

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session  
March 7, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:36 p.m. on Tuesday, March 7, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [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  
Connie Westadt, Committee Secretary

**OTHERS PRESENT:**

Jocelyn Durkay, National Conference of State Legislatures  
Daniel Diorio, National Conference of State Legislatures  
Alison Lawrence, National Conference of State Legislatures  
Casandra Little, Ph.D.  
Walter Saunders  
Daniel Thompson, Las Vegas Branch 111, NAACP  
Jim Hoffman, Nevada Attorneys for Criminal Justice  
Sean B. Sullivan, Office of the Public Defender, Washoe County  
Alycia Seabolt Barnwell

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John J. Piro, Deputy Public Defender, Office of the Public Defender,  
Clark County  
Holly Welborn, American Civil Liberties Union of Nevada  
Elliot Malin, Generation Opportunity  
Susan Chandler, Ph.D.  
Monique Normand, Progressive Leadership Alliance of Nevada  
Maud Naroll, League of Women Voters of Northern Nevada  
Jon Sasser, Legal Aid Center of Southern Nevada; Washoe Legal Services  
Nick Vassiliadis, R & R Partners Foundation  
Jennifer Noble, Nevada District Attorneys Association  
Marc M. Schifalacqua, City of Henderson

CHAIR SEGERBLOM:

I will open the hearing on Senate Bill (S.B.) 125.

**SENATE BILL 125**: Revises provisions governing the restoration of certain civil rights for ex-felons. (BDR 14-20)

SENATOR AARON D. FORD (Senatorial District No. 11):

I am here to present S.B. 125 and Proposed Amendment 3081 ([Exhibit C](#)). I have thought long and hard about my preliminary comments knowing that they may have the potential to close minds, but I am convinced that if I am timid in addressing the issues raised in the bill—and I am not—then I cannot expect others to not be timid as well. Additionally, I consider many of my colleagues to be open-minded, conscientious public servants who can hear and respect the truth and act accordingly. Others and I believe S.B. 125 to be good legislation. Thus, while my preface may lead you to believe that I am putting forth a purely race-based bill, I am not. To be sure, as an African American, I feel duty-bound to speak truth to power from my perceived position of power and to address what I consider to be injustices African Americans have faced, in this instance from the criminal justice system and the restoration of rights, or the lack thereof, associated with that system.

This bill does not only address an issue that African Americans have faced and continue to face. The issue I address is arguably race-neutral, at least in its application, albeit disparate and disproportionate in its affect. Therefore, I ask that you not pigeonhole my presentation or my position and that, instead, you reserve judgment and listen to all of my testimony before judging the merits of S.B. 125.

In Michelle Alexander's book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, she notes that our society has created, for lack of a better term, a caste system containing persons against whom we can lawfully and, in my view, oftentimes illegitimately discriminate. Specifically, Ms. Alexander notes that members of this caste "are also subject to legalized discrimination in employment, housing, education, public benefits, and jury service." To that list, I add voting. As the title of Ms. Alexander's book may imply, her focus is on the plight of African Americans whose presence in this caste is unequivocally and indisputably disproportionate. But make no mistake about it, this problem permeates every racial segment of our society. That said, I do find it apropos to offer the example that Ms. Alexander provides in her book where she notes, "Just as their parents, grandparents, and great-grandparents once were, many African-Americans have been denied the opportunities I have mentioned above." Ms. Alexander recounts the story of one such caste member.

Jarvious Cotton cannot vote. Like his father, grandfather, great-grandfather, and great-great-grandfather, he has been denied the right to participate in our electoral democracy. Cotton's family tree tells the story of several generations of black men who were born in the United States but who were denied the most basic freedom that democracy promises—the freedom to vote for those who will make the rules and laws that govern one's life. Cotton's great-great-grandfather could not vote as a slave. His great-grandfather was beaten to death by the Ku Klux Klan for attempting to vote. His grandfather was prevented from voting by Klan intimidation. His father was barred from voting by poll taxes and literacy tests. Today, Jarvious Cotton cannot because he, like many black men in the United States, has been labeled a felon and is currently on parole.

The Sentencing Project estimates that in 2016, 6.1 million people were disenfranchised in the United States due to felony convictions. That is approximately 1 out of every 40 adults. For 2016, the estimated percentage of disenfranchised individuals with felony convictions in Nevada was 4.02 percent, amounting to 89,267 offenders. Yet the estimated percentage of African Americans with felony convictions was 11.76 percent, amounting to 21,568 offenders. The Department of Corrections recently reported to this Committee the demographics of our current prison population. Of the 13,570 offenders, 28.83 percent are African American. African Americans

represent 7 percent of our State's population. Caucasians represent 44.94 percent of the prison population and 75 percent of our State's population. Hispanics represent 21.1 percent of the prison population and 19 percent of the State's population.

