

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Ninth Session
February 15, 2017**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 7:59 a.m. on Wednesday, February 15, 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 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:

Assemblyman James Ohrenschall, Vice Chairman (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel



Erin McHam, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General
Jeffrey Segal, Chief Deputy Attorney General, Bureau of Criminal Justice, Office of the Attorney General
Bruce H. Breslow, Director, Department of Business and Industry
Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry
Robert L. Compan, representing Farmers Group, Inc.
Dan Musgrove, representing CSAA Insurance Group
John J. Piro, Deputy Public Defender, Clark County Public Defender's Office
Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender's Office
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Barbara D. Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Mindy McKay, Records Bureau Chief, General Services Division, Department of Public Safety

Chairman Yeager:

[Meeting was called to order and Committee protocol was explained.] We are going to start with Assembly Bill 15 today, then go to the Division of Real Estate presentation, and wrap up with Assembly Bill 14. With that, I will formally open the hearing on A.B. 15.

Assembly Bill 15: Revises provisions governing the penalties for insurance fraud. (BDR 57-381)

Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General:

[Read from prepared letter from Office of the Attorney General ([Exhibit C](#)).] Assembly Bill 15 proposes to increase the current penalty for acts of insurance fraud that are perpetrated through means of a staged motor vehicle accident from a category D felony, with a term of imprisonment between 1 to 4 years and up to a \$5,000 fine, and increase it to a category B felony, with a term of imprisonment of 2 to 10 years and a penalty of up to \$10,000. As our testimony will demonstrate today, there are two very important policy considerations behind this proposal. One is the risk that is posed to innocent Nevadans on Nevada's roadways from these staged motor vehicle accidents. Two is the consequential impact on everybody's insurance rates in our state. I would like to turn the testimony over to the Chief of our Bureau of Criminal Justice, Jeff Segal, and he will provide you more detail as to why we are proposing this penalty increase.

Jeffrey Segal, Chief Deputy Attorney General, Bureau of Criminal Justice, Office of the Attorney General:

Assembly Bill 15 is public safety legislation. It is first and foremost about protecting the lives of innocent motorists from criminals who knowingly and willfully cause motor vehicle collisions in furtherance of the commission of insurance fraud. Our roads are dangerous enough without criminal gangs out there endangering the lives of innocent people by intentionally causing motor vehicle collisions in order to bilk individuals and insurance companies by making bogus property damage and personal injury claims. In order to deter such dangerous activity, A.B. 15 would substantially increase the potential penalties for those convicted of engaging in this particularly dangerous insurance fraud scheme. *Nevada Revised Statutes* (NRS) 686A.291 currently treats insurance fraud as a category D felony punishable by 1 to 4 years of imprisonment and a fine of up to \$5,000. The bill would amend NRS 686A.291 to make it a category B felony, punishable by 2 to 10 years of imprisonment and a fine of up to \$10,000 if a person acts in the course of, or in furtherance of, the commission of insurance fraud, and knowingly and willfully causes a motor vehicle to strike another vehicle.

Staged motor vehicle collisions are generally orchestrated by organized groups working in teams, often using multiple vehicles and drivers at a time. They entrap unwitting motorists into forking over cash to pay for damage and to defraud insurance companies by filing bogus injury claims resulting from the phony car crashes. These staged-accident rings operate like organized criminal enterprises. In some instances, the leaders of these rings have been connected to traditional organized crime. Attorneys and medical care providers are sometimes also members of these criminal organizations.

Staged accident insurance fraud is a serious and growing problem. According to one recent study, reported staged automobile accidents increased by more than 200 percent nationwide from 2002 to 2012. The Insurance Fraud Unit within the Office of the Attorney General (AG) has received more than 60 suspected staged accident referrals, involving more than 200 claimants, since 2010. While I cannot get into the details of our investigative activities, I can assure the Committee that the Attorney General's Insurance Fraud Unit is focused on this problem and determined to bring the perpetrators of these dangerous crimes to justice. The perpetrators of staged motor vehicle collision insurance fraud schemes should be subjected to greater punishment than someone who makes a misrepresentation on an insurance claim form for a number of reasons.

First and foremost, people who knowingly and willfully cause motor vehicle collisions intentionally endanger the lives of innocent people. Moreover, unlike the typical insurance fraud claim, staged motor vehicle accidents tend to be perpetrated by sophisticated criminal gangs. These criminal gangs can extend beyond those who actually stage the accidents. They also involve personal injury lawyers who present the fraudulent claims to insurance carriers, and medical providers who generate fraudulent medical records and bills to justify those claims. These criminal conspiracies tend to continue unless, and until, they are stopped by law enforcement. Instead of a single isolated incident of insurance fraud, these criminal rings are capable of staging numerous motor vehicle accidents. Increasing the potential

penalties for staging motor vehicle accidents to a category B felony with a potential sentence of ten years in prison would send a strong deterrent message to the perpetrators of these dangerous schemes. It would substantially change the risk/reward analysis of engaging in this type of dangerous criminal activity. Existing penalties do not adequately deter people from engaging in what is a financially lucrative type of insurance fraud.

Assemblyman Pickard:

I do not know if either of you were here for the presentation we received from Justice Hardesty on the issue of sentencing and the population in prisons right now. He said that the substantial majority of inmates are in for category B felonies. We then went into the issue of sentencing and the complexity that is involved in that. You said that this changes the risk/reward analysis. I am wondering what data you might have to support that moving to 2 to 10 years from 1 to 4 years is going to have any affect on the potential for the crime. How does this move reduce the number of acts that occur, given that there were 60 in the last seven or eight years?

Brett Kandt:

We acknowledge the question of categorization of felonies, specifically that there are a large number of category B felonies under scrutiny. One of the tremendous tasks that your Committee may face is what to do with the large number of category B felonies and whether we need to have a more comprehensive view of how we categorize those felonies. I cannot speak to that except to acknowledge that it is out there and something we are all grappling with.

Jeffrey Segal:

One of the primary goals of criminal justice is to create a deterrent. It makes sense that the greater the potential penalty, the greater potential for a deterrent effect. Organized criminals look for areas where there is the potential for great financial reward and relatively low risk. They are looking for a low chance of being apprehended, prosecuted, and convicted, and low potential penalties. By increasing the penalty for this type of insurance fraud, which actually endangers people's lives, it is logical to assume that an increased penalty would have a greater deterrent effect than the current penalties that are in effect. I do not have any specific data on this particular question, but generally speaking, the greater the potential penalty, the greater the risk of engaging in criminal activity and the less likelihood that organized, sophisticated criminals are going to engage in that activity.

Assemblyman Pickard:

I appreciate that and I know that is the intuitive response. The more we hold over their heads, the less likely they are to commit a crime. I wonder if the separation between the potential penalty and the act is really in the apprehension. I do not know if a study has been done to show that this is not so attenuated, that the penalty really is a deterrent. The intervening apprehension issue might actually be the controlling factor.

Jeffrey Segal:

It is a combination of both. The risk of engaging in certain criminal activity is a function of both the likelihood of being apprehended and successfully prosecuted and the potential penalties were that to occur. These are challenging cases to investigate and successfully prosecute because they are essentially organized crime cases. You do not often have witnesses coming forward offering to help law enforcement. The fact is these are challenging cases, and resources are modest. In order to change the risk calculation you have to increase the penalty. That is where we can change the risk analysis. Even if the chances of being apprehended and successfully prosecuted are relatively low, if the penalty is sufficiently high, that does increase the risk and logically changes the calculation for the potential perpetrator.

