

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session
February 16, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:33 p.m. on Thursday, February 16, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, and to Chilton Circle Modular Conference Room, Great Basin College, 1500 College Parkway, Elko. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Tick Segerblom, Chair
Senator Nicole J. Cannizzaro, Vice Chair
Senator Moises Denis
Senator Aaron D. Ford
Senator Don Gustavson
Senator Michael Roberson
Senator Becky Harris

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

Jeff Fontaine, Executive Director, Nevada Association of Counties
Alex Ortiz, Assistant Director, Department of Administrative Services,
Clark County
Jeff Page, County Manager, Lyon County
Lisa Gianoli, Washoe County
Mary Walker, Carson City, Douglas, Lyon and Storey Counties
Chuck Callaway, Director, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department

Senate Committee on Judiciary
February 16, 2017
Page 2

Natalie Wood, Chief, Division of Parole and Probation, Department of Public Safety

Keith Lee, Nevada Judges of Limited Jurisdiction

Thomas Armstrong, Justice and Municipal Court I, Carson City; Nevada Judges of Limited Jurisdiction

Mason E. Simons, Elko Township Justice Court, Department A, Elko County; Judge, City of Elko

CHAIR SEGERBLOM:

We will open the hearing on Senate Bill (S.B.) 8.

SENATE BILL 8: Revises provisions relating to presentence and general investigations and reports. (BDR 14-439)

Do S.B. 8 and S.B. 9 cover the same thing, only one was proposed by the Nevada Association of Counties (NACO) and the other by Clark County? Does S.B. 8 subsume Clark County, or does it raise different issues?

SENATE BILL 9: Revises provisions relating to presentence and general investigations and reports. (BDR 14-437)

JEFF FONTAINE (Executive Director, Nevada Association of Counties):

The NACO bill is slightly different from Clark County's bill. Two of its provisions are in S.B. 9, but our bill also proposes a funding shift.

CHAIR SEGERBLOM:

Are the first two provisions exactly the same in the bills?

ALEX ORTIZ (Assistant Director, Department of Administrative Services, Clark County):

The majority of the bills' content is similar but not the same.

MR. FONTAINE:

Senate Bill 8 reduces the cost counties must pay to the State for presentence investigation reports (PSIs) prepared by the Division of Parole and Probation, Department of Public Safety (DPS), from 70 percent to 30 percent. The bill will also allow counties to take over production of PSIs or enter into an agreement with the DPS whereby counties pay the entire cost of PSIs prepared by DPS within the specified standards and time frame of no later than 45 days.

Presentence investigation reports are detailed investigations of people who are convicted of or plead guilty to felony or gross misdemeanor offenses. Presentence investigation report writers make sentencing recommendations to district court judges. The 2011 *Executive Budget* recommended counties pay the entire cost of PSIs as a way to shift costs from the State to counties to help balance the State budget in the 2011-2013 biennium. Before then, the State bore the entire cost of PSIs.

In the Seventy-sixth Session, the PSI assessment was reduced to 70 percent to be paid by counties. The State's argument was the Division could produce 70 percent of PSIs through established means, while the counties provided 30 percent. Whereas PSIs are only used once by district courts, the State may use them repeatedly. After sentencing, defendants become the responsibility of the State.

Presentence investigation reports are used by the Department of Corrections for inmate classification and designation by correctional treatment agencies and offenders' rehabilitation, by the State Board of Parole Commissioners, by the Division when offenders are paroled and to locate fugitives and absconders in investigation of new crimes. The NACO believes the State receives many more benefits from PSIs than do counties. The cost allocation should be based on their use by district court judges, which is about 30 percent, regardless of who had access to the information to prepare PSIs.