I am proud to say that, based on facts like these, criminal justice reform including the restoration of rights has become a bipartisan issue. In fact, the impetus for S.B. 125 came from bipartisan bills proposed by United States Senators Rand Paul, whom everyone can acknowledge is a staunch conservative, and Cory Booker, whom everyone can acknowledge is not.

As originally drafted, Senate Bill 125 provided for the restoration of voting rights. [Exhibit C](#) expands the restoration to include serving as a juror in civil and criminal cases. Senate Bill 125, as amended by [Exhibit C](#), immediately restores the right to vote and the right to serve as a juror in civil and criminal cases for certain persons convicted of specified felonies upon completion of one year of probation or parole. It provides an official document to the person that states that the civil rights to vote and serve as a juror have been restored. The document must also provide the date upon which the person's civil right to hold office will be restored, and it shortens the waiting period to petition the court for sealing criminal history records under certain circumstances.

The states' approaches to felon disenfranchisement are vastly different. For example, in Maine and Vermont felons never lose their right to vote even while incarcerated. On the opposite end of the spectrum, Florida, Iowa and Virginia felons and ex-felons permanently lose their right to vote. According to the National Center for State Courts publication *Jury News*, 12 states bar convicted felons from jury service until the full completion of their sentences. Other states provide for a timeline before rights are restored. In Maine, there are no restrictions on a convicted felon's opportunity to serve as a juror.

In Nevada, voting rights and participation as a juror in a civil action are restored to all persons convicted of nonviolent felonies after the honorable discharge from probation, the sealing of a criminal record by the court, the granting of a pardon with the restoration of the right to vote, the honorable discharge from parole or sentence completion. Persons convicted of Category A or B felonies are not entitled to immediate restoration of their rights after completing their parole, prison sentence or probation. Instead, they must seek a court order granting restoration of their civil rights. For jury service in a criminal action, a

person must wait six years after the date of an honorable discharge from probation.

JOCELYN DURKAY (National Conference of State Legislatures):

I am the Nevada liaison from the National Conference of State Legislatures (NCSL). The mission of the NCSL is to improve the quality and effectiveness of state legislatures and to promote policy innovation and communication between legislatures.

DANIEL DIORIO (National Conference of State Legislatures):

My written testimony ([Exhibit D](#)) is on pages 1 to 7.

ALISON LAWRENCE (National Conference of State Legislatures):

My written testimony is on pages 8 to 10 of [Exhibit D](#).

SENATOR HARRIS:

I support the restoration of rights portion of S.B. 125. With respect to serving on a jury, is there anything that would preclude attorneys from asking prospective jurors during voir dire whether they have been convicted of a felony?

SENATOR FORD:

No. Unless there are Supreme Court precedents that would preclude asking the question, this bill does not address voir dire. My retort to those who ask why we should allow ex-offenders to serve on a criminal trial jury is because of the existence of voir dire and a judge who can ward out bias to the extent it exists.

SENATOR HARRIS:

I wonder if, because of the voir dire process, it will be uncomfortable for the individual to submit to that line of questioning.

SENATOR FORD:

I consider jury service an obligation of citizenship. Voir dire has many embarrassing questions. There are also preemptory strikes that attorneys can use if they find a level of bias or for no reason at all as long as it is not constitutionally precluded.

SENATOR GUSTAVSON:

Race never entered my mind when reading this bill. It is read as it should have been read with an open mind toward all inmates and the merits of the bill. Unfortunately, Senator Ford, your opening statement made it a racial issue. I am offended by your insinuation that I may have made one. I will make my decision based on the merits of the bill.

SENATOR FORD:

I brought up what I consider to be the elephant in the room. It was not to cast an aspersion on anyone in this body except to say that I do believe I have an obligation as an African American male to speak truth to power on issues that I think specifically address my community. If I did offend you, I do apologize, but I will always speak up on issues that I think disproportionately affect people in our community, whether they be race-based, sexual-orientation based, gender-based or otherwise. I apologize. It was not intent to offend but to address what I consider a very important issue worthy of consideration and as an elephant in the room that needed to be addressed.

SENATOR GUSTAVSON:

Thank you, Senator Ford. I accept your apology. I understand that the percentages provided in your testimony are very interesting statistics. I will listen to all the testimony and base my decision accordingly.

SENATOR FORD:

Reintegration into society is essential for the safety of communities and reduction of recidivism among those who have been incarcerated. According to the Brennan Center for Justice, civic participation instills in the offender a feeling of belonging to the community and a sense of responsibility toward it. Education of ex-offenders regarding voting rights has been found to be woefully inadequate. In a survey conducted by Matthew Cardinale, it was found that 86 percent of the respondents noted confusion with voting rights; 90 percent said they were not told during the pre-incarceration legal process that they might lose their right to vote; and 96 percent received no information from prison or parole staff regarding how to get their right to vote back. According to the NCSL, even in states where ex-offenders automatically regain the right to vote upon completion of their sentences, the process of reregistering to vote is often complex.