Assemblyman Fumo:

It costs Nevada taxpayers approximately \$50,000 per year to incarcerate someone for a year. Is that correct?

Jeffrey Segal:

I do not have those numbers.

Assemblyman Fumo:

Go with me on that. It costs us \$50,000 per year to incarcerate someone. I would think that most of these staged accidents are fender benders because the people getting involved in these accidents are not really going after serious bodily injury to themselves. It is mainly soft tissue injury if they want to get a big insurance claim. Their goal is money, not to injure themselves, correct?

Jeffrey Segal:

The goal of the perpetrators is financial gain. Certainly, they do not want to injure themselves. Although, often the organizers of these staged accident rings recruit people with whom they do not have a relationship. I do not know that they care that much whether they are injured or not. The goal is financial gain. Even if the goal is to cause a fender bender, once you put a traffic collision into motion, it is hard to predict what may happen. An innocent motorist who is struck may lose control of his or her vehicle, swerve into another lane, and severely injure someone. Once you put into play what may be intended as a minor traffic collision, the risk of an innocent person being seriously injured or killed is present.

Assemblyman Fumo:

Justice Hardesty was here and gave us a presentation where he encouraged us to empanel a sentencing commission. He had concerns with two things. One was that 62 percent of people in prison right now are there for category B felonies and he wanted us or the commission to address and correct that in some way. The other concern was prison overcrowding. You want to discourage people from getting involved in these staged accidents. You have 200 people you believe were involved in staged accidents over the last five years. That would have cost the Nevada taxpayers \$10 million to incarcerate these

people for insurance fraud. If your goal is to deter them from staging accidents, why not make the law "If you are found guilty of a staged accident, you cannot file a personal injury case." The masterminds of this may not even be the ones involved in the accident; they are recruiting people. We are going to put people in prison for ten years who may not be the mastermind of the whole thing. If we take away the financial incentive, would that not be the better resolution? That would deter these people from wanting to stage accidents. I am not going to have any financial gain if I stage an accident. Would that not be a better resolution than the cost to the taxpayers of Nevada \$10 million to incarcerate 200 people?

Jeffrey Segal:

I think that is not a sufficient approach in the same way that saying if you rob a bank, the deterrent for getting caught would be you do not get to keep the money. There needs to be punishment beyond just "If you get caught you will not be able to make the insurance claim." Judges need to have some discretion and the ability to distinguish degrees. If someone is organizing one of these crime rings, their penalty is going to be on the higher end. If someone has a minimal role in one of these accident rings, maybe they were recruited and paid a small amount of money, the judge has discretion to either grant probation or have a lower sentence. I do think the deterrent needs to be a potentially long prison sentence for people who engage in dangerous activity. While there is a cost of incarcerating people, it is also important to consider the cost of these bogus insurance fraud claims. Those costs are borne first by insurance companies and ultimately passed to consumers in the form of higher insurance premiums.

Brett Kandt:

I would like to offer the Committee a comment on what our Insurance Fraud Unit has seen as the evolution of insurance fraud. Traditionally the defendants had a financial motive of getting rid of unwanted debt. An individual who is overextended on their car loan pushes it over a cliff, or a teenager goes to a party, wrecks his car, and tells dad the car was stolen. We are seeing a new breed of defendant: an organized criminal enterprise which seeks actively to obtain money by virtue of staging an intentional crash. We are involving innocent drivers in these accidents. They are targeting commercial vehicles because they carry million dollar policies. That gets into the issue of the ultimate consumer impact in our state. We have some representatives of the insurance industry here to support our bill. They can give more background and empirical data on the financial impact on consumers. I want to emphasize that this is how this crime has evolved. From the individual acting alone, who stages an accident not involving other drivers, to moving toward an organized criminal enterprise targeting commercial vehicles on the highway that can ultimately involve multiple innocent drivers.

Assemblyman Fumo:

We already have a law on the books that makes it a category D felony. If you get into staged accidents that are really that serious, the federal courts take over using the Racketeer Influenced and Corrupt Organizations Act (RICO) statutes. The penalties under RICO are much more severe. I have seen prosecutions in southern Nevada for that. We already have that deterrence on the books so this seems duplicative to me.

Assemblyman Elliot T. Anderson:

Do you consider cars a deadly weapon?

Jeffrey Segal:

A car can certainly be used as a deadly weapon if the driver intends to use it that way.

Assemblyman Elliot T. Anderson:

If someone hits it, that is a fair amount of force.

Jeffrey Segal:

That would depend on the nature of the accident. There may be a significant amount of force involved.

Assemblyman Elliot T. Anderson:

Can you please help me understand why NRS 200.481 subsection 2, paragraph (e), subparagraphs (1) and (2), discussing battery with a deadly weapon, is not applicable here? It dovetails into two categories: with substantial bodily harm and without. Substantial bodily harm requires a sentence of 2 to 15 years, which is more than you are proposing in this bill. The sentence without substantial bodily harm is two to ten years, which is exactly as you have proposed in this bill. We have a statute already on point with bigger penalties than you are proposing. The RICO statutes should apply as well. If you are trying to go after a criminal enterprise, RICO is going to be more effective in getting the people actually planning this. I hate to go after people in a desperate situation when we can go after the masterminds.

Jeffrey Segal:

I agree that there are other statutes that potentially come into play in these scenarios. You have identified two that can be used. Depending upon the facts of particular cases, there can be challenges in proving a RICO violation or even battery with substantial bodily injury. In some cases, the innocent driver is not injured so we would not have that allegation. One of the reasons why we want to specifically increase the penalties for the staged accident cases is to send a clear message of deterrence. This is the type of activity that the Legislature wants us to focus on, wants courts to focus on, and wants to send a message to potential perpetrators that this is not going to be tolerated. I do not believe some of these criminals are sophisticated enough to go through the statutes and think some other statute might apply. Sending this strong message is a deterrence. If you engage in insurance fraud that endangers people's lives, there are going to be enhanced penalties. We are going to treat this differently than someone who makes a misrepresentation on an insurance claim because it is a qualitatively different level of offense. There may be multiple statutes that might apply to a particular crime. For instance, the theft statute can apply in lots of insurance fraud cases, but we still have an insurance fraud statute. We want to send the message that that kind of conduct is not going to be tolerated.

Assemblyman Elliot T. Anderson:

Even without substantial bodily harm, battery with a deadly weapon is still a category B felony that carries a 2 to 10 year sentence. That needs to be clear. We already have the exact penalty you are asking for in an applicable statute. There is no reason that cannot be used. There is sometimes this political desire to stack charges. Just as criminals are not going to read a statute book, they are certainly not going to pay attention to the Nevada Legislature. I am not exactly sure how you are sending a message with this when you already have the tools you need to go after these people. To be clear, I want you to go after them, I just do not see the need to stack charges and make more crimes.

Assemblywoman Cohen:

I know this is a real issue. I have a family member who I believe was a victim of one of these accidents. My concern is getting back to the issue of the high-level mastermind and the low-level person who is met on the street corner and asked to do something in exchange for \$200. What this is doing is treating them the same. Is that correct?

