MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-ninth Session
April 5, 2017

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:07 p.m. on Wednesday, April 5, 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, 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

GUEST LEGISLATORS PRESENT:

Senator Julia Ratti, Senatorial District No. 13
Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Kate Ely, Committee Secretary

OTHERS PRESENT:

Glenn Trowbridge
Ben Graham, Administrative Office of the Courts, Nevada Supreme Court
John Lambrose, Cochair, Rural Subcommittee, Indigent Defense Commission, Nevada Supreme Court
Franny Forsman, Indigent Defense Commission
David Carroll, Executive Director, Sixth Amendment Center

John McCormick, Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court
Sean B. Sullivan, Office of the Public Defender, Washoe County
John J. Piro, Deputy Public Defender, Office of the Public Defender, Clark County
Amy Rose, Legal Director, ACLU of Nevada
Mark B. Jackson, Nevada District Attorneys Association
Kenneth Ward
Matt Stermitz, Office of the Public Defender, Humboldt County
Jeff Fontaine, Executive Director, Nevada Association of Counties
Matthew Sharp, Nevada Justice Association
Jesse Wadhams, American Insurance Association; Las Vegas Metro Chamber of Commerce; The Chamber
Lea Tauchen, Retail Association of Nevada
Robert L. Compan, Manager, Government and Industry Affairs, Farmers Insurance
Loren Young, President, Las Vegas Defense Lawyers
Bill Peterson, Nevada Resort Association
Stephen C. Balkenbush, Nevada Public Agency Insurance Pool; Liability Cooperative of Nevada
Jaron Hildebrand, Nevada Trucking Association
John Saludes, Co-Chair, Nevada Gun Safety Coalition
Pat Fling, Co-Chair, Nevada Gun Safety Coalition
Linda Cavazos
Jacqueline Cope
Michael Hackett, Nevada Public Health Association
Daniel S. Reid, National Rifle Association of America
Randi Thompson, Nevada Firearms Coalition
Craig DeLuz, Firearms Policy Coalition
Vernon Brooks
Gary Elias
Chuck Callaway, Las Vegas Metropolitan Police Department
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association
Corey Solferino, Washoe County Sheriff's Office

CHAIR SEGERBLOM:
We will open the hearing on Senate Bill (S.B.) 476.

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

SENATOR JAMES A. SETTELMEYER (Senatorial District No. 17):
Senate Bill 476 relates to the Commission for Common-Interest Communities and Condominium Hotels. The bill came out of the Sunset Subcommittee of the Legislative Commission. The job of the commissioners was to determine if bills should be continued, modified, consolidated or terminated. Senate Bill 476 came as a recommendation by Glenn Trowbridge.

The Commission for Common-Interest Communities and Condominium Hotels began with the 72nd Legislative Session to settle disputes that concern homeowners' associations; condominium hotels were added in 2007. The Commission consists of seven members appointed by the Governor. Four represent the business side of common-interest communities: one developer, a certified manager of a common-interest community, a certified public accountant and an attorney. Three members must be unit owners, including one who has served on an executive board of a homeowners' association.

Senate Bill 476 looks at the composition of the Commission itself. Specifically, the changes by the Sunset Subcommittee require additional members of the Commission for Common-Interest Communities and Condominium Hotels must be unit owners. The Commission was reviewed by the Sunset Subcommittee on February 23. At that meeting and several times during the 2015-2016 Interim, the Subcommittee heard from members of the public who expressed concerns about the operations of the Commission. At the Commission's final work session in June 2016, S.B. 476 was adopted.

Former Assemblyman Glenn Trowbridge, who was the Vice Chair of the Sunset Subcommittee last Interim, moved to revise the membership structure of the Commission. Mr. Trowbridge has lived in a common-interest community for many years and has firsthand experience with this issue. The proposed membership changes will ensure that unit owner occupants will have a voice on the Commission.

GLENN TROWBRIDGE:
Senate Bill 476, as written, does what it was intended to do. However, it would be enhanced if section 1, subsection 2, paragraph (d) were changed to say,

"One member who holds a current certificate as a community manager as issued by the State of Nevada."

CHAIR SEGERBLOM:
We will close the hearing on S.B. 476 and open the hearing on S.B. 377.

SENATE BILL 377: Revises provisions relating to public defenders. (BDR 14-1005)

BEN GRAHAM (Administrative Office of the Courts, Nevada Supreme Court):
Senate Bill 377 changes the defense of indigent offenders in the State.

JOHN LAMBROSE (Cochair, Rural Subcommittee, Indigent Defense Commission, Nevada Supreme Court):
I was admitted to the Nevada State Bar in 1981 and practiced primarily in the rural counties and Carson City from 1981 to 1988. From 1988 to 1990, I was with the Nevada State Public Defender's Office practicing primarily in rural counties, including death penalty cases. From 1990 to 2013, I was a member of the Federal Public Defender's Office, District of Nevada. I served as the chief assistant and the chief of the Appellate and Non-Capital Habeas Units in that office.

I am currently a member of the Federal Conflict Panel Attorney Indigent Selection Committee. I am on the panel in federal courts that select lawyers who represent people who cannot afford counsel and are not represented by the Federal Public Defender's Office.

In 2007, the Nevada Supreme Court entered an order adopting the Indigent Defense Commission to give it advice and information. The Commission:

> Shall conduct hearings and study the issues and concerns arising from the various methods used across Nevada to appoint counsel to represent those who cannot afford lawyers, to select counsel, to compensate counsel, to establish the qualifications and experience of the attorneys appointed and other related issues and in the light of these considerations, the Court impaneled this Commission.

Chief Justice Michael A. Cherry, Chairman of the Indigent Defense Commission, named me cochair of the Rural Subcommittee.

Over the last ten years, the Subcommittee has tried to improve the quality of indigent representation in rural Nevada, counties with populations of less than 100,000. The quality of representation indigent defendants got was largely dictated by where they were arrested. Rural prosecutors have much bigger caseloads and worse economies of scale than their counterparts in Washoe and Clark Counties.

The Rural Subcommittee found that caseloads were out of control and lawyers faced almost insurmountable impediments. These include vast travel distances, low pay and lack of ability to confer with knowledgeable colleagues.

What S.B. 377 does is what the Rural Subcommittee has envisioned for 10 years. In January 2008, the Supreme Court endorsed the concept of a "permanent statewide commission for the oversight of indigent defense." That is what S.B. 377 will do through legislation, as opposed to a rule adopted by a court, which is a much better approach to governance than litigation. All involved parties get an opportunity to be heard, hopefully reach compromises and come back with at least the beginnings of improvements.

The bill creates a well-represented statewide commission to oversee indigent defense, ensures standards will be adopted and ensures independence from any inappropriate imposition by judges. That will serve as an important step forward to ensure the Sixth Amendment threshold for effective assistance of counsel for indigent defendants. People who are too poor to afford attorneys will get better counsel in the long run.

The bill begins to correct an egregious financial imbalance that has been imposed over the last 30 years by the State on rural counties. An unfunded mandate requiring rural counties to pay for indigent defense contradicts the holding of the U.S. Supreme Court in *Gideon v. Wainwright*, 372 U.S. 335 (1963). The *Gideon v. Wainwright* decision has states obliged to pay for the defense of indigents, not counties or political subdivisions of states. The bill will begin to move that egregious error in a correct direction and relieve our counties of a financial burden.

When I was the State Public Defender 30 years ago, counties were contributing about 30 percent and the State was contributing 70 percent of the cost of indigent representation. Now I believe that funding ratio has flipped, with counties paying almost 80 percent, and the State paying only 20 percent.

Senate Bill 377 will move that egregious maladjustment, misallocation and an unconstitutional allocation of funds in the correct and constitutional direction. The bill will ensure objective oversight of counsel for the rural indigent. It will also ensure attorneys are given assistance and training as they discharge their duties as effective criminal defense lawyers.

This bill will ensure objective oversight of counsel representing the poor people in Nevada's rural counties. It will also ensure lawyers are given assistance and training as they try to discharge their duties as effective criminal defense attorneys.

FRANNY FORSMAN (Indigent Defense Commission):
For 22 years, I was the Federal Public Defender for the District of Nevada for offices in Reno and Las Vegas. For the past ten years, we have been on a slow road to this bill with the Indigent Defense Commission, which I have been a member of since its inception by the Nevada Supreme Court. You should also know that I have agreed to be local counsel for a major national law firm and the ACLU of Nevada. We are in the process of preparing a lawsuit because of the deficiencies we see in Nevada's rural defense system.

In 2008, the Nevada Supreme Court in an administrative order found the rural counties in crisis in terms of indigent defense. In the course of preparing this lawsuit, we have been visiting the rural counties, court-watching and talking with clients. In terms of that investigation, nothing has changed from what the Court found in 2008; if anything, it has gotten a little worse.

There may be many questions about the technical parts of this bill, but I learned in terms of investigating—and most recently in visiting small towns, where there are very few lawyers or judges, where the lawyers are in private practice—that the primary issue that drove the Indigent Defense Commission and ultimately this bill is the ability of a lawyer to do what he or she needs to do without interference and with the independence to do the kinds of things a criminal defense attorney does that may cost the county money. These small counties cannot afford to support the kinds of things that need be done in these cases.

In several counties, despite an administrative order that says you cannot have flat-fee contracts whereby you get paid the same whether you go to trial or not, the lawyer has to make a choice, do I go to trial in this case? I am not saying the lawyer is unethical, what I am talking about is the structure and the

pressure on a lawyer when trying to make a living. Do I go to trial in a case when I am going to lose money as a result? That is what happens when you have limited resources and no oversight.

The ability to adopt standards to measure these programs against the standards is critical. I think you would rather have the State designing the statewide program than a federal judge. I strongly support S.B. 377.

DAVID CARROLL (Executive Director, Sixth Amendment Center):
For more than 20 years, I have had the great pleasure and privilege to travel all across this Country. I have visited courts in 48 of the 50 states, studying just how indigent defense services are provided. I have testified before the U.S. Congress, numerous state legislatures and state supreme courts. Since its creation, I have been an ex officio member of the Nevada Supreme Court's Indigent Defense Commission. My work with your Court is funded through a generous grant from the U.S. Department of Justice (DOJ), Bureau of Justice Assistance. I am here today providing technical assistance under that DOJ grant.

This is what we are here to talk about today. Under U.S. Supreme Court caselaw, the provision of the Sixth Amendment public defense services is a state obligation through the Fourteenth Amendment. It is true that the Court has never directly considered whether it is unconstitutional for a state to pass off that obligation to its local governments. What we do know from caselaw is that if a state chooses to offload that responsibility, it is still the state's obligation to ensure that counties not only are able to provide effective representation but that they are in fact doing so.

No one doubts Nevada has no institutional mechanism to ensure that the counties are doing it and doing it effectively. You will probably hear testimony from people saying there are no problems in my county. That may be true, but the fact of the matter is this State has no idea. It is also true that any time anyone has taken a look, whether it was the American Bar Association (ABA) or the National Legal Aid & Defender Association, each group has found problems whenever studying indigent defense services in Nevada.

