sealed. Everyone makes mistakes. No one is

immune to the trials and tribulations of life, but that does not mean they deserve to be looked down upon. Regardless of how much you have changed or how many dreams you may have, one single mistake can affect your chances of having a good future. It is imperative that we take a very close look at what we are going to hear, see, and do this morning.

Record sealing improves the lives of our fellow Nevadans and our community as a whole. Having a criminal record against your name will make it really hard to find a job, since very few employers accept candidates with past arrests. Many professional organizations conduct background checks before accepting anyone for a position in their organization. If they cannot reenter the workforce, how can we expect them to be positive contributors to our society? In fact, not only do employers do a thorough background check, but landlords also look up criminal record history of those seeking housing. Recently, routine background checks have become more and more frequent and almost mandatory. The stigma of having an arrest or conviction record can make it very difficult for you to find housing, gain employment, or obtain loans. This legislation will open up opportunities and allow people to move on with their lives and improve our community.

We have received friendly amendments from the Nevada District Attorneys Association ([Exhibit I](#)) and the City of Henderson ([Exhibit J](#)) as well. I will ask John Piro to go into detail on the bill.

Vice Chairman Yeager:

Before we go to Mr. Piro, I would like to check with Ms. Buckley. I know that you have to be somewhere else, so did you want to provide comments now or can you hold them until after Mr. Piro proceeds?

Barbara E. Buckley, Executive Director, Legal Aid Center of Southern Nevada:

If you do not mind, I would love to just give them quickly. To put it very simply, our record sealing system in the state of Nevada is broken. It is convoluted, complex, and does not allow someone who has something in their past to move on and have a future. That sums it up. The bill, the amendments, and the stakeholders have done a terrific job, and if the bill and amendments pass, we will see a system that will better serve the state and the employers who need employees.

We have three individuals down here who would like to testify after Mr. Piro. I will have them come up when you are ready for them.

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

I want to go through a few sections of the bill and the amendments proposed by the Nevada District Attorneys Association ([Exhibit I](#)) and the City of Henderson ([Exhibit J](#)) to clarify some sections.

Section 1, subsection 3, deals with the change allowing people who have received a dishonorable discharge to now seal their records. Previously, this was not allowed by law. You are going to hear from some people who have received a dishonorable discharge, along

with Legal Aid. I have been trying to help one ex-offender for quite some time. She received a dishonorable discharge a long time ago and has since changed her life, but her criminal record has been haunting her. This is a big change in how we do record sealing and will go a long way toward helping people who have changed their lives and have separated themselves from their past.

Section 5, subsection 1, is another big change in the law. I would sum it up as a one-stop shop provision with permissive authority. We have spoken previously in this Committee about the different courts and how many different courts you would have to go to in order to seal your record if you were convicted in one of the various municipal courts or the justice courts. This would allow people who were convicted of a crime in both a justice court and a different municipal court to go to the district court and do a one-stop shop for all of those record sealing issues that they have, which would make the process more streamlined and easier to accomplish.

Heading back to section 4, subsection 2, the district attorneys' amendment is going to remove that section, which removes their responsibility to prove that the record should not be sealed. The sponsor is accepting the amendment. It is also stated in subsection 1 that there is a presumption that, if the person meets the statutory requirements, the record should be sealed. There is no conflict between the district attorneys' amendment and what the statute is trying to accomplish.

Moving on to the next section, section 7 is the most pertinent. The District Attorneys Association has proposed a different time limit that is both friendlier than what this bill originally had proposed, and also mirrors the changes that the District Attorneys Association proposed in Senate Bill 125, which was sponsored by both Senator Ford and Assemblyman Frierson. They are changing some of the time limits. Previously the time limits to seal records have been unduly long and leave people in the lurch too long. This goes a long way toward changing that to a shorter time period, while still recognizing it is still going to be a long time period for some crimes.

[Assemblyman Ohrenschall reassumed the Chair.]

If we look at section 7 in the district attorneys' amendment ([Exhibit I](#)), for "A category A felony, or a crime of violence as defined by *Nevada Revised Statutes* (NRS) Chapter 200, or residential burglary pursuant to NRS 205.060," a person would have to wait "ten years from the date of release from actual custody or discharge from parole or probation," in order to seal his record. That is a change in the law, but it recognizes that people who commit crimes of violence should have to wait longer. It is the same for anyone who enters another person's house. Since that is sacred space, he should have to wait longer.

For the category C or D offenses, it changes the time limits from the previous 12 years to 5 years now. Most of those crimes are nonviolent crimes. It shortens that time frame. Category E felonies, which are the lowest felonies that we have on the books, are changed from the previous seven years to two years. Those are offenses like possession of

a controlled substance or things of that nature. Gross misdemeanors would now be two years instead of the previous five years. The district attorneys have amended this bill to say if you were to have either a driving under the influence (DUI) offense or a crime of domestic violence (DV), the time limit would stay at seven years instead of the bill's proposed five years. There is no objection from the bill's sponsors to keeping those crimes at seven years prior to sealing. This recognizes that both of those are serious misdemeanor offenses that are enhanceable.

Any other misdemeanors would be one year for the time of sealing, except section 7, subsection 1, paragraph (g) in the district attorneys' amendment, that says, "Any misdemeanor conviction for battery, stalking, harassment, or violation of a temporary or extended protective order may be sealed after 2 years from the date of release from actual custody or from when the person is no longer under a suspended sentence, whichever occurs later." That recognizes there are some misdemeanors that are more serious and that we should keep an eye on some of the offenders in the community in that regard. All of those proposed amendments fit nicely within this bill.

Section 7, subsection 4 of the bill makes clear that hearings do not necessarily need to happen for a sealing of records. Some judges were under the impression that hearings must happen. Other judges understood that they did not necessarily need to have a hearing. At this point in time, if a district attorney stipulates to the record being sealed, the hearing need not occur. If the district attorney is opposing the record being sealed, that person will have a chance to contest it in a hearing in front of the court, which does occur sometimes. I have Ms. Jepsen here on my right, who was an AmeriCorps fellow working for Nevada Legal Services. She did a lot of these procedures and will be able to speak to that if anyone on the Committee has questions regarding it.

It is also important to note that, in section 7, starting in subsection 6, nothing in this bill changes offenses that were previously not able to be sealed. You are looking at crimes against children, sexual offenses, and things of that nature that will still not become sealable. We are not breaking any new ground in that area, and we still recognize that some crimes are crimes that may never be able to be sealed.

The next section that requires the most attention is section 11, which we will discuss as well. There is another district attorneys' amendment in that section that basically excludes misdemeanors that include crimes of DV or DUI from this section. Section 11 says, "Before an agency of criminal justice disseminates any record of criminal history to a person or entity other than another agency of criminal justice, . . . " they must remove the records of a category E felony or gross misdemeanor that happened ten years or more before the date of dissemination. That would come into play if a person did not go about sealing his own record. It would remove some of the more minor crimes from the record before disseminating it to an employer; however, law enforcement would still have access to those records and any convictions of DV or misdemeanor DUI.

That is the basis of my testimony on the bill, as well as the amendments proposed by the Nevada District Attorneys Association. This also includes the amendment by the city attorney of the City of Henderson.