When first assessed in the 2011-2013 biennium, counties paid about \$7.5 million in PSI assessments to the State. In the 2015-2017 biennium, it is about \$9.3 million, and the Governor's recommendation for the 2017-2019 biennium will be \$16.2 million. Six years after the assessment was established, the State's revenues are rebounding faster than the counties' revenue. To put it into perspective, county assessments for PSIs in the 2017 *Executive Budget* represent a 118 percent increase over what counties paid in 2011-2013 biennium. At the same time, county general fund revenues for fiscal years (FY) 2016-2017 are only 6.4 percent higher than in 2012. State General Fund revenues are projected to increase 17.5 percent for the 2015-2017 biennium and 6.2 percent for the 2017-2019 biennium.

The NACO hopes the Legislators of the Seventy-ninth Session will recognize the substantial and growing burden this cost shift is placing on counties and consider reallocating some costs back to the State. Our request for a reduction

was made before the *Executive Budget* was released. Even if the change is made this Session, counties could still end up paying much more for PSIs. Counties could pay an additional 72 percent for services over which they have no control.

Senate Bill 8 will allow counties to assume the responsibility for producing PSIs or enter into interlocal agreements with DPS whereby counties would pay the total cost of PSIs prepared by DPS. The agreements are another mechanism for counties to reduce their costs for keeping offenders who have not been sentenced but are in jails waiting for the Division to complete their PSIs.

SENATOR FORD:

I remember having this discussion in the Seventy-eighth Session.

MR. FONTAINE:

Senate Bill No. 16 of the 78th Session was similar. It also requested the counties' cost allocation be changed from 70 percent to 30 percent. It did not contain the two additional provisions in S.B. 9.

CHAIR SEGERBLOM:

Did S.B. No. 16 of the 78th Session die in Committee?

MR. FONTAINE:

It was rereferred without recommendation to the Senate Committee on Finance.

JEFF PAGE (County Manager, Lyon County):

Lyon County supports S.B. 8. From 2011 to FY 2016-2017, the amount Lyon County paid to the State for services we have not paid for in the past has risen by 541 percent. We are paying between \$155,000 and \$160,000 for PSIs. If that price goes up, Lyon County will look at producing its own PSIs. We have an alternative sentencing program for misdemeanors in Lyon County Judicial District Court. It cost us \$125 per day to house an inmate, so the longer I have to keep inmates in jail because of late PSIs, the more it costs taxpayers. Our motto is, "Get him sentenced, get the general conviction, get him on the bus and get him to Carson City."

SENATOR CANNIZZARO:

Can you estimate how long it takes Lyon County to get PSIs from the Division?

MR. PAGE:

As a small rural county close to Carson City, we experience nowhere near the impact of delayed PSIs than urban counties. Usually, delays occur when people responsible for producing PSIs are sick or temporarily taken from their assigned jobs. We have no complaints with how long it takes to produce PSIs, but we believe we can do it faster than the Division.

SENATOR CANNIZZARO:

If Lyon County produced its own PSIs, would you still have the access or resources to complete them? They are very thorough, including in- and out-of-State convictions, arrests, failures to appear, social history and work history.

MR. PAGE:

I spent 21 years with the Lyon County Sherriff's Office around the jail. Our alternative sentencing staff produces misdemeanor PSIs regularly, working closely with the Division. There may be some additional expenses for Lyon County to buy software, but we could take over producing all of the PSIs.

LISA GIANOLI (Washoe County):

Washoe County spends just shy of \$750,000 annually on its portion of producing PSIs. In 2016, 1,957 PSIs were produced at about \$400 each. We do not have any control over the process. We just pay our assessments monthly to the State. Senate Bill 8 will give Washoe more control over that cost. We reiterate Mr. Fontaine's comments.

CHAIR SEGERBLOM:

Every day you can keep the State off your tail, you make more than \$100. That is good for everyone, especially defendants who do not go to prison. They must just wait for their PSI, then probation.

MARY WALKER (Carson City, Douglas, Lyon and Storey Counties):

Carson City, Douglas, Lyon and Storey Counties support S.B. 8. If we do not fix the funding disparity, counties will come back again and again to the Legislature.

SENATOR CANNIZZARO:

Have Washoe, Carson City, Douglas, Lyon and Storey Counties experienced delays in PSI processing?