Jeffrey Segal:

As a practical matter, as a prosecutor, we want to make that distinction between the ringleader of a criminal organization and someone who is a very low-level actor. When it comes time to make prosecutorial and sentencing decisions, we take that into account. We want to treat the masterminds of these organizations much more seriously. One of the things that is important when investigating these cases is having the ability to gain the cooperation of someone who is lower on the totem pole. By having these penalties available, we increase the potential for gaining the cooperation of someone who is going to be reluctant to cooperate with law enforcement otherwise. The penalties are a tool we can use to gain that necessary cooperation. Of course, we want to make that distinction. Ultimately, we want to target the ringleaders of these organizations. At the time of sentencing, our recommendation will reflect the particular defendant's involvement. I am sure the judge would take into account whether someone is a mastermind or much lower down on the totem pole, maybe even used in these situations. I agree that distinction needs to be made, and we make that distinction in all the cases that we prosecute.

Assemblywoman Cohen:

This statute itself does not delineate between those parties.

Jeffrey Segal:

The statute itself does not delineate, but all professional prosecutors will make that delineation in practice. We want to target, prosecute, and punish the people who are most responsible and not someone who might be paid \$100 to participate in one of these staged collisions. I feel confident that our prosecutors can make that determination. I also feel confident that the judges can make that determination at the time of sentencing.

Assemblywoman Cohen:

Mr. Kandt said this is a change that has been happening over the last several years, but I recall statewide prosecutions of this in the late '90s and early 2000s. I want to be clear that this is not something new. It has been a problem for the state for quite some time.

Brett Kandt:

You are correct. When I said evolution, I meant over decades, not necessarily that this is a completely new trend. It is a trend we have seen evolve over decades.

Assemblywoman Miller:

Have there been victims in the other vehicles, and of those how many have been casualties and how many have been severe injuries?

Jeffrey Segal:

I do not have details about that. I am not aware of whether or not there have been studies on how many injuries or fatalities there have been as a result of these staged accidents. It makes sense to believe that if someone is out there intentionally causing car accidents, there is a serious risk of death or substantial bodily injury to innocent people.

Assemblywoman Miller:

I am not really asking for studies, I am asking specifically about the 60 incidents since 2010 here in Nevada. If we are dealing with insurance, it seems like we should be able to have those actual numbers.

Jeffrey Segal:

In the cases that have come into our office, we are not aware of any fatalities, fortunately. There have been innocent people injured in those motor vehicle accidents, but I do not have specific numbers.

Assemblyman Watkins:

Are you aware that the National Insurance Crime Bureau has provided a staged accident pocket investigative guide to the Nevada Highway Patrol (NHP) and Las Vegas Metropolitan Police Department (Metro)?

Jeffrey Segal:

I am not aware of this. I can tell you from the director of our insurance fraud unit, they are routinely in communication with Metro and Nevada Highway Patrol. We talk to them about what to look for in these staged accident cases.

Assemblyman Watkins:

In this booklet, the number one factor to look for in a staged accident says specifically that the offenders are primarily Hispanic. That is concerning to me in that if this bill were to be enacted, it would limit the access to justice for minority groups. It is a threat to viable claims that it was staged so that undocumented immigrants living here would release or not pursue their claim. Attorneys would be less likely to take up a claim of a minority person.

Jeffrey Segal:

We do not intend to try to limit anyone who is legitimately injured in a motor vehicle accident from making insurance claims and obtaining whatever compensation to which they are entitled. The only way we are going to move forward with a prosecution is if we believe there is proof beyond a reasonable doubt that someone has engaged in a staged accident. If someone has been involved in multiple traffic accidents over a short period and the person involved in those accidents uses a different name and identifying information, at some point it starts to look like those are not legitimate motor vehicle accidents. I understand the point you are trying to make. We do need to be careful to make sure that we are not infringing upon innocent people's right to assert claims.

Assemblyman Watkins:

That dovetails with the concerns of my colleagues. There are criminal statutes available for your office to prosecute such crimes. By specifically delineating this type of insurance fraud, while your office does not evaluate insurance claims, the insurance industry could use it against undocumented workers and immigrants to limit their access to justice, to scare off attorneys, and to scare off minority groups. How many prosecutions has your office done against either insurance companies defrauding insured people out of their coverage, or drivers of commercial vehicles who falsely allege staged accidents in order to keep their commercial driver's license clear?

Jeffrey Segal:

Our focus in the Insurance Fraud Unit is to investigate and prosecute people who make false insurance claims. It would be up to the Nevada Division of Insurance to address the concerns you may have about the conduct of an insurance provider regarding a specific claim. If someone had a complaint and felt they had been treated unfairly by an insurance company, that would be the first place they would go. I am not aware of our office having prosecuted any insurance companies for allegedly defrauding a claimant. I am also unaware of any prosecutions we have initiated against people who allegedly made false allegations that an accident was staged. If we had evidence of something like that, then that person should be prosecuted and we would not hesitate to do so. I am not aware of any cases we have had in that area.

Assemblyman Hansen:

I want to compliment the Attorney General for bringing this forward because the Insurance Fraud Unit has found a trend with which they are concerned. Many of the issues that have been addressed have played around with the idea that this is really a public safety issue. There are Nevada citizens that have been harmed and possibly killed in these kinds of deliberately staged accidents. It is appropriate for the Attorney General to bring this forward. I am sure we will have testimony from the insurance industry. If we were able to reduce these staged accidents substantially, it is likely we would see a decrease in the amount we pay for car insurance as well. If there are crime rings organizing the stagings, we want to enhance the penalty so your office can get these people off the street. By doing that, you may expand the prison population, however, you may reduce it in the long run because this type of nonsense would decline in Nevada. You may actually be saving taxpayer dollars in

prison populations. If this acts as a deterrent to crime, there would be fewer people in the prison system. The only question I have is in reference to the trend. Is that something you are going to address now, or is that something the insurance industry brought to your attention? Obviously, there is a reason behind bringing the bill forward this session. Who is actually charting this trend? It seems to be a big enough concern that you felt you needed to bring this bill forward. Is this something the insurance industry is seeing? This really is an insurance unit bill, not really a criminal bill.

Brett Kandt:

You are correct. Someone cannot stage these accidents if they are in prison. With regard to the trend, our Insurance Fraud Unit sees the trend in terms of the cases that are brought before them. They have seen movement toward large-scale activity targeting commercial vehicles. I cannot give you the exact number of cases that involve commercial vehicles. I do not know if our people down south can provide that to you at this time. Perhaps the insurance industry representatives can talk about some of the trends they are seeing from their point of view.

Assemblyman Hansen:

I think our focus should be on public safety more than anything else.

Assemblyman Wheeler:

I want to thank my colleague for pointing out some of my points in that it might save us money. As far as the cost to the Nevada taxpayer, would it not also be insurance savings spread out among the 2.7 million people in the state? I think it would be substantial in terms of a loss in the rise in insurance premiums if we were able to deter this type of crime. I remember from my law enforcement days that the bar for assault with a deadly weapon is quite a bit higher to bring into court than an insurance fraud. When we look at other statutes for other crimes and try to lump this into other crimes, that bar would be quite a bit higher. Is that correct?