Chairman Ohrenschall:

Are all of the amendments considered friendly?

Assemblyman McCurdy:

Yes, they are.

Assemblyman Elliot T. Anderson:

The district attorneys' amendment cleared up some of the confusion that I had about both having a legal presumption and a hearing, but I am still a bit confused about that. I understand that presumption generally means that you just shut it off if the requirements are met as a matter of fact in terms of getting the statutory guidelines; you are entitled to it, period. Yet the bill still contemplates a hearing if the district attorney does not stipulate. As for the hearing, the only thing that is contemplated under the bill would be an argument as to whether they met the year's deadline and that type of thing. They would not be able to argue that the record should not be sealed if the court finds that the guidelines have been met under the statute. Is that your understanding of how this would work?

John Piro:

That is my understanding, but there is case law that the district attorney would be able to make the argument that the person has not generally separated himself from the criminal life that he previously had. The district attorney could make the argument along those lines to say why he would not agree to have the record sealed and then put it in the judge's hands.

Assemblyman Elliot T. Anderson:

In order to contemplate that type of law, and that is what you want, you might need to make that a rebuttable presumption. The way I understand presumptions is that it is just shut off. Since this is a new statutory change, I can see case law being abrogated by that. I am not saying it is a good thing or bad thing; I will leave that to you. I am sure the district attorneys know what a presumption is. We had this discussion last session in this Committee in terms of presumption on deadly force. We use rebuttable presumption in so many places that the court is going to mean that there is no arguing about the precedent facts that lead to the presumption.

Section 11 is the provision regarding dissemination to an entity other than an agency of criminal justice. I think what you are trying to get to is employers and making sure the stale felonies and misdemeanors do not stop people from going back to work and living a productive life. I want clarity on what we consider an agency of criminal justice under the law. For example, let us say that you were going to apply for a gaming work card, which you have to do to be a porter in the gaming areas. The Nevada Gaming Control Board's

investigation section would be an agency of criminal justice as I understand it. I would like clarity on that issue so we will have an idea of what exactly that would entail and what agencies would still have access to those records.

John Piro:

The Gaming Control Board is always going to have permission under the statute to look behind a sealing, so they will always have access. That is written in statute, and it is the same with the State Board of Nursing. I do not think anything in the statute would remove that. I hope that answers your question.

Assemblyman Elliot T. Anderson:

I understand in general that criminal justice agencies should have it, but what I am trying to get to is what you consider a criminal justice agency. I may have gotten you off track with my question and all that I was just talking about. Do we have a definition somewhere in statute? Is that any state agency, federal agency, or local agency that employs peace officers?

John Piro:

I would defer to legal on that question. However, there are some specifics spelled out in statute. There is probably some that would qualify more broadly.

Brad Wilkinson, Committee Counsel:

An agency of criminal justice is actually defined in NRS 179A.030 and that is contained in section 12 of the bill. There is a proposed amendment to make it clearer who is included.

Assemblywoman Krasner:

In going through the limits for the different categories of felonies, I did not see anything for category B. Can you please tell me what the time limit is for category B?

Chairman Ohrenschall:

I think I may have the answer. It is just an error that will be corrected.

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

That was an error on my part. When we look at the amendment under section 7, subsection 1, paragraph (b), it should say, "A category B, C, or D felony" I want to be clear that we are only talking about nonsexual offense category B and nonviolent offense category B. Sexual offenses that are category B are excluded from the sealing statute, and crimes of violence as defined under section 7, subsection 1, paragraph (a) would be excluded as well. Typically, what we are talking about are theft cases with respect to the remainder of category B offenses.

Assemblywoman Krasner:

Will you be preparing an amendment regarding that section and the category B?

John Jones:

Section 7, subsection 1, paragraph (a) clarifies that a category A felony or a crime of violence as defined in statute currently would be excluded, so it is already there. I will prepare an amendment to add "B" to section 7, subsection 1, paragraph (b) to make clear that certain category Bs are covered.

Assemblywoman Krasner:

Why would someone be dishonorably discharged?

John Piro:

There are technical reasons why someone may be disqualified from probation, and then there are other reasons. They may have picked up a new offense, went back to prison, and served their time for the remainder of the sentence. Technical violations would be like having a no-alcohol clause in your probation, but you drink a beer so your probation officer brings you in. Or you smoke marijuana. A dishonorable discharge can also occur from not paying your \$30-per-month fee while you were on probation. In practice, we run into a lot of people who got a dishonorable discharge 10 or 15 years ago but are no longer the person they were. We are still unable to seal the criminal record that is haunting them.

Assemblywoman Krasner:

Could someone be found dishonorably discharged if they violated the terms of their probation or did not pay their fees or restitution?

John Piro:

Correct. Not paying probation fees qualifies for a dishonorable discharge. It would not even have to be restitution. You can actually show that you are indigent and be unable to pay restitution and still not get a dishonorable discharge, but if you did not pay your \$30-a-month probation fees for the entire time you are on probation, you would get a dishonorable discharge.

Assemblywoman Krasner:

What are the \$30 fees for?

John Piro:

Supervision. That is the fee they are charged to be supervised while on probation.

Assemblyman Yeager:

In talking about the bill, I have heard some concerns about section 11 and how it might actually function in the real world. Would you be willing to consider either working on section 11, or if it causes too much discomfort, to potentially remove it from the bill going forward?

Assemblyman McCurdy:

That is something for which I would have an appetite to look at. If we cannot find something more palatable, we can go ahead and strike the language in its entirety. That is not my first time hearing that, so I am glad to hear that you are looking to make something happen with it.

Assemblyman Yeager:

I know folks have been in contact with you as well, and I suspect that we may hear from some in the neutral position today. If the bill goes forward without section 11, would you be willing to consider moving up the effective date of this legislation? Right now, it is October 1, 2017, but would you consider making it effective July 1, 2017, so we can start to streamline this process as soon as possible?

Assemblyman McCurdy:

Yes, I would be willing to do that as well.

Assemblyman Yeager:

I want to thank Mr. Piro because I know how much he has been involved in this record sealing process over the years, particularly with the Doolittle Community Center event that we had for record sealing. It was quite an effort and it was eye opening, so I wanted to personally thank Mr. Piro. He has been working on this issue for a number of years, and I am happy to see that we have legislation.

Chairman Ohrenschall:

I want to second that. It is hard to forget that day. Also there were Assemblyman McCurdy, Assemblyman Anderson, Assemblyman Yeager, Assemblyman Frierson, and many other practitioners. It was a very rewarding day for me because I got one of my pro-bono client's records sealed. I was unable to get three others sealed, and that was incredibly frustrating.

Assemblywoman Cohen:

I am concerned with the public policy section, section 3. In reference to offenders who are rehabilitated, are we presuming that everyone who has completed his sentence is rehabilitated?

Assemblyman McCurdy:

I would say that, if they have met the time periods in which they would be eligible, it would be yes. Section 3 is an important section that says, "The Legislature hereby declares that the public policy of this state is to favor the giving of second chances" That is important, and I am glad to see it there.

Assemblywoman Cohen:

In section 8, subsection 5, paragraphs (a) and (b), there is reference to persons receiving notices. Are victims going to receive notices?