Senate Committee on Judiciary
February 16, 2017
Page 6

MS. WALKER:
I have not heard complaints about that.

MS. GIANOLI:
I have not heard complaints about that. The Washoe County court administrator has not expressed that concern.

MR. ORTIZ:
Clark County supports S.B. 8.

CHUCK CALLAWAY (Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):
The Las Vegas Metropolitan Police Department (LVMPD) supports S.B. 8 and S.B. 9.

CHAIR SEGERBLOM:
What is the daily cost to house an inmate in Clark County?

MR. CALLAWAY:
It cost about \$140 per day, between \$130 and \$149.

CHAIR SEGERBLOM:
Is there an average time between defendants' trials and pleas when the PSIs are complete and then sentencing?

MR. CALLAWAY:
On average, LVMPD's jail information shows the average is 50 days between conviction and completion of the PSIs.

NATALIE WOOD (Chief, Division of Parole and Probation, Department of Public Safety):
The Division is neutral on S.B. 8. According to *Nevada Revised Statutes* (NRS) 176.135, the Division is responsible for producing PSIs. It is not within our purview to discuss the assessment division between the State and counties, and it not within the Division's control.

According to NRS, the Division has up to 45 days to complete PSIs. Assembly Bill No. 11 of the 78th Session states we are required to submit PSIs to courts 14 days in advance of sentencing. We provide a letter of intent to the

Legislative Counsel Bureau in regard to our compliance with NRS 176.135. That compliance is 81 percent, and we have had no complaints.

We need a certain amount of time to complete PSIs, plus satisfy the statutory compliance with the provisions of A.B. No. 11 of the 78th Session. The Division has done a fantastic job, especially in the southern half of the State, in turning its PSIs over to courts 14 days in advance. Clark County would like to see that deadline minimized, but we must comply with A.B. No. 11 of the 78th Session.

It is not easy to write PSIs, and I am shocked that anyone believes pretrial counsel could take that over. It takes years to train a PSI writer to be consistent statewide. The Division provides statewide consistency in its sentencing recommendations, but if other entities take over, offenders may become very concerned about PSI inconsistencies. Staff retention could be an issue. If two parties entered into an agreement, when would it cease and desist? Do you hire employees to write PSIs and then let them go?

The Division does a thorough job with the PSIs, and the courts are happy with that. We have worked hard to reduce inmates' time in custody awaiting the PSIs, but these are lengthy documents.

SENATOR CANNIZZARO:

How long has it been since the Division has not sent PSI writers to court for the sentencing?

Ms. WOOD:

We do that in northern Nevada because there are only about 10 courts, which receive about 170 PSIs per month. The 20-plus courts in the Las Vegas area receive more than 600 PSIs a month. The northern court calendars are only two to three hours, so Division staff do not write PSIs then. In Clark County, some court calendars go almost all day, which means I would have to almost double my staff just to keep them in court. In its next budget, the Division will request 14 more staff to write PSIs in the Las Vegas area. That will significantly improve overall operations.

SENATOR CANNIZZARO:

Are PSI writers going to court in the rest of the State, but not in Clark County?

Ms. WOOD:
That is correct.

SENATOR CANNIZZARO:

When you write PSIs, there is a final recommendation as to the proper sentence and to a deferred treatment program or probation. You said there is consistency in how PSIs are written. Do the writers use a formula, or do they review the data to achieve a recommendation?

Ms. WOOD:

With its new budget, the Division will use a new assessment tool. Now we utilize the Wisconsin Module, which is used for case management and PSIs. We plug numbers into a fair, consistent and statewide matrix that prompts the final recommendation.

SENATOR CANNIZZARO:

Will the title of the charge to which the person is pleading affect that matrix?

Ms. WOOD:

It is tied to NRS provisions for the minimum and maximum sentence for a crime. We plug the risk assessment factor into the matrix, and a low, medium or high sentence is recommended.

SENATOR CANNIZZARO:

Is the recommendation dependent on which charge defendants plead to versus the underlying facts of cases?