This lack of state oversight, the one issue this bill tries to address, is causing litigation all across the Country but particularly in the western states. On Monday of this week, the ACLU filed a class action lawsuit against Washington

State for indigent defense failures arising on the local level. The ACLU is not saying the responsibilities are with the local counties or cities, it is the State's responsibilities for the failures it alleges.

Like Nevada, Washington State requires its local governments to fund and administer the vast majority of indigent defense services. In addition, just like Nevada, the majority of nonurban counties in Washington State enter into contracts with private counsel with little to no administrative oversight by the state. If you look at the 15 states that make up the Western Interstate Region of the National Association of Counties, 8 have state-funded, state-administered indigent defense services that are the type of systems not being sued. Those are Alaska, Colorado, Hawaii, North Dakota, New Mexico, Oregon, Montana and Wyoming. Of the remaining seven states, four are currently being sued for the issues that we are presenting to you here today. Those are California, Idaho, Utah and Washington. That leaves only Nevada, Arizona and South Dakota that do not have state oversight and are not currently under a lawsuit.

What I can say is that for good, bad or indifferent, the ACLU has raised a lot of money in the first two months of the Trump Administration. You should expect that this type of litigation will be mounting in those other states.

Senate Bill 377 seeks to ensure that Nevada meets its Fourteenth Amendment duty to provide Sixth Amendment effective assistance of counsel to the indigent accused at all critical stages of the case. Essentially, it creates permanent oversight so that there will be constant and ongoing evaluation to ensure that the Sixth Amendment is met in Nevada.

In conclusion, it is important that Nevada gets this right because of its unique history in protecting individual liberty against the tyranny of government overreach. Just as the Second Amendment was originally created to allow citizens to protect their homes and families against an unjust intrusion by government, so too does the Sixth Amendment give the person a tool, a lawyer, to defend his liberty from what the U.S. Supreme Court has called the machinery of government overreach. Your state was the very first state in the Nation, the first out of all 50 states, to recognize this truth of individual liberty against the overreach of government because it was the first state to require a lawyer for the indigent accused in all cases, including misdemeanors and for the payment of those lawyers for services rendered. This happened in your state in the 1870s, 90 years before the U.S. Supreme Court said you had to do this in

Gideon v. Wainwright. It is time for your state to reclaim that history and enact S.B. 377 so you can ensure all your citizens that you value individual liberty over the tyranny of government.

CHAIR SEGERBLOM:
Hypothetically, ACLU hires Ms. Forsman and Nevada gets sued. What is the prospect of the State prevailing?

MR. CARROLL:
I have learned to never to speak for the ACLU.

CHAIR SEGERBLOM:
Well, let us ignore the ACLU, even though it has $25 million sitting around and nothing else to do with it.

MR. CARROLL:
Your exposure would be extremely curtailed if this goes through.

CHAIR SEGERBLOM:
For the record, we will include your resume, Mr. Carroll (Exhibit C). For the record, John McCormick, are you speaking on behalf of the Nevada Supreme Court?

JOHN MCCORMICK (Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court):
I am speaking on behalf of Chief Justice Cherry. The amendatory provisions we provided yesterday (Exhibit D) are the third or fourth iterations of this, and I believe the concerns of rural district judges have been allayed with this amendment.

CHAIR SEGERBLOM:
Can you briefly tell us what S.B. 377 will do?

MR. MCCORMICK:
Senate Bill 377 basically creates the Office of Indigent Legal Services as an independent office within Nevada overseen by the Nevada Right to Counsel Commission. The Office is headed by the chief counsel of that Office, and its responsibility is to deliver indigent defense services in the State in counties of population less than 100,000.

Counties are able to opt in using the State system, or they can retain their local delivery system. The Commission evaluates the provision of services by both the Office of Indigent Legal Services and the county's local system. If the county's system is found to be deficient after an appeal process that is considered by the Nevada Supreme Court, the Office will step in and deliver those services in the county. The county has an opportunity to develop a plan and ask the Commission to return their ability to deliver those indigent legal services.

There are technical changes that update existing statutes that mention the State Public Defender to reflect the Chief Counsel of the Office of Indigent Legal Services. There are provisions for conflicts in representation.

CHAIR SEGERBLOM:
Who pays for this?

MR. MCCORMICK:
Under this measure, the counties and the State will never be obligated to fund indigent defense services more than the average of the three fiscal years (FY): FY 2014, FY 2015, FY 2016. The State is obligated to pick up the rest of that balance. The county can retain it, or they give it to the Office of Indigent Legal Services and the State picks up the rest.

CHAIR SEGERBLOM:
Has the National Association of Counties seen this?

MR. MCCORMICK:
The National Association of Counties has been involved with the Indigent Defense Commission for the ten years we have been doing it. Jeff Fontaine, Executive Director of the Nevada Association of Counties (NACO), has been involved in working on the language for this bill.

CHAIR SEGERBLOM:
Are you are speaking for Chief Justice Cherry, and does he support the bill?

MR. MCCORMICK:
Yes.

SENATOR CANNIZZARO:
How does this affect individuals who have contracts with the counties to do public defense work, either on a conflict basis or a regular basis? How would this bill essentially work within those contracts?

MR. MCCORMICK:
If the county chose to retain providing indigent defense services at the local level, so long as those contracts or the county delivery system complied with the standards set forth by the Commission, they can continue to do that. I do not believe that would be a flat-fee contract. As far as conflict counsel, the ability of both the Office of Indigent Legal Services and the counties to contract with conflict counsel is retained.

CHAIR SEGERBLOM:
It sounds like one of the big issues is the flat-fee contract. Inherently, a lawyer is going to be more likely to try to resolve a case than go to trial or file an appeal?

MR. MCCORMICK:
Yes. That has been the testimony to the Indigent Defense Commission.

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

We are in full support of S.B. 377. I have had the privilege of representing indigent clients for several years.

CHAIR SEGERBLOM:
You are not a flat-fee attorney?

MR. SULLIVAN:
No.

JOHN J. PIRO (Deputy Public Defender, Office of the Public Defender, Clark County):
The Office of the Public Defender, Clark County, is in full support of S.B. 377.

AMY ROSE (Legal Director, ACLU of Nevada):
The ACLU of Nevada supports S.B. 377. The bill creates the Nevada Right to Counsel Commission. The Commission creates minimum standards, provides for

criminal defense and indigent defense services, provides for oversight and works to ensure indigent criminal defendants in Nevada are provided the representation they are owed by the both the Nevada Constitution and the U.S. Constitution.

We have been working with Ms. Forsman and a large national law firm in anticipation of litigation in Nevada. We have gone to different rural counties and done court-watching, public records access and have combed through many contracts in rural counties. I will share some of the problems that we saw.

Through our investigations, we discovered many counties use a flat-fee contract and require a court order to get any payment for investigators or expert witnesses. It is really no surprise many of these indigent defendants are not getting the benefit of an investigator or any type of expert witness. Many of these contracts also include appellate work in that flat-fee contract. The attorneys in the rural counties are expected to do an enormous amount of work for very little pay. These contracts in rural counties often require the contract holder to pay for direct costs such as transcript fees, and they are not reimbursed for mileage expenses. As we all know, some rural counties are large and expansive. Many different courts are included in each county, and public defenders are required to drive all across counties at their own expense.

There are no reporting requirements, and it is difficult to get real numbers about what is going on and to have any type of oversight within counties. Certainly, the State is unable to fulfill any type of oversight duty to figure out what is going on.

Just to give you an idea of some numbers and how that works out, the data that we do have, which is self-reported by some of the public defenders, is concerning. In Nye County, a public defender reported being assigned 189 misdemeanors, 40 gross misdemeanors and 4 misdemeanors. I did not write down the felony number, but there were no trials at all throughout the entire fiscal year for any of those appointments, felonies, misdemeanors or trials.

Another public defender in Nye County reported there were 158 misdemeanor appointments, 33 gross misdemeanor appointments, 122 felony appointments and only 7 trials throughout with only 10 requests for an expert witness and only 5 requests for an investigator.

These numbers are really small with people doing anything more than someone at the very beginning taking a plea. Mr. Carroll talked about this earlier that because the imposition is on the counties, the State is shirking its responsibility to ensure that all indigent defendants across Nevada are given this constitutional right to adequate defense to an investigation of their claims, to have experts go to trial if necessary.

I think this bill solves many of the concerns that we have, and we urge the Committee to pass S.B. 377.

MARK B. JACKSON (Nevada District Attorneys Association):
I am here on behalf of the Nevada District Attorneys Association. The Nevada District Attorneys Association does stand in opposition to S.B. 377.

It is important to know and understand the district attorneys are firm believers in the Sixth Amendment, and it is part of our job to protect that. This is not about lawyers trying to take away any Sixth Amendment rights as to why we are opposed to this particular bill.

There are issues related to certain sections within the bill that even if it moves forward, you need to be advised that these could cause problems and potential future litigation. We all want to resolve that now before the bill moves forward.

I want to lay out the reasoning why we think this bill is flawed from the onset. First and foremost, it is our position that S.B. 377 as written is similar to S.B. No. 451 of the 78th Session, which was an attempt to create the Indigent Defense Commission through the Legislature. The only difference is that S.B. 377 changes the name of this particular Commission. It would still be comprised of 13 members. Senate Bill No. 451 of the 78th Session guaranteed only 1 rural member out of the 13. This bill guarantees three rural members. The majority of this bill is about rural residents. It is about the individuals who are appointed to this Commission in Clark and Washoe Counties making decisions about what is going on in the 15 rural counties.

It is our position that this bill as written creates effectively a fourth branch of government. What I mean is anytime a Legislature creates a commission or an agency, and that commission or agency branches off into all three branches of government, the Legislative Branch creates the laws and rules contained within this bill, the Executive Branch enforces them, and the Judicial Branch provides

interpretations associated with that, creating the fourth branch of government. That reason in and of itself is a basis of why we oppose the bill.

Another reason we oppose S.B. 177 is it gives the Commission the power to create standards that are much higher than the current status of the law as decided by the U.S. Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984). Basically, when we look at ineffective assistance of counsel claims, of all the people in the criminal justice system who want to avoid ineffective assistance of counsel claims, it is the prosecutors. The prosecutors are putting the work in on that. It potentially causes us to try the case again. We are going to go up through the appeal process on that. If we are talking about the number of resources that are dedicated to an ineffective assistance of counsel claim, it affects our offices the most. We obviously want the best-trained criminal defense attorneys, the most effective criminal defense attorneys in our criminal justice system. To that extent, it emphasizes the fact that we are not opposed to certain aspects of what the bill may attempt to accomplish, but our position is those are already currently occurring.

It is interesting to note that Mr. Carroll discussed the lawsuit filed on Monday in Washington State. This class action lawsuit dealt with the representation of juveniles charged with delinquent acts in a certain area of Washington State. The Sixth Amendment Center's Website states the allegations are a virtual checklist of the violations against the ABA's *Ten Principles of a Public Defense Delivery System* (Exhibit E).

