MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Ninth Session
May 11, 2017

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:28 a.m. on Thursday, May 11, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblyman James Ohrenschall, 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
Assemblywoman Jill Tolles
Assemblyman Justin Watkins
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblyman Tyrone Thompson (excused)

GUEST LEGISLATORS PRESENT:

Senator Scott T. Hammond, Senate District No. 18

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Devon Isbell, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Nick Vassiliadis, representing Nevada Collectors Association
Jon Sasser, Statewide Advocacy Coordinator, Washoe Legal Services; and representing Legal Aid of Southern Nevada
Brigid J. Duffy, Chief Deputy District Attorney, Juvenile Division, Clark County District Attorney's Office
Scott J. Shick, Chief Juvenile Probation Officer, Douglas County Juvenile Probation Department
Frank W. Cervantes, Director, Washoe County Department of Juvenile Services; and representing Nevada Association of Juvenile Justice Administrators
John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
Jo Lee Wickes, Chief Deputy District Attorney, Washoe County District Attorney's Office
Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office

Chairman Yeager:
[Roll was called and protocol was explained.] We have a full agenda today and we are going to start with the work session. I wanted to let the members know that I will be pulling Senate Bill 432 (1st Reprint) from the agenda.

Senate Bill 432 (1st Reprint): Authorizes the filing of a motion for the termination of parental rights as part of a proceeding relating to the abuse or neglect of a child. (BDR 38-475)

That is the last bill that is on the work session document. I am likely to reschedule that for Friday, May 12, 2017, or perhaps early next week. Look for that to perhaps hit an agenda sometime soon. With that being said, I am going to hand it over to Ms. Thornton to take us through the Work Session Document.

Diane C. Thornton, Committee Policy Analyst:
Our first bill on work session today is Assembly Bill 183, which revises provisions governing the collection of a hospital bill. It was sponsored by Assemblyman Ohrenschall and heard in Committee on March 2, 2017 (Exhibit C).

Assembly Bill 183: Revises provisions governing the collection of a hospital bill. (BDR 40-694)

This bill requires a hospital that is caring for a patient to wait to hear from the patient's insurer or public program before applying a statutory lien for the amount due for the care given to the patient before asserting, perfecting, foreclosing, or otherwise enforcing its statutory lien. The measure also limits the amount the hospital may collect.

Assemblyman Ohrenschall and Assemblyman Watkins have proposed an amendment. The mock-up is on the following pages. First, the amendment deletes section 1 of the bill. It requires a hospital, within 30 days, to return to the patient any excess amount collected or received. The amendment defines "third party." It requires the hospital, after submitting a claim to the insurer within 90 days after the patient's discharge from the hospital, to provide notification before filing a lien. The amendment provides a procedure for how notice is sent. It provides that the hospital will notify the injured person of the total amount due after the insurance claim is accepted or denied, and all appeals have been exhausted. It allows the hospital to perfect the lien if 30 days after written notice there is either no payment or an agreement on a payment plan. The amendment provides that after the lien is filed and the injured party is awarded a sum of money, the person must notify the hospital. In addition, the funds will be held in trust. The amendment provides that any amount received from the lien constitutes the complete satisfaction of the injured person's debt. It entitles the injured person to damages twice the amount of the lien if the lien is perfected in violation of these provisions. It provides how to determine the reasonable value of hospitalization. It requires a hospital to collect from a person's health insurance before collecting from the lien. Finally, the amendment provides that the provisions of the bill apply to those admitted to a hospital on or after July 1, 2017.

Chairman Yeager:
At this time I will take a motion to amend and do pass A.B. 183.

> ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS ASSEMBLY BILL 183.
>
> ASSEMBLYWOMAN MILLER SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Watkins:
I wanted to thank Vice Chairman Ohrenschall and Assemblyman Pickard. We worked with all the stakeholders on this issue and this amendment for quite some time. We did not reach a consensus across the board, but that should not diminish the efforts everybody made.

Last night we received a letter from the Nevada Hospital Association regarding what the amendment does and does not do, and I want to clarify this. The Hospital Association criticizes provisions in the amendment, saying the notice of intent to lien is not enforceable,

but I think the amendment strikes the right balance. A notice of intent to lien would not be recorded with the county recorder's office against the patient who has done nothing wrong—and therefore it would not affect the patient's credit—and would require the liability insurer and the attorney to hold those funds in trust until the issue had been resolved. It would be the attorney's ethical duty to ensure funds were not distributed. Therefore, I think the amendment is wholly enforceable.

Basically, this agreement came down to whether or not to include Medicare, Medicaid, and any government program in the lien procedure. I wholeheartedly stand by the amendment in that these programs should be included and I cannot, in good conscience, recommend to my colleagues that we exclude Medicare, Medicaid, or any other government program from this. To do so would make our elderly, our active duty service workers, our veterans pay more for the same services as somebody else in the same situation. I think that is bad policy, so I urge everybody's support.

Assemblyman Pickard:
I, too, want to thank Assemblyman Watkins and Vice Chairman Ohrenschall. They put in a lot of time and effort trying to get this bill to a place where everybody could get on board, and I think it is unfortunate that we could not get there. I think some of the interpretations and concerns that have been expressed are accurate. I think the main disappointment—and the point of disagreement—was about the Medicare and Medicaid liens, particularly given that the settlement amounts are usually based on the bill charges, not the contract charges. To put the hospital in the position of not even being able to pay for the costs of the service, but to let the person who received the services in good faith completely off the hook is something I do not support. I understand the argument; it means a little less money in the hospital's pocket but it does not mean fewer services received. I think that there is probably some middle ground to be found and I am hopeful we can find that on the Senate side. I will not be supporting the bill today but I do not believe this is a dead issue. I think there is room for additional compromise and I am going to work hard to see if we cannot meet that.

Assemblyman Ohrenschall:
I also want to thank Assemblyman Watkins and Assemblyman Pickard for meeting with all the stakeholders and trying to work out a solution. I thought we were very close when we were in the "woodshed," Mr. Chairman. Assemblyman Watkins, you have such tremendous experience in this area that I cannot thank you enough for your input on this. I really do believe that what we have here will protect our constituents, and I hope that the Committee will consider processing it favorably.

Assemblyman Hansen:
I had one hang-up on the bill that I believe still has not been vetted—I hope it will be on the Senate side. I also must say that, having been lobbied extensively by both sides of this issue, I am probably more confused on this bill than any other bill I have had a chance to consider. The one thing that did come out loud and clear was that the hospitals were engaging in, in my opinion, some unethical practices: some hospitals, not all hospitals. If nothing else comes from this bill, I think everyone agreeing to stop acting unethically, behind the scenes,

is a very positive thing. At the moment, however, in the absence of that compromise, I would be uncomfortable supporting the bill, so I will be voting no.

Chairman Yeager:
Is there any further discussion on the motion? [There was none.] Before we take the vote, I wanted to thank the stakeholders as well. I know there has been a lot of work on this bill, and assuming this moves forward to the Senate, I would be happy to make the "woodshed" available for any further meetings that we might have in the next four weeks in the session.

> THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER, PICKARD, TOLLES, AND WHEELER VOTED NO. ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Vice Chairman Ohrenschall.

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 29 (1st Reprint) provides for the transfer of a criminal case from one justice court or municipal court to another such court in certain circumstances. The bill was sponsored by the Senate Committee on Judiciary, on behalf of the Nevada Supreme Court, and was heard in Committee on May 10, 2017 (Exhibit D).

Senate Bill 29 (1st Reprint): Provides for the transfer of a criminal case from one justice court or municipal court to another such court or a district court in certain circumstances. (BDR 1-396)

This bill authorizes a justice or municipal court, upon its own motion, to transfer a criminal case to another justice or municipal court, or to a district court if: the transfer is necessary to achieve justice for the defendant; a plea deal or final disposition has been reached in the case; and the court enters its findings regarding the necessity for the transfer into the record. If a district court declines to accept a case on transfer, the case must be returned to the court of original jurisdiction. There are no amendments to the bill.

Chairman Yeager:
At this time, I will take a motion to do pass S.B. 29 (R1).

> ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS SENATE BILL 29 (1ST REPRINT).
>
> ASSEMBLYWOMAN COHEN SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Thompson. I know he is not here today, but if you are watching, we are thinking of you, Assemblyman, and we hope you feel better soon.

