MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Ninth Session
May 16, 2017

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:08 a.m. on Tuesday, May 16, 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
Assemblyman Tyrone Thompson
Assemblywoman Jill Tolles
Assemblyman Justin Watkins
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Mark A. Manendo, Senate District No. 21

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Barbara E. Buckley, Executive Director, Legal Aid Center of Southern Nevada
Alexia M. Emmermann, Insurance Counsel, Division of Insurance, Department of Business and Industry
Barbara Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Mike Dyer, Director, Nevada Catholic Conference
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Alisa Nave-Worth, representing American Bail Coalition
Jeffrey J. Clayton, Policy Director, American Bail Coalition
Steve Krimel, President, Nevada Bail Agents Association
Paul Caruso, Vice President, Southern Bail Agents of Nevada
Fred Anschultz, Bail Underwriting Manager, Tokio Marine HCC Surety Group
Tom Clark, representing Justin Brothers Bail Bonds
Daryl DeShaw, representing 8-Ball Bail Bonds
Chelsea Capurro, representing Coalition of Ignition Interlock Manufacturers; and City of Reno
Debra Coffey, Director, Coalition of Ignition Interlock Manufacturers
Debbie Zelinski, Program Coordinator, Northern Nevada Chapter, Mothers Against Drunk Driving
Gerard Mager, Private Citizen, Sparks, Nevada
Todd Ingalsbee, representing Professional Fire Fighters of Nevada
Sandy Heverly, Executive Director and Victim Advocate, Stop DUI
Laura K. Gryder, Project Director, Center for Traffic Safety Research, Department of Surgery, University of Nevada, Reno, School of Medicine
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association
Christine Adams, Administrator and Victim Impact Panel Manager, Northern Nevada DUI Task Force
John J. Piro, Deputy Public Defender, Clark County Public Defender's Office
Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office
Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada
Lisa Rasmussen, Legislative Committee Co-Chair, Nevada Attorneys for Criminal Justice
Kiska Icard, Chief Executive Officer, Nevada Humane Society
Robert Smith, Animal Services Manager, Washoe County Regional Animal Services

Chairman Yeager:
[Roll was called and standard rules of the Committee were reviewed.] As you can see on the agenda, we have three bills and a work session. We are going to do the work session now while we have all of the members here. It can be hard at this time of the session to keep everyone here. At this time I will turn the meeting over to our policy analyst, Ms. Thornton, to take us through the work session document.

Senate Bill 195 (1st Reprint): Revises provisions relating to common-interest communities and time shares. (BDR 10-470)

Diane C. Thornton, Committee Policy Analyst:
Our first bill on work session today is Senate Bill 195 (1st Reprint), which revises provisions relating to common-interest communities and time shares (Exhibit C). It was sponsored by Senator Harris and heard in this Committee on May 12, 2017. This bill revises methods by which executive board vacancies are filled, elections conducted, and by which a special declarant's rights are transferred in an involuntary sale. It also requires an association to maintain directors' and officers' insurance, and grants boards additional powers to manage the parking and storage of recreational vehicles. Depending on the purpose for which an executive session is being held, notice for an executive board session must either be given only to the person who may be the subject of a hearing for that meeting or to be posted within the common elements of the association and be provided electronically to all unit owners who have provided an email address. The bill requires additional disclosures be made regarding both the purchase and resale of a time share and requires a time share manager to disclose to the association and make available upon request a report describing all fees, compensation, or other property the manager is entitled to receive for services rendered. At the hearing Senator Harris proposed an amendment. She has since alerted the Chairman that she has withdrawn the amendment, so there are no amendments on the bill.

Chairman Yeager:
I will take a motion to do pass Senate Bill 195 (1st Reprint).

> ASSEMBLYMAN WHEELER MADE A MOTION TO DO PASS SENATE BILL 195 (1ST REPRINT).
>
> ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Wheeler.

Senate Bill 258: Revises provisions governing common-interest communities. (BDR 10-994)

Diane C. Thornton, Committee Policy Analyst:
Our next bill on work session is Senate Bill 258, which revises provisions governing common-interest communities and was sponsored by Senators Gustavson and Hardy (Exhibit D). This bill authorizes an executive board of a common-interest community to send a written notice to cure a violation without imposing a fine and requires that the notice meet several requirements. Specifically, the notice must explain any applicable provisions that form the basis for the alleged violation, describe the alleged violation and proposed cure, provide a clear photograph of the violation, if applicable, and provide the unit owner or tenant a reasonable opportunity to cure the violation before taking further action. Senator Gustavson has proposed an amendment, and the mock-up is on the following pages. The amendment provides that the executive board may, if the governing documents allow, send a written notice to the unit's owner or to the responsible party to cure an alleged violation without the imposition of a fine.

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

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS SENATE BILL 258.

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

Assemblyman Thompson:
I am looking at the amendment. Part of our discussion was on section 1, subsection 1, paragraph (c), where it talks about the written notice, and we said electronic notification can be inclusive. Since it does not specify "electronic," it cannot be electronic, so we are going to continue sending written, paper letters. Is that correct?

Brad Wilkinson, Committee Legal Counsel:
Actually there is a provision in *Nevada Revised Statutes* (NRS) Chapter 116 that pertains to the delivery of notices which states that, unless a specific statute requires otherwise, notice can be delivered in several different ways, including electronically if the unit's owner has given an email address and indicated a desire to receive email.

Chairman Yeager:
Is there any further discussion on the motion to amend and do pass? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Hansen.

Senate Bill 287 (2nd Reprint): Revises provisions relating to the protection of children. (BDR 38-609)

Diane C. Thornton, Committee Policy Analyst:
Our next bill is Senate Bill 287 (2nd Reprint), which revises provisions relating to the protection of children (Exhibit E). It was sponsored by Senator Gansert and others. Senate Bill 287 (2nd Reprint) requires employees and volunteers of public and private schools to report certain information regarding abuse, neglect, and certain other prohibited acts against a child. The bill requires all employees of and volunteers for a public or private school, regardless of whether they are licensed, to report suspected abuse or neglect of a child by a person responsible for the child's welfare. In addition, employees and volunteers must also make a report within 24 hours if, in that capacity, they know or have reasonable cause to believe that a child has been subjected to certain sexual conduct, luring, prohibited corporal punishment, or abuse or neglect caused by a person other than a person responsible for the welfare of the child. Reports must be made to an agency that provides child welfare services and/or a law enforcement agency as appropriate, and such reports must be investigated. Failure to report is a misdemeanor or gross misdemeanor.

Reports and investigations of abuse, neglect, sexual conduct, luring, and prohibited corporal punishment are confidential. If a report is substantiated, the investigating agency must forward the report to the Department of Education, the governing body of the school or the school district, law enforcement, and the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child. Senate Bill 287 (2nd Reprint) also requires volunteers at public schools and employees and volunteers at private schools to undergo certain background checks. The bill authorizes certain information obtained by background checks to be used in making personnel decisions.

Senator Gansert has proposed two amendments. The first was to add Assemblyman Yeager as a cosponsor to the bill. The second was a mock-up on the following pages. The amendment does the following: revises the definition of "abuse or neglect of a child;" requires reporting by an employee of or a volunteer for a public or private school; requires the school police to report an offense to the law enforcement agency if the offense is punishable by a category A felony; requires the law enforcement agency to notify the school police officer if the law enforcement agency receives a report that an offense has allegedly occurred; provides that a child welfare services agency will assess all allegations and, if appropriate, investigate; and provides that the cost of any photographs or X-rays or medical tests performed must be paid by the parent or guardian of the child.

Chairman Yeager:
At this time I will take a motion to amend and do pass this measure with both amendments.

> ASSEMBLYWOMAN TOLLES MOVED TO AMEND AND DO PASS SENATE BILL 287 (1ST REPRINT).
>
> ASSEMBLYWOMAN JAUREGUI SECONDED THE MOTION.

Assemblywoman Miller:
In section 49, subsection 3, it says, "The reasonable cost of any photographs or X-rays taken or medical tests performed pursuant to subsection 2 must be paid by the parent or guardian of the child if the money is not otherwise available." Does that say, for the investigation, the parent or guardian would be responsible for those costs?

Chairman Yeager:
I think you are correct. The way I read this is, if for some reason money is not available to cover it, under the amendment, the cost would fall on the parent.

Assemblywoman Miller:
In any other criminal investigation, who is responsible for the payment for the victim?

Chairman Yeager:
It is hard to say because it depends on the outcome of the criminal case. The defendant could be assessed with the cost of that, but typically it is a cost that would be borne by the state. I would note that, in this particular context—and we are not talking about criminal prosecutions—we are talking about abuse and neglect in the context of a school or volunteers. I do not want to speak for the amendment's sponsor, but I think there was an issue with the language that was currently in there in terms of the fiscal impact. My hope would be that there would be money available, but to the extent that there is not, it would be billed to the parents.

Assemblyman Wheeler:
I really like this bill; I think it is necessary. However, I want to talk to the sponsor more about the fiscal impact, so I will vote yes out of Committee and will let you know after my discussion with the sponsor if I am still a yes.

Chairman Yeager:
Any further discussion? [There was none.] Again, the motion is to amend and do pass with both amendments.

THE MOTION PASSED. (ASSEMBLYWOMAN KRASNER VOTED NO.)

I will assign the floor statement to Assemblywoman Tolles.

Senate Bill 305 (1st Reprint): Revises provisions regarding certain proceedings concerning children. (BDR 38-926)

Diane C. Thornton, Committee Policy Analyst:
Our next bill is Senate Bill 305 (1st Reprint), which revises provisions regarding certain proceedings concerning children (Exhibit F). It was sponsored by Senator Ratti and others. Senate Bill 305 (1st Reprint) requires the court to appoint an attorney to represent a child who is alleged to have been abused or neglected in civil child protection proceedings

and in proceedings to terminate parental rights. A child is deemed to be a party to such proceedings. The bill provides for the compensation of the appointed attorney and prohibits the court from appointing an attorney who also serves as the child's guardian ad litem. In addition, S.B. 305 (R1) increases from $3 to $6 the maximum fee a board of county commissioners may impose for recording certain documents to fund the provision of legal services to abused and neglected children. There are no amendments.

Chairman Yeager:
At this time I will accept a motion to do pass Senate Bill 305 (1st Reprint).

> ASSEMBLYMAN PICKARD MADE A MOTION TO DO PASS SENATE BILL 305 (1ST REPRINT).
>
> ASSEMBLYMAN WATKINS SECONDED THE MOTION.

Assemblywoman Cohen:
When we have a *Nevada Revised Statutes* Chapter 128 termination, which is between parties where the state is not necessarily involved, the court still has the flexibility not to appoint an attorney for the child. I want to ensure that is the case. I am concerned because one of my last cases before coming up for the session involved a child whose biological father has not been involved in his life since the time the child was an infant. The child did not know, at the age of 12, that his stepdad was not his biological dad. His parents were working on termination. I am concerned for children like that where the parents who are raising them have made some decisions about their lives. Having an attorney appointed for that child would throw his life into chaos. I want to make sure that our judges understand that they have flexibility and not to put attorneys into situations like that. I wanted that on the record.

Chairman Yeager:
Is there any further discussion on the motion?

Assemblyman Thompson:
In section 1, subsection 4, we are adding ". . . or an attorney compensated through a program for legal aid . . . ." Yesterday we had a presentation about the Children's Attorneys Project (CAP) attorneys. Are these all the same? I am not trying to discuss two different bills, but both have funding implications. I am in support of both bills.

Chairman Yeager:
I believe we have Speaker Buckley down in Las Vegas, so maybe she could come to the table and provide us with the answer. I do not want to misspeak.

Barbara E. Buckley, Executive Director, Legal Aid Center of Southern Nevada:
They are the same thing. Children's Attorneys Project, or CAP attorneys, are employed by Legal Aid Center of Southern Nevada, which is the legal aid center mentioned in the bill. They are the same.

Chairman Yeager:
Is there any further discussion on Senate Bill 305 (1st Reprint)? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN AND WHEELER VOTED NO.)

I will assign the floor statement to Assemblywoman Jauregui.

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

Diane C. Thornton, Committee Policy Analyst:
Senate Bill 473, which excludes juveniles from increased penalties for certain sexual offenses, was sponsored by the Senate Committee on Judiciary on behalf of the Legislative Committee on Child Welfare and Juvenile Justice, and was heard in this Committee on May 11, 2017 (Exhibit G). This bill provides that an increased penalty for committing certain sexual offenses in the presence of a child under 18 years of age or a vulnerable person does not apply if the person committing the offense is under 18 years of age. There are no amendments.

Chairman Yeager:
I will take a motion to do pass Senate Bill 473.

ASSEMBLYWOMAN JAUREGUI MADE A MOTION TO DO PASS SENATE BILL 473.

ASSEMBLYWOMAN COHEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Watkins.

Senate Bill 476: Makes changes relating to the Commission for Common-Interest Communities and Condominium Hotels. (BDR 10-554)

Diane C. Thornton, Committee Policy Analyst:
Our final bill on work session today is Senate Bill 476, which makes changes relating to the Commission for Common-Interest Communities and Condominium Hotels, sponsored by the Senate Committee on Judiciary on behalf of the Sunset Subcommittee of the Legislative Commission, and was heard on April 27, 2017 (Exhibit H). It requires certain members of the Commission for Common-Interest Communities and Condominium Hotels to not only be unit owners, but also to reside in a unit within Nevada. There are no amendments.