The reason I bring this up is within this bill itself, section 3, subsection 3, paragraphs (b), (c), (d), (e) and (f) are parts of the principles described by the ABA in this February 2002 publication. Moving on to section 11, subsection 1, paragraph (a) is ABA's Principle No. 4; the first part of paragraph (b) is ABA's Principle No. 6; and paragraph (c) is ABA's Principle No. 7. It is our position in talking with the prosecutors and district court judges in the rurals, that these ten principles are being followed within the rural jurisdictions. If the whole purpose for setting up a legislatively created statewide oversight commission is to follow these ten principles set by the ABA 15 years ago, it is already being done.

I have heard testimony about what is going on in the State. I do not know who showed up for Douglas County, where I am a prosecutor. I know why Douglas County broke away from the State public defender system in 1991,

and I think Kenneth Ward was the very first public defender in the State under a contract basis. However, the basis behind it was because the State was violating at that time even before the ten principles came out. Just as Nevada was the leader in the nineteenth century in providing representation to indigent defendants, Douglas County and other rural counties were also leading the Nation in what type of services were provided at the local level.

In the 1990s in Douglas County, the State Public Defender did not have an office in Douglas County. Communications were happening there in the very busy foyers of the courtroom, which is difficult to do. I know one of the amendments in Exhibit D brought forward by Mr. McCormick and Mr. Graham is to create offices within each of the counties that oversee the authority for indigent services. That particular amendment would be beneficial.

Regarding the fiscal impacts, they show zero. However, S.B. No. 451 of the 78th Session that came before this Committee had a fiscal impact of nearly $3 million for the biennium. That was based upon less personnel than what is being described in this particular bill. That is only for eight of the individuals identified in that section as to the creation of who the attorneys are.

CHAIR SEGERBLOM:
We appreciate that, but we are just a policy committee. This will go to the Senate Committee for Finance as soon as it passes.

MR. JACKSON:
One other fiscal note in the amendment, Exhibit D, is an order to create those offices in up to 15 rural counties. It is going to be expensive for leasing and staffing the office. This should be addressed.

CHAIR SEGERBLOM:
If I understand this bill, Douglas County could stay the same. This Commission would evaluate it to make sure the indigent defendants were getting treated appropriately in Douglas County, but Douglas County could keep its same public defender system or anything it wants to keep?

MR. JACKSON:
Everything you stated is true, but as far as the oversight, it is occurring at the local level. Now this bill is asking that it be set forth by the State.

CHAIR SEGERBLOM:
Who is the oversight in Douglas County?

MR. JACKSON:
The ultimate oversight is with the independent board, which is our Board of County Commissioners. The contracts come up for annual renewal. We have four attorneys who contract with Douglas County to provide indigent services within Douglas County, not only for adults who are arrested or being charged with a commission of a crime but also our juveniles in the delinquencies, as well as children who are in need of protection under *Nevada Revised Statutes* (NRS) 432B. I am thankful that was at least through the amendment that came from Mr. McCormick.

In Nevada, there are nearly 1,600 unpublished opinions out of the Nevada Supreme Court. We have nearly 200 published opinions since *Strickland v. Washington* came down from the U.S. Supreme Court in the mid-1980s. That establishes what the structure is as far as the effective representation of a person who is accused of a crime within the State. Those are the particular standards. As far as caselaw standards, those are set forth within the *Ten Principles of a Public Defense Delivery System*. A study that was done made recommendations that the caseload should not exceed 400 misdemeanors per attorney and not exceed 150 felonies per attorney. It recognizes that certain cases such as murder cases, and especially death penalty cases, need to be thrown out because one death penalty case can run in excess of 2,000 hours per year of work. That attorney would not be able to work on any other case. That goes back to the control of judges within specific locations who recognize and understand that and make sure caseloads remain accurate.

The four contract attorneys in Douglas County have a low caseload of about 200 cases. I have six prosecutors, and we process more cases but are not charging all of them.

CHAIR SEGERBLOM:
Is your issue that you would rather have the Douglas County Board of Commissioners oversee public defenders rather than the Nevada Right to Counsel Commission oversee your public defenders?

MR. JACKSON:
According to Exhibit D, as long as there is oversight, including at the local level, that is sufficient. I think that we could overcome any threats of litigation or systemic litigation. In regard to the question Senator Cannizzaro asked, section 13, subsection 3 references NRS 260.010, as does section 28. This language conflicts with NRS 260.010. If a county has a population of more than 100,000, it is required to create a county public defender by ordinance. For counties with a population of less than 100,000, the boards of county commissioners have discretion as to whether they will create offices of a public defender.

The language in section 3 says boards shall comply with those provisions. However, they could be interpreted as taking away the ability of boards to elect to contract for those services and instead require them to create offices of a public defender. I do not believe that was the intent of the bill because it created an inconsistency.

KENNETH WARD:
I was a State public defender and Washoe County public defender. I was contacted in 1989 to do the work of contract public defenders because of dissatisfaction with the State Public Defender. Lyon County had three justice courts and one public defender in charge of all them and the district courts. The State Public Defender had a higher caseload than we do now.

CHAIR SEGERBLOM:
I do not think we are trying to go back to where we were. We are trying to go forward.

MR. WARD:
We have gone forward with the issue of the contract public defenders. Everyone says it is a budget issue. Contract public defenders have to deal with a budget, just like the State or the counties. The counties have budgets, and the State has a budget. To say the budget restrictions are that I do not go to trial as much as someone else without even looking at the cases is perplexing. I have tried more than 60 jury trials and several murder cases.

Mr. Lambrose knows this more anyone else. It is an affront to my professionalism to say I am ineffective, or that I do not try cases that need to be tried. That is what most contract public defenders in the State do.

Nye County has five public defenders, four in Pahrump and one in Tonopah. Douglas County has four. There are three in Lyon County, plus separate offices, which presents the conflict of interest issue. When two or more codefendants are charged, they all have to be represented by counsel. That was one of the problems with one organization, and there is always conflict.

Under the current system, our contracts have been approved and copied by other counties, and our system is evolving all the time. If one of our offices has a conflict, the other independent law office takes over the case. If that office has a conflict, the other one is taken.

Washoe County had to have an alternate public defender system just to handle these conflicts. We do not have that. We take care of the budget and hire people. There are five attorneys in Lyon County who do public defender work.

CHAIR SEGERBLOM:
Would this bill allow your system to continue? Would it be evaluated by an independent commission instead of the Lyon County Commissioners?

MR. WARD:
No. There is oversight by every single one of the judges, who are obliged to make sure everything is done correctly. To say that they are not doing their jobs is an affront. I have never had an issue if I requested fees for a private investigator or expert witness. Mine are not flat-rate contracts, but everyone thinks all the expenses come out of them.

CHAIR SEGERBLOM:
Is that true in Lyon County?

MR. WARD:
Yes, and in most counties. Unless the policies of the State Public Defender have changed, in order to employ expert witnesses, public defenders must get permission from the courts.

CHAIR SEGERBLOM:
We are not trying to replace local attorneys with the State Public Defender.

MR. WARD:
True, but it is the camel's nose under the tent as far as I can tell.

MATT STERMITZ (Office of the Public Defender, Humboldt County):
You have my written testimony (Exhibit F). I work exclusively for Lyon County as its public defender. I have spent 26 years in the rural counties, have been involved in 100 felony jury trials and appeared in front of judges in every judicial district.

In 2007, Humboldt County terminated its relationship with the State Public Defender for the same reasons as did many other counties. The State Public Defender could not maintain competent people in the rural offices.

CHAIR SEGERBLOM:
We are not trying to revisit history. We are trying to decide whether this is a good bill.

MR. STERMITZ:
With due respect, the proof is in the pudding. Recruiting urban lawyers to come to rural Nevada did not work. Rural counties got inexperienced and retired attorneys. The turnover was rampant.

When I was appointed in 2007, I had a case involving a young woman in a dependency action who had gone through seven public defenders. When State public defenders in the rurals acquired satisfactory acumen, they all moved to the urban communities, Reno, Carson City or Las Vegas. That is where they remained.

Since 2007, we have been trying to make Humboldt County the gold standard for indigent defense, Exhibit F. We listened to the rural Indigent Defense Commission and made improvements. Although there are lawsuits by the ACLU against states with county-based public defenders, California, Idaho and Utah also have them. Litigation against Idaho by the ACLU was thrown out of court.

You have an assortment of exhibits attached to the letter in Exhibit F. Systemically, the rural counties and the indigents will not be protected by a State system. The system needs to be local and locally controlled.

If Senate Bill 377 is passed, Washoe and Clark County residents will be able to continue to control their public defenders through our representative democracy and elected officials. However, the rurals will lose that right. Their public defenders are going to be ultimately appointed by the Governor. People in rural

Nevada should not have their political rights imposed on them. What is good for the goose is good for the gander, and control needs to be local.

JEFF FONTAINE (Executive Director, Nevada Association of Counties):
The Nevada Association of Counties is neutral on S.B. 377. For the record, NACO fully supports the Sixth Amendment as a principle of our Nation. Rural counties are doing their best to ensure they provide effective legal counsel for indigents. However, NACO's position is counties should not have to shoulder the burden of funding the obligation of the State.

CHAIR SEGERBLOM:
Is it true that 80 percent of indigent defense costs are shared by the counties?

MR. FONTAINE:
Only for counties that participate in the State Public Defender system. The rest of the counties are paying the full costs.

CHAIR SEGERBLOM:
Would the bill change that?

MR. FONTAINE:
Yes.

CHAIR SEGERBLOM:
Do counties not like that?

MR. FONTAINE:
The Nevada Association of Counties believes counties should not have to shoulder that funding responsibility. There are only two states that provide a lesser share for funding indigent legal services than Nevada. The cost mandate on the rural counties is a continuing burden.

In the last four Legislative Sessions, NACO has proposed many bills to help counties pay for the unfunded mandate. Unfortunately, those efforts have not been successful. In preparing for this Session, we tried to craft a bill that would address the concerns of the Indigent Defense Commission, the Sixth Amendment Center and the ACLU about the funding oversight. We worked closely with the counties on revised drafts, which we asked them to

share with officials within their counties. Several counties relied on the advice and opinions of their district attorneys in the process.

On several occasions, we went through various revisions of the bill with Mr. Jackson. This is the first time I have heard the argument that county commissions are ultimately responsible for ensuring their counties' indigent defense meets various standards. That may be the case in Douglas County. I am not convinced that county commissioners and other rural counties are aware of that.

After many months of discussing the bill's language, negotiating with the various parties and making various revisions, NACO could not reach a consensus amongst the counties. Some counties clearly see the benefit of S.B. 377 as written, while others are opposed. Ultimately, the NACO Board of Directors voted to take a neutral position.

With regard to the amendment prepared on behalf of the Indigent Defense Commission, Exhibit D, and the amendments addressing concerns of rural district court judges, counties opposed to the bill as written could change their position with a proposed amendment.

CHAIR SEGERBLOM:
The reality is S.B. 377 tells rural counties, "If you like your current system, you can keep it." I am not sure why they object. I have heard the State has had a hard time getting counties to pay their share of indigent defense costs.

SENATOR HARRIS:
Section 9, subsection 4, paragraph (a) says "Each person appointed to the Commission pursuant to subsection 2 must have: Significant experience in providing legal representation to indigent persons ... " However, some of the individuals who are allowed to be on the Commission are clearly contemplated to be nonlawyers. Are we expecting every member on the Commission to be an attorney? I would like that clarified.