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 33 (1st Reprint) prohibits the foreclosure of real property owned by certain military personnel or their dependents in certain circumstances. The bill was sponsored by the Senate Committee on Judiciary on behalf of the Governor, and heard in Committee on April 27, 2017 (Exhibit E).

Senate Bill 33 (1st Reprint): Prohibits the foreclosure of real property or a lien against a unit in a common-interest community owned by certain military personnel or their dependents in certain circumstances. (BDR 3-164)

This bill prohibits the foreclosure of a military servicemember's residential mortgage loan, including the foreclosure of a lien against a unit in a common-interest community, while the member is on active duty, or for one year immediately following active duty so long as the loan was entered into before the servicemember was called to active duty or deployed. These protections also apply to a servicemember's dependents in certain circumstances. A person who knowingly violates these provisions is guilty of a misdemeanor and is liable for damages.

There is one amendment proposed by Assemblyman Elliot T. Anderson. It is on the following page. The amendment defines "good faith."

Chairman Yeager:
I will take a motion to amend and do pass S.B. 33 (R1).

> ASSEMBLYWOMAN TOLLES MOVED TO AMEND AND DO PASS SENATE BILL 33 (1ST REPRINT).
>
> ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Anderson.

Diane C. Thornton, Committee Policy Analyst:
Our next bill is Senate Bill 41 (1st Reprint), which revises various provisions relating to business entities. It was sponsored by the Senate Committee on Judiciary on behalf of the Secretary of State, and was heard in Committee on April 21, 2017 (Exhibit F).

Senate Bill 41 (1st Reprint): Revises various provisions relating to business entities. (BDR 7-425)

This bill removes a State licensing exemption for motion picture production companies, provides that the Secretary of State may examine the records of registered agents as necessary or appropriate, makes technical changes regarding the maintenance of certain business records, removes a duplicative requirement concerning registration by church organizations involved in soliciting charitable contributions, and clarifies that the reinstatement fee for a corporation sole to conduct business in Nevada is $100. There are no amendments.

Chairman Yeager:
Do I have a motion to do pass S.B. 41 (R1)?

> ASSEMBLYMAN PICKARD MADE A MOTION TO DO PASS SENATE BILL 41 (1ST REPRINT).
>
> ASSEMBLYMAN WATKINS SECONDED THE MOTION.
>
> THE MOTION PASSED (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I, Assemblyman Yeager, will take the floor bill on S.B. 41(R1).

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 133 revises the Uniform Deployed Parents Custody and Visitation Act. It was sponsored by Senator Harris and heard in Committee on April 20, 2017 (Exhibit G).

Senate Bill 133: Revises the Uniform Deployed Parents Custody and Visitation Act. (BDR 11-571)

This bill revises the Uniform Deployed Parents Custody and Visitation Act to apply to civilian employees of the United States Department of Defense regarding when a court in this state has jurisdiction to issue orders in custodial matters. There are no amendments.

Chairman Yeager:
I will take a motion to do pass S.B. 133.

> ASSEMBLYMAN OHRENSCHALL MADE A MOTION TO DO PASS SENATE BILL 133.
>
> ASSEMBLYMAN PICKARD SECONDED THE MOTION.

Assemblyman Ohrenschall:
I just want to thank the sponsor of the bill, and Ms. Melissa Exline, who presented the bill. I did get a chance to call back to Chicago and check with the reporter who worked with the drafting committee for the Uniform Law Commissioners on this act, and they are okay with this change. This change will still keep us uniform with the other states that have passed

the Uniform Deployed Parents Custody and Visitation Act, which is a bill I originally sponsored a few sessions ago.

Chairman Yeager:
Thank you, Assemblyman Ohrenschall. Is there any further discussion on the motion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Wheeler.

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 230 makes various changes relating to judgments. It was sponsored by the Senate Committee on Judiciary and heard in Committee on April 26, 2017 (Exhibit H).

Senate Bill 230: Makes various changes relating to judgments. (BDR 2-512)

This bill raises the exempt amount of a judgment debtor's disposal earnings to 82 percent if the debtor's gross weekly salary or wage is $770 or less, and maintains the exemption at 75 percent if the debtor's weekly earnings exceed $770. The bill also sets forth the formula for how weekly earnings are to be determined and provides that a debtor may bring a civil action against a creditor who garnishes a bank account or other personal property without domesticating a foreign judgment.

The period of garnishment served on an employer is extended from 120 days to 180 days, and no new application for a writ of garnishment concerning the same debt may be approved unless a proper accounting and report of previous garnishments are submitted with the application. There are no amendments.

Chairman Yeager:
At this time, I will take a motion to do pass S.B. 230.

> ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS SENATE BILL 230.
>
> ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Hansen:
The 75 percent figure was a compromise from last session. Having been on the creditor side of this issue in small claims court over the years, I know that judges go out of their way to be more than fair to the debtors, and to try to work out reasonable compromises on these sorts of situations. This bill is actually a post-settlement arrangement that is predominately made

with justices of the peace. I think this bill goes a little too far in the other direction so I will be voting no, simply because I think the compromise that was worked out last session was more than fair. I think we are going too far in the other direction this time.

Assemblyman Elliot T. Anderson:
I think it might be useful to have the Nevada Collectors Association come up to the table. My understanding of this bill was that this is the same compromise from last session. I wanted to clarify that for the record if I could, because I was under the impression that all the parties have worked this out.

Nick Vassiliadis, representing Nevada Collectors Association:
Yes, that is correct. This is a bill that was introduced in the 78th Session in the same exact form. It was introduced in this Committee, in fact, and did not meet the first committee deadline. There was never a vote on this bill last session.

Jon Sasser, Statewide Advocacy Coordinator, Washoe Legal Services; and representing Legal Aid of Southern Nevada:
The 75 percent is federal law. You cannot take more than 75 percent. Therefore, this would make us and about half of the other states a bit more generous than federal law moving from 75 to 82 percent. The compromise, as my colleague said, was at 82 percent and that is the deal we have had for four years now.

Assemblyman Hansen:
I stand corrected. They are correct on that. Last time, when I was chair, that is why I do not think the bill went forward. I am still a no.

Assemblyman Pickard:
I appreciate the fact that the Collectors Association is on board with this, but as I went back and did some theoretical calculations it appeared that what we are doing is extending the time that creditors are actually paid. I thought Mr. Vassiliadis' testimony was interesting, and I had not thought about the potential deterrent from bankruptcy. As I started looking at the numbers, I found that we are only talking, typically, about a few hundred dollars in a typical spread, based on the average wages in Nevada. In my opinion, a couple hundred dollars is not going to be what keeps somebody out of bankruptcy. Ultimately, this bill will work to hurt creditors and businesses that are trying to get what a judge has already duly given them or awarded them, so I will be voting no on this bill.

Assemblyman Elliot T. Anderson:
Respectfully to my colleagues, I would say that there has been too much work put into this bill. I think the Collectors Association is well aware of the issues and collecting on their contracts. I just do not think it is right for us to disturb a very good agreement that has been developed over years. I think the Collectors Association is more than able to advance the interests of businesses across the state as well as people who rely on those collections. I do not want to substitute my judgment for the judgment of the parties in this case, because there has been extensive work on this. I will be voting yes.

Chairman Yeager:
My recollection from the hearing—obviously, we were not there on the Senate side—is that I do not remember anyone being in opposition when we heard this bill. We can check the minutes or check the video, but I wanted to put that on the record. Is there any further discussion on the motion? The motion, again, is to do pass S.B. 230.

> THE MOTION PASSED. (ASSEMBLYMEN HANSEN, KRASNER PICKARD, TOLLES, AND WHEELER VOTED NO. ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Watkins.

Diane C. Thornton, Committee Policy Analyst:
Our next bill on work session is Senate Bill 255 (1st Reprint), which revises provisions relating to common-interest communities. This bill was sponsored by Senator Denis and heard in this Committee on April 27, 2017 (Exhibit I).

Senate Bill 255 (1st Reprint): Revises provisions relating to common-interest communities. (BDR 10-789)

This bill authorizes the purchaser of a unit in a common-interest community to deliver a notice of cancellation of sale to a seller by electronic transmission. It also adds to the information statement provided as part of the purchase of a unit in a common-interest community a statement concerning a purchaser's option to deliver a notice of cancellation of a contract of purchase by electronic transmission.