Senate Bill 125 immediately restores the right to vote and the right to serve on a jury in civil and criminal cases for persons convicted of specified felonies upon completion of one year of probation or parole. In order to decrease the complexity of reregistering to vote and serving as a juror, S.B. 125 requires that each person who is restored these civil rights be given an official document stating the restoration. Senate Bill 125 also provides for a process to follow in the event the official documentation is lost, damaged or destroyed.

As an aside, I must acknowledge a bit of ambivalence with a certain omission in S.B. 125. The bill clarifies that the civil right to hold office is not immediately restored upon the completion of one year of probation or parole for a person who has been previously convicted of a Category A or B felony or two or more felonies. This person may, however, petition a court for an order granting the restoration of the civil right to hold office. I am considering an amendment to restore that right as well. Frankly, I have racked my brain trying to find an intellectually honest reason for differentiating the right to hold office from the right to vote and the right to serve on a jury. In that regard, I would welcome additional discussion and input from this Committee on that issue today or in the future as to whether this Committee would support such an amendment.

Finally, S.B. 125 shortens the waiting period before being authorized to petition the court for sealing criminal records. These provisions, however, will be amended to address concerns raised by our State's district attorneys, who will be testifying in support of this bill today. A person is required to wait a certain amount of time from release or discharge before petitioning a court to seal records. The wait time is dependent on the crime committed. For Category A and B felonies, the wait time is 15 years. For Category C and D felonies, the wait time is 12 years. For Category E felonies, the wait time is seven years. Senate Bill 125 provides for a one-year wait for any misdemeanor, gross misdemeanor or felony. There are certain crimes that maintain a seven-year wait. These are crimes concerning Medicaid fraud, DUI and domestic battery. Many of these provisions are in [Exhibit C](#), which will be explained by the district attorneys during their testimony.

Section 1 of S.B. 125 provides that unless a probationer was convicted of the specified felony, the right to vote and serve as juror must be immediately restored upon the completion of one year of the term of probation. This section also provides for an official document that states a person has been restored certain civil rights. Finally, the section clarifies that the civil rights to vote and to

serve on a jury are not immediately restored upon completion of one year of the term of probation for persons who have previously been convicted of a Category A or B felony or two or more felonies. These persons may still petition a court for an order granting the restoration of the right to vote.

Section 2 of S.B. 125 clarifies that the civil right to hold office is not automatically restored. Persons may petition the court for an order granting the restoration of the civil right to hold office.

Section 3 of S.B. 125 makes clarifying changes related to probation.

Section 4 of S.B. 125 shortens the waiting period for a person convicted of certain crimes before being authorized to petition the court for an order sealing records relating to a conviction.

Section 5 of S.B. 125 provides that the Director of the Department of Corrections must provide notice of the provisions of section 6 to offenders given parole.

Section 6 provides that unless a parolee was convicted of a specified felony, the right to vote and serve as a juror must be immediately restored upon the completion of the term of parole if less than one year or one year of the term of parole. This section provides for an official document that states the person has been restored his or her civil rights. This section also clarifies that civil rights are not immediately restored upon the completion of the term of parole if less than one year or one year of term of parole if the person has previously been convicted of a Category A or B felony or two or more felonies. These persons may petition for an order granting the restoration of the right to vote and to serve as a juror.

Section 7 of S.B. 125 provides definitions related to parole.

Section 8 of S.B. 125 clarifies that the civil right to hold office is not automatically restored. Persons may petition the court for an order granting restoration of that civil right.

Sections 9 to 11 of S.B. 125 make clarifying changes related to the right to vote and serve as a juror. Senate Bill 125 will become effective on October 1.

I am an unabashed advocate for equality. I will always stand up to what I perceive to be something that has been unfair to populations in our society. I do not intend to castigate anyone. I do intend to address something that is very, very important to me and, frankly, quite personal to me. I urge the Committee's support of S.B. 125 to assist persons in reintegrating into society and having the opportunity to become responsible citizens. To borrow the name of an active and worthwhile organization that supports this bill, Hope for Prisoners, I ask that you join me in offering not only hope to prisoners but hope for all of society that ex-offenders can fully integrate back into society and become responsible active agents in our society.

VICE CHAIR CANNIZZARO:

With respect to the restoration of rights after one year of parole or probation, what effect does S.B. 125 have on a person who violates parole or probation within that one-year period? Is restoration stopped?

SENATOR FORD:

First, I must acknowledge that I am not a criminal lawyer but, it seems to me, that people who violate parole or probation would have their sentences extended. Under that circumstance, eligibility for restoration of rights would be similarly extended. Second, I will get you a response to your question if you will permit me to do so before the work session.

VICE CHAIR CANNIZZARO:

Is there a standard for the petition permitted to be filed if the person is not eligible for automatic restoration of rights?