Assemblyman McCurdy:

Victims do not receive any type of notification now that I know of, so that is existing law.

Assemblywoman Cohen:

In section 13, subsection 7, paragraph (h), there is reference to providing information to agencies throughout the country. Since we are opening this up, should we be providing information to other United States territories, like the Virgin Islands and other territories? Is that an issue that needs to be taken care of?

Assemblyman McCurdy:

I would be willing to look at that, and thank you for bringing that forward.

Assemblywoman Cohen:

I do not know if that is an issue in the courts, but I was just thinking about that.

Chairman Ohrenschall:

We may need to get some more information on that after the hearing.

Assemblywoman Jauregui:

I am a supporter of helping people become active parts of our society and giving them a second chance. In section 3, who makes the determination if someone is rehabilitated?

John Piro:

Generally the time limits are what we go by and then the judge decides. The district attorney does look at the record when it is submitted to him. They get all petitions prior to their being moved to the court. Either the district attorney will sign off on it or a hearing will be held where the person presents everything to the judge. When Ms. Jepsen worked for Nevada Legal Services, she brought a lot of people in front of judges to explain how they have changed their lives and where they are doing things differently. Then the judge makes the decision if the record can be sealed.

Kendra Jepsen, Attorney, Clark County Public Defender's Office:

Within the timelines, people cannot reoffend while they are waiting to seal their record. If they have been convicted of a nonviolent or nonsexual category B felony offense, they must wait five years from the end of their sentence. If they reoffend within that time, it starts from the next conviction, so they cannot keep reoffending and still seal the record on the category B felony. The assumption would be that the lack of reoffending in those years would prove that they are rehabilitated.

Assemblywoman Jauregui:

Is there any case where a dishonorable discharge would warrant sealing the record?

Kendra Jepsen:

As it stands right now, if you have a dishonorable discharge, you are not able to seal your records.

Assemblywoman Jauregui:

After this bill passes would there be any instance where a dishonorable discharge may warrant sealing?

Kendra Jepsen:

From what I understand, the district attorney would still have discretion. Every petition goes through the district attorney's office—depending on what jurisdiction—and he looks at all of them. If he sees a problem with one, he does not have to stipulate to it. It would then go before the judge who has the ultimate decision-making power no matter what the record looks like. If the judge decides that the offender is not a person whom the statute was made for and should not be able to avail himself of the second chance, the judge can decline the petition to seal the record.

John Piro:

This change would remove the mandatory bar. You will hear from Ms. Calhoun in Las Vegas about how much she is trying to change her life and how difficult this prior statutory framework has been on her making changes to her life.

Assemblyman Pickard:

I would second Assemblyman Anderson's comment about making this a rebuttable presumption and think that would be appropriate in this instance. I like where this bill is going, especially with the district attorneys' amendment that has been accepted. I think it is going in a good direction. There seems to be this lingering question about dishonorable discharges. We heard Mr. Piro express what was discussed in a prior presentation about how technical violations are usually enough for a dishonorable discharge. However, we heard the Division of Parole and Probation say at the prior presentation that they do not pull probationers in for one-time drinking or one-time offenses. They acknowledged that relapse is a part of recovery. They also say exactly the opposite, that it is not the basis. I am wondering if there is any appetite to actually address this. We have opened it again, so can we address dishonorable discharges if it is the will of the Committee to say we are not going to include the nonpayment of the supervision fee, and we are not going to include one relapse? We need to settle this because we keep hearing the same arguments going back and forth and nothing gets settled.

John Piro:

If I understand your question correctly, are you saying that we should address dishonorable discharges and what constitutes those in a separate proceeding?

Assemblyman Pickard:

Not necessarily in a separate proceeding per se, but I am saying that it seems like category B felonies are a catchall. We hear testimony from both sides saying that there are technical violations that create dishonorable discharges, and then Parole and Probation says that they do not actually do that, even though technically it is available to them. If they are not doing it and we are complaining that these are bad reasons to give them a dishonorable discharge, maybe we should exclude those and this may be the opportunity to do so.

John Piro:

I am always willing to have a conversation about dishonorable discharges and, as you know being a lawyer, there are always two sides to an argument.

Assemblywoman Tolles:

I am happy that we are having this conversation, particularly in light of the last bill that we just heard about helping people move on with their lives. They need housing and employment, so I appreciate the intent of that and the purpose of this discussion. If I look at section 1, subsection 3, this is in favor of giving second chances, but the one thing that lingers for me is if we look over the trajectory of someone's life over decades, is it possible that we might have an individual who might keep resealing and resealing and resealing? Over the course of 30 or 40 years, we do not ever get an accurate picture of history. I bring this up because we are having conversations about data and how we make better data and informed decisions about everything from recidivism and risk assessments, et cetera. This may just be my attempt to figure out how this process works over 30 or 40 years in someone's life. Does it get in our way to gather accurate data about someone's history?

John Piro:

As we have said, along with Ms. Jepsen, if this law passes and you commit a category B felony of burglary when you enter someone's home, you would have to serve your time—and that is from 1 to 10 years—and then you have to wait an additional 10 years to seal your record. If in that 20-year time frame you commit a new offense, the time would start over and you would not be able to seal the burglary, and then you go out and commit a new crime and then seal that one. You have to wait and separate yourself from that life of crime. Technically, if you waited 20 years, you get your record sealed, and then another 10 years occur and you commit a new crime. You are a criminal in that regard, but you are not connected to the past because it is sealed. It is a new crime and may not be related to the old crime, but you are going to pay the penalties for that crime as well.

Kendra Jepsen:

I am not going to speak to the data processing because I have no idea about that. There are certain organizations that can look past the seal as we mentioned before. The Gaming Control Board can still see the convictions. District attorneys in certain circumstances can petition to unseal a record for different reasons. What I am trying to say is that once they are sealed they still exist in the background, so if they need to be brought up for certain reasons they are still there. They do not completely disappear.

Assemblywoman Tolles:

It is complex, and I am trying to unwrap 2 years versus 10 years, and where do we pull these back up, and they are there for other purposes.

Assemblyman McCurdy:

That is a good concern to have. The last thing that we are trying to do with this legislation is to allow those individuals who are consistently making mistakes to have protection under this piece of legislation. As Mr. Piro stated, this can be up to 20 years that you have to stay clean

and clear of making any mistakes to have an opportunity to petition the court to have your record sealed. I believe the time frames that are established will help provide a check to go with the balance that we are trying to reflect within this piece of legislation. We are not trying to allow repeat offenders to be able to use this legislation to get a second, third, or fourth chance. We are trying to allow individuals who are really trying to move on with their lives and who may be walking around with this baggage on their backs to have an opportunity to have a successful life and to be a positive contributor to society. You are going to hear testimony later that will better reflect what it is that I am trying to convey through this.

Assemblyman Pickard:

I will be honest that I kind of tripped over the public policy of second chances because, in my limited exposure, it always seems that these are not usually seconds, they are usually third, fourth, or fifth as you just mentioned. I have said repeatedly that I believe in the concept of repentance and recovery and the idea of getting back on our feet. Maybe we could look at better language than second chance because that is almost meaningless to me in the current context. I would appreciate that.