There is one amendment that was sent to the Committee last night (Exhibit J). It was proposed by Garrett Gordon, of Lewis Roca Rothgerber Christie LLP. This amendment is a notice of changes in the governing documents, and it essentially allows it to be in the same manner as *Nevada Revised Statutes* (NRS) Chapter 116, which is notice to units' owners and allows for different communications to the owners.

Chairman Yeager:
I want to note for the Committee members that we did not intentionally skip over Senate Bill 240; we will come back to it in just a moment. For now, since we went to S.B. 255 (R1), I will take a motion to amend and do pass with the amendment that was just described.

> ASSEMBLYMAN WATKINS MOVED TO AMEND AND DO PASS SENATE BILL 255 (1ST REPRINT).
>
> ASSEMBLYMAN PICKARD SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Jauregui.

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 240 (1st Reprint) revises provisions related to gaming. It was sponsored by Senator Harris and heard in this Committee on April 28, 2017 (Exhibit K).

Senate Bill 240 (1st Reprint): Revises provisions relating to gaming. (BDR 41-939)

This bill allows the Nevada Gaming Commission and the Nevada Gaming Control Board to establish by regulation which types of events other than sporting events, horse races, or dog races may be suitable for pari-mutuel wagering. There are no amendments.

Chairman Yeager:
At this time, I will take a motion to do pass S.B. 420 (R1).

> ASSEMBLYMAN WHEELER MOVED TO DO PASS SENATE BILL 240 (1ST REPRINT).
>
> ASSEMBLYMAN PICKARD SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Pickard.

Diane C. Thornton, Committee Policy Analyst:
Our next bill is Senate Bill 277 (1st Reprint), which revises provisions relating to criminal justice information. It was sponsored by the Senate Committee on Judiciary on behalf of the Advisory Commission on the Administration of Justice, and heard in Committee on May 10, 2017 (Exhibit L).

Senate Bill 277 (1st Reprint): Revises provisions relating to criminal justice information. (BDR 14-1004)

This bill creates the Subcommittee on Criminal Justice Information Sharing of the Advisory Commission on the Administration of Justice, prescribes the duties of the committee, and authorizes the Subcommittee to appoint working groups that are not subject to the Open Meeting Law for reasons of confidentiality. Additionally, the membership of the Advisory Commission on the Administration of Justice is revised to include a representative of the Central Repository for Nevada Records of Criminal History.

The bill also authorizes the Division of Public and Behavioral Health (DPBH) of the Department of Health and Human Resources to release the name and other identifying information of a person who has applied for a medical marijuana registry identification card to the Division of Parole and Probation, Department of Public Safety, if the DPBH has been notified that the applicant is on parole or probation.

Finally, the bill repeals the Advisory Committee on the Nevada Criminal Justice Information Sharing. There are no amendments.

Chairman Yeager:
I will take a motion to do pass S.B. 277 (R1).

> ASSEMBLYMAN PICKARD MADE A MOTION TO DO PASS SENATE BILL 277 (1ST REPRINT).
>
> ASSEMBLYMAN WATKINS SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Fumo.

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 279 authorizes certain mayors to perform marriages. It was sponsored by Senator Settelmeyer and heard in Committee on April 28, 2017 (Exhibit M).

Senate Bill 279: Authorizes certain mayors to perform marriages. (BDR 11-517)

This bill authorizes a mayor of a city that is organized under general law to perform a marriage, and for a mayor of a city that is organized under special charter to perform a marriage if authorized to do so by the city's governing body. Aside from a gift of nominal value, a mayor may not accept any fee, gift, honorarium, or anything of value for performing a marriage. A mayor who violates these provisions is guilty of a misdemeanor. There are no amendments.

Chairman Yeager:
I will take a motion to do pass S.B. 279.

> ASSEMBLYMAN WHEELER MOVED TO DO PASS SENATE BILL 279.
>
> ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Tolles.

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 338 (1st Reprint) revises provisions relating to contractors. It was sponsored by Senator Settelmeyer and heard in Committee on May 5, 2017 (Exhibit N).

Senate Bill 338 (1st Reprint): Revises provisions relating to contractors. (BDR 2-518)

This bill changes the term "prime contractor" to "original contractor" and increases the statute of limitations on commencing an action against an original contractor from one to two years. The bill also deletes statutory provisions that include "laborer" within the definition of a "lien claimant" and provides that a potential claimant is a lien claimant.

Language regarding the notification requirements that apply to a prime contractor or subcontractor who participates in a health or welfare fund as related to potential lien rights is also deleted, and the bill creates new notification requirements and penalties that a potential claimant must provide to an original contractor or subcontractor. The bill requires an original contractor to be liable for the indebtedness for labor incurred by a subcontractor or other contractor and repeals existing provisions that impose a duty of delinquency notification on the administrator of a Taft-Hartley trust. There are no amendments.

Chairman Yeager:
I will take a motion to do pass S.B. 338 (R1).

> ASSEMBLYMAN PICKARD MADE A MOTION TO DO PASS SENATE BILL 338 (1ST REPRINT).
>
> ASSEMBLYMAN WHEELER SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Hansen.

Diane C. Thornton, Committee Policy Analyst:
Our next bill on work session is Senate Bill 376, which revises provisions relating to certain agreements between heir finders and apparent heirs. It was sponsored by the Senate Committee on Judiciary and heard in Committee on April 26, 2017 (Exhibit O).

Senate Bill 376: Revises provisions relating to certain agreements between heir finders and apparent heirs. (BDR 12-480)

This bill extends from 90 days to 1 year from the death of certain persons the amount of time that an agreement between an heir finder and an apparent heir is void and unenforceable if entered into during that period.

Assemblyman Yeager proposed amending the bill to match the language in Assembly Bill 314, which passed out of this Committee unanimously on April 14, 2017. The amendment would delete the language in the bill referring to the one year waiting period and replace it with the same language that was in A.B. 314, which states, "Upon a showing of good cause, the court may extend such a period until 180 days after the death of the person."

Chairman Yeager:
I will take a motion to amend and do pass Senate Bill 376.

> ASSEMBLYWOMAN COHEN MOVED TO AMEND AND DO PASS SENATE BILL 376.
>
> ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Miller.

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 398 (1st Reprint) establishes various provisions relating to the use of blockchain technology. It was sponsored by Senator Kieckhefer and heard in Committee on May 9, 2017 (Exhibit P).

Senate Bill 398 (1st Reprint): Establishes various provisions relating to the use of blockchain technology. (BDR 59-158)

This bill recognizes blockchain technology as a type of electronic record and includes the term "blockchain" within the definition of electronic record for the purposes of the Uniform Electronic Transactions Act. The bill also prohibits a local government from imposing taxes, fees, licensing, or permitting requirements or any other requirements on the use of a blockchain.

There is one amendment proposed by Senator Kieckhefer, which revises the definition of blockchain technology.

Chairman Yeager:
I will take a motion to amend and do pass S.B. 398 (R1).

> ASSEMBLYMAN PICKARD MOVED TO AMEND AND DO PASS SENATE BILL 398 (1ST REPRINT).
>
> ASSEMBLYMAN WATKINS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Cohen.

We have finished the work session, and at this time, we are going to move into the bills on the agenda. Senator Hammond, I believe you are presenting all three of the bills this morning. Did you want to take them in order, or do you have a preference for which bill we hear first?

Senator Scott T. Hammond, Senate District No. 18:
We can hear the bills in order.

Chairman Yeager:
At this time, I will formally open the hearing on Senate Bill 470, which revises provisions governing the release of information relating to children. Again, welcome, Senator Hammond, and thank you for your patience this morning. Please proceed when you are ready.

Senate Bill 470: Revises provisions governing the release of information relating to children. (BDR 5-347)

Senator T. Hammond, Senate District No. 18:
I represent Senate District No. 18 in Clark County and I am here today to present Senate Bill 470 for the Committee's consideration. This is the first of three bills I will be presenting today that were requested by the Legislative Committee on Child Welfare and Juvenile Justice, which I was privileged to chair during the interim. As you may know, over the last several years the Committee has developed a close working relationship with the Nevada Supreme Court's Commission on Statewide Juvenile Justice Reform. That body has been doing some amazing work that we are happy to not duplicate, but more importantly, to support. Each of the Committee bills you will be hearing today were recommendations from the Commission that we agreed to carry. Senate Bill 470 is pretty straightforward in content. With your permission, I will briefly run through the provisions and then turn the microphone over to Brigid Duffy, who is down south, to discuss the rationale behind the bill.