Brett Kandt:

The first part of your question I will leave to the insurance industry experts. The effect of fraudulent activity upon insurance premiums is not my wheelhouse; it is theirs. With that, I will turn the second part of your question over to Mr. Segal.

Jeffrey Segal:

The burden of proof in bringing a battery or assault with a deadly weapon charge can be significantly higher depending upon the particular facts of how the accident happens. I do not think it is a good substitute for this statute. In terms of the cost to taxpayers, the money that insurance companies pay out in fraudulent claims has to be paid by someone. It ends up getting paid by consumers through higher insurance premiums. I am sure the insurance industry has more specific numbers on that. This statute will make a big difference in terms of creating a strong deterrent. Hopefully we would reduce the number of these cases, resulting in fewer people in prison, fewer fraudulent insurance claims, and less danger to the public.

Assemblyman Wheeler:

When you are looking at existing statutes, it is harder to prosecute those cases, therefore there are fewer of them per capita. Something like this would be a greater deterrent because it would move it to a B felony and make it easier for the district attorney.

Jeffrey Segal:

It would be easier. The deterrent effect would be much stronger with the enhanced penalties for these particularly dangerous forms of insurance fraud. Not all insurance fraud is equal. This type of insurance fraud endangers people's lives. For that reason, it should be treated differently than the ordinary type of claim.

Chairman Yeager:

We want to hear from the Real Estate Division and they have some time constraints. I am going to put this hearing on pause for the moment. I would like to invite the Real Estate Division to the table. We have Bruce Breslow, who is the Director for the Department of Business and Industry; Terry Reynolds, the Deputy Director of Administration for the Department of Business and Industry; and Sharath Chandra, the Administrator of the Real Estate Division.

Bruce H. Breslow, Director, Department of Business and Industry:

I would like to introduce you all to Sharath Chandra. He did great work in the Housing Division, was promoted, and then became the head of the Real Estate Division four months ago.

Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry:

We would like to give you an overview of the Real Estate Division. The Division is broadly separated into two segments. We have real estate licensees and common-interest communities (HOAs). The big differentiation between the two categories is that the HOA piece is self-funded, whereas the Real Estate Division licensees section is funded by an appropriation through the General Fund. In the real estate section we have: real estate licensees; builders/developers; timeshares; appraisers; and energy auditors. We oversee those general licensees in the real estate section. Looking at the graph [page 1, ([Exhibit D](#))] you can see our growth over a couple of years. We have significantly grown in the number of licensees. We have gone from almost 37,000 to 42,000 licensees. There has been a significant increase in overall licensees.

On the next page [page 2, ([Exhibit D](#))], we break down the general trend, which is moving higher. The real estate licensee section includes brokers, salespersons, and property managers. That trend has increased to 12 percent. The timeshare industry registers timeshare companies and regulates them through the Division. When we talk about timeshares we are talking about Marriot, Wyndham, Holiday Inn, and Silver Legacy; they are the large players in southern Nevada that are part of this group. There has been great growth in that segment. We regulate timeshare salespeople and timeshare permitting. That has seen about a 50 percent increase in growth. The builder/developers are another area we oversee.

We oversee advertising and common community names for residential use, such as large developments like those of D.R. Horton and Pardee Homes, among others. There has been great growth in that area and the trend reflects that. There is a 350 percent increase, which is tremendous for our state. We also oversee the appraisers and energy auditors. Those are regulated more on a federal level so we make sure we enforce those requirements; we regulate the licensing and education requirements.

The one area I wanted to focus on is the staffing levels. On page three ([Exhibit D](#)), you can see a graph showing that the real estate section, funded from the General Fund, had a peak of 29 employees. With the recession we dropped down to 17 positions, a 40 percent drop. It essentially decimated our section. It was a hard struggle and I want to compliment our staff for hanging in there and working through that period. Customer service and those types of things have fallen to the back burner and we have worked hard to bring this Division up. Looking at the next chart, you can see the director's office worked with the Office of the Attorney General to temporarily fund 5.4 positions. That office was kind enough to provide those mortgage settlement dollars. Those have built our staff back up, but we are still at a 31 percent deficit as far as staffing. Thankfully, the Governor's budget this time has a recommendation to fund those 5.4 positions with General Fund dollars, bringing us back up to speed.

Page four ([Exhibit D](#)) relates to common-interest communities. We have an ombudsman specifically designated for this section that works with homeowners, HOAs, boards, and commissions. We have a new ombudsman that we have just brought on board, Charvez Foger. He has extensive experience in federal, state, and local real estate. He is going to enhance that section and really improve the relationships we are trying to build. The current ombudsman is now the deputy administrator for the Real Estate Division. Sharon Jackson brings tremendous experience. She will be in northern Nevada and help us enhance our division here. There is a diagram showing the number of registered HOAs, community managers, and HOA units. That has seen a steady growth. Half of all Nevadans live in HOAs. That is something we all inherently have in common. The last piece of this is the oversight. We have three commissions which are the Real Estate Commission, the Commission for Common-Interest Communities and Condominium Hotels, and the Commission of Appraisers of Real Estate.

Bruce Breslow:

Some of you are in the real estate field and know that in the past we have testified that if we could get customer service to zero, it would be a drastic improvement from where it was six years ago. Because of the cuts in personnel, one of the things that happened was the northern Nevada office of the Real Estate Division was closed to the public. There was no ability for anyone in northern Nevada to go to an office. Cutting into the positions in southern Nevada, there were long waits for anything to get done. Sharath and his predecessor, J.D. Decker, have made massive changes in operations to streamline things. They were both young and naïve to state government. They said, "I want to let you know we cut expenses by 20 percent and saved a lot of money so we will be able to add positions." They are a General Fund agency, so what they did was save money so that the General Fund would receive more, but

did not provide more money for the agency. We were able to bring a decision unit, supported by the Governor, to change the temporary positions that had been previously added from the Office of the Attorney General's mortgage settlement money to the General Fund. It is still a much-challenged agency with regard to the number of employees. We are working with a staff of approximately five or six in northern Nevada that do a lot of behind-the-scenes work to find a way to reopen that office to the public this year. It will provide limited services, but at least it will be some place that the public and those in the industry in northern Nevada can go to speak with someone. That is the goal this year. We hope to complete that in the first year of the biennium. We do not have additional personnel to do it so we are working on magic and charm, trying to find a way to increase customer service to the public. The industry took a huge hit when the real estate market collapsed in 2008. As you can see, it is growing in southern Nevada. The property values and the land prices are growing exponentially. The same is happening in northern Nevada as manufacturing has taken a foothold. The prediction is that there is a need for 50,000 new homes in northern Nevada in the next 5 to 7 years just to accommodate that. The state is making a rebound. The Division is doing its best to improve customer service. Because that operates from the General-Funded side, it is still a challenge.

Assemblyman Pickard:

Although currently inactive but having been a broker for much of the period we are discussing, I want to commend the Division and particularly the Department of Business and Industry, as they have overseen the Division, for doing a fantastic job with the limited resources you have. I would encourage you to continue to make as much of the interaction online as possible. You have made great strides there. I just want to commend the Division for a job well done.

Sharath Chandra:

Thank you, we appreciate that. That is exactly our goal.