Section 15 deals with the representation funding mechanism, which seems very static. If a county decided to transfer responsibility to the State in 2018, would we would average their costs on the basis of 2015, 2016 and 2017? Fifteen years down the road, there would be no provision for an increase in costs.

MR. MCCORMICK:
The bill has a caveat that allows people to be nominated to the Commission if they have a demonstrated commitment to providing effective legal representation to indigent defendants. They do not have to be attorneys as long as they are familiar with the issues. Senator Harris, with regard to your second concern, we are certainly open to looking at that.

MR. LAMBROSE:
I think Mr. Jackson may have misspoke. Section 9 guarantees there are at least four rural county Commission members. Given the process involved, I envision there will be least five or six rural county members on the Commission.

Mr. Jackson's use of the ten ABA principles should not be construed as a per se rule when it comes to the expected performance of counsel in the defense context. *Strickland v. Washington* was the seminal case about whether a lawyer discharged her duties with regard to the Sixth Amendment. All that says is trial judges have abundant discretion to make that determination, and those decisions are informed by things like the ABA principles or the Nevada Supreme Court's performance standards, not a per se rule. The Commission is not going to dictate from Carson City what the expectations are for a lawyer practicing law in Eureka.

It pretty much speaks for itself that when there is an oversight committee or commission, it is the paymaster for the lawyers engaging in the indigent defense process. That makes the job of county commissions undertaking that task very difficult. They have an obligation to the taxpayers of the county to keep costs low. They do not owe an obligation to the client of Mr. and Ms. X's client.

I have spoken to NACO twice by invitation and both times told them if I were the district attorney in a rural county, I would seriously talk to officials about shielding themselves from this type of liability. States throughout the West have been exposed to liability because they failed to pay for indigent defense. These counties have had to bear the brunt of the unfunded mandates. A district attorney who is giving contrary advice is not serving the interests of his or her constituents in that county.

CHAIR SEGERBLOM:
We will close the hearing on S.B. 377 and open the hearing on S.B. 431.

SENATE BILL 431: Revises provisions relating to civil actions. (BDR 3-1066)

MATTHEW SHARP (Nevada Justice Association):
Senate Bill 431 deals with joint and several liability. I will define those terms. If someone is involved in a collision, and two other parties were at fault, a total of three people were involved. If the first person did not do anything wrong, he or she could recover jointly all damages caused by the two wrongdoers. That is joint liability and is several among the defendants. One defendant can recover a portion of his or her money from the defendants to the extent of their respective liabilities. Joint and several liability has been the law for many years.

Under NRS, if a plaintiff is innocent of wrongdoing, then that is joint and several liability. If he or she is even 1 percent at fault, it is several liability. That is the position of the Nevada Justice Association (NJA). I am sure you will hear from others that Nevada has a several liability system. Hence, the purpose of the bill is to clarify those two views of NRS 41.141.

The NRS allows that when comparative negligence is asserted as a defense, some ambiguity exists. The NJA holds something cannot be asserted as a defense unless a trier of fact finds that it is valid. If I file a lawsuit but do not have the evidence to prove it, it is not fair for me to recover. The same concept applies to the defense. When a complaint is filed in any judicial courts and the defense files its answer in which they assert affirmative defenses, under NRS, the defendant must prove his or her affirmative defenses.

This language has been in existence since 1973, when the concept of comparative negligence was formulated, and it asserts a defense has been there. The primary intent of this bill is to clarify that if comparative negligence is found by a jury or a judge, there is several liability, except under certain exceptions within existing statute.

Here is another example: A person is driving down the road, and a tractor-trailer driving at a high rate of speed is approaching. The tractor-trailer driver tries to brake, but the brakes fail. There are two negligent parties in this instance, the driver of the tractor-trailer and the person who did not fix the brakes properly. A jury finds there is nothing the plaintiff did wrong and he or she has zero liability. Under that situation, there would be joint recovery, meaning all damages would be recovered by the plaintiff from both defendants.

Section 1, subsection 2 of S.B. 431 provides when comparative negligence is asserted as an affirmative defense and a judge determines it is a reasonable defense, meaning there are questions of fact, the jury is instructed on comparative negligence. What that means is in a trial, both sides present their case. At the end of the case, the judge again instructs the jury on the law. If the prosecutor has not proven negligence, the judge does not instruct the jury because there is no evidence of negligence. Likewise, if the defense has not provided evidence of comparative negligence, the judge does not instruct the jury. In most cases, there are facts in dispute that a jury has to decide, and the judge instructs on both negligence and comparative negligence. That is the essence of the bill.

What the Committee should understand is when plaintiffs are partially at fault for their own injuries, there are certain exceptions wherein joint liability still applies. The bill does not change any of those exceptions.

In my career as a lawyer, I have found the concept of joint and several liability confusing. The perception of those who oppose joint and several liability has a deep-pockets theory. Under the concept of joint and several liability, a client can only recover from a defendant if the case is proven. This means prosecutors must prove defendants were negligent, and the negligence was a substantial factor in causing damage to plaintiffs. In a joint liability case, both wrongdoers cause the same injury. The heart of the matter is should the person who does nothing wrong bear the risk of not being able to be compensated, or should it be the wrongdoers?

In several liability, the plaintiff could be 0 percent at fault, with one defendant 40 percent at fault and the other defendant 60 percent at fault. If the 40 percent defendant has no assets, the person who did nothing wrong is not going to recover damages or can only recover 60 percent of them. As a practical matter, that means no loss of income and no or not all medical bills paid. That has a profound effect on plaintiffs for the rest of their lives.

JESSE WADHAMS (American Insurance Association; Las Vegas Metro Chamber of Commerce; The Chamber):
The American Insurance Association, Las Vegas Metro Chamber of Commerce and The Chamber are opposed to S.B. 431. Fundamentally, we oppose the bill because the change in pleading procedure seems unnecessary. The change appears to unnecessarily alter the rights of defendants to assert their defenses

when they plead comparative negligence claims. The current practice of allowing the defense to assert defenses it sees as appropriate in its answer to the court strikes a good balance in the system.

LEA TAUCHEN (Retail Association of Nevada):
The Retail Association of Nevada opposes S.B. 431. The retail industry is concerned there may be negative implications and unintended consequences should there be changes to the way comparative negligence works in Nevada.

ROBERT L. COMPAN (Farmers Insurance):
Farmers Insurance opposes S.B. 431. In a hypothetical scenario, there are three cars: one car, one car with minimum limits on its insurance policy and a Lamborghini with a $100 million limit on its policy. The first car hits the second car. The third car comes along and barely touches the second. The fault is joint and several, with the Lamborghini driver at fault with 1 percent negligence.

From a public policy standpoint, we question that it is a legal problem the bill is intended to address. Statute allows defendants to assert comparative negligence as an affirmative defense to be addressed by a trier of fact. Oftentimes, if a jury believes there is general dispute as to any material fact, that is the assertion of the defendant. That is what this bill corrects, that the assertion has already been handled in summary judgement.

LOREN YOUNG (President, Las Vegas Defense Lawyers):
The Las Vegas Defense Lawyers opposes S.B. 431. The current status of NRS is several liability, contrary to what has been presented. This statute is founded on *Cafe Moda, LLC v. Palma,* 128 Nev. 78, 272 P.3d 137 (2012). The judgment involved a case wherein the plaintiff was not found comparatively negligent by the jury, but the court opined several liability should be applied. The NRS provides there does not need to be a finding of comparative negligence to have several liability. The case went through the legislative history of the changes of joint several liability that had occurred in 1989, remaining in NRS for almost 30 years now. That case also involved the deep-pocket doctrine and how several liability is supposed to prevent it and hold a defendant responsible for a percentage of negligence. If a defendant is 10 percent negligent, then he is not required to pay the 90 percent of responsibility by other parties. A substantially similar bill was A.B. No. 240 of the 77th Session, which was

vetoed by Governor Brian Sandoval in June 2013. Therefore, S.B. 431 simply should not be submitted.

BILL PETERSON (Nevada Resort Association):
The Nevada Resort Association opposes S.B. 431. This is not a clarification of NRS 41.141; it is a change in the law. In the case Mr. Young referred to, a man named Matt Richards walked into the restaurant Cafe Moda and stabbed Donny Palma 14 times. Mr. Palma survived and sued Mr. Richards and Cafe Moda. The case went to trial, and the jury found Cafe Moda 20 percent responsible for the accident and Mr. Richards 80 percent responsible. The trial court said it would award 100 percent to Cafe Moda because of the application of joint and several. The case went to the Nevada Supreme Court, which ruled it was several liability and awarded only 20 percent to Cafe Moda. The plaintiff, Mr. Richards, was ruled completely innocent.

Mr. Sharp wants NRS to reimagine the result of that case by changing the scene of the stabbing to a parking lot—let us say at MGM Grand Las Vegas, Caesars Palace or Wynn Las Vegas—where a couple of lightbulbs are out. At the trial, the jury decides 1 percent negligent for the casino. The attacker is 99 percent negligent, but he has no money and is in jail. So, the casino ends up paying 100 percent.

The NRS has already been clarified in concrete many times by the Nevada Supreme Court, as in in *Cafe Moda, LLC v. Palma*. This debate has been heard in previous Legislatures, and A.B. No. 240 of the 77th Session tried to change NRS in precisely the same manner. The policies in S.B. 431 are no different than those presented to previous Legislators. This is basically a debate about who shall pay the costs of an incident in which there is a totally innocent plaintiff with the theory that he or she should not pay any of the costs.

However, if someone who is liable for 1 percent is on the other side, he or she should be liable for 100 percent. People are responsible for their own actions, and to the extent of their own actions, existing law provides that. The Nevada Supreme Court has articulated that as the policy of previous Legislatures. We look at the total incident, we see who is involved and who is responsible for causing it, then the responsibility is allocated among those who are responsible. That is the way it has been for 30 years, and it should not be changed by this Legislature.

SENATOR FORD:
I do not understand the entirety of the *Cafe Moda, LLC v. Palma* decision. The circumstances you described sounded like there was an intentional conduct by a stabber and negligent conduct by Cafe Moda. Is that correct? In that circumstance, is there a distinction from the situation described by Mr. Compan? If there are two negligent drivers in a car crash, why is it a negligence issue, as opposed to one intentional tort and one negligent tort? Is there a substantial distinction here?

MR. PETERSON:
No, it is a distinction without a difference. There is a distinction because Senator Ford is highlighting a different aspect of the *Cafe Moda, LLC v. Palma* decision that fell within the exception. That exception being if you are an intentional tortfeasor, you are 100 percent liable. In *Cafe Moda, LLC v. Palma,* there was an intentional tortfeasor and a negligent tortfeasor, and between the two of them, it was 100 percent. In that case, the negligent plaintiff paid 100 percent because he was the only negligent plaintiff. The fact that the stabbing was intentional falls within the exception. So, there was only one negligent party involved at 100 percent.

What the Court said in *Cafe Moda, LLC v. Palma*, was, "Let us look at the overall morality and judgment of the thing and who is at fault and then allocate responsibility for the total fault."