Chairman Yeager:
I will take a motion to do pass Senate Bill 476.

> ASSEMBLYMAN THOMPSON MADE A MOTION TO DO PASS SENATE BILL 476.
>
> ASSEMBLYWOMAN COHEN SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Assemblyman Pickard will do the floor statement.

That takes us to the end of the work session, so I will go ahead and open the hearing on the first bill on the agenda, which is Senate Bill 18 (1st Reprint). I will invite the sponsors to come to the table. I will also let everyone know that we have three bills on the agenda today and I think each of them will have quite a bit of testimony, so I will ask everyone to keep their remarks as brief as possible so we can get through these three bills today.

Senate Bill 18 (1st Reprint): Makes various changes relating to bail bonds. (BDR 57-464)

Alexia M. Emmermann, Insurance Counsel, Division of Insurance, Department of Business and Industry:
With me today are Barbara Richardson, Commissioner of Insurance, and Nick Stosic, Insurance Regulation Liaison, Division of Insurance.

The Division of Insurance regulates commercial bail under *Nevada Revised Statutes* (NRS) Chapter 697 and, based on our experiences, presents Senate Bill 18 (1st Reprint), revising provisions related to bail regulation for the purposes of clarifying existing law and addressing abuses by bail licensees. This bill's primary objective is public safety and consumer protections. Before I start reviewing the bill for you, I would like to introduce you to the bail industry (Exhibit I).

In a commercial bail transaction, a surety insurer enters into a contract with the court guaranteeing the appearance of the defendant. A bail agent acts on behalf of the surety insurer to assess the risk of the defendant, accept collateral on the bond, post bonds with courts, and has other administrative duties related to bonds posted, such as dealing with failures to appear in court, forfeitures, and exonerations. A bail enforcement agent is employed or contracted by a surety insurer or bail agent to locate, apprehend, and surrender a defendant who has failed to appear in court or otherwise absconded.

In the business of bail, a bail agent provides a service, namely securing a defendant's release from jail subject to oversight, for a cost. A bail agent is permitted to charge 15 percent of the face value of the bond or $50, whichever is greater, for this service. A bail agent may reimburse himself for actual expenses incurred, which are limited by statute to certain

enumerated fees and actual, necessary expenses incurred in good faith by reason of breach. A bail agent may not charge for services in addition to the 15 percent charge. A bail agent may accept collateral that is reasonable in relation to the face value of the bond. Collateral is held in a fiduciary capacity and must be returned to the person who deposited it as soon as the obligation is discharged and all fees owed to the bail agent have been paid.

In Nevada, as of last week, there are 374 bail licensees composed of 111 resident bail entities and 239 resident bail individuals. Resident individual licenses are tied to the bail entities, so much of our discussion today relates to the 239 resident individual licensees.

From 2006 to 2008, complaints against bail licensees almost doubled to 77, and just about tripled in 2010 to 117. From 2011 to 2014, the Division of Insurance had to redirect resources to investigate complaints and take administrative action against licensees for bail violations. Since 2014, the number of complaints has tempered to 43. Through the investigations, the Division has seen a disturbing pattern of predatory practices and abuses, which not only affect competition and the industry's reputation, but also pose risks to public safety.

To give you a sense of the issues being addressed in this bill, here are three examples of the types of abuses we have seen. In one case, a defendant did not appear in court due to illness. That same day her attorney had the warrant quashed and bail bond exonerated. Later that night, a bail agent and people he hired beat down the defendant's door, forced their way in, handcuffed the defendant, and held the defendant and her three young children at gunpoint while collecting valuables throughout the home. The items taken included her car, cell phone, laptop, iPhone, cash, and even her son's Xbox, none of which had been provided as collateral. The defendant was then surrendered to jail. None of the items taken were ever returned and were either kept or sold by the bail agent [(Exhibit I), slide 2].

In another case, three bail licensees went to apprehend a defendant at a large hotel casino for the defendant's failure to appear in court. Hotel surveillance video captured the defendant being beaten by the licensees. The defendant was struck at least thirteen times, including a brutal knee to the crotch after he was handcuffed. He was tasered at least three times, one of which also occurred after he was handcuffed. The assault continued even after the defendant was handcuffed and sitting in a wheelchair, bloody and swollen. The bail agent then took photos of and with the defendant as though he were a trophy [(Exhibit I), slide 3].

In another case, a bail agent, alleging payment for release was still owed, forcibly removed a defendant from her hotel room. The bail agent handcuffed her and drove her around town for hours at gunpoint, threatening to leave her in the desert if she did not comply with his demands. The agent forced the defendant to take cash from an ATM and write checks to him. The bail agent also entered her brother's home and took a car and other valuables. After over 24 hours, the bail agent surrendered the defendant to the detention center. None of the items taken were returned and the car was sold by the bail agent.

There is one other situation that I would like to share with you that is very common. Many bail agents require defendants to call in on certain days at certain times. A defendant's failure to call in subjects the defendant and indemnitor to fees as high as $500 per missed or late call per week. Bail agents create these fees for such alleged breaches of contract.

These are just a few of the many complaints that the Division has seen. Summaries of other complaints and cases begin on page 1, (Exhibit J). Pages through 11 (Exhibit J) contain some of the forms bail agents use that purport to give them authority. For instance, the big one we have seen is the General Power of Attorney (GPA) [(Exhibit J), which is used to "collect" collateral after the fact. Powers of attorney are supposed to be for the best interest of the principal. The attorney-in-fact is supposed to act on behalf of that principal, when in fact these bail agents are using these powers of attorney to take advantage of the principal. We have seen the GPAs used to transfer titles at the Department of Motor Vehicles (DMV), and other documents like that.

The second type of document that we have seen is a Fill In Authorization Request [page 7 (Exhibit J)]. They use this to insert information into contracts and forms after they have been signed. We have also seen these used to transfer titles at the DMV and to insert information about collateral that was never included. For example, we had one case where a woman purchased a car seven months after she had signed as an indemnitor to an agreement. Somehow that car information ended up on the document that she had signed, not in her handwriting. The car also had a lien. It did not make sense how that collateral was placed on that document. These contracts violate Nevada laws, and most of the fees being charged on these fee lists (Exhibit J) are not permitted under NRS 697.300.

Page 12 (Exhibit J) contains a 2013 press release from then-Attorney General Cortez Masto, as well as a news story from several years ago about bail licensees who entered a day care facility in Las Vegas brandishing weapons for the purpose of obtaining information from the day care facility about a parent [page 14 (Exhibit J)]. Just a few weeks ago in Tennessee, seven bounty hunters were charged with murder, kidnapping, assault, and reckless endangerment after chasing a car from a parking lot down a road while in pursuit of a fugitive (page 17). The fugitive turned out to be the wrong person—just an innocent shopper.

The Division has revoked licenses of bad actors and referred cases to the Office of the Attorney General. Although the Division has seen a leveling off of complaints, the number of complaints received is still high given the number of licensees, and the complaints are about the same issues.

There are four areas of concern addressed by the bill: surety responsibility, surrenders, collateral and fees, and forms. Senate Bill 18 (1st Reprint) was meticulously crafted so that anyone currently complying with the law would not experience a significant change to their business practices. The Division looked around the nation to determine how to address these

bail issues, as they are not unique to Nevada. Some states have completely eliminated commercial bail, while others have instituted reforms and tighter regulations of bail licensees.

The Division has spoken with the various industry representatives numerous times, exchanged over 80 emails, and met with industry representatives at least 11 times, including one joint meeting with Senator Atkinson. This bill has had considerable input from Nevada bail agents and entities that are not even Nevada businesses or residents that provide products and services to Nevada consumers. In addition to industry representatives, the Division worked with Nevada law enforcement, jails, and courts to understand their bail procedures to ensure that none of the provisions in S.B. 18 (R1) would impact these agencies' practices or an individual's right to or ability to access bail.

Industry representatives presented over 90 concerns with the bill. The Division responded to each concern raised and made at least 65 changes to address those concerns while keeping with the Division's intent. The bill represents a meeting point of all issues raised in a way that protects consumers, the public, and the licensees, as well as minimizing substantive business changes bail licensees would experience. With the remaining issues, the Division reached an agreement with industry representatives on another amendment, and that amendment was supposed to have been presented on the Senate floor. Although the amendment was not presented on the floor, the Division will honor its agreement and present that amendment here [page 35, (Exhibit J)].

Despite having reached an agreement, the Division is aware that industry representatives now argue that they do not agree with the bill or amendments, and we are back to arguing the same points we have discussed numerous times.

I would like to note that the Division would like two sections [(Exhibit J), pages 39 and 40] to be adjusted, as the drafted language could be interpreted to be inconsistent with the Division's intent. In section 30, subsection 2, the language "if the written appointment provides a date for its expiration" should be deleted as the expiration language relates back to section 29, subsection 4, when a bail agent's license expires by operation of law as a result of not having an appointment in place with surety within 30 days. The second section is section 25, subsection 2. The Division sought to clarify what acts are covered by the licensing bond similar to provisions that are in our title chapter, NRS Chapter 692A, but the drafted language was broader.

Again, there are four areas of concern addressed by the bill: surety responsibility, surrenders, collateral and fees, and forms. The substantive changes that the Division anticipates to impact licensees are the following: some limitations on forcible entries related to surrenders; amendments addressing collateral and fees that are designed to prevent misuse of collateral; insurance to cover collateral (bailment insurance); and forms approved before use and provided by surety to bail licensees.

The Division's goal with S.B. 18 (R1) is to clarify current laws and to target abuses. The changes are intended to clearly delineate the scope of bail licensees' authority and to clarify responsibilities of persons engaging in the business of bail. In addition to clarifications, there are a few substantive changes to add protections not only for consumers, but also for bail licensees themselves and surety insurers. The Division is trying to avoid headlines in Nevada like those on the PowerPoint [(Exhibit I), slides 8 and 9].

This bill passed 17 to 4 in the Senate, and we hope this house will also support these changes.

Chairman Yeager:
The amendment that was referenced is on the Nevada Electronic Legislative Information System (NELIS). It is part of the large packet (Exhibit J) starting on about page 35. That was supposed to be added on the Senate side, but it did not happen due to the impending deadline before the first house passage.

Assemblyman Watkins:
When you mentioned that the number of complaints is high, is that in proportion to the number of bail agents that we have in comparison to other states? What is the basis for saying that it is high? What numbers are we talking about?

Alexia Emmermann:
We looked at how many individuals and entities we regulate in this state, which is over 130,000. We looked at how many complaints we are getting on bail agents, which I believe was about 239. In proportion to the number of licensees we have, we are getting significantly more complaints against the bail agents than we are of the other licensees.

Assemblyman Watkins:
You also mentioned that you referred some of the more radical abuses out for criminal prosecution. What agencies did you send them to for review for criminal prosecution? Do you know whether any of these offenders were actually prosecuted?

Alexia Emmermann:
We refer them to the Office of the Attorney General. I believe several cases were prosecuted. There is a press release in the exhibit on one of the cases that was prosecuted that we provided (Exhibit J). I did not follow through with all of them to see what happened, but I do know that several cases were filed.

Assemblyman Watkins:
As someone who frequently deals with insurance in my regular life, I think it is odd that the Division of Insurance oversees bail agents. When and why did that happen? Do you believe that is the best place for it if we have these types of abuses? From my perspective, if you are an officer of the court and you break the law, you should have a stiffer penalty and not be able to get away with it.

Alexia Emmermann:
I do not know the entire history of bail entering the Division's jurisdiction. I know there were a lot of changes to bail in 1997. That is as much as I can tell you, but I can research it and let you know.

As far as whether the Division of Insurance is the appropriate place for bail, I think that would be a policy decision by this body. The Commissioner is here if you would like her input on that.

Barbara D. Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry:
One of the reasons the bail industry ended up in the Division of Insurance is that there are several states that do the same thing. They look at it as a transfer of risk and assume the administrative piece could be taken care of in the Division of Insurance. If there were any criminal actions, it would be referred to the Office of the Attorney General. That is what we have been doing in Nevada.

Assemblyman Watkins:
Based on the disproportionate number of complaints and the excessive types of abuses that you are dealing with, do you feel you have all the tools that you need to properly oversee this industry? If not, what more can we do to empower you to do it?

Barbara Richardson:
I appreciate that. We would love to have more enforcement officers. However, I understand that we are in the middle of a budget session and we cannot ask for more than what we have. We believe that this particular bill will help set guidelines and parameters to help the bail industry understand the roads that we are going toward. Then, and only then, if there are abuses after they have the tools in their toolbox, can we look at going forth with additional enforcement.

Assemblyman Pickard:
I had no idea there were so many bail agents out breaking down doors at 1 a.m. The way it is presented it sounds like this is a fairly common practice. I support the Division of Insurance in trying to get these guys under wraps. I cannot help but feel, after reading the bill and listening to the presentation, that this might be a bit of a pendulum swing that has gone a little far considering that we, as the Legislature, are proposing to declare that all the consumers of bail are vulnerable persons. I suspect that there are a few out there who are not vulnerable but are actually pariahs themselves.