Assemblywoman Jauregui:

Director Breslow, you mentioned using the Attorney General's national settlement funds for staffing. I know some of those funds were also used to create the new program Home Means Nevada. Could you give me an update on Home Means Nevada and where we are with that?

Bruce Breslow:

Home Means Nevada is a nonprofit group. Within the group there is a program called the Home Means Nevada Home Retention Program. That was put into place at the peak of the collapse in order to try to purchase mortgages at a discounted rate from the Department of Housing and Urban Development (HUD). We would negotiate with the owners of the property, fix up the homes using licensed contractors, market them, and sell them for neighborhood stabilization. It took HUD a year and a half to find mortgages that the program could purchase. The promises from HUD rang on deaf ears. We were finally able to purchase 220 notes. They were notes that the nonprofit staff could utilize under the Housing Division. That program is winding down and should close next month. There was

money from a mortgage settlement of \$49 million that was used, as well as a loan from the Housing Division of \$51 million. The housing division money was returned as soon as it became obvious there were no more notes that the nonprofit could purchase. Of the \$49 million from the AG's office, \$45 million has been returned to the General Fund, of which \$10 million went back to the Attorney General's office because it was not used to purchase notes.

Assemblywoman Jauregui:

Of those 220 notes that were purchased, how many of those homeowners received assistance in terms of principal reduction modification and how many of those notes do you still have?

Bruce Breslow:

I do not have the answer at hand, but I will send you the report. We do regular reports to the Legislature. I believe December was the most recent report of every number. The answer to that is in the report that was submitted to the Legislature. I will get a copy to the Committee.

Assemblywoman Jauregui:

I know that we will have to return the unused hardest hit funds to the United States Department of the Treasury. What have you been doing to correct the audit of the Hardest Hit Fund done by the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP)? Where are we on how much money is left over?

Bruce Breslow:

The Nevada Hardest Hit Fund is overseen by a nonprofit called the Nevada Affordable Housing Assistance Corporation (NAHAC). The Nevada Affordable Housing Assistance Corporation is not affiliated with the state of Nevada. It was a nontransparent nonprofit for most of the time it operated. The State has been trying to assume more control over that nonprofit. The board that was in place during the federal audit you are referring to did not have any State of Nevada representatives. We worked with the Treasury Department for a year and a half to get them to apply pressure on the board because the Housing Division was unable to receive minutes. The information coming out was not good. The money going out to the public was not going into the hands of the people. We wrote a poignant letter to the Treasury Department pointing out all of the issues and problems the state was having with NAHAC. We had been talking to the Treasury Department all along, but once they received it in writing, they finally took some action to apply pressure to NAHAC, which led to the board resigning. Before they resigned, they agreed with the Treasury Department and Nevada's recommendations to change the bylaws to allow the State to appoint members of the board. A new board was put in place. Mr. Chandra was at one point one of the new members of the board. Many of the employees resigned so we brought in the young woman who ran the mediation program for the Nevada Supreme Court. She was brought in to revitalize and redo this program.

The audit said that the State of Nevada wasted \$8 million of taxpayer money. We do not believe that is true. The Housing Division and NAHAC have been working with the Treasury Department. They have found that unauthorized spending is somewhere between

\$100,000 and \$200,000, not \$8 million. That money was apparently authorized for company Christmas parties and things that were inappropriate. We are going to have a problem when the Treasury Department finally writes a letter back to the State and to SIGTARP about what the final number is. Since it is not a state agency and there are no state employees, how does the State cover the \$100,000 to \$200,000 cost? How does the nonprofit do it? Since the only mission of that nonprofit was the operation of this program, you do not want to use federal funds to pay for what was inappropriately done in the first place because, that is what the nonprofit is being dinged for. In the meantime, the public records requests from SIGTARP are so overwhelming that the staff of the nonprofit was spending 90 percent of its time just auditing what happened in the past and has been unable to do much about what is going on in the present.

What we are seeing nationally is that the Hardest Hit Fund program has been a failure in almost every state. The money is not getting out appropriately into the hands of the people that were hardest hit. In Nevada it has been very difficult. The Housing Division itself has provided 10,000 new loans for affordable housing in the last two years whereas the Hardest Hit Fund has only been able to offer a few hundred. The restrictions on that program make it very difficult for it to be successful.

Assemblywoman Jauregui:

Those are restrictions created by NAHAC because the Treasury Department restrictions are very flexible. I think there were only 117 applicants in 2017. We were awarded \$200 million five years ago. For 60 consecutive months, we led the country as a hardest hit state in both foreclosures and underwater homeowners. We have only been able to use half of that money and \$200,000 was misspent. We had 117 applicants and now we have to return the money. It is embarrassing.

Bruce Breslow:

You are correct and that is why we were so angry, working in lockstep with the Treasury Department to regain control of that nonprofit during the two years that this occurred. Now that the State has appointed the majority of members on the board, it is finding there are so many restrictions on the programs that the people who are applying for funds do not qualify. They are working to try and lift those restrictions, but the Treasury Department must agree with any changes to the programs. Mr. Chandra could answer more specific questions you have. It has been very frustrating for the State of Nevada. While the Housing Division was just awarded the distinction of being number 1 in the nation for affordable notes going out—more than 10,000 in two years, this nonprofit continues to struggle under the program. If you have specific questions, Sharath was more involved with NAHAC. I was more involved with trying to hammer the Treasury Department and working with our national delegation of Senators to put pressure on the Treasury Department to take action against NAHAC when all of this was going on.

Assemblyman Thompson:

I appreciate what our Assemblywoman just pointed out, but I also want us to look at our great opportunities. You have a double treasure in your team. I have personally worked with

Mr. Chandra and it is great to see how far he has come and the knowledge he has gained since coming to Nevada. Mr. Folger is another valuable member. I hope there is still a role for Ms. Verisa Campbell from the mediation program because that is still very necessary.

Chairman Yeager:

Thank you for joining us today. At this point, we will reopen the hearing on Assembly Bill 15. We will begin with testimony in support of this bill.

Robert L. Compan, representing Farmers Group, Inc.:

I hope I can answer some of the questions offered to the Office of the Attorney General (AG) as best I can from my perspective of being in the insurance industry for over 30 years. I first want to address the number of staged accidents. The AG said somewhere around 60 over a certain period. It is really a lot more than that. There are hundreds of staged accidents that never make it to the prosecutorial table. They will either be dropped or will not be able to be fully investigated. To Mr. Watkins' question about the National Insurance Crime Bureau that now says the majority are being staged by Hispanics, in the late '90s, it was eastern Europeans doing this. They are very sophisticated rings that do insurance fraud. Picture yourself driving down the road and someone pulls up on the left side, someone pulls up behind, and the person in front of you slams on their breaks. You have a party that could have four or five people in that car. Behind your car, there are another four or five people who are also involved but become the independent witnesses for the police investigations during that staged accident. It does not just involve the people in those cars. It goes all the way up to doctors, plaintiffs' attorneys, and down the line. It is not just targeting a certain ethnic race or class, it is a sophisticated ring. The main thing is there is more involvement than what was reported. It has been an ongoing issue.