The Court said it was immaterial that the stabbing was intentional. Mr. Richards was still only 80 percent at fault according to the jury and was the negligent party, even though his species of conduct was negligence, as opposed to intentional; therefore, he was only 20 percent responsible. The Court said “That is the way statute should be applied fairly because that is how it reads.” Even though Mr. Palma was a 100 percent innocent plaintiff, Cafe Moda had to pay 20 percent because it was only 20 percent responsible for the incident.

SENATOR FORD:
I remember a similar conversation from 2013 about a case involving a Greyhound bus?

MR. PETERSON:
Yes, two babies were in a car hit by a Greyhound bus. In that case, the fault was allocated among different parties. The court said the babies were totally innocent and therefore were entitled to 100 percent.

SENATOR FORD:
Was that a joint and several right? It is not the same as *Cafe Moda, LLC v. Palma.*

MR. PETERSON:
It also involved a different NRS.

SENATOR FORD:
Perhaps this question is moot because of the different statute. Are you suggesting *Cafe Moda, LLC v. Palma* overruled the Greyhound Lines case, or is the latter no longer relevant because the NRS has changed?

STEPHEN C. BALKENBUSH (Nevada Public Agency Insurance Pool; Liability Cooperative of Nevada):
You have my written testimony (Exhibit G). *Buck v. Greyhound Lines, Inc.*, 105 Nev. 756, 783 P.2d 437, 442 (1989) interpreted a 1979 NRS that provided joint and several liability, so that case has nothing to do with S.B. 431. What we are dealing with today is the 1989 law and what is in S.B. 431, with the exception of two changes. *Buck* interpreted a statute that allowed joint and several liability, and the current statute does not. It provides for several liability. *Buck* interpreted a statute that allowed that type of recovery for plaintiffs.

I agree with everything Mr. Peterson said because this is a sea change in statute that has been on the books since 1989 and has worked well. The reason is the responsibility for each individual defendant is borne by the individual defendant, not someone who is 1 percent responsible.

Here is an example of something S.B. 431 would eliminate. The NRS works well when the defense has pleaded and attorneys have talked about answers and filed complaints. However, when you plead that comparative negligence defense, we believe there is some responsibility on behalf of the plaintiff. You do that as an officer of the court. It is unlikely you would just throw stuff into answers to a complaint because the rules of professional responsibility do not

allow that. However, as an officer of the court, you must, in good faith, believe that the comparative negligence defense applies.

What S.B. 431 will do is take the comparative negligence defense and essentially neuter it until the end of the case, when tried by jury, and before the court instructs the jury. Section 1, subsection 2 places the judge as the gatekeeper of one of the most central issues in the case: whether there has been comparative negligence on behalf of the plaintiff. That has never been the law in Nevada, and now we are putting the judge in the middle of that. Judges are making decisions on the issue before instructing the jury.

That has never been done before, and it has worked well for 30 years. There is no legitimate reason to change it. The law is clear, and the history of this is set forth in *Cafe Moda, LLC v. Palma*.

SENATOR FORD:
You keep saying it has worked well but only for the tortfeasors. They get to only pay what they are responsible for, but what about the victim? The victim has been hit and hurt, 100 percent injured, and now he or she cannot receive 100 percent recovery because it has worked well for the tortfeasors? If something works well, that is clearly in the eyes of the beholder. The policy question we need to decide is, do we want to protect the victim, or do we want to protect those who accosted or hurt the victim? That is an interesting dichotomy we have to wade through.

You indicate that one of the problems is the bill puts a core issue in the hands of a judge. We do that all the time. Evidentiary rulings are core parts of a case, and a judge decides them. I am not convinced or persuaded that we should not give our very capable jurists the ability to make decisions on this issue. There are convoluting issues we need to be concerned about, and the victim is one of them.

MR. BALKENBUSH:
In almost 40 years, I have tried approximately 75 personal injury cases. Because of the comparative negligence defense, I have never had a plaintiff not recover because of the existing statute.

MR. PETERSON:
The policy Senator Ford articulated has been debated throughout the United States by other state legislatures, including this one. The debate really boils down to this: The NRS is fair to the tortfeasor because the tortfeasor is only being held financially responsible for part of the accident for which he or she is morally responsible. There is a synchrony displaced when that person has to pay more than his proportionate share of the liability.

The Nevada Supreme Court articulated that well when they said "look there has been a tradeoff here." It used to be when I started practicing law many, many years ago, contributory negligence was a complete bar for even 1 percent negligence. If a plaintiff was even 1 percent negligent, it was a complete bar. There was a compromise that took place that has worked well for a number of years. That compromise is we are going to allow the plaintiff to recover even though he may be partially at fault, but he only gets to recover basically from the defendant for the proportionate amount of liability that is assessed to that defendant. That is why it is fair to both sides.

With respect to letting judges decide, there is a deprivation of right to jury trial. If there is any rationale whereby jurors could find negligence, they get to decide that, not the judge. In some cases, we trust judges to do that, but in most cases we do not.

SENATOR HARRIS:
Are there any other states that utilize the process described earlier, wherein we would hold the affirmative defense until the end after the trier of fact has determined the comparative negligence?

MR. BALKENBUSH:
Not to my knowledge. California, Arizona and Utah all recognize several liability, Exhibit G. They have statutes that allocate the fault between the defendants on a percentage basis. That is what Nevada does now, and it would not be smart to change the law because of businesses that potentially want to locate here.

JARON HILDERBRAND (Nevada Trucking Association):
The Nevada Trucking Association opposes S.B. 431.

MR. SHARP:
The *Cafe Moda* decision is the best argument made by the other side. There is a rule that judges cannot consider things that are not raised in briefs. For whatever reason, the plaintiff in *Cafe Moda v. Palma* did not raise the central issue under NRS that comparative negligence is asserted as a defense. If you lose to a jury that decided you did nothing wrong, that is not a defense and has never been asserted as one. The argument the defense wants you to believe is, "I file a piece of paper in court. Just like filing a complaint, it costs me $100, and if I list 'comparative negligence' as a defense, magically, I now have several liability." Look at it in the reverse: I say to you, "I have a bill, and I want to be compensated when I assert negligence in a complaint." You would laugh me out of the room, and properly so.

Our justice system is based on the finding of facts. When we say there is joint liability and the plaintiff is not at fault, that is the state of NRS. The purpose of S.B. 431 is to clarify this language to assert joint liability as a defense because it is being interpreted differently today.

In 1989, the Supreme Court said in *Buck*, " ... however the Nevada Legislature modified the common law rule in situations where the injured plaintiff was partly responsible for his own injuries." Common law rule, as Mr. Peterson explained, is joint several liability. According to the Court, that was modified when the injured plaintiff was partly responsible for his own injuries. In 1987, the statute was amended, but the critical aspect asserted as a defense has existed in some form since 1973. That part of *Buck* stands. The point is, we seek clarification of the law. There is a suggestion we are taking something away from a jury, but that is absolutely not the case.

Mr. Peterson and Mr. Balkenbush would tell you that at the end of every case; if they have a defense that has been asserted and there is no evidence to substantiate the defense, the judge does not instruct the jury. That has always been the law. If there is evidence supporting the defense of comparative negligence under statute, under S.B. 431, the jury will be instructed on comparative negligence. The question is whether they find any.

This is a policy issue. The idea of someone being held 1 percent responsible appeals to us, even though it might not seem fair. Here is an example: I have a party at my house. A guest has had too much to drink, gets in a car and kills a family. You would all say my guest was negligent. If you heard that I knew he

was drunk, yet I gave him the keys to my car and told him to go get more beer, you would say I am responsible. I am 10 percent responsible, and he is 90 percent responsible. The family killed by two people doing something wrong was not at fault. The question is, should the person who does nothing wrong get full compensation? In my view, they should.

SENATOR FORD:
My question still is, what about the victim? You said that the most persuasive argument from the other side was *Cafe Moda v. Palma*. The most persuasive argument from my perspective is the contention by Mr. Peterson that we are effecting the Seventh Amendment right to a jury trial. That is an important consideration. While all amendments are important, the Seventh Amendment is one we should be concerned with today.

MR. SHARP:
In section 1, subsection 2 of S.B. 431, the intent is certainly to leave it to the judge to say when comparative negligence is a defense. At the close of evidence, both sides will make directed verdict motions on elements they do not think have been adequately established as part of the case. In assessing that directed verdict, the judge has an obligation to look at the facts in a light most favorable to the nonmoving party. At the end of the case, if I do not think the defense has provided any evidence of comparative negligence, I would move for a directed verdict. The judge would decide, after looking at it from the best perspective of the defense, if there was comparative negligence. That is the intent of section 1, subsection 2, which can be clarified by referencing the rule. There is no intention to take something away from the judge or the Seventh Amendment right.

I would encourage everyone to read the Governor's veto statement for A.B. No. 240 of the 77th Session. When we proposed that bill, it was after the *Cafe Moda* decision. In 2013, there was a case that was going to decide the question of what "asserted as a defense" means. The veto statement says as much, and this is something the courts should decide. So now we are seeking clarification from this Committee.

CHAIR SEGERBLOM:
We will close the hearing on S.B. 431 and open the hearing on S.B. 387.

SENATE BILL 387: Provides for the issuance of certain orders for protection. (BDR 3-839)

SENATOR JULIA RATTI (Senatorial District No. 13):
Senate Bill 387 deals with gun violence, about which there are strong opinions on all sides of the issue. I think what we are bringing forward is a commonsense public safety measure. You have my Proposed Amendment 3395 (Exhibit H).

As we all know, gun violence is epidemic in our Country. During the debate between gun rights advocates and those who believe there should be more limitation on guns, people are dying every day. What all of us do tend to have some agreement on in this debate is a need to address the intersection of guns and mental health.

When people are in crisis and have access to weapons, we may have terrible outcomes. Senate Bill 387 seeks to hone in on that narrow piece of the gun violence epidemic and ensure we have commonsense solutions to one of our most pressing issues.

The bill gives law enforcement another arrow in their quiver. It is a tool that would be used when all others have been exhausted and that would be used in extremely limited circumstances when there is a clear and present danger that needs to be addressed. The bill gives family members, as defined in Exhibit H, and others who are close to someone who may potentially cause harm to themselves or others an avenue with a much higher-level evidentiary proof necessary to bring those concerns forward.

After gun violence tragedies, we have all seen too many times in the media the mother or somebody else close to the offender saying, "I knew he was struggling, and I tried to get help, but I wasn't able to intervene." When that person goes to the police station and says, "I really think that there is a problem here," officers are left with no answer except, "Unless there is a crime, we really can't do anything about this."

That is the problem S.B. 387 seeks to address. Specifically, when someone sees signs of distress in an individual that lead law enforcement to believe the individual is a danger to themselves or others, he or she may report that behavior to law enforcement. Law enforcement then has the opportunity to make an evaluation and exhaust all remedies, including temporary protection

orders. Officers might believe the person still possesses weapons that could lead to a negative consequence, including suicide or suicide and murder of a loved one. Negative consequences might be domestic violence or mass shootings. Under the bill, law enforcement could go to court and ask that the person's weapons be removed temporarily until the crisis is de-escalated, potentially saving lives.