With respect to section 9, subsection 1, paragraph (d), we are not allowing the bail agents to apprehend a defendant at a business establishment without consent of the business owner or an agent of the business with apparent authority. Am I to assume that if they have reason to believe the person is in a store, a restaurant, or some public place where anyone can lawfully walk in, they have to get permission before they can enter the door? What is the purpose of that?

Alexia Emmermann:
The intent with that is to ensure there is no scuffle or public safety issue in these business establishments. If they are in a public place, going into someone's business and creating havoc can be problematic as we saw happen in one of the hotels in Las Vegas. The intent was to make sure the business owner or whoever has apparent authority knows what is going on, and that they do not need to call the police because someone is trying to apprehend someone else.

Assemblyman Pickard:
Section 19, subsection 2, talks about denial of applications. It provides that they can refuse to renew, revoke, or deny an application outright for various things including if the applicant or licensee is determined by the Commissioner to be untrustworthy or incompetent. That seems really broad to me. It is completely subjective and there are no guidelines. Interestingly enough, we do not see that language in section 20 where we go through everything else. Are there some guidelines that need to be followed? Is there guidance for the Commissioner, or is this just an open-ended right to decide on his or her own who gets in?

Alexia Emmermann:
Regarding section 19, which has to do with bail solicitors, the qualifications that the person cannot be untrustworthy or incompetent are standards that are used across the Insurance Code that applies to all insurance agents. There has to be something articulable that the Commissioner can rely on, but this is the standard in the National Association of Insurance Commissioners (NAIC) and a model law requirement in order to meet standards for the NAIC.

Assemblyman Pickard:
Are you saying there is guidance somewhere else in the statutory scheme that we can look at?

Barbara Richardson:
Yes. It passes on to section 22. I believe that was the other issue. It is a standard, and we use information from other states. We get arrest records and generic information from the prior acts of the bail agents and, in our case, we get it from the producers or adjusters. It is across the board. We do not take any action without documentation and evidence.

Assemblyman Fumo:
I want to explain the bail industry to the Committee. If a defendant gets a $100,000 bail when they post the bail, the family goes to a bail bond company and gives them 10 or 15 percent. That would be $10,000 or $15,000. If the person does not show up to court, the bail bondsman is on the hook for the full $100,000 to the court. Correct?

Alexia Emmermann:
That is correct, and it is 15 percent of the face value of the bond. The bail agent, on behalf of the surety, would be responsible to the court for that $100,000.

Assemblyman Fumo:
They only have a limited amount of time to get that money to the court or they lose their ability to post bail with the court.

Alexia Emmermann:
That is correct. They generally have at least 180 days before they have to produce the defendant or payment would be due. I heard there is a little leeway after the 180 days while the motions are heard.

Assemblyman Fumo:
In Clark County it is an additional 30 days with good cause shown, but you must have an affidavit among other things. The person who misses a court appearance, by contract, has an obligation to notify their bail bond agent that they missed their court date. Is that correct?

Alexia Emmermann:
I believe that is correct if they are aware that they missed it. If not, I would have to look at it case by case to see what the contract says.

Assemblyman Fumo:
In your scenario where the bail bond agent kicked down the door and took the Play Station and things like that, did you do anything to that agent?

Alexia Emmermann:
We revoked his license.

Assemblyman Fumo:
In section 18, subsection 2 of the bill, how would you determine who needs the psychiatric evaluation?

Alexia Emmermann:
That is our current requirement for bail enforcement agents. They could go to a licensed psychiatrist or psychologist to do an evaluation and then present it as part of their application.

Assemblyman Fumo:
In section 20, subsection 1, paragraph (g), they test blood or urine for controlled substances. Now that we have legalized marijuana in Nevada, will that be a legalized controlled substance or will you use the federal plan for that? How is that going to be imposed?

Alexia Emmermann:
I would have to defer that to the Commissioner. I am not sure how that will be handled.

Barbara Richardson:
I suggest we use the state law as we do for all of our acts.

Assemblyman Fumo:
From section 21, have you considered having the agents Peace Officers' Standards and Training (POST)-certified rather than just training through the bail industry?

Alexia Emmermann:
It was part of our conversation, but POST certification is a lot more detailed and there is a lot more to it. We do accept anyone who is POST-certified in lieu of these requirements, but these are the minimum standards for someone who wants to be a bail enforcement agent to make sure they understand everything that is implicated when they undertake going after someone.

Assemblyman Wheeler:
I am looking at section 9, subsection 1, paragraph (h) where it says, "Use more force than is reasonable and necessary to carry out the apprehension and surrender of the defendant." Who decides what is reasonable? When a police officer is accused of using too much force, there is a board that looks at it, then it goes to the Internal Affairs Division. It may go to prosecution. What is the procedure here? Who makes that decision? Is it the Commissioner or an arbitrator?

Alexia Emmermann:
That would be handled on a case-by-case basis depending on the circumstances of the situation. It would be at the administrative level, so it would be the Commissioner.

Assemblyman Wheeler:
Of the Division of Insurance?

Alexia Emmermann:
Correct.

Assemblyman Wheeler:
I would like to talk offline to find out exactly what the qualifications are.

Assemblywoman Jauregui:
Why are you removing the referral fee in section 15, subsection 2? It is a very common practice among businesses to provide compensation for referring business to a person.

Alexia Emmermann:
Section 15, subsection 2?

Assemblywoman Jauregui:
Yes, it is where it says, "A person who is not licensed pursuant to this chapter shall not request or accept any payment . . . for referring business to a person licensed pursuant to this chapter."

Alexia Emmermann:
That is only for licensed people. There is a particular license that is called "Bail Solicitor" whose function is to do solicitation. Those would be the people who would be entitled to some type of remuneration. Anyone who is not licensed should not be getting paid.

Barbara Richardson:
Basically, one of the issues we find in insurance is that you can have referral fees that are nominal; they are like $5 per referral. What we do not want to see is a straight line into one particular agency, just as we see a straight line into a bail agency.

Chairman Yeager:
Are there any more questions?

Assemblyman Thompson:
I am looking at section 18, subsection 1, paragraph (g), which references changing from a 6-hour to an 18-hour course of instruction in bail transactions. When you skip over to page 9, line 35, it talks about, "Has successfully completed the training required by NRS 697.177," which I am looking at right now. That is inclusive of 80 hours. Do all of the agents go through 80 hours?

Alexia Emmermann:
There are different licenses so the bail agents are the ones who—if you look at the definition of what a bail agent does—handle the paperwork, do the risk assessment, and that type of thing. The amount of education they need is a little different than what a bail enforcement agent would need. By definition, a bail enforcement agent would be locating, apprehending, and surrendering. This is with using force. Because of what they are able to do under their license, they need significantly more training to understand what their liabilities are and what people's rights are. It depends what the license is and what the education level is that we require for them.

Assemblyman Thompson:
Are there some continuing education requirements? A person could have done this in 2000. There is a need to come up with the trending and evidence with what you have just shown on the screen. Are there requirements for the bail enforcement agent?

Alexia Emmermann:
Yes. Right now, all bail licensees are required to have three hours of continuing education in order to renew their license. I believe it is on a three-year rotation. It is not a lot. After session we are going to start doing some working groups for field agents and start helping them do an educational series for them to better understand what the requirements are on their license so they can better comply and ask us questions, and to have more open communication with them.

Chairman Yeager:
I will open it up for testimony in support of S.B. 18 (R1). If there is anyone in Las Vegas or here in Carson City who would like to testify in support, please come forward.

Mike Dyer, Director, Nevada Catholic Conference:
The Nevada Catholic Conference supports this bill.

Chairman Yeager:
Is there anyone who is going to be neutral on this bill? If I could have a show of hands. We will go ahead and take neutral first and then we will go to the opposition. Mr. Callaway, we will have you come up. If there is anyone in Las Vegas who is neutral, please come to the table.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:
I am neutral. I want to clarify something on the record. Specifically, on page 22, starting on line 6, I want to clarify the term "facility of a law enforcement agency or arrange for the transport of the defendant by the appropriate law enforcement agency." I want to ensure that it means a detention facility. We do not want the bail bondsman showing up at our fleet services or dispatch with someone and expect law enforcement to respond to that location to take custody of that person and transport: just a logistical issue but it needed to be clarified.

Assemblyman Fumo:
Do you have any statistics on the percentage of defendants who are arrested by bail bond agents versus the Las Vegas Metropolitan Police Department (Metro) in Clark County?

Chuck Callaway:
I have no idea. I can try to find out for you but I do not know right now.

Chairman Yeager:
Is there anyone else in the neutral position? Seeing no one else who is neutral, I will open it for opposition testimony at this time. Since we gave presentation and support about one-half hour, I am going to limit opposition to one-half hour. I do not know who intends to speak, but it looks like I have about four to six people who want to speak so I will ask you to each limit your comments to approximately four minutes so we can make sure we get through the bills.

Alisa Nave-Worth, representing American Bail Coalition:
The American Bail Coalition represents surety insurers for bail that operate in 46 states in the nation. They are currently involved in 20 substantive conversations regarding bail reform, including a conversation that has already occurred in front of the Committee on Assembly Bill 136, which we supported because we understand that laws can get better and the law should protect the best actors and not the worst actors.

We want to start by saying that this bill is a substantive policy change. This is not a cleanup bill or a corrective bill. This bill includes major policy conversations. There are sections of this bill that are very good and we do not oppose. In fact, I want to add for the record that we have no objections to sections 1, 2, 3, 5, 6, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, and 32. We think those are major reforms and we have been working with the Division of Insurance, not at their request, but at our request to make those sections better. We would like to see those, but we have major concerns with several other sections. Those sections are 4, 9, 25, 34, 35, 36, 37, 38, 39, 42, 44, and in addition, several other sections. Those sections represent major policy changes, and you do not want to talk form over substance.

Substance is important, but I need to put on the record for this Committee that there was absolutely no interim conversation or engagement with this industry on this bill. Not until it was prefiled would they engage, and only at their own request. Also, there has been no major conversation where all of the stakeholders who are affected by the bail industry were brought together. Those stakeholders would include public defenders, private defenders, district attorneys, law enforcement, and other members of the bail agency. At no time has the entire industry come together to ask what it means to be liable for the actions of the bail agent when you actually do not employ them. What is the purpose of collateral and what is the role that collateral plays in Nevada? While we worked with the Division at our request on some sections, there is no consensus on this bill. It is very problematic when a regulatory agency defames an industry without discussing the major problems with it. To say that this is a meticulously crafted bill is incorrect.

With me is Jeff Clayton, who is the executive director of the American Bail Coalition. He is personally negotiating major bail reform across the nation. We think you can do better than this bill. We would like to engage and request that the agency engage with the industry over the interim because we want to have a substantive conversation. Jeff can speak specifically to any questions the Committee may have regarding concerns on this substantive-section bill.

Jeffrey J. Clayton, Policy Director, American Bail Coalition:
Just a couple of quick points and I would be happy to answer any questions. I would point out that the complaints have dropped by 63 percent since 2010, according to the Division's own numbers. We looked at the complaints of 2016. In September 2016, there was one complaint filed. I do not know what the problem was. In my view, I do not see the complaints against bail agents in Nevada as being any different than anywhere else in the country. You saw a parade of horrible and disturbing practices, and having represented police officers in my past, it happens in all industries where criminal acts occur. Our industry is no different than others. I would point out that every single one of the acts that were put up there violate the criminal laws of Nevada, and these people should be prosecuted. We are completely for that.

The idea, like the testimony, is that there are illegal contracts, but the contracts already violate Nevada state law. In our view, this is a bill that is in search of a problem that I think the Department of Business and Industry already has the authority to solve. If the argument

is that they need more investigators, then raise fees on us and let us have that conversation. That conversation never occurred. In several states we are moving forward with fee increases to give various departments additional resources to police the industry. We are for that.

Every business lobbyist wants to come up and say this will put us out of business; I am not going to do that. Every county lobbyist comes down and says that every bill that passes on the counties is an unfunded mandate. Several of our companies have indicated that if this legislation passes, the idea that they will continue to do business in Nevada would become suspect. That is not a threat or anything, but this is such a major change that to be able to comply with it would be problematic for us.

Steve Krimel, President, Nevada Bail Agents Association:
I have been around the bail business since 1971. I have arrested over 400 fugitives myself. I made my way through law school that way. I have practiced law since 1981 in the state of California, and 20 years of that was as a certified criminal specialist for the State Bar of California. I have been licensed as a bail agent in Nevada since 2005.

I have worked with the personnel at the Division of Insurance to the best of my ability to try to make sure the baby does not get thrown out with the bathwater by S.B. 18 (R1). I am afraid I have not succeeded in that because our recommendation was to expand prelicensing education to 52 hours. That certainly did not happen. My position with Ms. Emmermann has not changed, which is that we need to raise the bar for admission into the bail industry. Prelicensing education is one of those heightening factors.

I am sorry that we are not seeing the expansion that is warranted beyond the existing text. Ninety-eight percent of the problems with respect to bail agents, according to the Division, come from the Las Vegas area. What happens in Las Vegas does not stay in Las Vegas because we are here in Carson City basically discussing the elimination of bail as we know it. Currently, under the Division's approach, 35 persons in the entire state of Nevada can make arrests on bailees. Their position is that, as a bail agent of many years—I have also been a licensed private investigator in California since 1977—I do not have the necessary expertise the Division wants me to have to arrest a client who I may talk to in my office. He may walk into my office or show up at the gas station when I am getting gas, or what have you. That is throwing the baby out with the bathwater. There is no question that there is a problem that we are more than willing to assist with. Mr. Clayton has been doing that nationally. I have been trying to do it in Nevada and California without a great deal of success. I think, in part, once problems get into the regulatory framework they tend to magnify themselves and become permanent as opposed to changing with the realities of an industry.