Section 1 of the bill adds to the list of entities with which a juvenile justice agency may share information related to a child who is subject to a law enforcement agency that is actively conducting a criminal investigation, a delinquency proceeding, or is engaged in a situation that poses a threat to the child's safety or the safety or well-being of others. It is important to note that this provision applies only to a child who is already subject to the jurisdiction of a juvenile court. Section 1 also expands the type of data that may be shared among the entities already named in statute to data from an educational record of a child maintained by a school district. The important thing to note about this provision is that it applies only if the school district and the juvenile justice entity in question have entered into a written agreement to share such information.

That concludes my summary of the bill's provisions. Again, if you do not mind, I would like to turn it over to Ms. Duffy, unless there are any questions that you or members of the Committee have for me right now.

Chairman Yeager:
Thank you, Senator Hammond. We will take testimony from Ms. Duffy and then I will open up the meeting for questions.

Brigid J. Duffy, Chief Deputy District Attorney, Juvenile Division, Clark County District Attorney's Office:
I want to start by saying thank you to Senator Hammond, the Chair of the interim committee. This bill really supports the work of the Commission on Statewide Juvenile Justice Reform out of the Nevada Supreme Court, and the conversations we had surrounding necessary changes to information sharing.

I would like to clarify section 1, subsection 2(k) a little bit more. We have been working on record-sharing bills over the last few legislative sessions, and, as time has passed, we have tweaked them as we realized more was needed or when we determined we needed to pull back. In the past, we worked to ensure that juvenile justice agencies were able to provide school districts with information pursuant to a memorandum of understanding. We did not, however, ensure that information could flow the other way, allowing probation or parole departments to get information from schools on how a child is doing in order to support that child's educational success and future success. Therefore, section 1, subsection 2(k), allows a school district, after a written agreement, to be able to share information with juvenile justice agencies.

Section 1, subsection 2(o), addresses a problem that arose when we realized that juvenile justice agencies were limited in the information they could provide to law enforcement organizations during investigations where there was a potential threat to the community. This section allows juvenile justice agencies to share information with law enforcement agencies concerning a child being on probation, if the child is engaging in services, and other related issues. This information sharing will allow law enforcement to better protect the safety of the child and others in the community. I am here for any questions that you may have.

Assemblywoman Jauregui:
Under section 1, subsection 2(k), current law maintains that the Juvenile Justice Division can share information with the school district but the school district cannot share information with juvenile justice. Is that correct?

Brigid Duffy:
Yes, that is correct, but we have had some different interpretations of whether or not school districts could, so we wanted to make it clear that school districts can release information directly to the Juvenile Justice Division about a child's schooling.

Assemblywoman Jauregui:
You mentioned that the Juvenile Justice Division would use it to help with a child's education. What kind of resources will they provide for their educational success?

Brigid Duffy:
Section 1, subsection 2, states the qualifications for record sharing and that such sharing is "For the purpose of ensuring the safety, permanent placement, rehabilitation, educational success and well-being of a child. . . ." This engagement will assist the Division of Parole and Probation in understanding that the child may not be attending school or struggling in school. Our hope is that by sharing information, we may be able to engage that child in tutoring programs, mentoring programs, or other assistance to increase his or her educational success.

Assemblywoman Jauregui:
Would the cost of helping children engage in tutoring programs be borne by the Juvenile Justice Division?

Brigid Duffy:
Not necessarily. I do not think that was ever really contemplated. We have resources in the community that can assist children or their families. Oftentimes there are resources, even within a child's own school. The delinquents that I have worked around—I am not a probation officer—when they struggled in school, they found that their schools had teachers who would stay late. I had one child who had been in detention and earning all Fs. When he found out he was able to stay after school, and the school was able to engage the teachers to work with him, he was able to get back to earning all As and Bs. As a side note, this child also happened to have no legal parent or guardian, and we had to address that issue as well.

Assemblyman Ohrenschall:
Senator Hammond, you did a fantastic job chairing the interim committee, which I served on as well. Ms. Duffy, you made tremendous contributions to that committee as well. If I remember correctly, I believe most of our votes on the committee were unanimous, but I think I had some concerns about this particular bill and I think this was the one bill I voted no on. I believe I had concerns with the new language in section 1, subsection 2(o), about the information law enforcement will be able to obtain from a juvenile justice agency. What happens now when a law enforcement agency is investigating a 17-year-old who is on juvenile probation or youth parole, and they want to get information? Do they have to go get a warrant? What is happening now and how will things change if this bill passes? You never know; maybe my concerns will be alleviated.

Senator Hammond:
I will start by saying, thank you for the kind words and that it was a pleasure to serve with you on the committee. I do not recall the vote and how it came out, but I understand your concern. I know that Ms. Duffy probably has the better answer for you as far as what is happening now, but I do appreciate your question and I want to make sure that we satisfy you before we move on.

Brigid Duffy:
Vice Chairman Ohrenschall, you are absolutely right. I remember sitting in the room during the vote with now-retired Justice Saitta. I started asking questions about the Commission and the difference between consensus and unanimous votes because I was questioning the work we did on the Commission on Statewide Juvenile Justice Reform. Justice Saitta explained that this is how the process works and that we can support what we want. I learned a little bit every day. You are absolutely right; there was a consensus of the committee, and it was not unanimous.

Assemblyman Ohrenschall:
Pardon me for interrupting you, Ms. Duffy. Up here, we call it "41-0 Ohrenschall." Sometimes I am the lone "no" vote. Maybe I was wrong and maybe I was right, but I just wondered if you could clarify how the current process works and how this bill will change it.

Brigid Duffy:
No, you are absolutely right and you have every right to be recognized for being unique. I hope that I, in no way, implied that this was a unanimous Commission vote. It is just something that came out of the Commission and into the interim committee. Section 1, subsection 2(n) says "A person who is authorized by a court order to receive the juvenile justice information, if the juvenile justice agency was provided with notice and opportunity to be heard before the issuance of the order." That is the paragraph that we have been working off in Clark County when police come to us requesting information.

For example, we had a couple of children who were wearing global positioning system (GPS) devices. There was a series of home invasions and the police agency wanted to see if these children were in that area based upon their GPS devices. We had to take that to court in order to get a court order with the opportunity for the juvenile justice agency to be heard. Ultimately, *Nevada Revised Statutes* (NRS) 62H.025 states that the juvenile justice agency may decide who is able to access that information, provided it is for the purposes of safety, permanent placement, rehabilitation, and all of those things listed in section 2, including community safety.

Assemblyman Ohrenschall:
I was not trying to correct you; I do not think anyone said the vote was unanimous. I was just concerned about what would happen under section 1, subsection 2(o) if the bill passes. Say I have a 17-year-old son who is on juvenile probation, and he has had a history of delinquency. A law enforcement agency is now investigating my son, perhaps for something more serious; they would have to go to court to gain access to information about my son.

Under section 1, subsection 2(o), however, could law enforcement just call the juvenile justice agency and get the information without having to go before a judge?

Brigid Duffy:
That is correct, but the juvenile justice agency still has the discretion to not provide that information if the request does not meet statutory standards.

Assemblyman Ohrenschall:
I think that was the nature of my concern.

Assemblywoman Krasner:
I understand that you are talking about how law enforcement agencies, in the course of a criminal investigation, would want to have this information. I am not really sure why you would need to have a child's educational records or grades from the school district for a criminal investigation. Is there a way that the juvenile justice system accesses that now? Can you get a subpoena and get that information if you want it?

Brigid Duffy:
School district records have nothing to do with active investigations. This bill concerns a child already under the jurisdiction of the juvenile court, so the child would be on probation or parole. It would not be for a criminal investigation.

As far as the other part of your question, yes, we can get the parents' consent to allow the school district to provide probation officers that information. If we were able to get every parent's engagement and have them sign a form consenting that the school could then turn over educational and attendance records, we would not need this section at all. The problem is that we do not always have engaged parents, and that is why this flow of information back and forth has been so critical to the success of children on probation. We need to be involved in understanding what is going on. We know children who do not go to school routinely commit delinquent acts, and we are trying to keep them from escalating into the system. We are trying to get these children to graduate. Information sharing is just an extra layer of support that will help the probation department become more engaged in outcomes rather than telling a child, Do this for six months and then we are gone.