Senate Bill 387 outlines three different processes by which this may be accomplished. There is differentiation because if it there is an immediate crisis and law enforcement believes they need to act quickly, there is a faster remedy requiring less evidence. The bill provides a time frame for people to get their weapons back. If it is a family member, there is a longer process and a third, even longer time frame with a higher evidentiary standard.

You need to understand we care a lot about the due process aspect of S.B. 387. We had good conversations with public defenders and representatives of the National Rifle Association of America (NRA). They would like to tighten up the language concerning evidentiary standards for due process to make sure it is more aligned with NRS definitions.

The bottom line for me is that too many families are coping with too many gun-related tragedies. In a few cases where the current law does not provide law enforcement and the judicial system adequate tools, the bill's high-risk protection order could make a real difference and save lives.

SENATOR ROBERSON:
I consider this bill a significant assault on Second Amendment rights with little due process. A lot of my questions involve the actual language of the bill and how loose or tight it is.

SENATOR RATTI:
I agree there are places in the bill as drafted and in Proposed Amendment 3395, Exhibit H, that still need some tightening.

SENATOR ROBERSON:
Section 3 of Proposed Amendment 3395 states:

> High-risk individual means a person who poses a risk of causing personal injury to himself, herself or another person by possessing

> or having under his or her custody or control, or purchasing or otherwise acquiring, any firearm or ammunition.

There is a different definition of a "high-risk individual" under section 6. In section 3, it certainly appears anyone who has custody or control of a firearm is a "high-risk individual."

SENATOR RATTI:
Our intent is the definition in section 6 and not necessarily a broader definition. I agree there appears to be two definitions in the bill.

SENATOR ROBERSON:
Section 4 of Proposed Amendment 3395 changed "immediate family" in the bill to "family or household member." However, in section 4, subsection 1, the limitation in the bill of "within the second degree of consanguinity or affinity" has been struck. Are we opening up the definition to include distant relatives, say, a second cousin once removed? Who can apply for a protective order?

SENATOR RATTI:
In section 4, the bill speaks for itself with a list of people who may apply for protective orders. It recognizes that in modern society, families look much different than in the past. What the bill seeks to isolate is someone who has significant knowledge of the individual. It refers to as is seen far too often in the media: someone close to the shooter who had knowledge of what he or she was about to do.

The focus of the bill is the person in crisis whose relatives recognize the person is in distress. They know that the person has access to firearms and are terrified about what might happen. The amended bill identifies several varieties of individuals who are likely to be close to that person.

SENATOR ROBERSON:
What I am hearing is, there is no limitation on the closeness or the consanguinity. Anyone related by any amount of blood, any extended relative, would be captured under this.

SENATOR RATTI:
Section 4, subsections 1 through 6 of Proposed Amendment 3395 list six detailed descriptions of relatives. We are not saying just anybody can apply for protection.

CHAIR SEGERBLOM:
It looks to me like blood relative would be anyone who is a blood relative, period.

SENATOR ROBERSON:
Senator Ratti, the categories you mentioned are not exclusive. It appears to me you can be a distant relative but also be any of the others listed.

In section 4, subsection 2, Proposed Amendment 3395 lists a "Person who has a child in common with a high-risk individual, regardless of whether the person has been married to a high-risk individual or has lived together with a high-risk individual at any time." It does not indicate whether that child needs to be a minor. I read that to mean a parent could have a child who is 40 years old.

SENATOR RATTI:
It is important to remember the mechanics of how this works. Let us say a distant relative who has not seen the person for years and lives on the other side of the Country calls police with a concern. If there is no valid reason for that concern, law enforcement is not anxious to execute a protective order.

We envision protective orders being used in a very rare and narrow set of circumstances. The language concerning who can report is intended to be broad, so if somebody who does have knowledge of a person's intention or distress is not precluded. However, a behavior pattern would need to be sufficient for a law enforcement officer or a judge to say there is indeed an issue.

As for the concern by Senator Roberson about adult children, unless a couple who shares a child is still in regular contact and a coparent has some reason to believe a person is in crisis and can present enough factual data to that effect to law enforcement or in the court process, it is not going anywhere.

SENATOR ROBERSON:
If we give the government the power to take away a constitutional right and we put that in black and white in NRS, some people certainly may not share your perception of the intent of this bill. I am concerned about lack of due process throughout this bill. I am trying to understand its foundational elements and who can file an application for a protective order.

In section 4, subsection 3, Proposed Amendment 3395 identifies a "Person who resides with a high-risk individual or who has resided with a high-risk individual within the past year." I assume that could be a roommate or, in theory, a person who stayed at someone's house for a couple of days.

Section 4, subsection 5 identifies a "Person who has a biological or legal parent and child relationship with a high-risk individual including, without limitation, a stepparent, stepchild, grandparent or grandchild." Again, I assume that could be an adult child.

Section 4, subsection 6 deals with guardians. I would not want professional guardian April Parks, of Clark County, to have this ability. Parks was indicted on hundreds of counts of guardianship abuse. Phyllis Moscowitze Crowe lost most of her money and nearly her home while Parks was in control. Elizabeth Indig lost her house after Parks failed to pay homeowners' association bills and let it slip into foreclosure.

Section 6 contains the second definition of "high-risk individual." It speaks to individuals who have committed certain acts, including subsection 1: "A threat of violence or act of violence against a person within the immediately preceding 6 months." We could be talking about a bar fight or folks on a baseball team who get into a scrum. I am concerned about how broad the language is.

Section 7 of Proposed Amendment 3395 lists three different applications for a protective order: emergency, ex parte and extended. Under section 7, subsection 2, my concern is with "A family or a household member, or a law enforcement officer who believes there is a substantial likelihood that a person will, in the near future, be a high-risk individual ... ." To me, this is like a precrime bill.

Another legitimate concern is if a person has not committed a crime, yet someone has filed an application for an ex parte order. The bill does not require

notice to the person who is having a protective order filed against him or her. It could be done on the telephone by a law enforcement officer without notice to the individual before he or she has committed a crime or been accused of committing one. The bill will take away the constitutional rights of that individual.

SENATOR RATTI:
For the record, the due process aspect of S.B. 387 is important to me. A public defenders group and the NRA expressed concerns about that. We are going to tighten up the language.

SENATOR FORD:
Senate Bill 387 will protect victims. There is no question we have to find a balance between the rights of perpetrators and victims. Due process requires protection of all U.S. constitutional amendments. We are not talking about a permanent and unnecessary stripping of rights unless that is determined as the right approach. What do you contemplate for due process protections in the bill?

JOHN SALUDES (Co-Chair, Nevada Gun Safety Coalition):
In terms of due process in S.B. 387, the Nevada Gun Safety Coalition recognizes there is a beginning, middle and end. The beginning of due process is when a family member has an individual in crisis who may be acting dangerously and might be a harm to himself or others. The family member goes to law enforcement as an emergency situation and provides the facts and circumstances of what is going on. If law enforcement believes there is enough evidence to take to a judge, an emergency protection order may be issued.

The protective order is served on the individual, who is asked if he or she has access to guns, even though the family knows that. That is one of the key elements of this thing, to the individual in custody. Law enforcement gives the individual an opportunity to turn over the guns voluntarily. If the person does so, everything is copacetic, so to speak. The process allows family members to help the individual. Many times when family members recognize there is an issue, there is a tendency to hesitate contacting law enforcement because they know the individual is acting unusually, is under a great amount of distress and guns are available.

When the guns are taken away, even if temporarily, it is not a taking away of weapons in violation of the Second Amendment. At that point, family members

can come in without fear of being hurt and seek whatever needs to be done for the individual to quell the situation and, hopefully, prevent loss of life.

Once that process has begun, the bill provides that within a certain number of days there must be another hearing based on the protection order as part of the due process. The individual can talk about the situation, and the judge can take a look at the facts and circumstances in the case. At that point, the judge may order that the protection order be terminated because everything seems to be back on the right track, or can order an extended order of protection for one year.

During that period, the weapons are retained by law enforcement. There is a provision in the bill that during the hearing for the emergency order, the judge has the discretion to have the individual in stress come forward before the emergency or ex parte protection order is issued.

SENATOR FORD:
Section 8, subsection 1 of Proposed Amendment 3395 seems to start to detail what we are contemplating as due process provisions. It states “The court may…”—not "must," which is an interesting component—“… issue an emergency order for protection against a high-risk individual if the court finds there is reasonable cause to believe from specific facts shown by a verified application … .” Then section 8, subsection 1, subparagraph (a) defines "immediate danger" requirements. What I find interesting is subparagraph (b), which says emergency orders are issued when “Less restrictive options have been exhausted or are not effective.”

That sounds like all endeavors and efforts have been made to relieve the situation, and there is only one other option left. "Less restrictive options" means there cannot be any other restrictive options available because they would have to have been exhausted. In section 8, subsection 2, the ex parte component obviously would have more due process protections. Subsection 2, subparagraph (a) details when weapons can be taken away. It also includes the requirement that less restrictive options have been exhausted or are ineffective. These are proofs that an alleged victim must bring forward. At the end of the day, this contention that there is no due process in S.B. 387 is entirely erroneous. The question is, is it the process that is due? That was the Common Law 101 class question answered by all lawyers in this building.

Which provisions, if any, protect someone from false accusations or accusations that are proven later to have been false?

SENATOR RATTI:
In the original bill there was a provision that makes it a crime to falsely accuse someone. In Proposed Amendment 3395, it was mistakenly removed. Our intention is the provision in the original bill will go into Proposed Amendment 3395. It will be in section 16, subsection 3.

SENATOR FORD:
That is a key component of any bill of this type to pass because we are talking about victim protection. We have an opportunity here to make it happen, but only for true victims, not those who after a fight or yelling match want to run to the cops and say, "He is going to kill me, take his weapons."

SENATOR RATTI:
I would take that even a step farther. What S.B. 387 seeks to do is prevent people from becoming victims. We do not want to have those victims in the first place. We want to make sure that victim never exists.

PAT FLING (Co-Chair, Nevada Gun Safety Coalition):
You have my written testimony (Exhibit I). Senate Bill 387 is a proactive bill designed to prevent victims. You may remember the September 6, 2011, shooting perpetrated at the Carson City IHOP. A bill like this could have prevented that.

Eduardo Sencion, aged 32, opened fire, killing four people, including three members of the Nevada National Guard, and wounding seven others. A total of five people, including Sencion, were ultimately killed. Seven other people survived with gunshot wounds. Two of the surviving victims were members of the National Guard. Because the massacre was so serious, officials fearing it would become more widespread declared a lockdown of the Capitol and the Nevada Supreme Court buildings for about 40 minutes. Extra security was set up in Carson City and at State and military buildings in northern Nevada.

The family of Sencion knew his behavior had been high-risk and he owned guns. Senate Bill 387 would have been a tool for the family to seek assistance from

law enforcement and the courts to have his guns temporarily removed while he stabilized.

SENATOR RATTI:
There are other relatively minor proposed amendments that do not necessarily affect the purpose of the bill but are important to some of the stakeholders. Proposed Amendment 3395 removes both weapons and ammunition. Those provisions just make it more complicated for law enforcement.

Law enforcement has requested we add a provision to allow for third-party storage of guns or ammunition. If law enforcement storage facilities are maxed out or it is just more efficient to use a third-party storage, we are amenable to that.