SENATOR FORD:

The required showing would be consistent with what is currently available to those permitted to file a petition of this type. I am confident that there is a standard that the court would apply, but I do not know what it is. I will provide that information if permitted to do so.

CASANDRA LITTLE, PH.D.:

I support S.B. 125 for several reasons. I have lived and worked in Reno for over 25 years. During that period, I worked with young adults and encouraged and empowered them to be productive, positive, purposeful adults in the community. Part of doing so is exercising the right to vote. One year ago, I was Inmate No. 47078-048 for 23 months in a federal prison camp in California.

During my incarceration, I spent time planning and visualizing reentry in with my community, family and, more importantly, my son. I have to admit sitting here in front of you that my reentry has been challenging to say the least. Nothing was more disheartening during this past year than not being able to participate in the democratic process. I was not able to vote in the presidential election. That was the second time I have felt like half a citizen, invisible, unwanted, disconnected. I say half because, although I was not able to vote like other citizens and face other disenfranchisements, I am still required to pay taxes. For that reason, S.B. 125 is important to me and other formerly incarcerated individuals. We want to feel connected to our communities. Being raised by African-American grandparents, voting in my house was not just civic duty, it was a personal responsibility. I have taken that responsibility seriously. Having an easier path to the restoration of rights is not just important to me, it is essential to my existence as well as to others who take voting to heart and seriously. I want to thank this Committee for giving me the opportunity to have a voice and to not feel as invisible as I have this past year since I returned home—and this is home.

WALTER SAUNDERS:

I am a substance abuse counselor and services coordinator. I work with addicts seeking recovery. I support S.B. 125. This is also very personal to me. I come from a world of addiction. My mom was aged 16 and my dad was aged 17 when I was born. They were on drugs and were alcoholics. I was abused sexually and physically on a daily basis. I was in foster care. I lived on the streets for years. In time, I became an addict. Because of my addiction, I have committed crimes. I answered for those crimes. I have been clean since 2010. My parole ended in 2012.

I give back by providing treatment to addicts in a residential home in Lyon County. I try to give back to the community that I have taken from. That is what I need to do. I am finishing my college degree in social work. The timeliness of S.B. 125 is important to me because I have 15 years before I can seal my records. I am getting ready to move. I have realized that, even though I have done my time, apartment complexes will not rent to me. They take my \$50 application fee, but after they run a background check, they will not take me. I have many clients who are denied jobs because of their backgrounds. I am blessed to work in an industry that believes in second chances, but not everybody is that open-minded. Even with the proposed amendment, the wait period to seal my records is ten years. That is six more years for me deciding

whether to start over in another state or stay in Nevada, a state I have come to love. I am not from Nevada originally. I am from the East Coast. I have been here since 1996. I want to stay in Nevada, but I also want to be treated fairly. I believe S.B. 125 may give me that opportunity.

CHAIR SEGERBLOM:

Does voting make you feel more a part of society?

MR. SAUNDERS:

Absolutely. I work in treatment. We opened the residential home in Lyon County because of the Governor's call at the Prescription Drug Abuse Prevention Summit. The ability to vote and to listen to people who are running for office express their views on the sick and suffering and explain what they would do to address these problems would be phenomenal. I am 44 years old and I have never voted. Doing so would be an awesome opportunity. I pay my taxes, I work hard and I go to school. I would love to have a say.

DANIEL THOMPSON (Las Vegas Branch 111, NAACP):

We support S.B. 125. All Nevadans, including offenders, should have the right to vote. This problem affects our community. Passage would help our community.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):

We generally support S.B. 125. I have not seen [Exhibit C](#). I would like to speak to some of the implications of the bill for our clients. Dr. Little made a good point regarding the payment of taxes. This is taxation without representation. People pay taxes. They work. They are in the community. They have no say in how tax dollars are spent. This is the reason we fought the Revolutionary War. I do not think it is fair to repeat this process.

Another issue is virtual representation. This is the theory that people who do not vote or cannot vote are still represented by someone who can. For example, a child cannot vote but a parent can, yet a mother on probation cannot vote in a school board election. She is unable to decide what happens to her children in their school even though she is taking care of them. That is not fair.

With respect to serving on a jury, the U.S. Constitution requires juries to be a fair cross section of the community. This means that a jury must be as balanced as it can feasibility be. As Senator Ford said, there are racial disparities in who

gets convicted and who gets their rights taken away. This translates into a jury system that is less fair and less balanced. A jury must be able to seek the truth and make accurate decisions. Senate Bill 125 fixes this problem to a large extent. It would make the jury system much fairer.