Assemblywoman Krasner:
I appreciate that, but some people would take issue with taking away a parent's right to say, No, I oppose that decision. Are you saying that if this portion of the bill is inserted, it is too bad and the parents do not have that choice? Am I understanding this correctly?

Brigid Duffy:
I do not know if I would say that it is "too bad"—it is kind of harsh to say that—but I think we need to recognize that we do not always have as engaged a parent as we would like to help our children become successful. I wish I could get this Committee to understand that we have parents who come to our office and they are all for ensuring that their child is doing what needs to be done. We also, however, have parents who are completely disengaged from

the system, and their children are repeatedly in and out of the delinquency system until they escalate into a facility. Information sharing is a tool for the juvenile justice agencies to better support children.

Assemblyman Pickard:
Let me start with a comment. I think it is important for the Committee to remember that the juvenile justice system is not like the adult justice system. Juvenile justice is there to try to help rehabilitate and redirect the children, so I do not think it is quite the same and I think it is important for information to be had by all involved.

My question is this, and maybe this is for the defense attorneys on the Committee or those in the room, but what is the danger in sharing this information? Where do we expose children to harm by sharing this information?

Assemblyman Ohrenschall:
During the interim, my concerns focused on why law enforcement does not have the same process for when they want to tap your phone or your 17-year-old son's phone who is not on juvenile probation or youth parole. In either of those scenarios, law enforcement would have to go before a judge. If my 17-year-old son happens to be on juvenile probation or youth parole, then the same step should apply where law enforcement would have to go to court to try to get a wiretap on his cell phone if he is alleged to be involved in a string of burglaries. My concern is that, with your child, they would have to go before a judge, but for my child they would not. Of course, my child has had a history of delinquency, but that is what gave me pause and concern.

I have tremendous respect for what the interim commission was trying to do, as well as for Ms. Duffy and Chairman Hammond. I think there are tremendously positive outcomes that result from the delinquency system for many children, but my concern was that, if you take the two different parents with their two 17-year-old sons, there would be two different processes for how the information would be shared or received.

Brigid Duffy:
I would like to respond to that, respectfully, and I just want to be clear. Sharing information from a child's juvenile justice records would not permit phone tapping. Law enforcement would have to go get a warrant for that. Could they potentially use information to put the child at the scene of a home invasion or a murder? Absolutely, but passing this section of the bill would not allow the direct phone tapping, GPS tracking, or anything like that. There could be, though, in candor, information that is used in order to obtain a warrant, that is signed off on by a judge, to protect the community in which the child is alleged to have committed a murder or is committing hot prowl burglaries in the area, and ultimately, that puts that child at risk. I do not know how many children we have had who have been murdered while breaking into people's homes, but we have had a few recently who have at least been shot. It is really about getting law enforcement the information they need if they want to question a child: letting them know that the child is at Spring Mountain Youth Camp, or the child has a public defender so they need to call their public defender.

It is just letting them know where the child is; we cannot even really get around that without getting a court order.

Assemblyman Pickard:
This information is being shared for children who are already in the system, whether through probation or some other participation with the courts. This does not apply to people who are not already in the system. These are people who have already been adjudicated or are in the process of being adjudicated delinquent, is that true?

Brigid Duffy:
Yes, they have to be under the jurisdiction of the juvenile court.

Assemblyman Pickard:
I just wanted to make sure that I understood that we are not talking about expanding investigatory procedures, but merely trying to monitor the children who are already in the system. Thank you.

Assemblywoman Krasner:
I just wanted to clarify that this takes parental rights away from the parent as far as declining to share the child's school records with the juvenile justice system. Is that correct?

Brigid Duffy:
Take parental rights away? We are not saying that a parent does not still have rights. We are saying that, because the child is under the jurisdiction of the court, the school can turn over information to a person monitoring that child on probation. The parents' rights are still intact. I guess the question is what if the parents oppose that?

Assemblywoman Krasner:
Correct. Is the response, "too bad"?

Brigid Duffy:
I think that, if the parents are not willing to engage in the system to help their child succeed on probation, that would speak volumes to the court about what is going on in that family. Current statutes give us the ability to tell parents what to do through the juvenile court, and we can place a parent in contempt or in jail for not doing things. I guess the other option would be for us get a court order to turn the records over, and if the parent opposes it, then it becomes a whole other legal issue.

Chairman Yeager:
Ms. Duffy, I think you have some backup here in Carson City.

Scott J. Shick, Chief Juvenile Probation Officer, Douglas County Juvenile Probation Department:
Juvenile probation jurisdictions actively communicate with and have a strong working relationship with the high schools and middle schools in order to push children on their delinquent caseload towards success, to keep them in the education system. A high school diploma is the key to success for the juvenile delinquent, no matter what.

Sometimes parents do not even know that they have access to that information. It does not mean that they are incompetent parents or that they do not love their children, that they do not want to preserve the health, safety and welfare of their own children. Some parents do not have computers.

Having access to a child's educational information helps us find the baseline for children that we work with. We can coordinate with our mental health and behavioral services, and academics play a key a role in that. Access to that educational record through parental permission or otherwise is just essential to the success of every child in the juvenile justice system. We take that very seriously. We keep that close to our hearts and close to the record, with respect to confidentiality. We move each child forward with respect to their ability and try to work with their families to get them on board with helping their own children, which is probably part of the problem in the first place.

Chairman Yeager:
We will take the last question from Vice Chairman Ohrenschall.

Assemblyman Ohrenschall:
My question is for Mr. Shick. What has been your experience under the law as it stands now? Has law enforcement been interested in information regarding one of the children that you are supervising on juvenile probation, and has it been a difficult situation under current law? Let us say that law enforcement wants to access GPS tracking to see where the child has been or to access a history of drug tests to see if the child is using drugs. Under current law, has it been difficult for law enforcement to get that information from you?

Scott Shick:
As a chief, you exercise discretion, especially with an ongoing investigation. If something happens with a child that is adjudicated delinquent under my jurisdiction, if there is an ongoing investigation, we give law enforcement the information they need to know in order to complete their investigation. That would not include tracking and things like that. The court order for search and seizure gives us access to juveniles' Facebook pages. We can search juveniles' phones manually to see whom they have been contacting because many times there are "no contact" orders and other similar prohibitions. We do that as the Probation Department, but if an investigation needs information such as an address, associations and other information necessary to complete a thorough investigation, we will cooperate. We will not give law enforcement mental health information, academic information, preference information or anything like that. Law enforcement's job is to objectively walk through an investigation and take the facts necessary to complete that

investigation. That is the discretion that we would exercise to accomplish that. I believe this bill just sanctions it, where before it had not been written in.

Chairman Yeager:
At this time, I think we have thoroughly flushed out any issues in this bill, so I am not going to take any more questions and I will open up for testimony in support of S.B. 470. I do not see anyone in Las Vegas but we do have someone here in Carson City.

Frank W. Cervantes, representing Nevada Association of Juvenile Justice Administrators:
On behalf of the Nevada Association of Juvenile Justice Administrators, my name is Frank Cervantes, and I am serving as the president of that organization. We are in full support of S.B. 470.

Chairman Yeager:
Thank you for your testimony. Is there anyone else in support of S.B. 470? [There was no one.] Is there anyone in opposition to the bill? Again, I do not see anyone. Is there any neutral testimony on S.B. 470? [There was none.] Concluding remarks have been waived, so I will close the hearing on S.B. 470 and open the hearing on Senate Bill 472 (1st Reprint). This bill revises provisions governing registration and community notification of juveniles adjudicated delinquent for committing certain sexual offenses. Welcome Senator Hammond and Mr. Piro, and please proceed.

Senate Bill 472 (1st Reprint): Revises provisions governing registration and community notification of juveniles adjudicated delinquent for committing certain sexual offenses. (BDR 5-345)

Senator Scott T. Hammond, Senate District No. 18:
I am here to present Senate Bill 472 (1st Reprint) for the Committee's consideration. This is the second of the three bills I have before you today and, again, S.B. 472 (R1) was generated by the recommendation of the Nevada Supreme Court's Commission on Statewide Juvenile Justice Reform. This bill revises juvenile sex offender registration and notification requirements and is intended as a replacement for the provisions that were contained in Senate Bill 99 of the 78th Session. As you know, that bill was vetoed by the Governor for reasons not related to these provisions. The commission decided to request this measure for 2017 containing only the juvenile justice provisions. With your permission, Mr. Chairman, I will run through the bill very briefly and then turn the microphone over to Mr. Piro. He is going to discuss whatever particulars he feels are necessary as well as the rationale behind making these changes.