We are going to look at the due process and the evidentiary standards and make sure what we are doing is appropriate. There is a question about section 10, subsection 5 in which firearms must be returned 14 days after protective orders expire. We think that language could be more precise.

The Records Bureau, General Services Division, Department of Public Safety, is the repository for domestic violence protection orders. It is initiating an upgrade to the system. The Bureau told us if we imposed the bill's provisions in the middle of that, it would probably crash the system. We are going to amend the date of implementation to June 30, 2018. That would allow the Bureau to finish its upgrade and then just integrate the orders into the system.

There is precedence in a number of situations for taking the very serious step of affecting someone's civil liberties. A Legal 2000 order, Nevada's process of civil commitment, restricts people's freedom. When we talk about temporary protection orders because of domestic violence, stalking or the other four categories, we are restricting freedom of association. Senate Bill 387 provides an appropriate restriction of the right to bear arms for a short period during a crisis to prevent more victimization. This is important to the safety of our communities.

LINDA CAVAZOS:
I have been a practicing, licensed marriage and family therapist for almost 20 years. I support S.B. 387. You have my written testimony (Exhibit J). I spent 16 years doing outsource domestic violence and custody evaluations for Family

Court. I have encountered numerous situations in which having the ability to assist a family member in obtaining a high-risk protection order would have been a valuable tool in assuring the safety of a patient and those close to them. If I report a high-risk client who owns firearms, law enforcement can do nothing to temporarily separate him or her from a firearm unless a crime has already occurred, but by then it is sometimes too late.

A young man with severe anger control issues confides to me that "Sometimes, I just feel like taking my shotgun and blowing someone away." Although he has made no specific threat towards his ex-wife, his anger escalates when speaking of her. A distraught father, a veteran being treated for posttraumatic stress syndrome who has lost custody of his children, repeatedly talks about "ending it all." He has several guns at his disposal and lives alone. Although he says he would never make a violent plan and go through with it, his behavior is still erratic and distressing. A woman in her 60s, recently laid off from a long-time job, feels she has been discriminated against at her former workplace. She has begun open-carrying various firearms and tells me when she drives past her former workplace, "imagining walking in there and busting up everyone" makes her feel better. The woman claims "it is just a fantasy because they were so unfair to me."

These are real situations encountered during my therapist career. The signs of severe psychological distress are obvious and troublesome to anyone who spends time with these individuals. These dangerous behaviors, paired with possession of firearms, greatly escalates the immediate danger of them hurting themselves or others. However, under current NRS, no gun-disqualifying crime has occurred or specific threat to shoot or kill someone has been made, law enforcement may not legally intervene.

Temporarily requiring the subject of a high-risk protection order to surrender all firearms and ammunition for the order's duration would save lives and provide due process for individuals at high risk of posing an immediate threat of causing injury to themselves or others.

JACQUELINE COPE:
I support S.B. 387. You have my written testimony (Exhibit K). My mother's boyfriend, Taz, became overwhelmingly depressed in July 2011. He could not sleep, had no appetite and was unable to focus at work. Taz worked as a security guard for Mandalay Bay Resort Casino on The Strip. Part of his job

included carrying a loaded firearm. He always assured us that if things got bad, he would never turn a gun on himself. He even told his boss about his depression and seemed excited when the boss found something to help with his problem. Taz seemed hopeful about his future.

However, his depression got especially bad in the first week of August. Toward the end of the second week, my mother mentioned taking Taz to the doctor because things were getting worse again. I found out later that Taz had either inadequate or no insurance, and she was taking him to the emergency room so that someone would have to treat him.

But they did not get there in time. My mother found Taz with a bullet wound under his chin lying on his bed in his apartment. I will never forget her describing the hole in his neck or the gurgling sounds he was making when she found him. She called the paramedics and police, but Taz died on the way to the hospital. A high-risk protection order could have saved his life.

MICHAEL HACKETT (Nevada Public Health Association):
You have my written testimony (Exhibit L). The Nevada Public Health Association supports S.B. 387. We are not here to address issues of due process or other legal mechanisms that may or may not need to be addressed. As the State's public health association, we clearly understand the link between public safety and public health, knowing that good public safety policies help to protect and ensure the public health.

As part of the 2017 priorities of the Nevada Public Health Association for the Legislative Session and throughout the year, we identified several issues that speak to what this bill is about. We support evidence-based policies and programs that seek to prevent violence, including that involving firearms. We also support evidence-based programs and policies that address suicide prevention.

Senate Bill 387 would temporarily prohibit an individual who is in crisis from possessing or purchasing guns with the aim of protecting someone who is in crisis from hurting themselves or others. Exhibit L emphasizes suicide prevention and the alarming data provided from the Centers for Disease Control and Prevention along with the Division of Public and Behavioral Health in the Department of Health and Human Services. According to the Division of Public and Behavioral Health, since 2012, there have been 1,442 suicide gun deaths in

Nevada, of whom 546 victims were under the age of 35. The bill is a commonsense policy that will reduce the public health toll of firearm-related death and disability in Nevada.

SENATOR RATTI:
We are not breaking new ground here. Connecticut, Indiana and Texas have passed firearm seizure laws, and California and Washington have passed gun violence restriction orders. This is something that has been tried and tested in other communities and places where suicide is the No. 1 thing it is being used to prevent.

DANIEL S. REID (National Rifle Association of America):
We are in strong opposition to S.B. 387. You have my written testimony (Exhibit M). The bill removes Second Amendment rights, not because of a criminal conviction or mental adjudication but because someone poses a risk or could potentially pose a risk in the future.

There are significant due process concerns with third-party allegations and low evidentiary standards controlling whether someone can keep their Second Amendment rights.

There is no notice of seizure. You could be greeted by law enforcement at your door who are there to possibly confiscate your guns. They are not showing up and gently serving a warrant when someone who possibly poses a high-risk who has firearms. This is something that will require more than a single officer. It could cause embarrassment for you in your community that someone brought claims that met such a low evidentiary standard, and now your house is surrounded by law enforcement. There is nothing that actually talks about mental health issues, just about risk.

SENATOR FORD:
With respect to the low evidentiary standard in Proposed Amendment 3395, how can we get any higher standards when it requires that less restrictive options have been exhausted? How is that a low evidentiary standard?

MR. REID:
As for the "less restrictive options have been exhausted or are not effective," who determines that?

SENATOR FORD:
The judge would determine that.

MR. REID:
There could be some arguments about whether a Legal 2000 order is a less restrictive option or a more restrictive option because that actually incapacitates a person. If we are worried about people who pose a high risk, simply taking away their Second Amendment rights does not eliminate any other threats that they may pose that would cause significant injury to themselves or others.

SENATOR FORD:
I am confused. You mention Legal 2000. Is the bill supposed to be a least restrictive or a less restrictive alternative to a Legal 2000?

MR. REID:
I do not know. Ultimately, judges would determine whether the bill's designation is less or more restrictive. At least with a Legal 2000, when it comes to mental health, a person who has been detained under a Legal 2000 will go to a hospital and actually see a doctor or mental health professional before being released, so there is some element of containment. I do not know if that is less restrictive or more restrictive or more effective or less effective.

SENATOR FORD:
Judges will make that determination. In a mental health situation, if a judge determines a Legal 2000 is required, as opposed to taking guns away, is that not allowed under the bill? That is part of our contemplation.

MR. REID:
The bill does not actually speak to mental health. Risk and what poses risk is not defined here. There are some parameters and guidelines, but it is a pretty broad definition and ripe for abuse.

SENATOR FORD:
Section 8, subsection 4 of Proposed Amendment 3395 says, "In determining whether to issue any order for protection against a high-risk individual, the court must consider, without limitation ... "—meaning there is other evidence judges can consider, including mental health—"whether the high-risk individual committed any of the acts described in section 6" or has a prior felony conviction. People have asked why we are protecting felons. We do not want

the bill to protect felons who should not own guns anyway. There should be prohibitive language for that.

MR. REID:
There is already felony prohibitive language in Proposed Amendment 3395 in section 8, subsection 4, paragraph (b).

SENATOR FORD:
Proposed Amendment 3395 goes on in section 8, subsection 4 to provide that a high-risk individual:

> (c) [has] engaged in reckless use, display or brandishing of a firearm; (d) has a history of use, attempted use or threatened use of physical force against another person; (e) has problems with the abuse of alcohol or drugs; or (f) has recently acquired a firearm or other deadly weapon.

Those are parameters that do exist in this bill. They are without limitation, meaning that mental health can be something judges may consider, plus other things we have not yet thought of.

MR. REID:
As you mentioned, merely purchasing a firearm is a factor judges are going to consider.

SENATOR FORD:
Let us think about the context. Say, someone tells law enforcement, "My spouse has threatened to kill me." The judge finds the spouse bought a gun yesterday, or whatever the waiting period is. Is that a valid consideration in determining whether there is an accurate or a real threat by the spouse?

MR. REID:
Depending on the circumstances, if there are a lot of other factors and they are limiting. The standard is low.

SENATOR FORD:
"Less restrictive options have been exhausted" is not a low standard by anybody's definition.

MR. REID:
Perhaps outlining what other factors need to be exhausted or are not considered effective would be helpful.

SENATOR FORD:
When we begin to delineate statutory construction, we do not add what we did not intend to include. When a judicial body makes a determination, it is not my next-door neighbor making the determination. The judge makes a determination after viewing the evidence in totality and understanding that the standard is high because "less restrictive options have been exhausted or are not effective."

MR. REID:
The bill does not actually require people to receive notice or appear. It is one person's word against another's. There is discretion on whether the judge allows someone to appear, but with the emergency and ex parte orders, there is no notice. Judges can issue notices, law enforcement or family members call the person, probable cause standards are met, and the order is issued. There is no opportunity for people to say they do not pose a risk now.

SENATOR FORD:
That is why it is called a temporary restraining order or a temporary deprivation of firearms rights. People are not going to be held indefinitely unless other determinations are made.

The question becomes, who is looking out for the victim or the person we are trying to keep from becoming a victim? This bill seeks to find that balance.

MR. REID:
Some of our concerns are going to be difficult to overcome as far as addressing precrime and risk and taking away gun rights without any actual wrongdoing. I think that will be difficult to address. Other issues that should be addressed include the lack of limit on the number of times protection orders may be renewed. The restriction could go on indefinitely without a person ever seeing a mental health professional, committing a crime or doing anything at risk. That is incredibly troubling.

We also have significant concerns about Proposed Amendment 3395, section 10, subsection 5, which states that firearms will not be returned for at least 14 days after an order is lifted. If the order is lifted and someone is no

longer a threat, you should be able to receive your firearms immediately. The bill does not place a time limit on when you actually need to get them back. It basically says you cannot get them back for at least 2 weeks, but you do not necessarily have to get them back, be it 2 years or 14 years. That is a significant concern.

Another section says if there is probable cause to believe that you have been in violation of having firearms or ammunition, police can arrest you and search anywhere for the firearms or ammunition, which may not be in your control.

Let us say you come out of Cabela's, and someone says, "Hey, maybe he was buying ammunition." Is that probable cause for law enforcement to arrest you and search your house, car, recreational vehicle or place of business? There are significant concerns about that.