Our record sealing process is Kafkaesque. There are many reasons. One reason is that there are different wait times for different offenses. A Category A felony might be 15 years, but a gross misdemeanor might be only 5 years. This makes it harder for people to seal their records. Many people we deal with who are seeking to seal their records are recovering substance abusers or previously homeless or survivors of sex trafficking. They have already had a lot of contact with the criminal justice system. They have many different offenses on their records. They want to seal their records. The records for some offenses can be sealed but not others. We have to tell them that they cannot seal all of their records. Alternatively, they represent themselves. They file the petition listing all of their offenses. The petition is rejected by the court because the records for some of the offenses cannot be sealed. They have to start over and go through the whole process again. It costs money and time. It is a huge hassle. The Nevada Attorneys for Criminal Justice are in favor of making all of the wait times the same for sealing records. We are also in favor of the times being as short as possible.

SEAN B. SULLIVAN (Office of the Public Defender, Washoe County):

We support S.B. 125 as drafted and amended by [Exhibit C](#). This bill helps people who have served their sentences have their civil rights restored and reintegrate into society. Being convicted of a crime has a host of collateral consequences. The restoration of civil rights is a daily reminder of a person's civic duty to participate in the democratic process. Assimilation into society is helped with gainful employment, housing, education, paying taxes and having a stake in being a fruitful and productive member of a community.

ALYCIA SEABOLT BARNWELL:

I am a social work student at the University of Nevada, Reno, studying for a master's degree. I support S.B. 125. Restoring the right to vote to people who have paid their debt to society is important because the loss of voting rights has many social implications. Specifically, research done at Cambridge University shows that the loss of voting rights can make people with felony convictions feel alienated within their communities and like second-class citizens. Moreover, the loss of voting rights also makes prior felons feel disenfranchised,

stigmatized and socially isolated. These feelings held true for felons who had voted in previous elections and are now restricted from doing so. Restoring the voting rights to felons after they have completed their sentence is important because they now have a say on how their taxes are spent and policies are created. They feel empowered to become engaged stakeholders in their community. I urge this Committee to pass S.B. 125 and help welcome members of our society back into the democratic process.

JOHN J. PIRO (Deputy Public Defender, Office of the Public Defender, Clark County):

I echo the sentiments of my colleagues. Page 2 of the proposed amendment submitted by the Nevada District Attorneys Association ([Exhibit E](#)) discusses the sealing of records. While these changes are good and better than we have now, they are not as good as they seem. These changes do not take into account the time people are on probation or serving time in prison. Previously, a Category E felony resulted in mandatory probation for one to five years followed by a seven-year wait to seal records. This is a total of 12 years. The change proposed in [Exhibit E](#) for Category E felonies is still seven years because probation served is followed by a two-year wait to seal records. The same is true for Category C and D felonies, which require a ten-year wait. The time these people spend in the community doing good is not counted. Category B is a mishmash of anywhere from 1- to 20-year sentences. Depending on the crime, people can go to prison and be faced with a 20-year wait period before being eligible to petition to seal their records. These are things that should be debated and changed in [Exhibit E](#). However, I acknowledge it is progress. That is good. We can do better by taking into account the time people are actually in the community on probation. That time should be credited to the wait time for sealing records.

SENATOR CANNIZZARO:

Based on my experience, it would be highly unlikely for a person to serve a full five-year probation for a first offense Category E felony. Generally, these individuals get good-time credits on probation. Most are given 18 months to 2 years or a not-to-exceed 3-year probation. It is infrequent for a person to be on probation for a full five years.

MR. PIRO:

You are correct. However, even with a brief time on probation, an individual would be facing ten years for a crime like a possession of a controlled

substance. That Category E felony follows individuals around and prevents them from getting jobs.

HOLLY WELBORN (American Civil Liberties Union of Nevada):

I would like to answer the question posed by Senator Cannizzaro to Senator Ford regarding what happens upon parole violation. Parole violators are reincarcerated and S.B. 125 would not apply.

Over 6 million Americans are disenfranchised due to a felony conviction. In Nevada, there are 89,267. Nevada is one of only 12 states to restrict voting rights after a person has served his or her prison sentence and is no longer on probation or parole. Importantly, the mechanism for enfranchisement in Nevada is illusory. One 2010 study found that from 1990 to 2011, less than one-half of 1 percent of ex-felons had their voting rights restored. The American Civil Liberties Union of Nevada (ACLU) stands in support of S.B. 125 as it works to ease the unwieldy burden placed on Nevadans' right to vote. Although the ACLU would certainly like to see no restrictions on felon voting rights, passage of S.B. 125, as amended, will advance civil rights, will work to increase public safety and will be an important step in combating racial injustice.

As an initial matter, it is vital to remember that voting is a fundamental right and essential to American democracy. Without a vote, citizens have no voice. Restoring the right to vote strengthens our democracy by increasing voter participation and helps people who completed their incarceration transition back into society. When people are released from prison, they deserve a second chance to work hard, raise families and participate in society by voicing their opinions through their vote. Taxpaying citizens deserve a say in their government, and voting is an essential part of reassuming the duties of full citizenship.