What the AG was trying to promote is that this really is a safety issue, especially when you have staged commercial accidents, because of their high value. People are being hurt. Sometimes people are getting killed in these accidents. I am also the Vice President of the Nevada Insurance Council. Our website is being remodeled and should be up in a week or so. We partnered with the AG's office and with the Las Vegas Metropolitan Police Department (Metro) and did an actual staged accident on a commercial 18-wheeler to show the impact it has on Nevadans and their families and the costs that are associated with it. It is a lucrative business. It is very costly to us. Assemblyman Wheeler alluded to the cost of insurance as being borne by Nevadans and it really is. One of the questions I always get while testifying is, "How will this affect my insurance rates?" I cannot quantify that because it is something we will not know until after it happens, but it does affect Nevadans.

Assemblyman Fumo:

It is in the interest of your company not to pay out on these claims. If the penalty was that you cannot file a claim rather than putting these people in prison for ten years, is that not the goal you are seeking? Your company does not want to pay out those benefits. Regarding those who are convicted of a crime—if they were not allowed to prosecute a case or go forward as a plaintiff, is that not your goal?

Robert Compan:

It is usually the opposite. The claims have already been settled and paid before we actually go to the prosecutory stages. We have statutory responsibilities to investigate and settle claims within a certain amount of time. The investigation period can take time and you have to pay those claims before you can put a case together for the AG to prosecute.

Assemblyman Fumo:

If the officer is citing the person at the scene for staging an accident, that goes to the district or city attorney's office within a week. Those cases are prosecuted within 60 days. I am sure their time frame is much quicker than yours in putting together a case. If an accident involved a driver under the influence (DUI), you may wait to see what the resolution is on the DUI. If you see a citation for a staged accident on the report, you would have the ability to wait to see how the hearing resolves. If they are convicted, then you do not have to pay out. It seems that the goal is to not pay out on these claims, rather than to put people in prison.

Robert Compan:

I cannot speak for the AG's office. That is something that could be looked at as a friendly amendment. It is not our bill, even though it affects our industry, but it is certainly something to take a look at.

Assemblyman Elliot T. Anderson:

I am still trying to get my head around why the RICO statute is not applicable here. It is a federal racketeering statute used to go after criminal enterprises like those you are describing. I was hoping you could shed some light on the insurance companies' efforts across the country to get the United States Attorney General to start looking at these rings. This seems like something right up their alley.

Robert Compan:

Agreed. A lot of these are not proven racketeering cases but they are staged accidents. It could go through RICO, but that is up to the prosecutor. Some of the data, which I do not have but will be providing soon, is from the National Insurance Crime Bureau. There are some of the statistics that were asked about that would help to answer your questions.

Assemblyman Elliot T. Anderson:

I want to go after these people. I do not support this type of activity. But the thing we have to balance is that the director of the Department of Corrections testified that we are on the verge of having to build a new prison. When you stack charges that could go under different criminal statutes, you are going to increase those sentences. I have not yet heard why these statutes have not been working. That is what I would need to get some sort of comfort level with this bill. We need to figure out why these statutes are not working. You are saying there is a problem and I believe you and certainly do not want to trivialize what is happening, but this is what we need to get some comfort on this. We have a ton of law that is applicable in these situations, both federal and state. If you can talk to your clients and get us that information, that would be appreciated.

Robert Compan:

Any bad behavior that is treated differently is a deterrent. If we can get a deterrent, maybe we will have fewer staged accidents and fewer prosecutions. It might be more appropriate for the AG's office to answer. I will try to get some data and statistics for you.

Assemblywoman Cohen:

Have there been any attempts by the insurance industry to institute civil RICO cases against these criminal enterprises? If you do not know, I would appreciate if you could get me that information.

Robert Compan:

I will ask for that information.

Dan Musgrove, representing CSAA Insurance Group:

I am here to give a ditto in support of the bill.

Chairman Yeager:

Is there anyone in Las Vegas that would like to testify in support of the bill?
[There was no one.] Anyone in opposition?

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

The Committee has largely hit upon most of the areas we were concerned with. I will go directly to some of the arguments for deterrence that the Attorney General's Office put forward. The National Institute of Justice, which is the Department of Justice's research evaluation wing that helps people make smart policy when talking about crime, has talked about five factors of deterrence. The first is certainty of being caught. It is vastly a more powerful deterrent than the punishment, which is what the Attorney General is harping on here in raising that category D felony to a category B felony. I know all the members of the Committee remember the remarks of Justice Hardesty and the problems we have with category B felonies in the state of Nevada. Sixty-two percent of people in prison are held on category B felonies. He told the Committee the sentence ranges in category B make "absolutely no sense." We want to talk about the punishment here in this case.

As a second issue of deterrence, sending people to prison for longer sentences has not been proven over time to be an effective method of deterring crime. The third, to go to Assemblyman Elliot T. Anderson's point, is a person's belief they are going to be caught is a much stronger deterrent than the amount of punishment they would receive. It is more of an apprehension problem than a penalizing problem in this case. Increasing penalties has little to do with the deterrence of crime. That is the fourth fact of deterrence that would go more toward Assemblyman Elliot T. Anderson's point. We also need to look at how this insurance fraud issue straddles the line of criminal and civil law. The points the Committee made are well taken. Perhaps reducing the likely chance of being paid out would be a more effective deterrent for this crime than increasing the criminal penalties. Moreover, we should focus on the victims of these crimes. It would be smarter to work on getting the victims

paid faster rather than putting people in prison longer at a cost to the taxpayers of \$25,000 per year. Increasing the penalty of this crime would do little to deter this crime. There are laws on the books that already deal with this issue. We would be opposed to this bill.

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

I want to echo Assemblyman Elliot Anderson's points and highlight all the crimes already within the *Nevada Revised Statutes* (NRS) that capture these bad actors and this type of activity. We have already talked about battery with a deadly weapon—a category D felony carrying 2 to 10 years, and battery with a deadly weapon that causes substantial bodily harm escalating from 2 to 15 years. We also have felony reckless driving under NRS 484B.653, subsection 6, which carries 1 to 6 years for driving with ". . . willful or wanton disregard . . ." for the safety of persons or property on our Nevada roadways. The prosecutors have these statutes at their disposal to prosecute these individuals. In addition, prosecutors could go after these individuals whether they are low-level actors as coconspirators, mid-level actors, or masterminds under coconspirator theories, accomplice liability theories, or principal liability theories. If these people flee the scene because they get nervous thinking the police will be on to their organized crime ring, they are looking at a felony for leaving the scene. Last session, those penalties were increased to 2 to 20 years and a \$2,000 to \$5,000 fine with no probation. There is a myriad of crimes at the prosecutor's disposal to go after these bad actors. What we hear from prosecutors is that they want the tools. I would submit they already have the tools.

I also heard testimony this morning that the burden of proof is higher for these types of crimes. I simply do not agree with that. The burden of proof is the same. Prosecutors must prove each element of the charge beyond a reasonable doubt, whether we are talking about specific intent crimes or general intent crimes. Batteries are general intent crimes; the burden of proof would not be higher. The prosecutors would still have a wealth of information, a wealth of discovery due to a collateral civil proceeding going on. It has been my experience that the prosecutors will have a mountain of discovery whether it is taped statements or police reports. Often in Washoe County, we have the Major Accident Investigation team (MAI) come in, run by the Nevada Highway Patrol (NHP) or the Reno Police Department. They do a thorough and vetted investigation of these accidents. We will have traffic accident reports, video testimony, and on the civil side we have sworn depositions. The prosecutors have all the tools in the toolbox necessary to go after the bad actors perpetrating these types of crimes. I do agree with the comments by Mr. John Piro. It is the fear of getting caught that is really the deterrent; it is not the punishment. These actors do not know what the punishment is for any crime. It is the fear of getting caught and a strong police presence. Having NHP patrol the roadways as they do is the strongest deterrent. The Washoe County Public Defender's office strongly opposes this bill. Prosecutors already have the tools at their disposal to go after these bad actors.