In the bill itself, sections 4 through 14 contain the new provisions governing registration and community notification of juvenile sex offenders, several of which are definitions. The key elements of the sections that I would like to highlight are as follows: section 5 adds a definition of "aggravated sexual offense," which includes administering a drug or controlled substance to another person with the intent of committing various sex crimes

including those that result in substantial bodily harm. The definition also includes any sexual offense that the juvenile has been previously adjudicated delinquent or placed under juvenile court supervision related to a sexual offense.

Similarly, section 8 adds a definition of "sexual offense" which, among other provisions, makes an exception for consensual sex between children when the victim is at least 13 and the perpetrator no older than 17.

Section 9 sets forth the conditions under which a child who is at least 14 years of age, and who was adjudicated delinquent for committing a sexual offense, must register with the court or the Youth Parole Bureau and must notify the appropriate entity within 48 hours of any significant changes in personal circumstances such as name change, residential or school change, a change in what vehicle the child drives, et cetera. This section also requires a parent or guardian to ensure that their child complies with these requirements and that they notify the proper entity should the child run away or otherwise leave.

Section 10 lays out the actions a juvenile court must take in order to ensure that a child who is subject to registration and notification provisions, as well as his or her parent or guardian, are notified and the process is followed appropriately. This section also provides that the court may not terminate jurisdiction over the child until it has either relieved the child from these requirements pursuant to statute, or ordered that the child remain subject to registration and notification as an adult.

Section 11 allows the juvenile court, upon a motion by a child, to exempt the child from registration and notification requirements if the child has not been adjudicated delinquent for committing an aggravated sexual offense, as defined in the bill, when the court finds at a hearing that an extensive set of criteria have been met in regard to the child and his or her circumstances and behavior.

Section 12 requires the court to hold a hearing on or near the child's twenty-first birthday, and sets forth the findings that must be made in order to relieve the child from their requirements or to order continued registration and notification as an adult.

Section 13 requires the court to maintain control over these cases and not refer them to a master for any findings or determinations.

Section 14 prohibits the sealing of records while a juvenile is subject to registration and notification.

Section 17 makes clear that the term "conviction" does not apply to an adjudication from which a juvenile has been relieved, and subsequent sections make similar conforming changes. That concludes my summary of the bill's provisions, and if the Committee does not mind, I would like to turn it over to Mr. Piro.

John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:
I would say that Senator Hammond walked through the bill and its changes quite accurately. This would be a clean-up measure and, as he stated before, it passed both houses of the Legislature in 2015. The sections that people had problems with have now been taken out of the bill and we would like to see it move forward from here.

Chairman Yeager:
Thank you. Before I open up for questions I did want to note for the record that I remember Senate Bill 99 of the 78th Session, which I believe is the bill you indicated the Governor vetoed. I am looking at the veto message online, and I will confirm that the veto message seems to indicate that, although the Governor believed the bill had some merit with respect to the Adam Walsh Child Protection and Safety Act, he was concerned about some other matters involving adult offenders. I wanted to confirm that S.B. 472 (R1) does not deal with adult sex offenders; it only addresses juvenile offenders. Am I correct in that assumption?

Senator Hammond:
That is correct. We extracted the language in the bill that referred to adults and we concentrated on juveniles and on the process that must commence upon the child's twenty-first birthday. We appreciate that message the Governor sent us; we heard that loud and clear. We discussed this during the interim and we felt like this was a very worthwhile bill to put before us again during this legislative calendar.

Assemblywoman Cohen:
I have a few questions. I made the mistake of reading through the bill and looking at my notes while you were presenting, so you might have covered this and I apologize if you did. Can you go through and explain the language in section 18? It is a small section, but I do not fully understand it.

Senator Hammond:
I appreciate your question, and I did not actually go over that when I was going through the bill. Good catch, Assemblywoman Cohen. I may need my expert to help me out with this and ensure my answer is correct. Could you repeat your question one more time?

Assemblywoman Cohen:
What struck me when I read through section 18 for the first time was that when a minor abuses another child and is being convicted, how does that section and its definitions play into the process? I do not even know how to ask the question. What does that mean for a minor who abuses another child?

John Piro:
Are you talking about section 18 in particular? This section just makes conforming changes related to all the changes included in this bill; it cleans everything up.

Assemblywoman Cohen:
All right, thank you. Are minors still considered offenders under the definition in section 18?

Senator Hammond:
Could you be very specific? I am looking at the amendment we added to the bill, which I guess would be in the first reprint that you have, is that correct? What language are you specifically looking at in section 18? Is it subsection 2?

Assemblywoman Cohen:
No, I am looking at section 18, subsection 1 where it states: " 'Offender convicted of a crime against a child' or 'offender' means a person who, after July 1, 1956, is or has been convicted of a crime against a child that is listed in NRS 179D.0357." Does this bill include children who were convicted—I know convicted is not the right word because they are found delinquent—and who are in the system as well?

Chairman Yeager:
I think I can answer your question. The Adam Walsh Act, which is currently in statute, had a retroactive requirement that juvenile and adult offenders would have to register as sex offenders going back to 1956. The language you see in section 18—the existing language that is there now—encompasses adult offenders and juvenile offenders. This bill seeks to make some changes to the juvenile portion of the Adam Walsh Act, and section 18 is removing from existing law the definition of "offender" that would capture people who were juveniles at the time that the crime was committed. It is a conforming change in the sense that those juveniles are being removed from the existing definition of "offender" under Adam Walsh, so they can be treated differently under the new statutory language that is elsewhere in the bill.

Assemblywoman Cohen:
Perfect. Thank you, Chairman Yeager. In section 11, subsection 3(b) there is a reference made to "family controls in place over the child," and whether a child has admitted to committing other unlawful acts in subsection 3(d). When the child is asking to be taken off notification, are these possible things the court can look at? Can the court say there are enough family controls in place even if the child has admitted to other acts?

Senator Hammond:
I will attempt to answer this. The whole intent of this bill is to separate juveniles from the adult criminal justice system, because we believe that we want to give children a second chance. We do not want to keep children on the registry forever, so we want to make sure we put a process in place so that at the age of twenty-one they can ask to go before a judge. The judge has some discretion, but in some areas, they do not have discretion.

What you are looking at in section 11 are some of the mitigating circumstances that the judge can look at. The judge cannot, however, exercise discretion if the child committed an aggravated assault, for example. We talked about that in one of the prior sections. If the child gave their date a drug in order for that date to become discombobulated so the child

could have sex with them, then the judge cannot overlook that. In section 11—and I am hoping my counsel will clarify and make sure I am correct on this—those are just some of the things the judge can look at and make determinations on whether or not they want to allow that juvenile, when they reach the age of twenty one, to be taken off the list.

Assemblywoman Cohen:
The admission of other unlawful acts by the juvenile, does it benefit the juvenile to admit the other acts or does it harm the juvenile as far as being removed from the list? The language in this section seems a little unclear. Do we want children admitting that they have done these other things? Do you understand what I am asking? Can that admission be used against a child, if they are admitting these other acts?

John Piro:
Ms. Duffy is at the table, and she has more extensive practice in the juvenile arena, so I am going to toss that question to her.

Brigid J. Duffy, Chief Deputy District Attorney, Juvenile Division, Clark County District Attorney's Office:
Going back to my nightmare, you may all remember when I came up to the table and winged it on a similar bill. We went through these factors at that time. Section 11 lists the factors that the court shall consider if a child asks to not be subject to community notification or placement on the website. I have heard several permissive words today such as "may" or "can consider," but I want to make sure you are all clear that this is what the court shall consider to make that determination.

One of the factors the court shall consider is found in section 11, subsection 3(d), and that is the history of the child with the juvenile court, including reports of any unlawful acts that the juvenile has admitted committing and any acts for which a juvenile court placed the child under supervision. That implies or means to me that we have charged a child with additional offenses, the child has admitted to doing them, or any other prior adjudication, or being in need of supervision. The importance of that is to show that this child, after committing a sexual offense, is actually getting the treatment and not committing subsequent offenses in our community. It is just one factor that the court is going to consider.