Ms. WOOD:

In part, because the risk assessment tool has a numeric factor that includes people's criminal histories, egregiousness of offenses and the level of violence toward victims. The tool is a component of the final matrix.

SENATOR HARRIS:

Which PSI costs does the Division pass on to counties?

Ms. WOOD:

The 70 percent-to-30 percent assessment split is mandated by NRS. In the 2015-2017 biennium, many requirements have been imposed on the Division to meet the timeline and staff needs in Clark County. In the

Seventy-eighth Session, the Legislature allowed us to study the monthly workload engendered by PSIs. Staff produced a backbreaking average of 16 to 18 PSIs monthly. The study results allowed us to sufficiently reduce the caseload ratio and how many PSIs can be produced monthly. In its budget, the Division will request an enhancement for the staff we need.

SENATOR HARRIS:

As you continue to increase staffing levels, will the cost of PSIs increase?

Ms. WOOD:

The problem is twofold. The PSI study results indicated the workload is too high, which pushed up the staffing enhancement request. There is an ebb and flow in the number of people entering the Division's system. This is about maintaining a service level.

SENATOR HARRIS:

How does Nevada's PSI cost compare to the national average?

Ms. WOOD:

That is the million-dollar question, as it is undetermined. A person may enter the system for simple possession with a minimal criminal history. A violent, predatory individual may require a more sophisticated PSI psychosexual evaluation. A simple PSI takes three to five hours; a more difficult one may take three to five days. The time needed to train someone to write PSIs and interpret National Crime Information Center data across state lines is significant.

SENATOR HARRIS:

Is Nevada in line with what it costs other states to produce PSIs?

Ms. WOOD:

There is no way to specifically calculate the cost of a single PSI. You could add up how many PSIs are written and then divide it by the annual cost of workers' salaries. I do not have the average national cost to produce a PSI.

CHAIR SEGERBLOM:

Have you looked at alternatives such as a PSI writer quickly ascertaining that a person's offense does not merit incarceration, going to the court and saying, "Let's get this person out of jail"? Or do you stick with the formula?

Ms. WOOD:

The Division has an expedited process for lesser offenses, such as gross misdemeanors. Sometimes we do personal interviews over the phone, which hastens the process. We are familiar with many cases, but PSI writers still need face-to-face time with offenders. No one wants to see anyone in county jail unnecessarily, especially from the Division's standpoint. An issue is the Division does not control the court calendars or when they set sentencing dates after arraignments.

CHAIR SEGERBLOM:

We will close the hearing on S.B. 8 and open the hearing on S.B. 9.

MR. ORTIZ:

There are differences between S.B. 8 and S.B. 9. In S.B. 9's section 1, subsection 4, counties assume the duties of the Division for producing PSIs, except for psychosexual evaluations. The Division pays 100 percent for psychosexual evaluations. Section 1, subsection 5 concerns agreements between counties and the Division that exempt counties from regulations of the Committee on Local Government Finance. This frees counties to work directly with the Division.

The rest of S.B. 9 is essentially the same as S.B. 8, with the portion Clark County pays for PSIs dropping to 30 percent. We are asking to take on the duty of writing PSIs entirely because we pay 100 percent for them anyway. Clark County will work with the Division to enter into an agreement specifying the time frame for producing PSIs, hoping to reduce it to the statutorily required 45 days. The agreement would include providing Clark County with an annual report of Division staffing levels and resources. If the County takes full control of writing PSIs, we propose paying all of the costs and using our staff or contracting out the work. We also hope to reduce inmates' jail time because of the need to meet the 45-day deadline.

In 2005 in Clark County, 8,281 PSIs were processed at a cost of about \$3.1 million, or an average of \$375 per PSI. The County pays for about 67 percent of the total expense. Senate Bill 9 will give us better control over the PSI end product.

CHAIR SEGERBLOM:

Do you intend to contract with the State to write PSIs with the County paying for it?