Chairman Ohrenschall:

We will open it up for support of the bill, here in Carson City and in Las Vegas. I will go down to the Grant Sawyer State Office Building first, then come back up to Carson City.

La Wanna Calhoun, Private Citizen, Las Vegas, Nevada:

I am a native of Las Vegas, Nevada, and I am a 50-year-young, African American woman who has a long history of past substance abuse issues, criminal activities, Clark County Detention Center incarceration, and prison confinement. I am here today in support of A.B. 327.

I have a not-so-pretty criminal record due to my substance abuse. However, on my last trip to the women's prison—after I had been there three other times—I finally decided that my way was not working for me and that I probably should try something different. In 2004, I expired my sentence and was due to be released to the streets again. Prior to my release date, I had sent out 36 letters to different sober living homes and rehabilitation facilities. Every letter I sent out was returned to me with a denial stamp on it for various reasons. I was desperate and determined not to get out and do the same thing again. I was released to the streets. However, I did something different this go round. I called my son to pick me up instead of calling the dope man.

I went to Silkworth House with my denial letter and requested to talk to the house manager. I spoke to the manager, and she gave me the task of going to Clark County Social Services and Clark County Welfare Office to obtain a rent voucher and food stamps. I did both tasks. Once I returned, she told me that she did not think that I would come back, but since I did, she was going to give me a chance by allowing me to enter into the house. Today I am still grateful for Patty and the Silkworth House because that saved my life.

Eight days after getting out of prison I obtained employment at Brady Industries where I stayed employed for five years. In 2012 I enrolled in college and graduated from the bachelor's program in health services in May 2016. I started the master's program in August 2016, which I am currently working on. I am currently employed at WestCare as a supervisor. I participate in Narcotics Anonymous and sponsor women who are suffering from the disease of addiction and have given up. I work closely with Las Vegas Metropolitan Police Department doing outreach, mentoring, assisting with homeless individuals, and I was just named Manager of the Year.

I have done many things in my past that I am not at all proud of. I have paid substantial amounts of time for my crimes, and I do not believe that I should have to continue paying by allowing the wreckage of my past continue to dictate my future. Having the opportunity to have my record sealed will allow me to go into the lock-down facilities to talk to individuals whose stories are similar to mine or who may believe that there is no way out. I am a living witness to show them that there is a way out. I am truly grateful for the Silkworth House believing in me, guiding me, and giving me a chance.

Today I have 12 years clean and sober. I have not committed any more crimes, nor have I felt the need to. My only regret is that I did not have someone to mentor me in the beginning of my criminal activity and to show me how to get out. Currently, my only bar to having my record sealed is that I have a dishonorable discharge from an earlier probation—I did not have the money to pay—that presumably precludes me from getting my records sealed, as the law is not currently clear on this issue. This bill would not only help me but also others like me who have turned their lives around, but are still haunted by their criminal past. Because of my criminal record, and despite the fact that I have obtained my bachelor's degree and have met the requirements for advancement, my criminal record prevents me from getting any type of promotion from my current position. Not only does this affect me, but I truly believe that I could help so many people who are currently in the same position as I was so many years ago. I also want to thank John Piro because he has been lobbying for me to get my records sealed.

Sashia Whitmire, Private Citizen, Las Vegas, Nevada:

I am a native of Las Vegas, Nevada. I am also a mom, fiancée, student, and a full-time employee. I am glad to be a part of today's testimonies because I have been afflicted by my own past mistakes. I am helping to bring to the attention of the courts and to the powers that be the need for certain laws to be adjusted. I have been arrested for past mistakes, was found guilty, and served penance for this wrong choice. As a result of this, I have suffered continuously at the hands of my employers, schools, and even some family members. I know that I cannot change what I have done wrong in the past; however, I feel that I should not continue to suffer due to these mistakes. This is why I am supporting Assembly Bill 327.

Since my last demerit I have struggled to become a new person. I have sought help through community resources, professional counseling and have been an advocate for women and men on the same path to recovery. It has not been an easy task. Employers look at my record and have judged me on this instead of my skills and abilities. In some cases I have

been overlooked for promotions and/or employment in general. While in school I am under scrutiny and have to jump through many hoops, whereas another student would not have to because of their clean record. My children's school has denied my support because I could not pass a criminal background check. This has been my biggest heartbreak. Even my church has had to pass on my offer of help.

I am not full of resentment over this because I am now serving, helping, and leading the fight to recovery. I am working to better the community by helping others gain a new mindset and strive for a new way. I do this through my employment, volunteer work, and even in my immediate circle of family and friends. I have maintained a home, employment, and schooling. Since I turned my life around, my worst convictions have been a few isolated traffic tickets. I am glad to have come down to promote change in the Las Vegas community.

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

With your permission, I have Bruce Nelson with me down south. He is the chief deputy district attorney who helps handle our sealing cases. I would like to toss it down to him, and he is available to answer any questions the Committee may have about both the sealing process in general and how our office specifically handles these cases.

I think we have come up with a compromise that is reasonable, does a few things on behalf of defendants, and makes the sealing process better. It does reduce paperwork. In other words, no longer will a defendant have to go to every criminal justice agency in which they have received a conviction to get their paperwork. They just go to the Central Repository for Nevada Records of Criminal History. It also encourages an expedited process through both filings in district court when someone has a conviction from multiple jurisdictions and also allows for stipulated processes without a hearing. Finally, it speeds up eligibility, and that is what the bulk of our amendment does. We—the district attorneys—did come to an agreement with Senator Ford as well in Senate Bill 125 and it is our intent that these sealing time frames mirror those that are set up in S.B. 125.

I want to address a few issues that have come up through questions. The first is from Assemblyman Anderson's rebuttable presumption. That is a great addition to the bill. I want to point out that NRS 47.250 does state that all presumptions are rebuttable unless expressly stated otherwise. I think we are clear here but if you want to be absolutely certain, I have no objection to adding "rebuttable."

With respect to Assemblywoman Jauregui's and Assemblywoman Cohen's statements regarding rehabilitation, when you look at the sealing statute itself and the case law underpinning the sealing statute, there is the notion that the defendant is rehabilitated. That is an important discussion to have with respect to the sealing statute.

With your permission, I would like to go to Mr. Nelson. If the members have any questions about the specifics of the sealing statute, Mr. Nelson is your guy.

Bruce W. Nelson, Deputy District Attorney, Vehicular Crimes Unit, Clark County District Attorney's Office:

I do not have much to add beyond what Mr. Jones has already said, but I would be happy to answer any questions that the Committee might have.

Assemblyman Elliot T. Anderson:

It is not much of a question anymore because of Mr. Jones' comments. I would note that in some statutes we do use the phrase "rebuttable presumption" so I think more clarity is better in law so I would encourage the Committee to take that recommendation and put it in the statute because it might not be evidently clear all the time.

Assemblyman Yeager:

I have a couple of technical questions on the amendment. In section 7 of the amendment where the time frames are set for waiting to seal, I notice in terms of the crimes of violence that are referenced by NRS Chapter 200, that NRS 200.408 seems to define crimes of violence. Was it your intent to include that specific statute rather than the whole chapter?