As the U.S. Supreme Court stated in *Reynolds v. Sims*, 377 U.S. 533 (1964), the right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. Furthermore, there are no penological justifications for disenfranchising people on probation or parole. Persons living in the community under supervised probation and parole have been determined by judges or correction officials not to require incarceration for the safety of the community. Further, these persons are presumed to have the same rights and responsibilities as other citizens except for supervision or reporting requirements

imposed by correction agencies. Persons on probation can get married or divorced, write a letter to the editor or participate in a child's PTA organization. It is in each community's best interest to encourage these activities because, to the degree the people under supervision maintain positive connections with the community, they will be less likely to recidivate. The American Civil Liberties Union of Nevada supports this legislation and echoes Mr. Piro's comments on [Exhibit E](#). However, we are making progress and we accept the amendment.

ELLIOT MALIN (Generation Opportunity):

Generation Opportunity is a millennial grassroots organization dedicated to advancing a free society. One issue for which Generation Opportunity has consistently been advocating is criminal justice reform. We support S.B. 125, which will restore voting rights to nonviolent offenders in Nevada. Too often, those who have made a mistake early in life are punished repeatedly by draconian laws long after they have paid their debt to society. Often these laws create barriers to opportunity for these people making it difficult to find employment, participate civically or simply rejoin day-to-day life in society. Generation Opportunity advocates reforms to the criminal justice system to promote human dignity, reduce costs, enhance public safety, make victims whole and to advance freedom and well-being for all.

Too many people in Nevada go to prison and for far too long for low-level and nonviolent crimes. All criminals should be held accountable with punishments proportional to the crime committed. In our State, thousands of laws keep people from obtaining jobs and productively reentering a community once they have served their sentence. Yet after having been held accountable, an ex-offender should be allowed to put his or her life back together. For example, Generation Opportunity has advocated for the removal of laws which prevent ex-offenders from obtaining occupational licenses or that require mandatory minimum sentences. We view restoring the voting rights of nonviolent ex-offenders in the same way. Preventing those who have not committed violent crimes from exercising one of most basic democratic rights only acts to isolate further these people from their communities and the institutions that work to prevent recidivism. Other states, such as Maine and Vermont, have similar laws to the bill proposed today and have seen no negative repercussions from returning rights to nonviolent people who have already paid their debt to society. I want to leave you today with a quote from one of the greatest leaders of the twentieth century, Winston Churchill, on how society should deal with those who have broken laws:

We cannot impose these serious penalties upon individuals unless we make a great effort to and a new effort to rehabilitate men who have been in prison and secure their having a chance to resume their places in ranks of honourable industry.

I urge you to heed the words of Winston Churchill and help in the efforts to reintegrate these nonviolent offenders in society by passing S.B. 125.

SUSAN CHANDLER, PH.D.:

I have been teaching in the School of Social Work at the University of Nevada, Reno, for 23 years. Two years ago having mostly retired, I began teaching in a Nevada medium-security prison. I teach in a program for men over the age of 55. It is an award-winning program with a very low recidivism rate. These classes are incredibly rewarding experiences at the top of my long teaching career. The men universally are kind and considerate to me. They are engaged in any material that I bring to them, remain very up on the news and, of course, look forward to the time when their sentences will be completed and they can rejoin their families and community. I second comments regarding the confusion in the prison about re-enfranchisement. Everyone asks. No one has a definitive answer. I am here today in support of the men I have become close to over the last two years. I am also here for another reason. I was going to read the same passage from *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* that Senator Ford read. I will read another short paragraph.

No other country in the world disenfranchises people who are released from prison in a manner even remotely resembling the United States. In fact, the United Nations Human Rights Committee has charged that U.S. disenfranchisement policies are discriminatory and violate international law. In those few European countries that permit limited postprison disqualification, the sanction is very narrowly tailored and the number of people disenfranchised is probably in the dozens or hundreds. In the United States by contrast, voting disqualification upon release from prison is automatic, with no legitimate purpose, and affects millions.

I support S.B. 125. I agree with you, Senator Segerblom, that it is one of the defining pieces of legislation this Session.

CHAIR SEGERBLOM:

One of the ironies of this is that it is a felony to vote before the right to vote is restored. The rules are so complicated that it is difficult to know if you are eligible and when you are eligible. If you do it wrong, you have committed another felony.

MONIQUE NORMAND (Progressive Leadership Alliance of Nevada):

The Progressive Leadership Alliance of Nevada (PLAN) and I support S.B. 125. I am a social work student at the University of Nevada, Reno. My chosen field values engaging with underrepresented groups, specifically with respect to voter registration. Previous offenders fall in this category and are lifted by the National Association of Social Workers *Code of Ethics*, which supports restoration of voter rights. As a student at the University of Nevada, Reno, an integral part of my practicum this past year was registering people to vote and engaging in the community. As an organizer with PLAN, I also had the privilege to register people to vote this summer. One issue that constantly came up was voter right status. I met previously incarcerated folks who had no idea if their rights had been restored. Most just assumed that being incarcerated automatically took their rights away. One man explained to me that he had been incarcerated at the age of 22 for writing bad checks. At age 70, he had never voted because he believed he could not do so. The policy regarding voting rights and the previously incarcerated is confusing not only to those who have been incarcerated but also to agencies that work with this population. The PLAN believes that S.B. 125 will make this process fair and uplift folks who have served their time and wish to live their lives fully with dignity in our community here in Nevada. We support S.B. 125.