MR. ORTIZ:

There are two options. Through an agreement, we would work with State employees so they would meet the 45-day requirement. Another option would be the County writes the PSIs in-house or through a contracted vendor.

CHAIR SEGERBLOM:

How fast would that occur? I am worried about putting State employees out of work.

MR. ORTIZ:

That is not the County's intent. Our intent is to meet the 45-day requirement and ensure inmates are quickly processed through our system.

CHAIR SEGERBLOM:

I agree with the concept that having total control over PSIs would enable the County to work with courts to expedite the process. Ms. Wood, are the people who write PSIs permanent State workers?

MS. WOOD:

Yes.

CHAIR SEGERBLOM:

Has the Division ever contracted with an outside agency so counties would pay you to use your employees?

MS. WOOD:

No.

CHAIR SEGERBLOM:

If the Division continued to pay 100 percent of the PSI cost, would that make a difference?

MS. WOOD:

I do not know. I am excited about the enhancements request. As for Clark County's involvement, we can work with it on a friendly amendment to

S.B. 9. In regard to using contractors, if rural courts decide to write PSIs, it is valid to look at whether that is feasible while maintaining PSI consistency to avoid legal issues statewide.

CHAIR SEGERBLOM:

We will close the hearing on S.B. 9 and open the hearing on S.B. 29.

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

KEITH LEE (Nevada Judges of Limited Jurisdiction):

The Nevada Judges of Limited Jurisdiction (NJLJ) consists of justices of the peace and municipal court judges.

THOMAS ARMSTRONG (Justice and Municipal Court I, Carson City; Nevada Judges of Limited Jurisdiction):

I have been a Carson City justice of the peace since 2011. I support S.B. 29. I started a misdemeanor drug court in 2015 with the support of the Administrative Office of the Courts and the Legislature. The genesis of S.B. 29 is a common difficulty caused by expansion of problem-solving courts at the misdemeanor and limited jurisdiction level. That jurisdiction is defined solely by NRS 4 and 5.

A young man in significant trouble appeared in my Carson City court. He lived in and had family in Reno. His felony charge was reduced to a misdemeanor, and he clearly qualified for drug court. I tried to find a way to transfer him to a Reno program where he had family support and better access to resources. However, after discussions with other judges, we thought we lacked the jurisdictional authority to do so. We proposed S.B. 29 with the consent of two courts to benefit willing candidates for misdemeanor treatment courts. We want to be able to transfer jurisdiction to another judge, court or treatment program so defendants could be supervised and monitored.

In Carson City, I see a lot of people outside of my jurisdiction whom I believe would be good candidates for drug court. This morning, I saw a young Reno man eager to get into, and who is a good candidate for, my program. I had a lengthy talk with him, saying, "You live in Reno. You have family in Reno. You'll have to come down here for counseling and to court every week. You

have to do your drug testing down here in Carson City. How's that going to work for you?" He assured me he could make it work. And while I had my doubts, we thought it was worth it to give him a chance. He did not show up this morning; he was a no-call, no-show.

My court lacks the ability to ask the Reno treatment court to take over a case and monitor someone who needs help. I have tried unsuccessfully to take cases from another jurisdiction. Drug court judges must have authority over parties to be effective and post sanctions. Defendants need to understand they must be accountable to you. If I have someone who is uncompliant, I have to call or send a request to the sentencing judge who recommended a particular sanction. The defendant must see that Reno judge, get the sanction imposed and then come back to me. This is inefficient and ineffective, which is key.

Speaking on behalf of the NJLJ, this problem and issue is important. In Clark County, veterans' treatment courts are huge. Mark Stevens, Municipal Court Judge, Department 1, City of Henderson, may hear of someone in North Las Vegas who might benefit from his Veterans Treatment Court, but Judge Stevens lacks the authority to accept a transferred case.

CHAIR SEGERBLOM:

Does S.B. 29 only apply to specialty courts? There are probably University of Nevada, Reno, students who get in trouble in Las Vegas and vice versa who would like to have their case transferred.