The present text of S.B. 18 (R1) includes the provision where the enforcement agents, the 35 people empowered to enforce bail contracts in Nevada, could not wear a uniform in any way that could be deemed to be law enforcement-related. I have talked to the Division about that. If you strip bail agents of their ability to wear a uniform or a badge, you are going

to have violence as a result. You may end up having shootings as a result. What would any of you do if someone in plain clothes came up to you and grabbed your hand and tried to put handcuffs on you? If they did not have a badge, you would resist. You would think you are being kidnapped or murdered. That is the kind of stuff that regulators do not understand because they have never been out making arrests as we have. In our talks with the Division, it strikes me that there is a need for enforcement, and we all agree on that. The question is, Who does the enforcement?

In the horrible circumstances that Ms. Emmermann spoke of, those perpetrators belong in prison. Their actions are violations of existing criminal statutes in the state of Nevada. What happens is the Office of the Attorney General goes to Metro and the Clark County District Attorney and says, "We have a real problem. We need this man prosecuted." Metro says, "We are too busy." The Clark County District Attorney's Office says, "It is a bail matter; it is civil in nature. Deal with it." As a result, there is a breakdown between public agencies. We end up seeing the situation where the regulators turn on the industry and throw the baby out with the bathwater. I would encourage you not to pass this bill. Allow us to work with the Division, but not with a gun to our heads.

Assemblywoman Tolles:
I want you to recount the sections that you mentioned you are opposed to because you did that rather quickly. What I heard was that you are in favor of 1 through 32, except for 4, 9, 25, and then I lost you.

Alisa Nave:
In an effort to be efficient, let me say in reverse what we are not in favor of. Those would be 4, 9, 25, 34, 35, 36, 37, 38 with modifications, 39, 42, and 44. We worked with the Division in good faith to modify many of these sections. The amendment—which was never adopted on the Senate floor and was only conceptual in nature—as drafted, has problems but is workable. We would like to work with the Division, but unfortunately they have indicated that they are not willing to continue to work with us on the amendment language. We have some additional concerns, although they are nonabsolute, on 7, 16, 18, 27, 30, 33, 40, 41, 43, 45, and 46.

It would be fair to say that this is not a simple clarifying bill, but an omnibus bill reform. Secured bail plays a critical role. It allows people to no longer be detained. If you did not have secured bail on $100,000 bail, you would not be paying $10,000. The individual would have to find $100,000 to be released. There is an important conversation regarding the role the bail industry plays. We want to have that conversation; we do not want to avoid it. That is why we want to say there are good reforms in this bill that we support.

Assemblywoman Tolles:
What I heard as alternatives to this bill in addressing some of these bad actors is to increase the fees for investigator costs by the Division and then prelicensing education to help curb this. What still seems to be lacking is the discipline process for these bad actors

and that seems to be where the disconnect is between what is being proposed and what you want to propose. Does anyone know if those bad actors that were in the presentation were disciplined by criminal law?

Steve Krimel:
It is my understanding that they were all dealt with appropriately and either lost their licenses and/or ended up in prison.

Assemblywoman Tolles:
Who enforced that process?

Steve Krimel:
I do not know. I believe it came from the Department of Business and Industry to the Office of the Attorney General, and where it went from there I am not sure. The loss of a license would be a regulatory agency issue.

Assemblywoman Tolles:
I appreciate the concerns about not wanting to throw the baby out with the bathwater, finding the right mix, and what the right disciplinary action is and who enforces it. I would like to hear from law enforcement and the district attorneys in response to some of the things that you brought up in terms of tightening up my understanding of exactly where the gaps are between the proposal and what we are doing today.

Assemblyman Pickard:
As I said, it seems to be a pendulum swing and I am getting a flavor for why that is the case. In my view, it is the Division's prerogative to regulate their Division. It might be a little bit of a mistake to expect them to try to seek permission of the regulated in that respect. I took the time last night to go through the sections that you are objecting to and that was the substance of a lot of my questions to them. If this is their response to some clearly bad acts that have occurred within their jurisdiction, what is it that the association—as a self-policing body—and you are doing before it gets to the regulatory body?

Jeff Clayton:
Obviously, agents who commit bad acts lose their appointments. Surety are responsible for their own bad acts. In other words, if we know there are bad actors that are down the chain, we can be liable for that. That is the main thing that we do. Insurance companies just simply say that they are not going to allow you to write bail. That happens a lot. Certainly if there are criminal acts that we know are going on and we do not report them, we are liable. We have seen situations around the country where we know criminal acts are hurting others and we refer those out for prosecution.

You have to keep in mind that the role of the surety insurers is truly an underwriting role. It does not expand to regulating the industry and self-policing as the Department wants. To do that would create corporatization of bail, which would hurt access in Nevada, and is why we oppose it. We get rid of the small business model and take a discernable "Walmart of bail bondsmen" model.

Assemblyman Pickard:
What can we as a body do to help what appears to be a lack of communication between your organization and the Division? I feel like a parent being pulled into a dispute between children. I do not want to be there, but it is ultimately—as I view it—the process that the Division is supposed to take. If they think changes need to be made, they bring them to us. What can we do to assist that conversation outside of what we are doing today?

Alisa Nave-Worth:
The answer is, when you make substantive and large policy changes, it requires an ongoing conversation. We certainly do not expect any division to ask for permission to make changes. In fact, we want greater self-policing for bad actors because bad actors force good actors to come to the table in opposition to bills. That is why we want that to happen; that is why we are not categorically opposing S.B. 18 (R1). We are trying in good faith to say there are legitimate and good reforms in this bill that you should accept, but there are also large policy conversations that do represent a major pendulum shift. We would like the legislative mandate to work with the industry in the interim, but not just with our client, but with all the individuals who are impacted by bail and all of the stakeholders, which is a broad coalition together so we can work through these issues. We are not saying that the ones we identified do not have tweaks available. What we have been told is there is no longer negotiation room. We look to you to create good policy and to give us the ability to continue the conversation in the interim so we are back in 2019 with more good reform for this industry.

Assemblyman Watkins:
I did not get a chance to talk to any of you before this bill presentation. We have two people talking two different sides of the story. The argument that we should handle this in the interim does not seem to have agreement. Since this was presented to us, what we would find helpful is to have a written form submitted to the Committee as to why you do not agree with all of the sections that you identified as disagreeable. We have obviously not heard that since time constraints would not allow it, but we could give it proper attention if we had it in written form and could then address it.

I want to flesh out the comment that you made that each of the incidents of bad actors was dealt with appropriately, either through administrative action or criminal prosecution. My argument would be it is not appropriate if all they ever got was administrative action. I believe you agree. I do not think that was what was intended. Do you have any ideas on how to better provide access or oversight from the criminal perspective for these types of actors, absent and separate from this bill? Just an idea?

Jeff Clayton:
I think the answer is training, and not only training for the agents. For example, we have the POST Board in Colorado. My home state oversees the training requirements, so cops are designing the training. That would be one thing.

The other thing is training law enforcement on the bail industry. Having practiced law for a number of years before I worked in the bail industry, you would call "Joe Beanie." That was it. You called the bail agent. You did not know any of the nuances of what the legal relationships were in this sort of thing. The most common thing we see nationally is impersonation. Cops need to be trained on where the line is and when they can arrest for impersonation. I would point to training. The Department could issue bulletins if they see particular issues. Other departments of insurance around the country, when they see particular issues happening, they issue a regulatory clarification, which is one of the things I have been telling this Division. You do not need to change the current law, you need to educate the folks who need to comply with it.

Assemblyman Fumo:
I would like to see the problems you have with the bill written out, along with anyone else who has problems. They could be given to the Chairman and he could filter it out to the Committee so we can see what all the stakeholders have to say about the problems. One comment regarding the district attorney's office and Metro—and far be it from me to stick up for them in any situation—is that they do a tremendous job. Every year for the last 20 years, if they get a complaint that crosses the line where criminal conviction or prosecution needs to take place, they have no problem filing charges or prosecuting any agent or person in the industry they think has broken the law. They do a good job trying to regulate that, especially in Clark County.

Steve Krimel:
I concur with your comments about Clark County. They do a great job. It would probably be more helpful if we could address, at some juncture, both the judiciary and police in the aspects of the bail industry that may be the most problematic. If someone is going into an area to apprehend a fugitive, they call law enforcement first to advise them of who they are, what they are driving, and whom they are after. It is common sense and good business practice. I agree with Mr. Clayton that it is truly a matter of refining the education that is involved in the whole process.

Assemblywoman Tolles:
Mr. Clayton, you mentioned something about reporting everything. Are you under the same mandated reporting requirements as we see in other areas?

Jeff Clayton:
Generally, when we are aware of misconduct by agents, it has to be reported across the nation. In California, for example, when we terminate an appointment, we have to give a reason. If there is misconduct, a lot of our sureties will provide documentary evidence to the department to help them investigate it. One of the conversations that we were attempting

to have here is that if you want additional self-policing by us, that is an avenue we could explore. Negotiations have broken down and we have not gotten there. To have no conversations during the interim was the biggest problem on the bill.

Chairman Yeager:
We are going to open it up for additional testimony in opposition to S.B. 18 (R1). There is a gentleman in Las Vegas, so we will go down there.

Paul Caruso, Vice President, Southern Bail Agents of Nevada:
There are a couple of things I would like to say. In Clark County, we have a big population: right around three million. I know it is a different world than Carson City. We saw Alexia Emmermann show you those horrific complaints. None of those people are licensed any more, which is a good thing. For every one of those complaints, I can sit here and give you thousands of success stories in Clark County.

We have great bail agents down here who work 24/7/365. We are all running small businesses. When we bail someone out, we take in the premium. That goes to payroll, lights, the energy bill, et cetera. This bill suggests that when someone misses court, we should take the money to find him out of the 15 percent. That money is gone. That is why we have cosigners. That is why we take in collateral, in case these situations happen.

I am not sure if this is getting across, but I want everyone on the Committee to know that I spoke about this a couple of days ago. What they have us doing in Clark County now is—I am not sure how it goes in Carson City—we are dealing with all of the high-risk individuals. When someone goes to jail, they are automatically going to get released on their own recognizance (OR) if it is their first time. The people we are bailing out have missed court, have multiple failures to appear, multiple cases against them, or maybe they have just gotten off a probation violation. I am not saying that everyone is a threat to public safety; they are just deemed high risk. When someone fails to appear, the last thing we want to do is hire a bail enforcement agent or go out and arrest the person. We have different tools and different things that we do to try to handle it in a different way where the person actually goes in front of the judge and gets his case resolved. Those are the things that happen first. There are only a small percentage of people we have to actually chase down. Keep in mind that we go back to dealing with those deemed by the court to be high risk. These are the people we are chasing. With it being such a high transient county and people are coming from all over the world, each case is unique.

We go on and on, 365 days a year, trying to make sure our forfeitures are taken care of and people are getting back into court. Sometimes people have to be arrested. It is an ongoing event. A lot of times the court system, Metro, and the Legislature do not hear from us about what is happening with us on a daily basis and how we are working as hard as we can to make sure everything gets handled. Our main job is to make sure people go to court. Obviously, collecting premiums is first, but then to make sure people go to court.

Chairman Yeager:
I need you to start wrapping up, please.

Paul Caruso:
This bill is very important to us and to the state of Nevada. All of you want what is best for Nevada, just as we do. We are concerned about what affect this bill will have in some of those areas. We need to take a step back and look at this and ask, "If we change this and regulate that more, what is going to happen when it comes to bailing these people out?" When we try to underwrite a bond and we are regulated more, it will be tougher for us to get these people out of jail. Then you have a problem because more people are stuck in jail. I do not want to say that will definitely happen because we are still going to do our best to bail out as many people as we can, but there is a cause and effect. I want to know what the effect will be.

Down the road, a committee needs to be put together and someone who has written a bond before needs to go in and explain that this is going to happen if we change that. Then we can all come to a consensus regarding what is best for Nevada and say, "Here is the perfect bill and everyone is regulated. The Division of Insurance likes it, the bail agents like it, and Nevada can continue to be safe."

Fred Anschultz, Bail Underwriting Manager, Tokio Marine HCC Surety Group:
Tokio Marine HCC Surety Group is one of the largest surety companies for bail bonds. As such, we were never called or notified of this bill. As a surety, we did not know the bill was coming up, and we greatly oppose this bill.

Tom Clark, representing Justin Brothers Bail Bonds:
As you can tell, the bail issue is a big issue. We can look at it in a lot of different ways. The one thing that we have to ensure is that we can look at what the agents and bail enforcement agents do, but the underbelly is the *Constitution of the United States of America* that gives the right of defense the ability to post bail. All of those issues have come before you this legislative session. They are being promulgated through the courts. There is a lot coming down on my clients. From this perspective, we have tried to work with the Division and tried to be on board with all of the folks who have come up in opposition of this, and for the most part we have come to some level of agreement. Because of the complexity of these issues and the underlying effort to ensure that someone gets bail as guaranteed by the *Constitution*, we can work with the Division to come forward with solid legislation that can get rid of those bad actors—we want them gone as well. There has been testimony that it is a criminal act and laws are in place. We understand that. From the bail agent and bail enforcement agent's perspective, some clarity needs to be put in the statute to make sure everyone is playing on the same playing field. What happens in Clark County does not always happen in Washoe County or White Pine County.