MAUD NAROLL (League of Women Voters of Northern Nevada):

The League of Women Voters of Northern Nevada support S.B. 125. The League is dedicated to ensuring that all eligible voters, particularly those from traditionally underrepresented or underserved communities, have the opportunity and information to exercise the right to vote.

JON SASSER (Legal Aid Center of Southern Nevada; Washoe Legal Services):

We support S.B. 125. Section 4 of the bill deals with criminal record sealing. The Legal Aid Center of Southern Nevada in cooperation with Nevada Legal Services; the Nevada District Attorneys Association, the Office of the Public Defender, Washoe County; the Office of the Public Defender, Clark County; the Las Vegas Metropolitan Police Department (LVMPD); the Division of Parole and

Probation, Department of Public Health; and all departments of the Eighth Judicial District Court participated in the Community Law Day: Clean Slate Criminal Record Sealing event on August 27, 2016, hosted by the Boyd School of Law, University of Nevada, Las Vegas with 379 individuals signed up. While 271 orders sealing records were issued, 108 are still pending due to the Kafkaesque process of sealing records in Nevada. There is another bill that may address that process this Session. Section 4 of S.B. 125 addresses the wait times for record sealing.

I will tell you a client story from the record sealing event. From approximately 1993 to 2003, a client was arrested multiple times. Her basic issue was drug addiction, which led to prostitution and other crimes. Since 2004, she has turned her life around, and for the last six years, she has been employed at a local nonprofit that provides a broad spectrum of behavior and mental health services, including drug counseling. She is a certified alcohol and drug counselor intern and recently received her bachelor's degree in human services. She is in the process of working on a master's degree in marriage and family therapy. Because she has received her bachelor's degree, she is eligible to take the test to become a certified drug and alcohol counselor. However, her record, which is now 14 years old, still haunts her and is a bar to reaching her higher employment goals. Despite numerous letters of recommendation from supervisors, coworkers and a veteran LVMPD police officer, her file is still pending as not eligible for sealing because the 15-year wait time has not been exceeded.

CHAIR SEGERBLOM:

I attended the record sealing event and learned firsthand what a nightmare it is. Hopefully, we will be able to fix that issue.

NICK VASSILIADIS (R & R Partners Foundation):

We support S.B. 125. We are not just talking about civil rights but civic duties. There may not be a better way to welcome people back into society than by having them do their civic duties.

JENNIFER NOBLE (Nevada District Attorneys Association):

The Nevada District Attorneys Association has submitted a proposed amendment, Exhibit E. We appreciate Senator Ford working with us to reach an agreement acceptable to all parties to amend S.B. 125. Category A felonies, as well as crimes of violence and residential burglary, will be eligible for sealing

after ten years. Previously, the wait time was 15 years. Nonviolent offenses in Category B, C and D felonies will be eligible for sealing after five years. Previously, the wait time was 12 years. Category E felonies will be eligible for sealing after two years. Gross misdemeanors will also be two years. Previously, the wait time for Category E felonies was seven years; gross misdemeanors, five years. The Association believes it is important to include residential burglaries in the ten-year wait time because, unlike a commercial burglary, a residential burglary evidences an intent to enter the sanctity of someone's home, which is particularly violative of someone's safety.

Importantly, what remain ineligible are crimes against children, sexual offenses and felony DUIs. Neither S.B. 125 nor the amendment affect the wait times for these crimes. It has been suggested that all felonies should have the same wait time before a petition for sealing could be filed. Not all felonies are created equal. Uttering a forged instrument—writing a check, forging someone's name and passing it off—is not the same as murder. The law should recognize the difference. While I appreciate Mr. Piro's comments, it is important that people not be able to petition for sealing until they have demonstrated that they will complete the probation process and be released from parole, if applicable, before they are eligible to petition for sealing their records. We still maintain our ability to oppose a petition for sealing and attend the hearing to set forth reasons sealing is not appropriate.

CHAIR SEGERBLOM:

Do you agree that the right to vote and the right to seal records are two different issues?

MS. NOBLE:

Yes. We support S.B. 125. The Association's primary focus was working with Senator Ford on the record sealing issues.

SENATOR HARRIS:

There are two different definitions of crime of violence in *Nevada Revised Statutes* (NRS) 200. One is NRS 200.120 and the other is NRS 200.408. There is another definition of crime of violence in NRS 453A.053. What crimes are captured in your definition of crimes of violence?