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

We are opposed to this bill for a number of reasons; I am echoing many that have been touched on this morning. I want to commend the Committee for putting this

under scrutiny when we are talking about an increase in penalties. I also sit on the Advisory Commission on the Administration of Justice. The number one priority of that commission was looking at our sentencing structure in this state. It has led to a crisis in our prisons and it has led to an insane amount of money being spent on incarceration and sentences in the Department of Corrections. We scrutinized each of those offenses from category B to category E. We discovered that there are too many people sitting in the Department of Corrections based on arbitrary sentences. Those sentences are not based on the individual. They end up in prison based on the crime alone when we really need to look at how we assess those sentences in Nevada. That is why we are supportive of efforts to establish a sentencing commission.

I implore this Committee, as you move forward and look at any increase in penalties, to continue to ask those questions. Is the sentence appropriate not only for that crime, but also taking the offender into account? We also have concerns about what Assemblyman Watkins brought up. The National Insurance Crime Bureau stated that one indicator in investigating these insurance fraud claims is looking at the race of the individual. One of the factors to consider is if all parties involved in the accident are from the same country or ethnic background, that could be proof that there is an insurance fraud occurring. We find this reprehensible and intend to investigate this further. It opens up the doors to racial profiling that is unacceptable in these cases.

Finally, we were looking at the fiscal note. The Department of Corrections says that 12 offenders are currently serving a sentence under NRS 686A.291, however, only one of them was charged with intentionally staging an accident to collect a settlement. Perhaps you really are looking at more of an enforcement issue rather than needing to increase a penalty for deterrent value.

Assemblyman Pickard:

I tend to reject the notion that just because we pay attention to race it makes people racist. I am troubled by that line of thinking. It is certainly our job to scrutinize the laws put before us. We say the prosecutors have all the tools in their toolbox that they need, yet it appears that it is not working. Are you saying that prosecutors and police are not doing their jobs? Why is it that this is a mistake if, in fact, the police and prosecutors are doing their job?

John Piro:

I would never say that prosecutors and police are not doing their jobs. We have a great police force and a great prosecution team in Clark County. I know Mr. Sullivan has spoken about the prosecutors and police in Washoe County as well. I would never say that. What we are more concerned with is raising the penalty to increase deterrence value. We are seeing that is not necessarily working. Instead of spending more money incarcerating people for a longer time, perhaps we can take some of those savings and invest that into training for police officers and prosecutors to prosecute these crimes, catch the perpetrators, and put the

right people behind bars. Even if it is just one person for 1 to 4 years, you are looking at \$100,000 on a category D felony. We are not saying do not penalize conduct. What we are saying is: rotely asking for a category B and increasing penalties is probably not smart criminal justice policy.

Chairman Yeager:

Any other questions from the Committee? [There were none.] Anyone in Las Vegas who would like to testify against the bill? [There was no one.] Anyone in the neutral position?

Barbara D. Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry:

I thought it would be appropriate for me to come and answer any questions you might have. One of my jobs in New Hampshire was running the criminal fraud unit for insurance fraud. I have a breadth of knowledge in this area.

Assemblyman Elliot T Anderson:

I certainly recognize that this is serious activity. I would like to know why the RICO statute is not being used to break the backs of these criminal enterprises.

Barbara Richardson:

It actually is being used in some states. What happens is that the crime rings cross state lines. For example, we had a very large case in New Hampshire and we broke it down by the series of accidents. It was a page the size of this table of all the connections and people within the criminal enterprise itself. We had that issue in New Hampshire and we crossed it into Massachusetts because we started investigating and it pushed them into the next state. Luckily, Nevada does not have as many crossovers. We ended up working with Massachusetts doing the same thing. We eventually pushed them into New York. That is where the RICO case actually came to play. We all came together and took one big action. A very large RICO case already happened in New Jersey. It was the same thing with the movement. One of the concerns we might be seeing is in California there is a large ring. The concern is that they are coming into Nevada and you are starting to see the beginning of that proliferation. This might be the reason why people are looking into the statute.

Assemblyman Pickard:

Given your depth of experience, do you believe the heightened penalty would act to deter?

Barbara Richardson:

I would rather not opine on that particular question. I would like to take a neutral position. I honestly believe that is something the state policymakers should be deciding based on your resources.

Assemblyman Hansen:

From your position in insurance, when these sorts of things do occur and insurance policies are paying these things out, it obviously adds a cost to consumers who purchase auto insurance. Is there currently an increase in auto insurance costs because of this kind of

crime? The other issue, from your experience back East, is that of public safety. When these rings engage in these types of activities, someone must have been killed. While it is nice to look at it from a mathematical or economical perspective, we have to keep in mind the Attorney General's responsibility is to protect the public safety. That is where the genesis of this bill came from.

Barbara Richardson:

One of the cases I saw involved not just the criminal ring but also hitting consumers. There was a death in Massachusetts. An elderly woman was caught up in the accident and she was killed. That is what drove a lot of us in the East to start working together more. I would hate to see someone die to generate that kind of action.

Assemblyman Hansen:

That is what I was going to say. Are we going to wait in Nevada until we actually have someone killed before we do what the Attorney General is suggesting? Is there any relationship with costs?

Barbara Richardson:

There is always a cost issue. One of the issues for the Division itself is that we require payment out to consumers as quickly as possible when there is an accident. The idea is to make them whole as quickly as possible. Our pressure on the other side pushes the carriers into the position that sometimes they pay before they realize how large the ring is getting. What has happened is that the payments go out and it is not until you hit the \$100,000 or \$500,000 mark that you actually realize there is a crime ring involved.

Assemblyman Fumo:

In Nevada, we do have reckless driving causing death which would qualify under that statute if someone died in that way. You said the prosecutions back East went to New Jersey and New York. Was the one in New York a federal prosecution or a state prosecution? Once it crosses state lines, it is under the federal purview and there are much higher sentences already.

Barbara Richardson:

That one happened to be federal because of the crossing of the state lines. The New Jersey one was a state case.

Chairman Yeager:

Are you able to speak on the minimum insurance coverage required in this state versus that of other states in which you have been involved?

Barbara Richardson:

You are talking about the minimum liability standards?

Chairman Yeager:

Yes.

Barbara Richardson:

I feel uncomfortable in this position, but I would suggest that we are underinsured here. Consumers are free to make that choice but it does cost more when you change the insurance limits. There is always a balancing act for everybody.

Assemblywoman Cohen:

In regard to the prosecutions back East, was the RICO statute used to bring in any forfeitures?

Barbara Richardson:

The forfeitures you are talking about was mostly the cars themselves. Most of them were so messed up that it did not make much difference. They were used repeatedly. They would change the tape and the plates. If you are looking for cash from the players themselves, there was not very much.