We would report back to this Committee throughout the interim regarding our progress and that would be the best way for us to go about addressing the whole baby and not throwing out a portion of the baby with the bathwater. There is an interest and an intent and we look forward to working with the Division to make this happen.

Throughout our conversations, there have been two themes that have come up. While the commissioner has the ability to agree, and this commissioner would probably agree with that, what happens when a new commissioner comes on board? We have to be concerned about those things and that is why we have statutes to ensure that, as the personalities change, the law does not.

It has been very interesting to work on this legislation and to see bail as a whole. We would very much like the opportunity to continue to work with the Division of Insurance to bring forward comprehensive legislation to get rid of those bad actors.

Chairman Yeager:
Let us go down to Las Vegas for our last speaker.

Daryl DeShaw, representing 8-Ball Bail Bonds:
Looking at this bill as it was proposed and listening to Ms. Emmermann's testimony—and I read it a couple of times myself—I went back through it and saw that there are 239 individuals the Division says they are regulating right now. The complaints have stabilized around 43. They say that is an extremely high number compared to the other entities that they regulate. I do not see that we compare to those other entities. While bail may be an insurance product and the administrative side of that is well-handled by the Division of Insurance, the bail end of it itself is completely different. When they talk about 43 complaints, they are not talking about the fact that it is 43 complaints against 120,000 or 150,000 bonds posted in this county in a year. I consider that pretty minute. They also do not say how many individuals those 43 complaints were against. Was that one complaint against 43 different agents or 43 complaints against one individual? We have already established that all of the bad actors who were spoken about have been removed from our industry by existing regulations. Those events were in 2005, 2009, 2010, 2011, and 2012. I do not see where this was of immense concern to the Division when the 2013 Session met. I do not see where it was of great concern when the 2015 Session met, but it is suddenly a great concern for them to change everything in the 2017 Session.

I do not see that this is providing what our industry needs in stability and getting rid of the patchwork. It is my understanding that the patchwork has been there since 1997 when a comprehensive set of reforms were proposed and not passed. I agree with the people who have gotten up and spoken before me today that what needs to happen is a focus group of people in the industry, people in law enforcement, and people on the regulation side, and that we put something together that works best for everyone and come back here in two years.

There are a couple of things in the existing bill as written that cause me great concern. One of those is about bail enforcement agents. Something that should be taken in consideration is that—like one of the gentlemen that testified earlier said—there are approximately 35 licensed bail enforcement agents right now. It is my understanding that only 16 of those are in southern Nevada; 16 to cover the bulk of the business. Ms. Emmermann's testimony also said that the purpose of a bail enforcement agent is to apprehend someone when he has gone to warrant after not complying with the court. It is also to apprehend them if they have not complied with the terms of their bail contract. Many times people are let out on payments to give them an opportunity to protect their lives, their jobs, and to move forward in proving their innocence. They do not have all of the funds, so their bail bondsman has extended them credit, sometimes a great amount of credit. He cannot risk his investment because that risks his business. If those people do not want to make their payments, surrendering them back to the jail needs to be an option.

Chairman Yeager:
Sir, you need to start wrapping up your testimony, please.

Daryl DeShaw:
The licensing of a bail enforcement agent at 80 hours of education is approximately a $3,000 proposition: $1,000 in travel fees, $1,000 in cost for the class, and $1,000 worth of equipment. We do not now have the bodies who are currently licensed to perform that function in Las Vegas if this bill passes. If that is what it is going to be, it needs to be phased in. There is a provision that they want to remove for a temporary license. We need that unless they are going to delay the enforcement of this.

One of the last points that I absolutely need to make is that the bill talks about the release of defendants. If they are not released from custody for any reason, the bail agent is required to refund all monies. Oftentimes we do strategic releases. Someone may get picked up on county felony charges and they also have municipal charges. We cannot deal with those charges until they have been transferred between jurisdictions. Sometimes it could be up to seven days, with holidays, before those things happen, and we have collected the money in advance. Sometimes we release individuals and U.S. Immigration and Customs Enforcement is waiting at the back door of the courthouse to grab them. This says that we have to refund that money. The court does not give us back our money. The cost of our bond is out to our surety, and we are out the money in costs. We have to give it back for a legal process that is completely out of our control. There are several different circumstances in which that could happen. The end result would be, for those who heard the defense attorneys, some of your defendants not getting out on bail. We cannot bail them and turn around and have to give the money back when they get transferred instead of getting out.

Chairman Yeager:
Thank you for your comments and if you have any additional comments, I invite you to submit them in writing to the Committee. We have to move on at this time. I am going to close testimony in opposition and invite the bill's sponsors to come back to the table for any concluding remarks on Senate Bill 18 (1st Reprint).

Alexia Emmermann:
There are just two points that I want to make. Last week the Division received a memo from American Bail Coalition, and the group identified their specific concerns with the sections that they laid out. We provided a written response to them yesterday at the end of the day. I can forward the memo we received from them along with our response to all of the Committee members. I think that will help to understand what their concerns are and what our concerns are.

What we are trying to do is to clarify the laws that are already in place. We do not make the decisions regarding how this is supposed to run; this body does. What we are doing is enforcing the laws that the Committee has presented.

Assemblyman Elliot T. Anderson:
It is great to get all of this stuff after the hearing, but all of this stuff should have been to us before the hearing. It has made it hard to engage substantively on the measure before us.

Chairman Yeager:
I will close the hearing on Senate Bill 18 (1st Reprint). I will give you time to exit the room if that is the only bill you were here for.

Senator Manendo, was there a particular bill you would like to take first? [Senator Manendo indicated no.] At this time I will open the hearing on Senate Bill 259 (1st Reprint). We have a little over an hour to get through both of these bills. If you can do your best to get us through them, we will certainly appreciate it.

Senate Bill 259 (1st Reprint): Revises provisions relating to driving under the influence of alcohol or a controlled substance. (BDR 43-606)

Senator Mark A. Manendo, Senate District No. 21:
I am into my third decade of working on public safety legislation. As a public safety advocate, I am proud of that and all of our accomplishments in this body, last session as well.

I am sponsoring this legislation because I, too, see it as having lifesaving potential. Based on research data, it shows significant reduction in alcohol-related crashes and recidivism in states that passed first-time offender ignition interlock laws. Currently, 29 states require the use of ignition interlock for all first-time offenders when they blow a 0.08 blood alcohol concentration (BAC) Breathalyzer test. This law is a unique component as it will allow DUI drivers to keep their licenses, but would mandate that they could only operate a vehicle equipped with an ignition interlock device. When an impaired driver reaches court, which could be a matter of months, the law also provides for the judge to receive a report of compliance for the time between arrest and court. This assures the court of compliance and the judge can determine what, if any, counseling or further investigation is needed. We know nationally that current information technology devices have stopped more than two million attempts to drive impaired. Think about that: two million attempts to drive impaired and how that significantly impacts our country. I cannot even imagine how many lives that saved.

In addition to this lifesaving potential, passage of this bill will also allow Nevada to be eligible to apply and receive incentive highway safety grant funds. Other states that have implemented this law are seeing positive results. I am confident that Nevada will as well.

In the interest of time, I will yield to Chelsea Capurro, who has some testimony. I know we have some advocates and experts on this device. I have done it myself, not because I had to, but because I wanted to. We did a big press conference in Las Vegas, and we did one outside of here as well. We also have the Department of Motor Vehicles (DMV) here to answer any technical questions there might be.

Chelsea Capurro, representing Coalition of Ignition Interlock Manufacturers:
I will briefly go over parts of the bill that the Senator did not go over so everyone will be aware of what this bill does. The bill also revises the revocation period from three months to six months, or 185 days as listed in the bill.

There are two reasons why we did this. The first reason is that there is behavior-change research as well as studies that isolate six months as the amount of time needed for there to be a return to executive cognitive functioning among individuals with alcohol-use disorders. This is just a way to start seeing behavioral change in people who are getting DUIs. Also, as the Senator mentioned, if we put this in and this bill passes, we need to have a minimum of six months before the interlock has to be ordered so that we can receive highway safety funds. It is a good way to get a little extra money for the state.

I would like to point out that, currently, if a person gets a DUI, the only option they have when they are charged is to have their license revoked. After they have served half of that revocation period, they can apply for a restricted license, which would limit them in what they can do. They can drive to work and take their kids where they need to go. It is restricted and it is major. Now there is an option if they want to put on an ignition interlock device before they are actually convicted. It would allow them to do whatever they would normally do and however they would operate their life. We think this is a great way for people to get their lives back in order and to continue driving safely.

Once a person is convicted, the judges are required to order this device for six months; however, we allow for the judges to do a day-for-day credit, so once they are charged and they had this on for four months before they saw the judge, the judge could say that the person is doing great on it and he can use that four months to apply as credit. Now they would only need to have it on for two more months. We also give the judges discretion by allowing them to not order the ignition interlock device if the person cannot blow into the device and he has a note from his doctor saying he cannot. We also have a rural exemption that if they are not where they can get it installed within 100 miles, they do not have to put it on. We give the judge the option that if it is not in the best interest of justice, they do not have to order this to be on.

We require every manufacturer who wants to be in this state to create an indigent fund. It would be incumbent on the manufacturer if the person is 100 percent of a federally-designated level signifying poverty, to give them a 50 percent discount, and if that person is at 149 percent of the federally-designated poverty level signifying poverty, they would get a 25 percent discount on the fees. We think this is a great way to help those who cannot afford it. This is a good bill.

There are also some amendments (Exhibit K) that I want to point out. In working with a few of the stakeholders on this, one problem was that we did not include vehicular homicide into this, so we would like to include that as well. In section 3, concerning breath ignition interlock driving privileges, a person who fails to submit creates a conflict in statute, so we have some language that will help clarify that. In section 4, the new language of subsection 1 repeats the existing language of "unless the information is expressly set forth in the order of revocation." You already have these amendments on the Nevada Electronic Legislative Information System (NELIS). This is basically that the administrative law judge believes the way the bill is currently written, the above revised language will lead to motions to dismiss based on insufficient evidence showing that an officer advised the person. This was something that they went through with other bills in previous sessions.

Chairman Yeager:
The amendment is on NELIS.

Chelsea Capurro:
We have been working with the public defenders as well on this and they have a couple of amendments, some we agree with and some we do not. [No amendments were presented by the public defenders.] They want to make sure this applies only to alcohol-related DUIs, so if you got a DUI and there was no alcohol involved, you would not have to put this on. We agree and think that is a great change.

Section 9, subsection 4, paragraph (b), says that the child has to pay for the device, and it should say "the child or the child's parents." We think that is a good amendment as well.

Chairman Yeager:
I have a question about the vehicular homicide. In a note on the amendment, you reference "vehicular homicide while under the influence." There is, of course, a misdemeanor known as "vehicular homicide" where someone is not under the influence but there is a collision that results in a death. Is it your intent to only include in this bill "vehicular homicide" when there is "under the influence" involved versus the "non-under-the-influence" vehicular homicide?

Chelsea Capurro:
Yes.

Assemblyman Thompson:
We had this discussion in my office, but I want to bring it up in the Committee. Can you share with us if there are any unique identifiers when the person who blows into the device is definitely the person who has the device installed?

Chelsea Capurro:
That is a decision on your side. Part of it is a learned habit or learned action that you have to do. Someone could not just pick it up and know how to use it. You need to learn how to do it. There is also an option for a camera to be installed. That is a good way to ensure that it is the right person. We have provisions in the bill that say if someone else is doing it, they are in trouble. There are always going to be bad actors. It is up to you if you are going to require cameras to be installed as well.

Assemblyman Thompson:
Just as there are on telephones right now, you can use a thumbprint or some type of identifier so that they know it is you. You said there are three or four manufacturers, but they do not have that ability other than doing a video.

Chelsea Capurro:
I would have to defer to the manufacturers. There are currently eight manufacturers in the state. I misspoke when I was in your office. I do not know if there is one that uses fingerprints.

Debra Coffey, Director, Coalition of Ignition Interlock Manufacturers:
It is not a video, it is a digital image that takes a picture of the person providing the sample or if it senses tampering. There are no actual fingerprint identifiers. The reason is that the companion could always put his finger across the pad and provide a fingerprint. What we needed to capture was the actual event of the test and the actual picture of the person. It is optional. We are not saying that this state or the judges in this state want to use the camera, but you already have some courts in your state that are already requiring cameras for the offenders with the interlock.

Assemblyman Watkins:
As a follow-up to that question, I would assume there is no court or someone reviewing these images in real time, but the picture on the device would only catch someone after the fact when something went wrong. You could say, "Look at the image of you. You broke the law and did not use the Breathalyzer." If we had real time confirmation, it would be very burdensome, would it not?

Debra Coffey:
Yes, it would be burdensome. What typically happens is that we work with the organization, the courts, or the state on exception reports. Exception reports are only received if there are some requirements that say this was a violation, and the violation reports are sent based on the requirements of the state or court. They are not looking at every picture and every test because the camera is going to take a picture every time the person does a test.