John Jones:

Yes, that is our intent. "Crimes of violence" is defined in numerous places throughout the NRS. It is a fairly standard definition, and I believe NRS 200.408 is the definition that we did intend to use.

Assemblyman Yeager:

In terms of crimes of violence, is there any dispute whether something is a crime of violence? How would that be determined in the process? Do you envision that the district attorney would simply object and then it would be up to the judge? Please walk through the process if there is a dispute.

John Jones:

If I could toss that down to Mr. Nelson, he could give you an on-the-ground report on how we would handle that.

Bruce Nelson:

Currently, if there is a dispute about anything regarding sealing, the judge would resolve the issue. Since "crime of violence" is defined in statute, there probably would not be much of a dispute as to whether a particular offense was a crime of violence. If there is, the judge would decide that. Right now, with most of our judges, if the district attorney stipulates to a sealing, the judge will just sign off on it. A few of them will nonetheless set hearings because they want the defendant to come in and explain how they have bettered themselves and how there is no chance that they will reoffend. If we have an objection, the judge hears the case and decides the issue.

Assemblyman Yeager:

On that same section of the amendment [section 7] I noticed for misdemeanors it is essentially a two-part analysis, where it seems for most misdemeanors—obviously excluding

ones that are enhanceable—it would be a year waiting period, but then there are certain misdemeanors where there is a two-year waiting period. I would like to get some clarity on why the distinction or what the thought process was for putting certain ones into the two-year waiting period rather than the one-year waiting period.

John Jones:

The reason for the amendment is that it came from the City of Henderson. During the testimony on S.B. 125 on the Senate side, the chief of the criminal unit in Henderson came and testified about these particular crimes where we typically see a course of conduct over a lengthy period of time. He told the committee that a longer sealing period, with respect to these specific crimes, was important to make sure that the continuing conduct ceases. That was the policy reason behind these specific crimes, that being battery, stalking, harassment, and protective orders. Both Senator Ford and Assemblyman McCurdy understood the policy reasons behind that.

Assemblyman Elliot T. Anderson:

I have one more question because the crime of violence question got me thinking about what you, Mr. Jones, and I worked on regarding the veterans court in 2013. Let us go through a scenario. We will say that you have someone who has a gun possession crime that is not necessarily violent, but some people think guns, and it is automatically violent. We will say though that it is someone who was ordered by the court to not have weapons. He had the weapon but was not using it to scare or threaten anyone. He was picked up for something else, then this issue was found. Under the definition that you are contemplating, would that be inclusive as a crime of violence?

John Jones:

I will have to get back with you on that. Off the top of my head I do not want to answer willy-nilly on the record. If you want to know how we would handle that, Mr. Nelson could answer the question since he is the one who would have the sealing petition in front of him and he would figure out how we would handle the situation.

Bruce Nelson:

If it is a simple possession of a firearm, we are not going to deny a sealing on that particular charge. If the firearm is used for some other purpose, it is pointed at someone or brandished, that would be a crime of violence. My belief is, and I am not positive, simple possession of a firearm—you get stopped for speeding and it turns out you have a gun in your car—would not be considered a crime of violence.

Assemblyman Elliot T. Anderson:

I always think of violent crimes involving some bodily harm or apprehension of bodily harm. Is that generally your understanding, gentlemen? Would that be something that would drive us toward a really good definition?

Bruce Nelson:

Yes. A crime of violence requires either actual violence or the threat of violence. It would be something along the line of, "Give me your wallet or I will hit you." That is a crime of violence.

Mike Palzes, Staff Attorney, Nevada Legal Services:

I practice in record sealing in Washoe County, Carson City, Churchill County, and Elko County. My familiarity is with the process up north.

I want to throw things into disarray a little bit. I strongly echo Ms. Buckley's convictions that this process is convoluted and complex because, despite dealing with the same statutes, there are a few notable differences how northern jurisdictions tend to interpret the statutes. Possibly the biggest distinction is that, in the north, no judge that I have come across reads NRS Chapter 176A as prohibiting record sealing for folks who were not honorably discharged: meaning that in a northern jurisdiction like Reno, if I were to present a petition in the Second District Court for someone who was not honorably discharged, they would more than likely have that record sealed if they met all other criteria. That is a huge discrepancy between the north and the south that this legislation seeks to address and fix. I do not think that it is fair, and I do not think anyone would think it is fair that people in Reno get better relief than people in Las Vegas. I can answer questions about the process up north and specifically to that point. I also want to echo Mr. Jones' comment that the amendment is designed to cut down on paperwork. Representing indigent individuals, I can say that on the law enforcement side, that is absolutely true. This would cut down on a lot of paperwork and cut down on a lot of work that law enforcement technicians would need to do.

This would also cut down on a lot of work that indigent individuals would need to do in the form of gathering documentation, and most notably the requirement to submit all records from agencies of criminal justice in the county in which the offense occurred. That definition is not clear, and we have several more counties up north than down south, and in each jurisdiction it means something a little different. In Elko County it means a copy of a sheriff's rap sheet, and in Churchill County it means something from the Federal Bureau of Investigation. In Sparks we found that this means something from the Washoe County Sheriff, as well as the Sparks Police Department if they were the arresting agency, as well as a document from the Sparks municipal or justice court. That uncertainty for people, especially for people who have offenses in multiple jurisdictions, is that each jurisdiction could have multiple jurisdictions and not even leave Washoe County. For people with multiple offenses in multiple jurisdictions, this becomes almost a complete bar because what worked in the second district suddenly no longer works in Sparks Justice Court, or vice versa, and it is very frustrating and causes a lot of people to give up. Additionally, if someone is able to retain counsel, we are doing these one by one, which the bill also seeks to change by creating the one-stop shop that Assemblyman McCurdy mentioned a few times; it will save petitioners a substantial amount of money. Currently at the low end of private practice, attorneys are charging \$1,200 per offense for one of these cases to fill out a petition, and that will, of course, get more expensive if someone needs to go to a hearing. Someone with multiple drug misdemeanors, which is common, could be looking easily at \$10,000 to

clear his record. And the imposition of local records also causes problems because records of older offenses are often not available from the sheriff. I strongly support the elimination of "all records."

I want to address something that Assemblyman Anderson brought up about the rebuttable presumption. A few people have brought this up. I would also direct the body's attention to section 7, subsection 5, which also says that the judge "may" order the record sealed. Even adding a presumption to this statute would in no way tie a judge's hands. It is not a "shall" and has never been a "shall." The case law is in *State v. Cavaricci* [108 Nev. 411 (Nev. 1992)]. That case sets out the definition of the type of person who should not be entitled to record sealing; however, neither in case law nor statute is there a positive example of a person who should have their record sealed. The inclusion of that presumption makes life easier and would not abrogate that case because of the inclusion of "may."

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

I would like to register my support for this very important piece of legislation. We at the Washoe County Public Defender's Office do not offer these services. We normally refer the sealing services to Nevada Legal Services or Washoe Legal Services, and they do an excellent job, in our opinion, in offering our clients this type of support. I would be remiss if I did not thank my colleague, Mr. John Piro, for all of his tireless efforts in this area down south. It certainly is an inspiration for those of us up north to get more involved in these types of issues. We heard very good testimony this morning from all the private citizens down south who testified about their personal stories of rehabilitation and reformation, and I think it is important for the Committee to hear those stories because these are the clients that we represent.