I believe your question asked if a child's admissions to other bad acts would benefit the child: potentially not, because if the child does not want to be placed on a website, the court is going to have to consider the other crimes the child committed—burglary, armed robbery, petit larceny, domestic violence, or any other crimes. When we, as a committee, discussed the factors, this was one of the important things we included to ensure we would guard against recidivism on a sexual offense.

John Piro:
You may be seeing this in a different light, Assemblywoman Cohen, and please correct me if I am wrong. Imagine we are at a hearing and the court is asking a child if he or she admits to a crime for which there are no reports. To me, the word "reports" modifies the rest of

the sentence. I would not have my client admit to crimes for which there were no reports. I would not allow my client to answer questions such as, Tell me about your whole life history and all the things you have done that are wrong that we should put on the record.

Assemblywoman Cohen:
I want to make sure that we are ensuring that the children, as well as their counsel, understand that they are not going to get a benefit by admitting to other bad acts. I worry that if they were to read this section as written, they might think that it is not official or they have not been in court over something, but if they come forward and say they did these things they are coming clean so it will help them get off the registry.

As far as the family controls, my only concern is that there are some families that do not have great controls. I do not want there to exist a bias where the child who comes from a family with great controls has a better shot at getting off the registry than another child who does not have, by chance, the benefit of a family with great controls, and is not a well-structured family.

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:
I want to point out two things with respect to section 11, subsection 3(d), which talks about acts that the juvenile admits to committing. Remember in the juvenile justice system, we have this interesting structure where a juvenile who commits an offense does not necessarily have to go to court. They go to what is called a juvenile intake, where they meet with a probation officer and, if it is a misdemeanor and if the child admits it, the probation officer can handle that case informally. In other words, the situation can be handled without having to go through the court process. That is why this section is worded the way it is; there is still a record of that offense being made, and because the officer has the ability to handle it informally, that means the child had to have admitted. That is the reason that language is in there. It is still part of the juvenile's record and it is worded this way to account for how we handle certain cases in the juvenile system.

With respect to the family controls question, unfortunately you are absolutely right. That is a factor that we see throughout the juvenile system. We want to make sure that children are going home to environments where they are being properly supervised. When you are talking about public safety, unfortunately, it is a factor that we have to consider. If we are sending a juvenile home to a situation where they are not being supervised properly, that can lead us to situations where they could commit new crimes or have more victims.

Assemblywoman Cohen:
I guess I will just leave it with the hope that there are not biases in the system where there is an assumption that, if a family looks a certain way there is more control, as opposed to if a family looks a different way there is a feeling that there is not control. I will leave it at that.

Chairman Yeager:
Are there any more questions from Committee members? [There were none.] Thank you for your presentation here this morning. At this time, I will open up for additional testimony in support of S.B. 472 (R1).

Brigid Duffy:
I just wanted to put my support for this bill on the record, as well as to thank everybody in the interim for working with the District Attorney's Office to come up with language that we felt protected the community and gave a fair opportunity for children who have committed sexual offenses to not be registered sex offenders.

Assemblyman Ohrenschall:
I just have a comment. While I never represented any of these children, my office did. Susan Roske—who was with our office—did as well. Ms. Duffy really bent over backwards to make sure that when these changes happened, children and young adults who had made mistakes in their youth—and in many cases had stayed out of any kind of trouble and had gotten treatment—would not have to now suddenly face these notification requirements and have this earthquake hit their lives. Many of the children who end up in the juvenile sex offender calendar have not been in trouble before and are not children who get into a lot of delinquency trouble but need the treatment that the court often provides. Ms. Duffy really bent over backwards to try to make sure that these children and young adults would not now have to register as sex offenders for something that happened so long ago in the past. I just wanted to mention that.

Jo Lee Wickes, Chief Deputy District Attorney, Washoe County District Attorney's Office:
I am the Chief Deputy District Attorney for the Delinquency Division in Washoe County, and I have been involved with juvenile justice for the last 17 years. I believe this is critical legislation that will really strike the proper balance between supporting the juveniles who have committed certain sexual offenses and community safety. This bill gives the court some critically needed discretion to recognize that when a juvenile has participated in and successfully completed probation for a period of parole—and addressed the underlying issues that led to the offense that brought them before the court—that they be relieved of somewhat onerous and long-term consequences to that juvenile behavior. I would also like to assure the Committee members that, certainly in Washoe County—and I believe in Clark County and the rural counties as well—our juvenile justice system around these very sensitive issues are heavily weighted towards providing adequate treatment.

I fully support this bill. We have been working on legislation around this issue for almost nine years, since the Adam Walsh Act passed. I am a member of the Nevada Supreme Court Juvenile Justice Commission. This language was vetted in that commission and I believe has the full support of the Commission as well. I am happy to answer any questions.

Chairman Yeager:
Thank you for your testimony. I just had one question, really a clarification. My understanding of the Adam Walsh Act—and I understand that it was passed, as you said, a number of years ago—was essentially that it looked all the way back to 1956 and indicated that even if you were a juvenile when you committed a certain act, you had to register now. It was retroactive, so if you were a certain age and it was a certain crime; registration was now mandatory even if perhaps you were now in your seventies and had never had to register for that; and that a judge did not have any discretion under Adam Walsh to alleviate those registration requirements. Could you just confirm that is the state of the law right now? Can you also confirm that provision has been enjoined so it has not been enforced yet, but as the law stands right now, there is no discretion for the judge?

Jo Lee Wickes:
I concur with you; that is the current state of the law. With regard to enforcement, the law has been continually enjoined in one way or another and it is currently not being enforced, due to pending litigation against the Central Repository.

Chairman Yeager:
Are there any other questions for Ms. Wickes? [There were none.]

John Jones:
We just want to put our support on record for S.B. 472 (R1). Thank you.

Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office:
We, too, want to put our support on the record for this very important measure. Thank you.

Frank W. Cervantes, Director, Washoe County Department of Juvenile Services; and representing the Nevada Association of Juvenile Justice Administrators:
We are in support of this bill as well. I want to thank my colleague, Scott Shick. He has been leading the force on this for the juvenile justice community of several years, and I just want to put that on record.

Chairman Yeager:
Thank you for your testimony. Is there anyone else in support of S.B. 472 (R1)? [There was no one.] Is anyone opposed to the bill, either in Las Vegas or Carson City? Again, I do not see anyone. Is anyone neutral on S.B. 472 (R1)? [There was no one.] Senator Hammond, would you like to make any concluding remarks?

Senator Hammond:
I do not want to take up the Committee's time, but I will say this. I am not a subject matter expert in any of this stuff, so when I bring a bill it is because someone has convinced me that this is necessary. In this case, you saw that those who testified came from, and did their convincing from, both sides of the aisle. You had the public defender's office in here and you had the district attorneys in here. You had juvenile probation officers, and what all these people are telling us is that there is a problem. We are not giving juveniles the chances that

they need. We are putting them on a list for the rest of their lives that they do not need to be on. Allowing a judge discretion to look back at an individual's history seems like a relevant and cogent argument, and as the interim Chair of the Legislative Committee on Child Welfare and Juvenile Justice, I felt that this needed to come before the legislative body for consideration.

I would like to allow these judges to look at a juvenile's background, see if they have made changes in their lives, see if they have not gone back to whatever behavior it was that got them into trouble in the first place. Of course, you saw that the discretion of the judge ends when talking about aggravated circumstances or something that was premeditated. I think this bill and the language that came out was carefully crafted. I stand behind it and I am glad to bring it before the Committee today.

Chairman Yeager:
Thank you, Senator Hammond. As someone who worked on Senate Bill 99 of the 78th Session, I know we were disappointed in the outcome of that bill. This issue is a little bit of a quirk in criminal law because, typically, when we pass criminal laws, they do not apply retroactively. In this particular situation under the Supreme Court precedent, they have decided that sex offender registration is not a punishment, so it does apply retroactively. I think that was some of the heartburn people felt, that we could be making people who are in their seventies and have otherwise led stellar lives to have to go back and register for something that happened in the 1950s or 1960s when they were juveniles. So I think that giving the judge discretion is the appropriate thing to do to be able to look at those circumstances.

I want to thank you for your work on this issue. I know chairing those interim committees is not always easy so, again, thank you for that. I will close the hearing on S.B. 472 (R1) and I will open the hearing on Senate Bill 473, which excludes juveniles from increased penalties for certain sexual offenses. We have Senator Hammond here, and Mr. Sullivan as well. I believe Chairman Hansen probably remembers, I think this bill stems from Assembly Bill 49 of the 78th Session and a quirk that we missed when we were working on that bill. I am anxious to hear your presentation on how this came about.