It senses tampering and gives a rolling retest. There is a lot of data behind that, so we usually work off of exception reports. In other states there is sometimes a monitor within our agencies and they direct us on how to review the reports and send it based on the state's requirements.

Assemblyman Watkins:
In essence, this is only going to catch someone who subsequently gets involved in some other incident that triggers someone to look back at that image. If someone is tampering or someone else is doing the Breathalyzer for them, no one is checking that until something has already gone wrong. That is what I am hearing.

Debra Coffey:
Yes, you are correct, but I would like to add that the camera also serves as an additional anticircumvention feature for the ignition interlock device. What we see is that the people who are on the camera ignition interlock device—and 13 states have mandatory camera requirements in their state—tend to be more compliant. We find that criminal defense attorneys actually say in states that do not mandate it for the defendant to get the one with the camera. It helps with the situation and the program for them.

Assemblyman Watkins:
Do we have any annual statistics that say most of the DUI charges come from repeat offenders rather than first-timers? If we are really trying to eliminate all drunk driving, are we really casting the widest net that we possibly can? Are repeat offenders a small percentage of the DUIs charged on a yearly basis?

Debra Coffey:
I have some information from your own Department of Public Safety that was sent to me from Victoria Hauan on the number of Nevada arrests you have. The total of first offenses in your state are 42 percent of the total DUI arrests. Second offenders are usually about two-thirds of those, and then it goes on. The number of arrests are typically your first offenders and represent 42.2 percent of your total arrests.

Assemblyman Watkins:
So, the rest are either second, third, fourth, or fifth arrests. We are talking 42 percent first-timers on a yearly basis, and 58 percent would be repeat offenders of some sort.

Debra Coffey:
It would be less than that. About one-third of the offenders are actually repeaters.

Assemblyman Watkins:
What makes up the difference between the 42 percent and the two-thirds?

Debra Coffey:
I was just looking at second offenders and not the third or fourth.

Assemblyman Watkins:
So 58 percent have had at least one DUI before and are being arrested again?

Debra Coffey:
That is correct.

Assemblyman Pickard:
I want to follow up on Assemblyman Thompson's and Assemblyman Watkins' questions. My experience has been different in the domestic arena. We use Soberlink as our provider to determine whether someone is using prior to a custodial visit. That is a cellular-based model that you blow into. It takes your picture and it is real-time. Ultimately, we end up with a report every instance that it is used. The image is there along with the time and data on whether the test came up positive. Is there any reason to think that the devices we are describing here are any different?

Debra Coffey:
We actually have that technology as well on the ignition interlock. It is not used in many states. It is on a court-by-court basis, except for the states of New York, Washington, and Minnesota that require it on all interlocks. The ignition interlock can also send real-time data. For example, in New York, we are required by law to send the information if a violation occurs that meets their definition of a violation. We are to notify the law enforcement agents. We can send the information in real time and immediately.

Assemblyman Pickard:
Does it make sense for us to be mandating that? Where is the balance? I assume there is an additional cost for that kind of system. Does that give us better results? Is that something that we should be looking at, and if so, can you provide the details to us so we can make that determination?

Debra Coffey:
Yes, there is an additional cost, and that is the usual reason most states have not gone to the real-time requirement, but it is available. The technology is there with all of the manufacturers. There are actually 20 manufacturers of ignition interlock devices in the United States, and 8 of them are manufacturers here in Nevada. Some of the DMVs and the courts have not wanted to go in that direction and left it up to the discretion of the court and the judge based on the offender. There are some states—Missouri and Vermont among others—that save that for the repeat offender. They believe the first-time offender is someone who is hoping to get into sobriety and rehabilitation and they will not be a repeat offender. That is the whole goal of all of this, and they save the real time, GPS, and other restrictions for the repeat offenders.

Assemblyman Wheeler:
We discussed this in my office a little, but I would like to get it on the record. I really like the idea of this bill and it may save lives, but I am worried about pre-adjudication punishment. That is what this amounts to. I am also worried about the constitutionality. Have any other states been challenged on the constitutionality of pre-adjudication punishment?

Chelsea Capurro:
Currently, as soon as you are charged with a DUI, your license is revoked. Before you even see a judge, your license is revoked. I would say that this now allows another option that says you can have your license revoked or you can continue to drive by having the ignition interlock installed. I would defer to Debra on other states.

Debra Coffey:
The state of Texas has a case called *Ex Parte Elliott* [*Ex Parte Kevin Eugene Elliott*, 950 S.W.2d 714; 1997 Tex. App. LEXIS 4175] and I will be happy to provide it to you. That case dealt with a judge requiring the ignition interlock as a condition of bail preconviction and the appellate court found that it was public safety, constitutional, and not oppressive.

Assemblyman Wheeler:
Have there been any constitutional challenges that you know of in other states? Have any made their way up to a state's supreme court, or maybe district court?

Debra Coffey:
The case that I just referred to was based on the constitutionality of requiring the interlock as a condition of bail. It went up from the lower court to the state appellate court. That is the only one I am aware of where there was a challenge. I would like to add that, whether the person gets on the interlock or stays revoked, it is their choice. They can stay through their revocation and not drive, or if they want to be productive citizens and get on with their life, they can get the interlock restricted license and have driving privileges immediately.

Assemblywoman Miller:
I have some concerns about the amendments. The first one has been previously alluded to, and is in section 2, subsection 1, where it says, "Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than . . . ." So that I am clear, originally it stated that this would only be available if this was a first offense. Now, going back to Assemblyman Watkins, this could be multiple, multiple offenses. Is that correct?

Chelsea Capurro:
I am sorry. Could you clarify what you mean by "it could be for multiple offenses?" Do you mean the ignition interlock would be required to be installed?

Assemblywoman Miller:
That it would be available.

Chelsea Capurro:
Yes, it would be available for any offense. The periods are longer as you have multiple offenses.

Assemblywoman Miller:
I have a definite problem with that. What does the research say about how many times someone has actually been driving drunk by the time he has been convicted of the first offense?

My next concern is with "vehicular homicide." I think the whole point is to prevent that. It seems that we are reducing or minimizing the seriousness of vehicular homicide. Why was that amendment included?

Chelsea Capurro:
It was included to be consistent. We know that people with revoked or suspended licenses are still driving. If they have the ignition interlock device installed, they cannot turn on their car and start it and actually drive it if they are under the influence. It is a public safety issue at that point.

Assemblywoman Miller:
It feels like we are clumping vehicular homicide with just getting pulled over for swaying in the lane.

Chelsea Capurro:
I understand that thought process. However, even if it is vehicular homicide, they are still driving. In this way, they cannot drive if they are under the influence.

Assemblywoman Cohen:
I had a question but Assemblyman Wheeler mentioned to me that they would just take their spouse's car. Can you address that? We may have someone who finds a different car to drive if we put the ignition interlock device on their car.

Chelsea Capurro:
The bill states that it is any vehicle that they operate. Of course, there are always going to be bad actors, people who take their friend's car or their spouse's car. The law does state that it has to be the vehicle you are operating. For example, if you took your spouse's car and you are pulled over by a police officer, he can see on the back of your license that you have an ignition interlock restricted license because it will note that on your license. Law enforcement will know that the person is supposed to be driving with an interlock, but he is not, so there is a problem.

Assemblywoman Cohen:
Ms. Coffey, you mentioned the real-time technology that is available. Are there other technological options available that are not addressed in this bill?

Debra Coffey:
Are you asking if there are other technologies that will stop the car?

Assemblywoman Cohen:
Yes.

Debra Coffey:
Not to my knowledge.

Assemblywoman Cohen:
Okay. Thank you.

Chairman Yeager:
At this time I will open it up for additional testimony in support of S.B. 259 (R1). If there is anyone who would like to testify, please make your way up to the table.

Chelsea Capurro, representing the City of Reno:
I am putting on a different hat for the City of Reno. We are in support of this bill.

Debbie Zelinski, Program Coordinator, Northern Nevada Chapter, Mothers Against Drunk Driving:
I am testifying today in support of Senate Bill 259 (1st Reprint), improving Nevada's drunk driving laws. Again, my name is Debbie Zelinski and I am the program coordinator and victim's advocate for the Northern Nevada Chapter of Mothers Against Drunk Driving (MADD Nevada).

We would like to thank Senator Manendo for authoring this lifesaving legislation. I am here representing MADD Nevada in strong support of the bill, but I am also here because a drunk driver made a deadly choice to drive drunk and killed my daughter, Stephanie. Stephanie was 19 years old. Her boyfriend decided to drive after drinking all day long. We lived in a rural area in the state of Michigan. He decided he was going to bridge jump. In theory, if you go a high rate of speed, you will end up on two wheels going over the bridge. Instead, he hit the I-beam on the bridge at 80 miles per hour. The car went end over end and my daughter was thrown out the back window. She was killed instantly. Adding to this horrible crime that I have had to live with, he had also killed his best friend in a drunk-driving crash seven months prior to killing my daughter. He had not even gone to trial for the first death. I firmly believe if the ignition interlock device had been available then, Stephanie might be alive today.

We need Senate Bill 259 (1st Reprint) so that fewer parents have to get that knock on the door from a police officer. I can still hear those words today; they do not go away. It has never stopped affecting my life. We must do more to stop drunk driving. This bill is an excellent opportunity for lawmakers to take action against drunk driving.

In a report on ignition interlock devices that MADD released, we found that interlocks have stopped 6,222 attempts to drive drunk in Nevada in the past ten years. Let me say that again: intoxicated people, over the legal level of 0.08 BAC, have attempted to drive 6,222 times in Nevada but were stopped by an interlock in the past decade. With the ignition interlock installed immediately, as was stated, the offender will be allowed to drive immediately so it gives him back part of his life as long as they drive soberly.

Mothers Against Drunk Driving Nevada calls on this Committee to pass S.B. 259 (R1) creating an all-offender ignition interlock law. It is time to join states like West Virginia and others where drunk driving fatalities have dropped by up to 50 percent since passing this law. Studies compiled by the Centers for Disease Control and Prevention (CDC) find interlocks reduce repeat drunk-driving offenses by 67 percent when compared to license suspension alone.

Again, MADD Nevada urges this Committee to advance this bill. Doing so will help save many lives, change behavior, and stop drunk driving.

Gerard Mager, Private Citizen, Sparks, Nevada:
I am the parent of a 17-year-old who was killed by a driver under the influence of marijuana. Two days ago my wife spent her twenty-first year without her only child. Drunk driving is not taken seriously by law enforcement, prosecution, or legislation. It is never considered a violent crime, which it actually is. There are instances where people will drive drunk with this device, but they will be limited. This is a good law to reduce the number of people killed on highways. It will reduce the number of families serving a life sentence, as we are, that the driver will never serve. There is a lot of legislation this session that is trying to treat offenders as victims, while people like us are ignored. That is not acceptable.

There is an amendment where they do not want to use this device for anything other than alcohol. There is a device called the Dräger Interlock device, which will measure drugs. It needs to be included. If you do not do it this time, it needs to be looked at down the road so we can have a device that keeps drug driving off the roads.

There was a recent report that in 2015, drug driving exceeded drunk driving 43 percent to 37 percent. It is becoming a major problem on our highways. This is a good bill, and it will save lives and protect families. I fully support this bill.

Todd Ingalsbee, representing Professional Fire Fighters of Nevada:
We support this bill. If it saves one person's life, then it is good. That is what we need to look at. This is another option that we can use to prevent these accidents from occurring.

Sandy Heverly, Executive Director and Victim Advocate, Stop DUI:
I am here today on behalf of Stop DUI and the thousands of innocent DUI victims we represent to support Senate Bill 259 (1st Reprint).

Stop DUI strongly believes S.B. 259 (R1) has the potential to help reduce the senseless and horrific carnage caused by alcohol-impaired drivers. Simple in concept, if the ignition interlock device detects alcohol in the required breath sample, it will prevent the vehicle from starting. Currently, those arrested for DUI, once free on bail or on their own recognizance, can legally drive until their court hearing, which can take several months. During that time frame, it is not uncommon for some of those individuals to accumulate additional DUIs, sometimes causing death and/or injury. I am sure you have heard it said a thousand times— and probably by me— when a vehicle is driven by a drunk driver, it becomes a loaded weapon, a 4,000-pound weapon.

Senator Manendo's bill provides the means to disarm that weapon by disabling the engine with an ignition interlock device. Although the ignition interlock is not new to the DUI prevention efforts, the legislation Senator Manendo is sponsoring has some unique components that we believe will enhance and increase its use, and produce the desired results. The desired results, as with all of our DUI legislation, is that it simply comes down to a matter of enhancing public safety and saving lives. It is just that simple.

As a multiple victim of alcohol-impaired drivers, and as a victim advocate working with thousands of innocent DUI victims for 34 years, I have lived and seen every level of grief and suffering caused by driving under the influence. Those of us who have become victims at the hands of drunk drivers, especially by offenders with previous DUIs, often reflect on what could have been avoided if only there had been immediate interventions and stricter sanctions on the first offense. If only there were more saturation patrols and more sobriety check points. If only the inebriated person did not get behind the wheel. If only there was something that would have prevented the vehicle from starting.