To Assemblyman Anderson's point about the crime of violence, that is a very interesting question. I would note that the Department of Corrections (NDOC), as it currently stands, would consider something like a CCW (concealed carry weapons or carrying a concealed weapon) a crime of violence. I do not know how this would intersect. I helped a gentleman who was trying to be reclassified at NDOC for the crime of carrying a concealed weapon, but not brandishing or assaulting with a deadly weapon, just having it. He was unable to qualify for good-time credits or certain programs because NDOC considered that a crime of violence. I do not know what the interplay would be with the definition of NRS 200.408. I would hope that the district attorneys and the judges would have discretion in that area.

Amy Ayoub, Private Citizen, Las Vegas, Nevada:

I am here as a survivor of sex trafficking and on behalf of a couple of others who are also survivors. Some of you may remember that I testified in support of Assembly Bill 67 of the 77th Session telling my personal story about being trafficked in my late teens and early twenties. Most people who knew me, including many people on the committee that I testified in front of, were pretty shocked because I had been able to keep that a secret and rebuild my life for more than 30 years. The reason I was able to do that was because several years after I was out of that life I met a friend who was smarter than I, and she insisted that I get my record sealed, which had not been on my radar at that time. She introduced me to an

attorney, and I was able to get it sealed. Because of that I was able to build a beautiful life. A couple of people who recruited me to do business development for their financial planning business would have never invested the time and money in me that they did had they known they would have to fight seeing charges when I went for a Federal Communications Commission license. I certainly would not have been able to build the successful fundraising business I did, especially when I did political fundraising. Even though many elected officials and candidates would have accepted me as I was, their campaign managers would have wondered why they should take the chance of this being known and having the extra baggage. In this day and age of the Internet, nothing is a secret. I promise you that I would not have been raising money for presidents, senators, and local and state officials that I was able to work for had I not had my record sealed a long time ago.

Since I testified last, I have had the honor of meeting a lot of survivors who are continuously getting the courage to come out and tell their stories in order to help others because it is easier and more accepted to talk about it. There are a lot of survivors out there with compelling stories, many that have master's degrees and doctor of philosophy degrees that are professors and such and are living successful lives and are able to do that because they either did not have a record or they had it sealed. There are cases of two people whom I recently met who did not get their records sealed. How many of us get our jobs and get out of that life through some relationships? They went on for years, one more than ten years and the other has been working in office management for 30 years, but because of layoffs and going back to school for advanced degrees, they were out of work and had to find new jobs. They have been stopped after all that time being out of the life, and have not been able to get a job because their records were not sealed.

I cannot stress the importance of passing this law and helping people make it, as long as they have proven that they are trying to change their lives and that they are doing something different. In this particular crime, please remember that many of them are the victims. Because of the way the legal system works, they are considered criminals and are being arrested when they are being trafficked but they are the victims. My charges were misdemeanors and I was 18 years old, a teenager, but by law I was looked at as an adult. That would have haunted me all of my life as it haunts many others right now. There is no one who can help current victims like someone who has been through it. Many people are doing everything they can to prove that it is their goal and that the other life is behind them. Please help the current victims be able to stand up and say that they are survivors by helping them get this obstacle out of their way once they have proven that they deserve that consideration.

Chairman Ohrenschall:

Those of us who were here in 2013 admire the courage and bravery that you have shown recounting your history and being a survivor of trafficking, and everything that you have done to help victims now.

Sophia A. Romero, Consumer Rights Project, Legal Aid Center of Southern Nevada:

While I am generally a consumer attorney, after the record sealing event at the Doolittle Community Center in August 2016, I have been one of the point people in our office to handle the record sealing cases. For the sake of brevity, I have submitted written testimony ([Exhibit K](#)), but I would like to echo my support for this bill and the words of those who have spoken before me, especially my colleague from Nevada Legal Service.

Alanna Bundy, Intern, American Civil Liberties Union of Nevada:

I would like to register the American Civil Liberties Union of Nevada's support of this bill. We want to thank Assemblyman McCurdy for bringing the bill and to particularly thank him for including provisions that streamline the process and for the presumption in favor of sealing.

David Cherry, Communications and Intergovernmental Relations Manager, City of Henderson:

I want to thank the sponsor of the bill for his willingness to meet with us and, more importantly, to accept our amendment on the misdemeanor provisions. As Mr. Jones spoke to when Assemblyman Yeager asked the question, the reason we sought that amendment was to make sure battery, stalking, harassment, and violation of a temporary protective order were not subject to the bill's provisions reducing the time frame for the sealing of the record. Mr. Jones also said our prosecutors can seek an enhancement in many cases of those crimes if someone is a repeat offender. That is important because it is a tool for us to ensure our streets remain safe and to make sure that individuals know they will face that increased penalty should they seek to repeat their crime. Senator Ford was willing to accept this language in his bill, and I think it is good to have consistency between the two.

We also support the amendment that Mr. Jones offered on behalf of the Nevada District Attorneys Association for a similar reason. There is a provision in the underlying bill that would have reduced from seven years to five years the time required for the sealing of two particular crimes: battery and domestic violence, and DUI. They are both crimes that, if someone repeated them, they could face an enhanced penalty. We would not want to see a case where someone had committed a DUI and the sentence had been sealed, but five years into it he repeated it again and instead of facing the enhanced penalty within the seven-year penalty time frame, law enforcement might not have known it was a repeated crime and could not seek enhancement. Thank you for accepting the amendment.

Kerrie Kramer, representing The Cupcake Girls:

We come to the table in support of Assembly Bill 327 and any measure that would help streamline the sealing process for victims and survivors of human trafficking.

Chairman Ohrenschall:

Is there anyone else in support of this measure? [There was no one.] I will go to opposition. Is there anyone who wishes to speak in opposition? [There was no one.] Is there anyone neutral on the measure?

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

I have with me in the Grant Sawyer State Office Building, Charlotte Bible, who is our general counsel, and Lori Dunn, from our record sealing section.

Initially I had concerns with this bill. The Las Vegas Metropolitan Police Department has been involved with a working group on this issue long before the session even started. We appreciate all of the stakeholders coming to the table and having a discussion because this is an important issue and we do fully support people being able to turn their lives around, people who have made mistakes being able to get back on track. We understand this affects people getting jobs and reintegrating back into society.

On the other side of the coin, there is a balance that has already been alluded to earlier by Assemblyman McCurdy that we do not want to create the possibility that folks can seal a record and reoffend and seal a record and reoffend, and to create cover for folks who take advantage of the system and victimize people continually. With that being said, I wanted to make a statement regarding the comments that Assemblyman Pickard made. Philosophically, from a public-safety standpoint, it is a hard pill for me to swallow to allow someone who has been dishonorably discharged—which means that they did not follow the rules that were laid down for them—to be able to go and have a record sealed. The other side of that coin is that I understand there are technical issues that might result in someone being dishonorably discharged. The comments Assemblyman Pickard made are very important. This Committee should look at the discharge process and determine what should constitute a dishonorable discharge and what should not.