Senate Bill 473: Excludes juveniles from increased penalties for certain sexual offenses. (BDR 15-346)

Senator Scott T. Hammond, Senate District No. 18:
This is pretty brief, so I will be as quick as possible. I am here to present Senate Bill 473. This is the final bill I have for you today, of those that were requested by the interim Committee on Child Welfare and Juvenile Justice. I am pleased to say that this bill is probably also the quickest. I can see you are excited. This bill was also requested by the Nevada Supreme Court's Commission on Statewide Juvenile Justice Reform, and it is essentially a clean-up measure. In order to exempt juveniles from increased penalties that were never intended to apply to them, S.B. 473 adds the phrase "by a person 18 years of age or older" to a few sections of *Nevada Revised Statutes* (NRS) Chapter 201 that provide

increased penalties for open or gross lewdness and indecent or obscene exposure committed in front of a child or vulnerable person.

Testimony before that Committee last interim indicated that not making these provisions apply only to adults was an oversight that ended up slipping through with the passage of Assembly Bill 49 of the 78th Session. We agreed to fix the oversight in this bill. That concludes my remarks on S.B. 473. With your permission, I have my legal counsel next to me, Mr. Sullivan.

Chairman Yeager:
Good morning, Mr. Sullivan. I do remember working in the trenches with you on A.B. 49 of the 78th Session. I remember, after session, hearing some of the unintended consequences. That being said, please go ahead with your testimony.

Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office:
Chairman Yeager, you are absolutely correct; I was in the trenches with you on A.B. 49 of the 78th Session, and this bill does purport to clean up sections 13 and 14 of A.B. 49 of the 78th Session. It is my understanding, after talking to all of the stakeholders involved, that when a juvenile offender is engaged in open and gross lewdness or indecent exposure, the majority of the time the alleged victim would be a child as well. I believe this is a necessary change—defining the offense as committed by a person 18 years of age or older—and I believe it merely was an oversight in 2015. I appreciate Senator Hammond taking up this torch and presenting this bill this morning. If there are any questions from the Committee, I would be happy to answer them.

Assemblywoman Miller:
I need some clarity around the charges filed against a person 18 years of age or older because I can think of situations where the other child is 17 and the two consider themselves a couple. Am I missing something that would make this, in this bill, a lewd act in public? What am I missing? Please help me get there.

Sean Sullivan:
We are talking about conforming changes in NRS 201.210, open and gross lewdness, and NRS 201.220, indecent exposure. Those are defined within statute as well, so I am not clear as to the question. We are talking about two offenders being under the age. If they were under the age of 18, then this necessarily would not apply. We are trying to say that a person 18 years of age or older who commits open and gross lewdness or indecent exposure in the presence of a child under the age of 18 would be subject to this category D penalty.

Senator Hammond:
I apologize. I do not know if I can get technical because it is going to sound like I am talking to you on the street. You are talking about a couple; an 18-year-old male and a 17-year-old female, they are boyfriend-girlfriend, and there is a lewd act. I do not think that would necessarily be something we would worry about unless, of course, that lewd act is in public

and other people are around. I do not think the 17-year-old is going to say anything if it is consensual. I think that is what you are saying.

Assemblywoman Miller:
Yes.

Senator Hammond:
We are talking about a situation where other people are present, and he thought it was a good idea to, you know—some of you already know where I am going. I am not going to go there but let us just say he is being funny and he commits a lewd act. There are some things you can do; he thinks he is being funny; but other people see it and that is where he can get in trouble if he is 18 or older.

Assemblywoman Miller:
So this could also be a victimless offense, where someone is just being funny or being many things. We are not looking at it necessarily as one direct victim impacted. It is just the idea that it is done in public that would make it considered lewd? Then the offense would be different for an 18-year-old because we are considering them to be an adult, as opposed to a teenager or someone younger?

Senator Hammond:
Yes. Say you are 15 or 16—you could be a girl or boy—and you are at the football game. All of a sudden, somebody says to you, You know what would be funny, if you just streaked across the field? Obviously you are not thinking with your full faculty at that point. We all know that the frontal lobe is not quite formed yet, so you go ahead and do that. I do not think that you want to have that held against you for the rest of your life.

Assemblywoman Miller:
Correct. Thank you.

Chairman Yeager:
Assemblyman Hansen, I do not know if you are having flashbacks to A.B. 49 of the 78th Session, but I will remind those of you who were not here, I think we had six or seven hours of testimony on that bill. It was something like 75 sections and perhaps the most comprehensive criminal justice bill I have ever seen in the Legislature. I am not surprised that this was an unintended consequence, given how massive that bill was.

Assemblyman Hansen:
Thank you, Chairman Yeager. I am glad that we can blame you and Mr. Sullivan for this oversight, though.

Chairman Yeager:
Just so the Committee knows, the intent with A.B. 49 of the 78th Session that was added last session was to criminalize in a more serious way adult offenders who either victimize a child or are repeat offenders. To answer a question that has come up, if a juvenile engages in open

and gross lewdness and the victim is another juvenile, it is still a delinquent act. It is just categorizing it as a felony if it were an adult act, and has ramifications in the juvenile justice system. The hope in keeping that a misdemeanor level for a juvenile would be that they would be more amenable and that services would be available to them instead of triggering felony-type treatment. That was the intent of A.B. 49 of the 78th Session. Unfortunately, with all those eyes in the bill we missed that part of it. Are there any other questions from the Committee? [There were none.] I will open the hearing up for testimony in support of S.B. 473.

John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:
We just want to register our support for this bill and thank Senator Hammond for bringing it forward.

Sean Sullivan:
I just want to register our support as well.

Jo Lee Wickes, Chief Deputy District Attorney, Washoe County District Attorney's Office:
The Washoe County District Attorney's Office wants to register our support as well.

Frank W. Cervantes, Director, Washoe County Department of Juvenile Services; and representing the Nevada Association of Juvenile Justice Administrators:
We are recording our support as well.

Chairman Yeager:
Is there anyone else in support of S.B. 473? [There was no one.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who is neutral on the measure? I do not see anyone. Senator Hammond, would you like to make any closing remarks?

Senator Hammond:
I appreciate your indulgence today, and it is very rare that you actually see somebody present three bills in a row. I appreciate the attention of the Committee. Thank you, again, for helping us walk through this.

Chairman Yeager:
Thank you, Senator Hammond, for your work in the interim and for being with us this morning to present these three bills. I will close the hearing on S.B. 473. I will open the meeting for public comment. Would anyone like to give public comment here in Carson City or in Las Vegas? [There was no one.] As a reminder, we have our Committee festivities tonight, and I hope to see everyone there. Our Committee will be meeting tomorrow, and we are going to be starting at 8 a.m. Although we only have three bills, we do have two homeowners' association bills and one bill involving firearms, so it promises to be a fun-filled Friday morning. We are adjourned [at 10:06 a.m.].

RESPECTFULLY SUBMITTED:

Devon Isbell
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE:

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a Work Session Document for Assembly Bill 183, dated May 5, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit D is a Work Session Document for Senate Bill 29 (1st Reprint), dated May 10, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit E is a Work Session Document for Senate Bill 33 (1st Reprint), dated May 10, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit F is a Work Session Document for Senate Bill 41 (1st Reprint), dated May 9, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit G is a Work Session Document for Senate Bill 133 dated May 10, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit H is a Work Session Document for Senate Bill 230, dated May 9, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit I is a Work Session Document for Senate Bill 255 (1st Reprint), dated May 9, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit J is proposed amendment to Senate Bill 255 (1st Reprint), submitted by Garrett Gordon, representing Lewis Roca Rothgerber Christie LLP.

Exhibit K is a Work Session Document for Senate Bill 240 (1st Reprint), dated May 9, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit L is a Work Session Document for Senate Bill 277 (1st Reprint), dated May 10, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit M is a Work Session Document for Senate Bill 279, dated May 9, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit N is a Work Session Document for Senate Bill 338 (1st Reprint), dated May 9, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit O is a Work Session Document for Senate Bill 376, dated May 10, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit P is a Work Session Document for Senate Bill 398 (1st Reprint), dated May 10, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.