The good news is that something is called an ignition interlock device. The only regret is that the device is limited to detecting alcohol, which is very disappointing to those who have become victims of drug-impaired driving. However, when technology is able to create a device that will detect other drugs, we will pursue that lifesaving option as well. But just because this ignition interlock device is limited to alcohol, please do not dismiss its lifesaving potential. Alcohol is still the number one cause of DUI-related deaths, and we need to take advantage of the technology that is available to us in today's world.

Is the ignition interlock device 100 percent foolproof? The answer is no. The only thing I am aware of that is 100 percent certain is death. But with the help of S.B. 259 (R1), hopefully the senseless death and injury caused by driving under the influence will be significantly reduced and eventually eliminated.

I would like to make a clarification regarding one of the amendments that was offered. Basically, it is just in the language and the use of the term "vehicular homicide." Vehicular homicide could be included, but I think the correct language would be "vehicular manslaughter." Vehicular homicide requires mandatory prison time. I would like you to take that into consideration.

Chairman Yeager:
Thank you for that suggestion. You are absolutely correct. Vehicular homicide is the crime that is charged after someone has several DUIs and causes a death, while vehicular manslaughter is the one that does not have that predicate. That is very helpful in processing the bill.

Laura K. Gryder, Project Director, Center for Traffic Safety Research, Department of Surgery, University of Nevada, Reno, School of Medicine:
Our office is sponsored by an Office of Traffic Safety grant, and I am here today to give you a perspective from the public health arena.

National data from one research project utilizing over 30 years of fatality data has shown that after the implementation of a mandatory ignition interlock device law, there was a 7 percent decrease in blood alcohol concentration (BAC) deaths in fatal crashes—BAC over 0.08. There was an 8 percent decrease in BAC fatalities in 0.15 cases. This equates, over the period of 30 years, to about 1,250 deaths prevented by initiating a mandatory ignition interlock law in those particular states. In Nevada, just in the year 2016, there were 77 content-related fatalities. This was 23 percent of all fatalities during that period of time. Almost one-fourth of all fatalities were alcohol related.

Regarding data at the Center for Traffic Safety Research, to give you some background, we have a longitudinal data set. We get crash reports from the Nevada Department of Transportation, and we link that to all four of Nevada's trauma centers. We have three in the south: University Medical Center of Southern Nevada, St. Rose Dominican Hospital, and Sunrise Hospital and Medical Center. In the north we have Renown Regional Medical Center. We are able to link these crash reports to these individuals using name, date of birth, et cetera. Our database is really robust. For motor vehicle crash data from the years 2005 to 2014, we have over 18,000 records. This is the data that we are analyzing.

We are looking at the people who end up in trauma centers, and this is not the whole story. These are not people who go to emergency departments, or people who are involved in crashes but are not injured or injured enough to go to one of these places. These are the worst of the worst and they go to the trauma centers. Of these people who are suspected of alcohol and drug use, 16.3 percent of the trauma patients were suspected of alcohol and/or drug use. It is a pretty high number.

We can also look at different safety behaviors among these individuals. For example, seatbelt use. Looking at those who are not using seatbelts and not suspected of alcohol or drug use, you have a much higher ratio of seatbelt use. You have a 3-to-1 use of seatbelts for those not suspected. When you look at the group who are suspected of using alcohol or drugs, it is about 1-to-1. There is a 50-50 shot at using their seatbelts. Those who are suspected are not using their seatbelts at the same rate.

Speeding, another indicator that may lead to worse health outcomes at the hospital, will be more common in those who are suspected of alcohol and drug use. It is about 3-to-1, a much higher proportion of nonspeeders to speeders, and that ratio is about 4-to-1.

One way we track hospital outcomes and injury severity at the hospitals are injury-severity scores. There is something that is called the New Injury Severity Score (NISS) and is on a scale of 0 to 75, 0 being no injury and 75 being the most critical injury. When I compare those suspected of alcohol or drug use with those who are not suspected, you will see higher NISS scores—a NISS score of 12.88 versus 10.35—and this is average and statistically different. There is a significant difference between these two groups.

Chairman Yeager:
I need you to wrap up your testimony. You are providing us with a lot of data, and I would encourage you to send that in writing to the Committee.

Laura Gryder:
It is on NELIS (Exhibit L) and (Exhibit M). Basically, hospital days are longer, intensive care unit days are longer, and NISS days are longer. There is a higher fatality percentage of the people who come into the hospital and trauma centers for those fatalities that are alcohol-related. In terms of hospital charges, they are significantly higher. This is all on NELIS so you can peruse this at your leisure.

The average hospital charges for those suspected of alcohol or drug use in Nevada annually is about $15.7 million. For Medicaid patients, it is about $1.7 million, and of this, Nevada pays about one-fourth of these costs for covering Medicaid, which is about $420,000 every year. Uninsured patients have an annual cost of about $5 million that must be covered by the state since they are uninsured.

Very briefly, research has shown that over 50 percent of those who have suspended or revoked licenses due to DUI-related charges still drive. The introduction of a mandatory ignition interlock device would allow offenders to drive by mandating installation of the device on their vehicle within 14 days of their arrest. This removes the ability to drive their personal vehicle while intoxicated. A suspension or revocation removes a person's legal right to drive, but it does not remove the ability for a DUI offender to access and drive their personal vehicle while intoxicated. An ignition interlock device would do so.

I have one last point of information that comes from the CDC. According to the CDC, those who are arrested for their first DUI offense, on average, drove intoxicated approximately 80 times before they were ever arrested.

The better way of approaching this is to change the environments. When we leave decisions up to the individual, especially those who are dependent on alcohol and are already not making wise decisions, we do not make a better environment for our community as a whole.

Chairman Yeager:
We will come back up to Carson City for additional testimony.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:
We have had 54 fatalities on our roadways in our jurisdiction so far this year. Many of those involve alcohol. We support additional tools for the courts to help stop repeat offenders and DUI offenders. The reality is that—and it has already been stated—many of these folks currently drive anyway, even though their license is revoked. We often, out in the field, encounter folks in a DUI situation and find out that they already had their license revoked and are driving anyway.

I share concerns that people can bypass an interlock, but I look at this similar to how I look at a burglary alarm or buying a dog: you take preventive measures to keep your house from being broken into. It does not mean that your house will not be broken into, but it makes it a little more difficult for a thief to do it. This is one of those things that makes it a little more difficult for the person who is out there driving under the influence. With that we are in support.

I also share the concerns about the amendment that were stated by Assemblywoman Miller that this could potentially apply to folks who have multiple offenses in their past. I hope it would not be the desire of this Committee to allow that. I think it is more suitable for first-time offenders rather than folks who have multiple DUI charges against them.

Assemblyman Watkins:
Do we have any evidence to show that if we provide this device, people are more likely to use it and drive rather than say that the system is against them and throw caution to the wind and still drive because they need to get to work? Would this give them more encouragement in the system?

Chuck Callaway:
I will speak from my own personal experience in law enforcement and my perspective, so I guess this is my opinion. I have encountered two types of individuals who get a DUI. One is the person who may go out to a party and drink irresponsibly, does not have a history of DUI-type of offenses, and is on his way home from the party and gets pulled over. Maybe he gets in an accident. He is then arrested for DUI. The second type of person that I encounter are the folks who have a real alcohol problem and are basically addicted to alcohol. From the time they wake up in the morning they are drinking. In the first category of folks, the ignition interlock will definitely help them. It will allow them to keep their job, get to work, and go to court to deal with the mistake they made. In the second category of folks, they are the ones who will find a way around this. They will drive anyway. They need help. They need to get into some type of treatment to kick the alcohol problem. The only thing they want from the time they wake up in the morning until the time they go to bed is a drink. Having an interlock on the car for them, unfortunately, will not stop them from getting behind the wheel of a vehicle. That is my personal opinion and personal perspective.

Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association:
We strongly support S.B. 259 (R1). As mentioned earlier, this may not prevent every person who is drinking and driving a vehicle, but it will certainly put a dent in it. With regard to Assemblyman Watkins' question, I have to concur with Chuck Callaway regarding that. One of the other things I do with regard to representing the sheriffs and chiefs is encountering individuals who have severe alcohol-related issues. Just listening to them talk, nothing would prevent them from doing what they need to do. It will impact the individual who goes out and has too much to drink. Overall, this will be a strong help.

Christine Adams, Administrator and Victim Impact Panel Manager, Northern Nevada DUI Task Force:
To be respectful of your time, we just want to offer our strong support for the passage of S.B. 259 (R1). We do believe it will reduce harm in our communities and on our roadways.

Chairman Yeager:
Is there anyone else in support? Seeing no one, let us take opposition testimony. Would anyone like to testify in opposition of the measure here in Carson City or Las Vegas?

John J. Piro, Deputy Public Defender, Clark County Public Defender's Office:
We would like to offer a limited opposition to this bill. We would also like to thank Ms. Capurro and the bill's sponsor for speaking with us and trying to work out some of the issues that we had with the bill in the start. One of the main concerns we had quite possibly was a concern that Assemblyman Wheeler brought up about possibly judging someone guilty before a guilty verdict has been rendered. The defense for this would say that it would allow a person to drive with the interlock device and allow them to keep their job. I think a fair measure would be if that is what we want to do to protect public safety, and if that person is found not guilty or the charges are reduced to a non-DUI-related offense because mistakes do happen and the presumption of innocence always applies in this country, that person should be able to get his money back from installing the device and paying to keep that interlock device in his car for that whole period of time. Technically, they should not have had it in the first place.

One of the defenses is saying that we are allowing a person to install this which allows them to go to their job during this time, so it is a good measure. Yes, but they are also asking to increase the number of days from 90 to 185. That is a change in the law that is not being addressed here. Yes, they can install it, and yes, they can go about their lives, but we are going to increase the amount of time the license is suspended. We would like to see that stay at 90 days where it is.

The last thing is in the interest of justice. The change that would allow the judge not to have the person install this is a pretty vague term that is not directly addressed as to what that actually means. What are the interests of justice, and what is going to allow a judge to make a decision on when it should not be applied to a particular case? I believe Ms. Rasmussen in Las Vegas will address some of the costs. Most of you know that the federal poverty line is woefully low. It is ridiculously low for someone to try to survive on that.

We are going to cut them a slight break at 100 percent of the federal poverty line, but maybe some of those numbers should be moved up higher to form that basis. A lot of the people who are caught with DUI offenses are represented by the public defenders. Perhaps some of those numbers could be moved as well. That would be the limited opposition from our side to the bill at this time.

Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office:
For the sake of brevity, I agree and concur with the comments from my colleague, Mr. Piro. We certainly thank Chelsea Capurro and the bill's sponsor for meeting with us and addressing our concerns. Mr. Piro and I also drive on these roadways, and we want safe roadways in the state of Nevada.

We agree with the cost measure. The only experience I have with dealing with interlock is when I talk to my DUI offenders in DUI court who must have the interlock pursuant to existing law for the first 6 months, then 12 to 36 months thereafter, and are being given credit for the first 6 months, they always mention the cost involved and how arduous the costs are. I would hate to think that the cost would put an offender in a position where he wants to give up and just do his time. It is a common theme or sentiment that, "I would rather go do my time because I cannot afford the cost." That is a main concern for us.

The juvenile section having the interlock put on a child that may be 16 years old is a concern for me. Not only does it punish the child, but it also punishes the parents who may have the car registered in their name. Juveniles still have to go to counseling appointments, evening reporting centers, and a lot of other things in the juvenile system. I would hate to think that putting an interlock on a child's car would prevent them from getting the help and services that they need within the juvenile justice system.

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:
We have three major concerns with this bill. Our first concern is that it is a corporate handout straight from the pockets of Nevadans into the billfolds of interlock manufacturers. We believe that it will hit low-income individuals disproportionately. Echoing the statements of the public defenders, the cost of these devices can be arduous, especially when you extend the term from 90 days to 180 days. That cost would increase from $150—around $50 a month—to at least $300. That is difficult for a lot of people to come up with, especially poor people.

Moreover, we believe that it is unjust and irrational to install these devices on all DUI offenders' vehicles when some individuals use substances that it does not detect at all. It does not make sense to install an ignition interlock device that detects only alcohol on someone's vehicle when that is not the drug they used or if they declined to test entirely.

It is also a civil liberties overreach. You could save lives by locking everyone in padded rooms for the duration of their entire lifespan, but is it worth it? At what point are civil liberties being restricted too far?

Lisa Rasmussen, Legislative Committee Co-Chair, representing Nevada Attorneys for Criminal Justice :

I have lost video down here so I will have to rely on any oral questions from you. I do not want to take too much of your time and I think those who preceded me have covered most of what I would have said. A couple of additional things that I did not hear anyone talk about are the details of the cost. No one has really talked about how much it costs and what the burden is. We think it would actually be a great idea if it were voluntary for people in lieu of the license revocation. A lot of people would probably do it. If people could still drive and have an ignition interlock, they would probably voluntarily do it. We do not see the need to impose—particularly on first-time offenders—this burden. In past sessions, we have talked about imposing the burden on people with a certain blood alcohol and higher. For example, 0.18 BAC or higher could be subject to ignition interlock. If the legislation were such that people had the option of being able to drive with ignition interlock during the revocation period, people would do it. People would comply with it. The people whom it will never touch are the ones we have discussed: the people who will continue to drive no matter what and who have such serious problems. For those people, we have other programs that target them, like SCRAM (Secure Continuous Remote Alcohol Monitor) that tests for alcohol and drugs as well. The ignition interlock, as everyone has acknowledged, does not do anything for testing people who are driving under the influence of drugs or marijuana or whatever.