Ms. NOBLE:

*Nevada Revised Statutes* 200.120, 200.130 and 200.408 define a crime of violence as one involving use or threatened use with force or violence against a person or property of another or for which there is a substantial risk that force or violence may be used against the person or property in the commission of a felony. That is the definition we are seeking.

SENATOR HARRIS:

What about crimes against women such as stalking, assault, rape, etc.?

Ms. NOBLE:

The Association believes stalking, assault and rape are all violent crimes. In addition, rape is a sexual offense. These crimes remain ineligible under subsections 5, 6 and 7 of NRS 179.245.

SENATOR HARRIS:

Is it the intent to continue to exclude sexual assault, statutory sexual seduction, battery with intent to commit sexual assault, etc.?

Ms. NOBLE:

Yes. Neither S.B. 125 nor [Exhibit E](#) eliminates the sections that prohibit the sealing of records for those types of crimes. Those preclusions are left intact.

SENATOR HARRIS:

Do both you and Senator Ford agree that the time frames in [Exhibit E](#) are appropriate?

Ms. NOBLE:

Yes.

MARC M. SCHIFALACQUA (City of Henderson):

I am Senior Assistant City Attorney. My office handles all misdemeanor offenses within the City of Henderson. I am the head of the criminal division. My comments are limited to the time frame for sealing records of misdemeanor offenses. My objections relate to stalking, crimes of violence, etc. Even though some of these offenses are misdemeanors, the time frame to see if someone is on the right track can be quite short. Stalking, for instance, is a misdemeanor offense. By definition, it is a course of conduct type of crime—a crime that occurs over a long period of time. It is not unusual for the crime to occur over

six months, nine months or more. I have a stalking case in which there are hundreds of contacts by a defendant with an ex-girlfriend, such as going by her home, her mother's home, work, calling coworkers, etc. I certainly understand the person who makes one bad decision and shoplifts at a Kohl's or a Walmart. That is quite different from this stalking case. If the wait time were to be changed to one year to seal that record, it would render meaningless parts of stalking and harassment statutes NRS 200.571 and 200.575. The reason is that these crimes are enhanceable. A subsequent conviction for that type of behavior would be a gross misdemeanor. Generally, unless the person starts the new crime right after the last one stops or the sentence ends, it would be difficult to get to the gross misdemeanor level. I do not support rendering meaningless those statutes because these are serious crimes that affect victims greatly. This is the reason for the City of Henderson's proposed amendment ([Exhibit F](#)).

Municipal courts typically allow first-time offenders in nonviolent cases to get some sort of amendment to their charge or a dismissal after completing some conditions. I did that yesterday in a petty larceny case where the young woman defendant is seeking to enlist in the military. However, crimes of violence are different and need a longer time frame to make sure someone does not do it again. If they do it again, the prosecutor is going to know about it and treat that person appropriately. I understand the onetime bad decision but not the 100 or 200 bad decisions.

SENATOR FORD:

Michelle Alexander says we have created a class of folks against whom we can lawfully discriminate. If you get a felony, you cannot get a Pell Grant. You cannot go to school. You cannot live in public housing. You cannot have a roof over your head. You cannot get a job because of the box you have to check. Yet we expect these people to reintegrate into society and not recidivate. There is a dignity that comes with working. There is a dignity that comes from being able to provide a home for yourself. There is a dignity that comes from being able to educate yourself. We have removed that dignity through some of these barriers.

We count ex-offenders when it comes to census. We count them when it comes to apportionment for our legislative seats. We count them when it comes to applying for federal funds. But we do not let them vote. And, yes, there is a

dignity that comes from voting. Senate Bill 125 helps to restore the dignity that comes from voting and serving on a jury.

If I had my druthers, Nevada would be one of the three states that lets people vote while in prison. However, I understand that there is an import in compromise and an import in having a conversation about things to ensure that we take reasonable compromising steps—compromising in the positive sense. Senate Bill 125 does not even move Nevada from the 29 states that require completion of sentence and probation and from the 13 states that have automatic restoration after incarceration. Senate Bill 125 puts Nevada in a class by itself because Nevada is in a class by itself. Senate Bill 125 authorizes jury service, it authorizes the ability to vote and it establishes a scheme to seal records. I hope you have been persuaded. I hope we can have a bipartisan vote on a bipartisan bill on a bipartisan issue.

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CHAIR SEGERBLOM:

I will close the hearing on S.B 125. The hearing is adjourned at 3:07 p.m.

RESPECTFULLY SUBMITTED:

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Connie Westadt,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	6		Attendance Roster
S.B. 125	C	15	Senator Aaron D. Ford	Proposed Amendment 3018
S.B. 125	D	10	Daniel Diorio / National Conference of State Legislatures	Written Testimonies of Daniel Diorio and Alison Lawrence
S.B. 125	E	5	Nevada District Attorneys Association	Proposed Amendment
S.B. 125	F	1	City of Henderson	Proposed Amendment