I know there is a similar process for the military. There is a process where, if you have been dishonorably discharged, after a period of time you can petition the military to have that upgraded to an honorable discharge. If you stayed out of trouble for a period of time you could go back and petition to have your dishonorable changed to an honorable discharge. That would provide me a higher level of comfort than to just say anyone who has been dishonorably discharged can have their records sealed.

I am neutral because I also realize that these cases go before the judge and the judge makes the ultimate decisions. I am just throwing my thoughts out to the Committee. That is why I am neutral today, because we have been involved as stakeholders in this. I also believe from talking with our folks that there will be a resource impact to our agency when we reduce the time frames that people have to adhere to in order to have a record sealed, including the misdemeanors. The amendments also raise our comfort level putting us in the neutral zone.

Charlotte Bible, Assistant General Counsel, Las Vegas Metropolitan Police Department:

We are neutral, with some concerns. Our biggest concern is section 11, the dissemination provision, but I understand there is some consideration to removing that and we would be supportive of removing it. That is a very burdensome and difficult provision for us to

comply with. It is actually a dissemination provision and not a sealing provision. Because it is only dissemination, a provision is a prohibition of disseminating a conviction of a category E felony or a gross misdemeanor, ten or more years after discharge. That would be very cumbersome for us to comply with because our databases do not categorize felonies by the A, B, or C designation. Our databases do not have release information either. For a clerk at our counter, we would not be able to ensure we were not violating this provision if it remains in the bill.

The other concern we have specifically goes to section 7, subsection 2. It is the removal of the language concerning verified records that a petitioner is to attach to their petition; that is all verified records from all agencies of criminal justice which maintain such records within the city or county in which the conviction was entered. That record would be a SCOPE (criminal history record) printout in our jurisdiction. The reason we are concerned about eliminating that provision is that our SCOPE records will be more up to date than the Central Repository records. There are records that are not contained in the Central Repository records that are contained in SCOPE. I could let our sealing specialist elaborate on that, but we think it would be appropriate for a court or the judge to see that SCOPE printout attached to the petition to verify the information that is in the petition before they enter an order. I would like Lori Dunn to provide more information on that.

**Lori Dunn, Law Enforcement Support Tech Supervisor, Records Sealing Unit,
Las Vegas Metropolitan Police Department:**

On behalf of the criminal history portion of the bill, the records that do not get maintained at a state level are going to be all of the misdemeanor citations. They do not go to the state level because it is a nonfingerprint-based record. The state only houses fingerprint-based records. I can respect the problems and the challenges that they have in the north; however, in the south we are on the same basis as our agencies, Henderson, North Las Vegas, and us. We all tend to function in the same manner with releasing our background checks. In addition to the misdemeanor charges that are not in the citations, many of the charges that are booked over at the City of Las Vegas are not going to be maintained at the state level. Those fingerprint cards are not submitted there so they are not housed in the criminal history record at the state. When we go back and ask the judge to look at the petition, as well as look at the criminal history repository records, he may see convictions for felonies and certain charges like that. He will not see the entire, complete criminal history record unless we attach the SCOPE record to it. To me it is beneficial, as well as the judge may see additional charges on the order and he will want to know where they came from. The SCOPE record will contain that information that the judge needs at that time to ensure the record gets sealed in accordance with the statutes. The goal is to seal the entire record, everything that is eligible.

Chuck Callaway:

There is one other point that I want to make about crimes of violence. For the record because it is relevant but not an issue for this bill: when someone is a convicted person and is prohibited from possessing a firearm and then has his record sealed, the only way to get his rights to possess a firearm back is through a pardon from the Governor. Folks often believe

that once they seal their record they have a right to possess a firearm, but technically they are still prohibited persons under the law. There is somewhat of a loophole there. The other side of it is, because the record is deemed never to have existed, law enforcement may not know that the person is technically a prohibited person in possession of a firearm. This is an issue that has been raised in the past and has been discussed in the Advisory Commission on the Administration of Justice. It is relevant to sealing records, so that is why I brought it up for the record.

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

We signed in as being in opposition to Assembly Bill 327, but after speaking with Assemblyman McCurdy and hearing the presentation of the bill, and with the acceptance of the district attorneys' amendment, we are now in a neutral position and look forward to working with him going forward.

Julie Butler, Division Administrator, General Services Division, Department of Public Safety:

Our division houses the Central Repository for Nevada Records of Criminal History. We are concerned with section 11 of the bill. Section 11 requires agencies of criminal justice to redact certain information from a person's criminal history record before disseminating that person's record for a civil purpose. The time frame for redaction of conviction depends on the date the person was discharged from parole or probation or was released from actual custody. We do not actually collect that information in databases—the date the person was discharged from parole or probation or was released from actual custody—so the only way we would be able to have that information would be to establish a manual process with all of the Nevada police departments, sheriff's offices, Parole and Probation, and NDOC so the staff will know when to start the clock on redaction.

In calendar year 2016, the Central Repository conducted 232,143 fingerprint-based criminal history record checks for civil purposes such as employment and licensing. Absent a dedicated funding to make programming changes to our database to collect the information on release from custody or discharge from Parole and Probation, it is going to be extremely difficult for us to comply with this section. A funding source for those programming changes was not identified within the bill. We are currently processing our civil background checks within 7 to 14 calendar days. If we now have to check for redactions, that turnaround time is going to increase, depending on how quickly staff receives the information from jails and correctional facilities. From our perspective, it will not cut down paperwork.

I would like to point out that we can remove Nevada-based convictions in compliance with section 11, but we do not have the authority to redact convictions that may appear from the Federal Bureau of Investigation on a person's rap sheet. What we are requesting is that, since it will take time to establish a manual reporting process, if section 11 is not taken out altogether in the bill, that we delay the effective date until January 1, 2018, to give us time to set up that manual process with law enforcement agencies and correctional facilities within the state.

Assemblywoman Krasner:

Going back to what you were talking about, it sounded pretty important. There will have to be a new process where all law enforcement is involved and there is going to be a fiscal note on this bill, correct?

Julie Butler:

Yes. That would be a fiscal impact for our agency if section 11 is not removed from the bill.

Assemblywoman Krasner:

That will be for your agency because of the inclusion of all law enforcement across the entire state.

Julie Butler:

That is correct.

Assemblywoman Krasner:

Do you have any idea when you would be getting that together?

Julie Butler:

We just received notice from the Legislative Counsel Bureau yesterday for the fiscal note request so we need to turn those around within five days.

Assemblywoman Krasner:

Then it will be on Nevada Electronic Legislative Information System (NELIS)?

Julie Butler:

Correct.

Assemblywoman Tolles:

We were talking about the Department of Education background checks. Did I hear you correctly that this would add time to that background check process when we are doing everything from hiring camp counselors to teachers? Do you have an estimate on how much longer that would take?

Julie Butler:

It will add a lot of time if there is a category E felony. We do not categorize the convictions by category, so we will have to look at each individual that has a hit or a criminal conviction on their rap sheet to determine if it is a category E felony or a gross misdemeanor conviction. Then we will have to look at when they were released from custody, but since we do not collect that information we would have to reach out to whatever institution held them or to Parole and Probation to find out when they were discharged and then do the math to see if it is eligible for redaction. I do not know how much time that would take; probably a lot.