JUDGE ARMSTRONG:

Yes, the bill could be read as transferring jurisdiction and supervision on other types of cases. I have had young Las Vegas residents who are not in specialty court for which alternative sentences are appropriate. The bill would open up a way to transfer cases to different courts and allow people to be properly supervised, with the consent of both courts.

CHAIR SEGERBLOM:

Could the transfer be between justice courts and between justice and municipal courts?

JUDGE ARMSTRONG:

Yes, with the benefit being the ability to find appropriate programs for particular defendants. For example, someone might benefit from the Habitual Offender

Prevention and Education Court or Veterans Treatment Court but live in Las Vegas, North Las Vegas, Henderson or Douglas or Storey Counties. We want to maximize both court jurisdiction and appropriate placement to the right courts for maximum efficiency and to benefit the people who need those services.

In the bill's section 2, subsection 2, transfers will be accommodated if the defendant's criminal conduct happened outside of the court jurisdiction or facts arise outside of it. However, that rarely happens.

SENATOR HARRIS:

The bill's section 1, subsection 2 says both courts have to agree to the transfer of a case. If not, it goes back to the original jurisdiction court. Why might a court refuse a transfer? What if an inmate really wants to get into a program but the court administering it refuses admittance?

JUDGE ARMSTRONG:

Every court has its own criteria. For example, if Judge Stevens wanted to send someone to me, that would be his call, rightfully so because he is a municipal court judge. The bill will take transfers out of the realm of convenience into that of necessity, making it a mutual good fit. It is unfair for me to mandate another court take my cases unless both courts agree. If a court refuses to take a case, I do not know what happens.

As a sentencing judge, if I am firmly convinced a person needs a program, I ask another judge for a transfer. If the candidate does not meet the other court's criteria, I do not know what happens. There are a lot of people with multiple disorders such as addiction and mental health issues. There is a fuzzy line we try to negotiate between neighboring jurisdictions, but it is difficult across county and State lines. The NJLJ wants this to happen, and no one wants to prevent people from getting proper treatment.

Senate Bill 29 will create funding issues. Treatment costs will be picked up by other courts. There may be grant issues concerning programs' appropriateness.

SENATOR HARRIS:

I like the transferability aspect, but my concern is equity for the accused who might be denied admission to programs based on court criteria.

JUDGE ARMSTRONG:

Every court has its own screening process as dictated by best practices. You do not overprogram people who do not need them or put people who need high-level supervision in with those who do not. If someone does not fit a certain program, we have to find an appropriate one.

SENATOR CANNIZZARO:

Do you envision transfers taking place when cases are filed or later in the process? It sounds like the bill is about placing people in treatment, which is a prenegotiation issue. Would the bill apply after a plea is reached?

JUDGE ARMSTRONG:

I envision treatment assignment happening during plea negotiations. The problem is where defendants live. I had a Carson City man who committed his crime while visiting family in Las Vegas. He had to be on probation there, and I could no longer supervise him. That would be a post-plea and post-sentencing transfer. I do not anticipate the bill's provisions being used prior to pleading or sentencing unless a diversion program is recommended. At the point when parties know where negotiations are headed, courts will have determined if the person is a candidate for treatment. However, if a court does not have the right program, that is when judges would try to effect a transfer.

SENATOR CANNIZZARO:

That makes sense because certain courts have different programs for specific needs. My concern is the bill seems to allow transfers prior to plea negotiations. It also seems to cover more than just treatment or diversionary programs.

JUDGE ARMSTRONG:

People with suspended or alternative sentences participate in programs all over the State, not just in specialty courts. I have people in Las Vegas submitting monthly counseling reports so I can be sure they are compliant. The bill could facilitate and increase the efficiency of that.

I agree that section 1, subsection 1, paragraph (b) is broad, with " ... transfer is necessary to promote the convenience of the witnesses and the ends of justice" The jurisdiction of a crime is the county in which it was committed. Until post-plea or sentencing occurs, unless there is an agreed-upon diversionary program, a case cannot be sent to another county to be prosecuted or negotiated. The prosecuting authority is limited to district attorneys.