Assemblywoman Cohen:

Were the insurance proceeds able to be recouped?

Barbara Richardson:

The insurance proceeds were able to be recouped.

Assemblyman Fumo:

You said in Nevada that we are underinsured. Our minimum rates are 15/30; are you saying we should increase the rates?

Chairman Yeager:

I know you did not want to take a position, but could you answer that question in general terms regarding minimum liability coverage in some of the other states you have been involved in?

Barbara Richardson:

It really goes all over. I cannot tell you what the span is. A lot of it depends on what the incidents are in your state. The reason why I am uncomfortable making that opinion here is because there already has been an increase in the premium for insurance in Nevada because there is an increase in the cost of fixing cars. There has been slightly more bodily harm to consumers so the cost to take care of consumers has risen. My concern is we do not want to find that people are in an accident and are not fully covered. Again, it is newer cars and the fact that the cost of health care is going up that contribute to rising prices.

Chairman Yeager:

Any other questions? [There were none.] I do not see anyone in neutral down south, so I would like to invite the sponsors of the bill back to the table to have a final word. Before we do that, I want to correct the record. There was some debate about using the battery statute versus what is in Assembly Bill 15. In looking at the battery statute under NRS 200.481, that does require the proof of willful conduct that would have to be proven

beyond a reasonable doubt. If you look at Assembly Bill 15 in section 1, subsection 1, paragraph (b), subparagraph (2), it would require the actors be knowing and willful. Both of those would have to be proven beyond a reasonable doubt to get a conviction. I wanted to make sure that was clear.

Brett Kandt:

I appreciate the Committee's consideration of this bill and what we are proposing and appreciate your accommodating me today. In conversation with some of the insurance industry representatives, they have indicated there may be some additional data we could provide you with that would prove helpful. We will strive to get that to you. I also listened to you during opposition. I wanted to indicate that I have dialogued with representatives of the defense bar about this as well and will continue to dialogue with them as we try to formulate something that may be appropriate.

Chairman Yeager:

Would you like to make a closing statement, Mr. Segal?

Jeffrey Segal:

I want to thank the Committee for consideration of what is an important bill that if enacted would protect the public from the dangers of this type of crime.

Chairman Yeager:

Thank you both. With that, I will close the hearing on Assembly Bill 15. That leaves us with one final bill on the agenda. We will now open the hearing on Assembly Bill 14.

Assembly Bill 14: Requires the submission of a complete set of fingerprints to the Central Repository for Nevada Records of Criminal History for court orders relating to a legal name change and citations for domestic violence. (BDR 3-172)

Mindy McKay, Records Bureau Chief, General Services Division, Department of Public Safety:

The General Services Division houses the Central Repository for Nevada Records of Criminal History, which maintains statewide records of Nevada arrests and dispositions. Section 1 of this bill is proposed in an effort to ensure that a legal name change requires a set of the individual's fingerprints. Currently, *Nevada Revised Statutes* (NRS) 41.290 requires the Central Repository to include a legal name change in the person's record of criminal history without a requirement to accompany the order with fingerprints. Further, section 1 proposes that the individual's fingerprints be submitted in a manner prescribed by the director of the Department of Public Safety. Criminal history records at the Central Repository are fingerprint-based. When we receive court orders to change names, the only way we can be 100 percent sure the subject of the order is the person whose record we are changing is through fingerprint submission. We understand that the name change occurs at the court, most of which do not have fingerprint machines. Therefore, the Central Repository suggests it would be the individual's responsibility to get their fingerprints taken, pay the rolling fee, and submit that to the Repository with their order.

Section 2 of this bill seeks to amend NRS 171.1229 to require a complete set of fingerprints for all violations of county, city, town ordinance, or state law that constitutes domestic violence for which a citation is issued in lieu of taking the person before a magistrate. Currently, NRS 171.1229 allows a peace officer to obtain not less than one fingerprint for domestic violence citations. In order for the Central Repository to create a criminal history record or append a citation to an existing criminal history record and forward the citation to the Federal Bureau of Investigation, a full set of fingerprints is required. This is to ensure a fingerprint-based criminal history record can be established in the Nevada Criminal Justice Information System for nationwide information sharing for public and officer safety. Additionally, having a fingerprint-based criminal history record available for criminal justice agencies to access allows the proper penalties to be applied for subsequent offenses of crimes of domestic violence, whereas the third violation becomes a felony pursuant to NRS 200.485. This is especially critical given the seriousness of this particular crime, not only for the victim's safety but also for officer safety. We understand that the citation occurs in the field in which the officer issuing the citation does not have a fingerprint machine. Therefore, we will work with the impacted agencies to develop an acceptable and efficient process by which the fingerprints can be captured and submitted to the Central Repository. With that, I request the Committee's support for Assembly Bill 14 and I am happy to answer any questions you may have.

Chairman Yeager:

With respect to section 2, we are essentially going from requiring one fingerprint to a complete set of fingerprints. How has your relationship been with law enforcement up to this point? It seems that the current law requires them to get one fingerprint. Are they currently able to do that in the field or do they need to go to the station to do that?

Mindy McKay:

Yes, they are able to do that. We have received a few that have been submitted with less than ten. We cannot do anything with those, so they sit there.

Assemblywoman Cohen:

When people are going through a divorce, under our statutes they are allowed to change their name as part of their divorce decree. Is there going to be any effect on that with this? I did not see that but I am interested in your office's take on that. Is there a possibility of bad actors using that as a method to change their name without any oversight?

Mindy McKay:

I would have to go back over the statute to determine why a person would go in front of the court. If they have a criminal history record and they disclose that, that is when they would be required to submit the fingerprints.

Assemblywoman Cohen:

Since they are not required to disclose that in their requests, we have a possibility of someone getting a name change without any oversight. I just want to address that with your department and make sure you are aware of that.

Chairman Yeager:

I heard in your testimony that because the order for granting a name change will have the requirement of providing a complete set of fingerprints, that it will be on the applicant to obtain that and send it to the Central Repository with the order. It looks like existing law requires the court to send the order to you. If this bill were to be enacted, would you still get that order from the court initially and then wait until you receive the fingerprints from an applicant to act on the order?

Mindy McKay:

Since this is a new requirement, what we would do for the moment is, if they send the fingerprints separately from the order, we would put the prints in a pile and marry them up when we get the order.

Chairman Yeager:

With no other questions from the Committee, I would invite anyone in support of this bill to come to the table. [There was no one.] Anyone in opposition to the bill? [There was no one.] Anyone in neutral? [There was no one.] Any concluding remarks you would like to make to the Committee?

Mindy McKay:

Thank you for your support. We are happy to help you outside of the Committee, and if anyone would like to meet with us we are happy to do so.

Chairman Yeager:

We will close the hearing on Assembly Bill 14. Is there anyone who would like to make any public comment? [There was no one.]

The meeting is adjourned [at 9:51 a.m.].

RESPECTFULLY SUBMITTED:

Erin McHam
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a letter dated February 7, 2017, in support of Assembly Bill 15, to Chairman Steve Yeager and the Assembly Committee on Judiciary, from Attorney General Adam Paul Laxalt, presented by Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General.

[Exhibit D](#) is an overview document of the Real Estate Division presented by Sharath Chandra, Administrator, Real Estate Division, Department of Business and Industry.