Assemblyman Yeager:

In the presentation, Assemblyman McCurdy noted that he would be willing to remove section 11. It sounds like most of your concerns are related to that section. If section 11 is removed, are there any other concerns with the bill as it was presented today?

Julie Butler:

We were a little concerned with section 7 where we talk about the sealing statute and any agency of criminal justice that may have a record. We had requested through a bill several sessions ago to have that section added to the sealing statute because we were finding that they were not getting the record sealed in all places. My staff was fielding the complaints when they came through regarding someone going through the process to have the record sealed but having it show up with the Sparks Police Department or wherever. It was a trigger to the individual to know that there are multiple agencies that would have a copy of the record and they would need to make sure it was sealed in all places. That was the only concern, but it is up to this body. That is why we had it added in the first place.

Assemblyman Yeager:

So the record is clear, if section 11 were to be removed, would you anticipate putting a fiscal note on the bill, or would that resolve the fiscal concerns?

Julie Butler:

That would resolve our concerns.

Don Soderberg, Director, Department of Employment, Training and Rehabilitation:

As an Executive Branch agency, the Department of Employment, Training and Rehabilitation (DETR) is neutral on this bill until such time as the Office of the Governor puts in an official position. I did want to come and testify to you and emphasize what Assemblyman McCurdy said in his opening comments that record sealing is a workforce issue. I have never been before your Committee. I have listened to the testimony on prior bills. You deal with a lot of criminal justice issues that do not involve my agency, and I have no experience with this. You deal with a lot of social issues that we do not have any experience with. We do have experience in the workforce, and the assertion that having a criminal record can outright bar you from applying or being considered for a number of jobs is not an exaggeration. I talk to people who have been in this business long before I came into it and have been told that it is even more pervasive today than it was before the Great Recession.

During the Great Recession, everyone wanted to apply for a number of jobs and the industry responded by creating Monster.com and Indeed.com where someone could sit at home and apply for hundreds of jobs. Of course, they were not going to get those jobs. Employers did not want to see hundreds and hundreds of applications; they wanted to see a few good ones. The industry responded to that by giving them the tools for the computer to filter out all of those hundreds of applications to narrow down the qualifications. There is a handful of almost-automatic filterings. One of the filters is for a criminal conviction, and it is now the standard policy of most employers across the country to not even consider an applicant who

has a felony conviction. There is the notion from the federal agencies that this may be discriminatory, but it has not been played out in court, and there is no statute. We find that California companies that come to Nevada, instead of having a blanket no-felony-conviction policy, they will have a "no felony conviction within the last seven years" policy because there is a statute in California as such. In both instances, what we are finding is that employers are not willing to take individuals on a case-by-case basis, to look at the qualifications of the applicant and not look at whatever infraction created the criminal record and apply that to the specifics of the job. We believe that a large number of qualified Nevadans are being excluded from jobs that they are otherwise qualified for because of these blanket exclusions. Therefore, if there is an ability to seal your record after a certain time with the approval of a Nevada judge, we believe that expands the workforce and that is good for the economy as a whole, as well as the individual whom we are discussing.

Many people today have spoken about the record sealing event that occurred last summer in Clark County. Clark County Commissioner Weekly informed me about this event and asked for our agency's help in publicizing it and asked me to come down and visit. I saw a number of you there. Some I did not know at the time. Since I was not working it, I just started talking to people who were standing around. I wanted to learn more. As our agency has put a greater emphasis on this in the last year, I wanted to learn more about what was going on. Quite frankly, I was shocked at how hard it is to get a record sealed after a Nevada judge says your record is sealed. I have dealt with bureaucracy most of my life, either on the legal end or being part of the bureaucracy, and I just shook my head at how hard it is to get your record sealed. Anything that you can do to speed that up would be good. Many of the people whom I spoke with already had the order from the judge prior to that day and somewhere along the process they could not get their record completely sealed. To me, that is someone who cannot participate in the workforce.

I am not here to tell you that everyone who has a criminal record is a qualified employee, but I will tell you that I have met people with strong qualifications for great jobs. They have good education and are able to do certain jobs that they are being excluded from applying for or being considered for solely because of this one item. I do not think that helps the economy or the individuals. Frankly, it does not help our economic development efforts. We read all the time in the paper about many employers saying that we do not have a skilled workforce. I am here to tell you that I think there is a subsegment of that skilled workforce that is not being counted in that equation. Anything that you can do to expand that would be of utility, utility to us at DETR and utility to those individuals applying for those jobs. Although it is not an enlightened view by many Nevada employers, once they have the willingness to actually interview these people, consider them on their merits, and make a decision based on the totality of the circumstance, I think they will be happier as well.

Chairman Ohrenschall:

Is there anyone else who is neutral on the measure, here or in Las Vegas? [There was no one.] Assemblyman McCurdy, would you like to make closing remarks?

Assemblyman McCurdy:

I want to thank everyone for their testimony, both here and in Las Vegas, especially those who shared their personal stories and how this legislation will help them and a lot of their peers to move on with their lives.

I want to address Julie Butler's comments. I am proud to say that I will be getting rid of section 11 since this will allow for a less burdensome process. I am looking forward to working on any other amendments to this bill that will make it more palatable and stronger.

Chairman Ohrenschall:

I will close the hearing on Assembly Bill 327 and open it up for public comment. Is there anyone who would like to make public comment? Not seeing anyone, the Assembly Committee on Judiciary will meet tomorrow morning at 8 o'clock. Today's meeting is adjourned [at 11:38 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman James Ohrenschall, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation regarding [Assembly Bill 303](#), dated April 4, 2017, presented by Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1.

[Exhibit D](#) is a proposed amendment to [Assembly Bill 303](#) presented by Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1.

[Exhibit E](#) is a letter dated March 31, 2017, in support of [Assembly Bill 303](#), to Assemblyman James Ohrenschall, Chairman, Assembly Committee on Corrections, Parole and Probation, from Emily J. Salisbury, Associate Professor, Department of Criminal Justice, University of Nevada, Las Vegas.

[Exhibit F](#) is a letter dated April 3, 2017, in support of [Assembly Bill 303](#), to the Assembly Committee on Corrections, Parole, and Probation, authored by Lisa A. Rasmussen, Co-chair, Legislative Committee, Nevada Attorneys for Criminal Justice.

[Exhibit G](#) is a letter dated April 4, 2017, in support of [Assembly Bill 303](#), authored by Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada.

[Exhibit H](#) is a proposed conceptual amendment to [Assembly Bill 316](#), presented by Assemblyman Tyrone Thompson, Assembly District No. 17.

[Exhibit I](#) is a proposed amendment to [Assembly Bill 327](#), submitted by Nevada District Attorneys Association and presented by John J. Piro, Deputy Public Defender, Clark County Public Defender's Office.

[Exhibit J](#) is a proposed amendment to [Assembly Bill 327](#), submitted by the City of Henderson and presented by John J. Piro, Deputy Public Defender, Clark County Public Defender's Office.

[Exhibit K](#) is written testimony dated April 4, 2017, in support of [Assembly Bill 327](#), authored by Sophia A. Romero, Consumer Rights Project, Legal Aid Center of Southern Nevada.