I understand that I sound like a killjoy when I testify against bills like this, and it is not that Nevada Attorneys for Criminal Justice does not support victims or that it does not feel badly for victims. Of course they do. They also feel sorry for victims who are victims of people who ran a red light and killed someone when they were not drinking and driving. The point is, what you are being asked to do is to create legislation that prevents a certain thing from happening and we are not convinced that this prevents that certain thing from happening. We think that including first-time offenders in the requirement is overreaching, that it is not necessarily going to achieve the desired result, and that if you imposed it on a voluntary basis and allowed people to use it in lieu of revocation, people would likely do it.

One of the other issues that nobody has discussed is that it is not necessarily available to people in the rurals. The proponents will tell you that the caveat that allows the judge to override that requirement for good cause is meant for the rurals, but if we are going to be enacting legislation, we should enact legislation that affects all people in Nevada, not just the urban or rural areas. My understanding from the manufacturers is that if the law were passed they would perhaps move into the rurals. I am not sure if that is going to happen. There is something of a disparate treatment among urban and rural areas.

Chairman Yeager:

Is there anyone else who would like to testify in opposition? Seeing no one, is there anyone who is in neutral? I see no one, so Senator Manendo, are there any concluding remarks?

Senator Manendo:
Make no mistake, this is a lifesaving measure, and SCRAM does not prevent you from operating your car, but this does. [He held up an ignition interlock device.] I get that there are pieces of legislation that are not 100 percent foolproof. I have been here for 23 years and I can tell you that there are thousands of bills and laws where there are ways for people to circumvent the law. If that is what we are basing it on, we need to go through the entire NRS and start wiping out things that are not 100 percent foolproof.

Driving is a privilege and not a right. I will repeat that; driving is a privilege and not a right. We do population caps on bills all the time. If we want to start looking into changing all the population caps that we have in the *Nevada Revised Statutes*, we can talk about that. I know we have some concerns and that is what we are trying to address. Nevada is a little different from many states since we have a lot of rural areas. It was they who came to us and asked what would happen if someone could not get an ignition interlock device. Maybe we will not have that issue, but right now we are trying to address those concerns. Current law already requires an ignition interlock for multiple offenses.

I tried to use this ignition interlock device before. It was not easy. I had to learn and practice to get it right. You cannot just do it; you would be hard pressed to do it.

Chelsea Capurro:
I want to address the cost. Almost every manufacturer will install these for free. They come out to about $70 per month, or about $2.50 a day at the highest.

Senator Manendo:
There is a cost to someone drinking. People do not usually drink for free, and if they do, it is usually because they are gambling and spending money. If you can afford alcohol, you can spend a couple of bucks a day to have the privilege of continuing to drive.

[Also submitted but not discussed is (Exhibit N).]

Chairman Yeager:
I will close the hearing on Senate Bill 259 (1st Reprint). We will open the hearing on Senate Bill 409 (1st Reprint). We only have about ten minutes.

Senate Bill 409 (1st Reprint): Revises provisions relating to animals. (BDR 15-100)

Senator Mark A. Manendo, Senate District No. 21:
I have some prepared remarks, but I will just say that the intent of the bill is make sure our fur babies that are left in cars, whether cold or hot—and generally it is hot—are able to be rescued.

I found something here that says if the temperature is 70 degrees outside, in 10 minutes it will be about 89 degrees in the vehicle. After 30 minutes, it is about 105 degrees in the car even though it is only 70 degrees outside. In the summertime, temperatures can get to 95, and 115 degrees in Las Vegas. Within 10 minutes in the north, it is 114 degrees and around 130 to 160 degrees in Las Vegas. We know there are issues with children being left in cars where they can die. Animals are no different. This is clarifying language that we want in this bill to make sure we have the proper avenues for people to go in and rescue these pets.

The day after the hearing in the Senate—it was a Friday—I went home and took a picture on my phone of a dog that was left in a car. It was about 80 degrees in Las Vegas and inside my vehicle it was over 100 degrees, and I was in and out in about five minutes.

Kiska Icard, Chief Executive Officer, Nevada Humane Society:
We are in full support for strengthening this law. The Nevada Humane Society holds the animal control and sheltering contract for Carson City. Additionally, we provide animal sheltering in Washoe County in partnership with Washoe County Regional Animal Services. On average our officers in Carson City respond to nearly 400 calls annually regarding animals in closed and hot vehicles, and that is just in Carson City where we only have two full-time officers.

Robert Smith, Animal Services Manager, Washoe County Regional Animal Services:
We service the cities of Sparks and Reno, and the unincorporated areas of Washoe County. In 2016, officers responded to 1,251 dogs in vehicles. Those are Priority 1 calls only when the temperature is above 72 degrees outside. In this last 1.5 weeks while we had a little heatwave here in the north, we responded to 39 Priority 1 calls about dogs in vehicles and we removed two animals.

This bill is extremely important. Luckily, in the north, we have not lost any lives. When we get these calls it is an immediate response from an officer to get to the health and safety of this animal. This bill sheds light on the serious situation that we have. Even though we have education, and we speak to people annually, we still have animals left in vehicles, animals that have to be quickly removed and given immediate veterinary care.

Chairman Yeager:
Can you explain how Senate Bill 409 (1st Reprint) changes what the law is now with respect to what someone is allowed to do to rescue an animal?

Robert Smith:
Senate Bill 409 (1st Reprint) gives us some clarified authorities. If you look in section 4.3, it addresses *Nevada Revised Statutes* (NRS) 574.055. Currently in Nevada we no longer have officers from the Humane Society, so that needed to be removed. It did not address an animal control officer and his authorities. What we are trying to do is to specifically address that a peace officer or an animal control officer has the authority to take an animal, care for it, and do what is reasonable and right for the animal. Currently the law says an

animal control officer may remove it, but when you get to NRS 574.055, we do not have any authority in that section. This gives us clarification on authorities so we can do our job properly and take care of the animals within our communities.

Assemblywoman Jauregui:
Does this apply to civilians as well? Can they take and care for an animal in a car?

Robert Smith:
It does not apply to just any civilian. We have had issues with that. We have to go back and remember that an animal is a piece of property. The best thing to do is to call 911 or call your local animal control dispatch. We respond immediately. If the temperature is above 72 degrees, we preempt our closest officer and respond, typically within two to five minutes away from a location and we get there quickly. The problems with letting just any citizen respond are that if the animal disappears, or if there is damage to personal property, we cannot do anything. They do not typically call us. We have had these issues in Washoe County, and we worked diligently to address it. Please do not remove an animal.

Assemblywoman Jauregui:
Why does it only apply to cats and dogs? Why did we not make it apply to all animals? It says regarding leaving a cat or dog in a motor vehicle.

Robert Smith:
Typically, cats and dogs are the only animals in cars. In my ten years in Washoe County, I have not seen a cat in a vehicle, it has all been dogs. I just have not seen anything but dogs. We occasionally have horses in trailers, but they are usually passing through, and it is different for horses than our smaller pets.

Assemblyman Ohrenschall:
I appreciate these bills. I see that it only applies to civilians. Do you think, if this passes, you would ever look at trying to extend this to animal protection organizations or other animal organizations? In our part of the Valley, on the eastside, dogs and cats can get overheated when not in a car in the summer heat. This is something that is needed.

Senator Manendo:
Originally, we were thinking about trying to capture the civilians. I get the fact that not everyone has the proper training. We might consider rescue organizations, but how would we craft that down the line? We would have to make sure there was some type of class so people could recognize a cat or dog being overheated in the vehicle and not someone just saying they see a dog in a car and it is an excuse to break a window. While Fido runs out the window, I steal the radio or loose change. Sadly, not everyone is on the up and up and may have other intentions while breaking into a vehicle.

I think this is a good first step, but maybe down the road that is something we could consider as well.

Assemblywoman Tolles:
I wondered about the pot-bellied pigs. To clarify, and you may have hit on this, it is a situation where an animal is being overheated in an unsafe environment. There are times when an owner turns on the air conditioning and is still able to lock the car while he runs inside to register an animal for a pet show, and then goes back to the vehicle. That is not going to be affected by this bill, correct?

Senator Manendo:
Correct. That was an issue that we addressed in the Senate to make sure that those folks who are being responsible pet parents would not be captured. Obviously, those animals would not be in distress because they have the engine running and the air going. I would always caution to make sure the air is running and it is not running at 90 degrees, but at 60 or 65 degrees. If the dog is passed out and not responsive and someone called 911 or someone on the list, they would determine that at that time.

Assemblywoman Tolles:
It was out of curiosity more than anything. It just so happens that at 7:20 a.m. this morning I got an email from Auto Alliance regarding never leaving your child in a car. Do we have similar statutes for children?

Senator Manendo:
We do.

Assemblywoman Cohen:
I would caution people that leaving the air conditioner running is not a good idea. When you leave it running like that, even when it is warm out, it does not stay cool. I have seen a lot on social media that people are going around saying that law enforcement says that it is okay to bust into cars to get animals out. I would ask that your agencies get the word out that it is not okay to do that. A lot of civilians think it is okay and I think we will see a lot of them busting into cars—especially in southern Nevada—in the next few months and will get themselves into trouble. We are also going to see people ending up in fistfights when they break into a car and the owner of the car shows up. We are going to have some trouble. This bill does not do that, and even before this bill it was not okay.

Senator Manendo:
Yes, ma'am.

Chairman Yeager:
Seeing no other questions, we will open it up for additional testimony in support. Is there anyone who would like to testify in support?

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:
We are here in support. We encourage citizens who see animals in a vehicle that they believe are in distress to call 911 and not to try to break into the vehicle or to release the animal themselves. Obviously, aside from damaging someone's personal property, an animal, even in distress, is still defensive and may attack the citizen who is trying to help the animal. In Clark County, Animal Control typically handles these, but we do get calls at the Las Vegas Metropolitan Police Department.

The second thing I want to put on the record is that it is also important for people to not leave their vehicles running with animals or children in them. We have had cases where vehicles have been stolen with animals and children in them because people left them running in the parking lot while they ran into the store to get something. I wanted that on the record, and we are here in support.

Chairman Yeager:
Is there any additional testimony in support? Seeing none, is there anyone in opposition? Seeing no opposition, how about neutral? I do not see any neutral testimony. Senator Manendo, any concluding remarks?

Senator Manendo:
I was thinking about the pot-bellied pigs, and Assemblywoman Jauregui may have some other pets. Maybe we should change it to "any animal that you consider your pet."

Chairman Yeager:
We cannot limit it to fur babies because that would require fur. Correct?

Senator Manendo:
Feathers or fur.

Robert Smith:
We already have established language in the NRS and it is "any animal that is the personal, primary enjoyment of a person." If we want to add that there, it would cover everything.

Chairman Yeager:
With that, we will close the hearing on Senate Bill 409 (1st Reprint). Now is the time for public comment if anyone would like to give public comment. Seeing no public comment, we will close public comment. Committee members, the lay of the land for tomorrow is that we will be starting at 9 o'clock tomorrow morning. We will start with a Committee on Corrections, Parole, and Probation work session and after that we will be convening the Committee on Judiciary. We have one bill scheduled for tomorrow, and we will probably have a couple of measures for work session in Judiciary as well. As a reminder, we will see you tomorrow morning at 9 o'clock. With that, the meeting is adjourned [at 11:04 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE:

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the Work Session Document for Senate Bill 195 (1st Reprint), dated May 15, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit D is the Work Session Document for Senate Bill 258, dated May 15, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit E is the Work Session Document for Senate Bill 287 (2nd Reprint), dated May 15, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit F is the Work Session Document for Senate Bill 305 (1st Reprint), dated May 15, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit G is the Work Session Document for Senate Bill 473, dated May 15, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit H is the Work Session Document for Senate Bill 476, dated May 15, 2017, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit I is a copy of a PowerPoint presentation titled "S.B. 18 Regulation of the Bail Industry" dated May 15, 2017, presented by Alexia M. Emmermann, Insurance Counsel, Division of Insurance, Department of Business and Industry.

Exhibit J is a collection of various bail stories and other items submitted by Alexia M. Emmermann, Insurance Counsel, Division of Insurance, Department of Business and Industry.

Exhibit K is a proposed amendment to Senate Bill 259 (1st Reprint) presented by Senator Mark A. Manendo, Senate District No. 21.

Exhibit L is a copy of a PowerPoint presentation titled "S.B. 259 Ignition Interlock Device" authored by Deborah A. Kuhls, Principal Investigator, and Laura K. Gryder, Project Director, Center for Traffic Safety Research, University of Nevada, Reno, School of Medicine, and submitted by Laura K. Gryder, Project Director, Center for Traffic Safety Research, Department of Surgery, University of Nevada, Reno, School of Medicine.

Exhibit M is a copy of a newsletter titled "Nevada's Traffic Research and Education Newsletter Trend," dated March 28, 2017, submitted by Laura K. Gryder, Project Director, Center for Traffic Safety Research, Department of Surgery, University of Nevada, Reno, School of Medicine.

Exhibit N is a letter dated May 11, 2017, in support of Senate Bill 259 (1st Reprint) to Chairman Steven Yeager, authored and submitted by Ralph S. Blackman, President and Chief Financial Officer, Foundation for Advancing Alcohol Responsibility, Arlington, Virginia.