SENATOR CANNIZZARO:

That might be more of a concern for Clark County, where defendants are going between municipal courts instead of in smaller counties where there is no possibility of forum-shopping between municipal and justice courts.

JUDGE ARMSTRONG:

That is correct. In some counties, court jurisdiction is coextensive with a county, despite the township. It is easier within counties to transfer cases for supervision. The bill will make it crystal clear that defendants could go to different courts for supervision. Mechanisms for that do not exist.

CHAIR SEGERBLOM:

Would there be someone in court besides the judge who could make program recommendations if the defendant did not have a lawyer?

JUDGE ARMSTRONG:

Yes. Specialty courts have a screening process and team, including a public defender, that assumes that role. With treatment, counseling and the team in place, the issue would be recognized and suggested. Treatment courts are voluntary, and people must ask to be in them. The judge, not attorneys, determines if someone enters a program. He or she would ask if the person has a local support system.

CHAIR SEGERBLOM:

We will close the hearing on S.B. 29 and open the hearing on S.B. 42.

SENATE BILL 42: Revises provisions related to justices of the peace.
(BDR 1-394)

MASON E. SIMONS (Elko Township Justice Court, Department A, Elko County;
Judge, City of Elko):

You have my written testimony ([Exhibit C](#)). Senate Bill 42 will ensure adequate notice of potential salary is provided for justice of the peace candidates before they file for election. I am on the board of directors of the NJLJ and a member of its Legislative Committee.

Nevada Revised Statutes 293.177 requires candidates for judicial office to file declarations of candidacy during the first two weeks of January of the year in which the election will occur. That statute was passed as part of A.B. No. 505

of the 74th Session. Before then judicial candidates had the same filing deadline as other elected offices. *Nevada Revised Statutes* 4.040 requires county commissioner boards to set justice of the peace salaries in July of the year in which an election will occur. Due to recent changes in filing deadlines for judicial officers, that July deadline means candidates will have filed for office in January and be seven months into the election cycle before knowing what their salary would be if elected.

Senate Bill 42 essentially cleans up NRS 4.040 to be in line with recent changes to election filing deadlines. It would ensure justice of the peace candidates have notice of salary prior to filing for office and before they incur election-related expenses. The bill would move the county commissioners' deadline for setting justice of the peace salaries to December of the year immediately preceding the election. The change will bring greater clarity for judicial candidates and prevent salary questions from becoming politicized in the middle of election cycles.

CHAIR SEGERBLOM:

Have justice of the peace salaries been an issue in elections?

JUDGE SIMONS:

Yes, it came up in Elko County recently. In the last election cycle, our court decided to add a second justice of the peace. The salary was set in November or December prior to candidate filing. The Elko County Board of Commissioners decided in June of the election year to revisit the salary question. This injected a lot of uncertainty into the election process, including candidates wondering if they still wanted to run, even though they were past the deadline to withdraw their candidacies. The bill will ensure avoidance of uncertainty in the election process.

SENATOR GUSTAVSON:

How often is the justice of the peace salary changed in Elko County?

JUDGE SIMONS:

The NRS says county commissioners have a window of time to set the salary. During the term of a justice of the peace, there is no authority to reduce the salary. This protects a justice of the peace who has made an unpopular decision from a salary reduction. A justice of the peace's term is typically six years.

Senate Committee on Judiciary
February 16, 2017
Page 18

CHAIR SEGERBLOM:

Is there a statute that prevents the salary from increasing or decreasing during a justice of the peace's term?

JUDGE SIMONS:

Yes, the salary may be increased, but not decreased.

CHAIR SEGERBLOM:

We will close the hearing on S.B. 42. Seeing no more business before the Senate Committee on Judiciary, I adjourn this meeting at 2:33 p.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Senator Tick Segerblom, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 42	C	1	Mason E. Simons, Elko Justice/Municipal Court	Written testimony