SENATOR CANNIZZARO:
When we are talking about probable cause for law enforcement, it is not just someone sees you come out of Cabela's where you may have bought ammunition. There are standards judges have to follow to get a warrant. There are standards that law enforcement has to follow in order to have probable cause to engage in those searches.

I take issue with the assertion that a mere statement from someone seeing you in a place that sells firearms is probable cause. I have approved multiple search warrants for law enforcement officers via the telephone, and they need to have something more than that for a judge to approve a search warrant or for somebody to have probable cause.

MR. REID:
Maybe I put it too simply, but there are concerns this could be abused. Records go into the legal system, but there is no mechanism in the bill that actually removes them from the Records Bureau. That needs to definitely be addressed to make sure records are removed in a timely manner once orders have been lifted.

CHAIR SEGERBLOM:
Do you recognize any situation in which firearms could be taken from someone?

MR. REID:
We have mechanisms in NRS that allow that, such as when someone has been adjudicated mentally ill or has a Legal 2000 confining them, and they are going to be evaluated. There are reasons why we have certain protections for constitutional rights. This falls far beyond the threshold when rights should be taken away.

SENATOR ROBERSON:
The bill is very specific on probable cause. Section 13, subsection 1 of Proposed Amendment 3395 says,

> Every order for protection against a high-risk individual must include a provision ordering any law enforcement officer to arrest the high-risk individual if the officer has probable cause to believe that the high-risk individual has violated any provision of the order. The law enforcement officer may make an arrest with or without a warrant and regardless of whether the violation occurs in the officer's presence.

SENATOR CANNIZZARO:
Probable cause involves more than someone making a mere allegation. Probable cause is a legal standard we use to effectuate arrests and issue search warrants. It is not just someone who saw you coming out of Cabela's calling law enforcement. Probable cause is a higher threshold than a mere statement by someone, more than just a mere allegation.

Probable cause is a legal standard law enforcement is very familiar with. If we are going to talk about restraining people's rights, law enforcement arrests people every day. They issue search warrants for people's houses and other places, including workplaces. They conduct any other various investigations based on probable cause. When we talk about probable cause in the context of S.B. 387, that is the same standard we will use to restrict people's freedom, arrest them, search their vehicles and seize their property. That is something we in the court system and in law enforcement do on an everyday basis.

SENATOR HARRIS:
Senator Ratti, when we contemplate third-party transfers of firearms, are we going to run into problems with regard to Question No. 1 on the November 2016 ballot? Are we going to require background checks? Are we

just going to add additional layers to the already complicated process of transferring firearms? Do we need to provide for who is going to pay for background checks if they are required? To whom can you lawfully transfer guns? What requirements must law enforcement meet to take firearms?

CHAIR SEGERBLOM:
To whom are you talking about transferring guns?

SENATOR HARRIS:
I am talking about third parties after individuals have their firearms taken away. Senator Ratti alluded to a third-party transfer option.

SENATOR RATTI:
What I intended to say is the firearms would still be in the custody of the police. That is the third-party storage option, which allows officers to contract for storage. It is not a transfer; they are still in the possession of law enforcement.

MR. REID:
How will the third-party storage option work as far as law enforcement contracting out firearms? The firearms would have to go to some sort of licensed dealers, and the way their books work with items going in and out, storage is not an option.

In regard to Question No. 1, if the court designated a third party for storage, it would need to be facilitated through a dealer, according to the requirements of Question No. 1 concerning firearms storage, loans, etc. Unless dealers meet narrow definitions, they are not permitted to make transfers without going through that process. Any sort of fees could have disproportionate impacts on certain people who might need to pay for storage. It could be a very complicated process.

CHAIR SEGERBLOM:
We will remove the third-party transfer provisions and require law enforcement to keep the firearms on site.

RANDI THOMPSON (Nevada Firearms Coalition):
You have a letter of opposition (Exhibit N) to S.B. 387 from the Nevada Firearms Coalition. I am concerned about the broadness and vagueness of the

language, which makes it seem like a work in progress. My biggest concern is we are only talking about gun violence.

My sister is a victim of domestic violence. She had the crap beaten out of her with a rolling pin. We are just taking away high-risk individuals' firearms. If the problem is the person, we should take away him or her and not necessarily the weapons. There are a lot of other weapons in a household that can be used in a time of crisis.

We also want to protect victims and those who are illegally using guns. Most of the people would probably be prohibited possessors to begin with. We have to look at who is holding those guns and whether they really have a legal right to have them as well.

CRAIG DELUZ (Firearms Policy Coalition):
You have my letter (Exhibit O) in opposition to S.B. 387. Our primary concern is the concept of due process. It is important to understand that we are talking about basic, fundamental constitutional rights, including the right to keep and bear arms. We are also talking about the right to due process. An individual denied the ability to face his or her accusers could potentially be subject to hearsay evidence. While such evidence may be in print or substantiated by someone else, it is still, nonetheless, hearsay evidence.

In cases in which law enforcement has to take away firearms, people are being separated from their personal property, which is a violation of personal property rights. If law enforcers believe they have probable cause, they can search anywhere they believe people may have firearms: a girlfriend's house, an uncle's house, a mother's house, a car, a brother's car.

We are talking about due process, Second Amendment and private property rights, and the right to face your accuser. By the time you get to court, you have lost the essence of our judicial system: the presumption of innocence. You have to go before a judge and prove you are not a risk. There was no assessment by a medical or mental health professional that you are a risk. Do you need to get an attorney? Do you need to get some sort of mental health evaluation to determine whether you are a danger to yourself or others? We do not know this. There is no provision for any sort of mental health assessment in this particular measure.

CHAIR SEGERBLOM:
Does a Legal 2000 require the taking of a gun?

MR. DELUZ:
I do not know.

MR. REID:
My understanding is it does not but just requires detainment.

MR. DELUZ:
We are also not looking at providing the high-risk individual any sort of assistance or counseling. We appreciate Senator Ratti removing the term "offender" from the bill because records would show people were deemed high-risk offenders when they were merely high-risk individuals. As far as public knowledge is concerned, you are still going to be considered an offender. It is vitally important that we protect individual rights. We would not allow any other fundamental right, let alone multiple constitutional rights, to be taken away in a closed court hearing.

Good intentions do not make constitutional law. Rights are dangerous. There is a reason why we have a First Amendment to protect free speech. That amendment is intended to protect objectionable speech. There is also a reason why we have a Second Amendment, which is part of a fundamental human right to be able to defend oneself. The taking of that right should entail a higher level of due process than closed court hearings and the ability for an individual to have his or her gun rights taken away without an opportunity to face the accuser. Individuals have not been accused of crimes, yet they have lost a very fundamental right.

VERNON BROOKS:
Senator Roberson stole my thunder on the precrime issue, which is exactly what this bill involves. I agree with the testimony of Mr. Reid, Ms. Thompson and Mr. DeLuz. The original S.B. 387 has a provision people would have to pay for storage of their firearms after secret courts deemed it so. There was a mention earlier of persons who work in a capacity that requires them to have a firearm for their employment. The bill would allow an accuser to effectively deprive someone of their employment by removing their ability to have a firearm. In a contentious relationship, putting someone at such a financial disadvantage could be very strategic.

I have heard no mention made of how to deal with items that are covered under the National Firearms Act of 1934 nor of items that cannot be transferred easily without violating rules of the Bureau of Alcohol, Tobacco, Explosives and Firearms. The third-party transfer provisions seem to be geared toward law enforcement seizing the firearms and storing them themselves.

Any accused person will likely need legal counsel and may not be able to afford it. One aspect of owning firearms is that they usually hold their value. In a pinch, a firearm can be sold for most of its original purchase value. These are liquid items that can create money to pay for lawyers. Removing the ability to sell firearms to pay for the lawyer who you need to defend yourself is just another problem that I see with this bill. The bill talks about high-risk offenders using firearms. It makes no mention about someone's ability to get in a car and mow you down or go to the kitchen and grab knives.

GARY ELIAS:
Senate Bill 387 is full of language about allegations, reasonable cause and ex parte hearings. While I agree that domestic violence is a serious concern in this Country, I do not agree the temporary removal of a constitutional right is the way to solve the issue.

If I had probable cause to suspect an individual was under the influence of a schedule II drug, the police might have been able to do something to prevent a murder 14 doors down from my home on Saturday night. Unfortunately probable cause is not proof of anything. That individual has to be convicted of something before he can be taken away. That is jurisprudence based on this Country's founding. You cannot simply say, "I think this woman is on drugs. Therefore, she should not be able to possess a firearm, and she should not be able to shoot her boyfriend four times in the back. That is the law." The bottom line is if somebody has been convicted of any crime detailed in section 6 of S.B. 387, fine. But firearms should not be seized based on allegations, probable cause or anything else.

SENATOR ROBERSON:
This bill is about many things, not necessarily domestic violence. I sponsored S.B. No. 175 of the 78th Session, which was signed into law. It expanded the list of people who were prohibited from possessing or owning a firearm to include anyone who is convicted of a misdemeanor crime of domestic violence, as defined by federal law. If people commit crimes of domestic violence, they

are already: prohibited from carrying, possessing and owning a firearm; fugitives from justice; unlawful users of or people who are addicted to a controlled substance; individuals who have been adjudicated as mentally ill or committed to a mental health facility.

CHAIR SEGERBLOM:
Does that include Legal 2000 cases?

SENATOR ROBERSON:
It includes someone who has been adjudicated as mentally ill or has been committed to any mental health facility. I do not think that includes Legal 2000, but it does include someone who is illegally or unlawfully in the United States or has been convicted of a felony in this or any other state. People in all of those instances or categories are already prohibited from owning or possessing a firearm in this State. The key difference is that they have been convicted of something or been adjudicated to be mentally ill. Senate Bill 387 does not address that.

CHAIR SEGERBLOM:
That is the question. Is there some way we can go beyond that to find somebody who appears about to do something violent without totally destroying his or her constitutional rights?

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):
The Las Vegas Metropolitan Police Department is neutral on S.B. 387. We have a serious violent crime problem in Clark County. Violent crime is up 16 percent. We do have issues with mental health, but there is a delicate balance between the rights of all citizens and ensuring constitutional rights with public safety.

On one hand, from a law enforcement perspective, there is the Legal 2000 process. An officer shows up at someone's residence because the person has made a threat to hurt themselves or others. Under NRS, if the officer can show that person is a threat to themselves or someone else, he or she is subject to the Legal 2000 process.

CHAIR SEGERBLOM:
Can you describe the Legal 2000 process?

MR. CALLAWAY:
The officer fills out a Legal 2000 form that states the reasons why there is probable cause that person is a threat to him or herself or others. An ambulance is called and the person is transported to an emergency room, where they undergo a physical evaluation and a brief mental health evaluation. A determination is made of whether the person is a threat. He or she is released or committed for a 72-hour period for follow-up and further evaluation by a mental health doctor.

CHAIR SEGERBLOM:
But if people have firearms, obviously they cannot take with them in the ambulance. Would the guns be taken from them?

MR. CALLAWAY:
Yes, the officers at the scene ascertain a hand gun is involved, which is the reason we were called out. Let us say the wife sees the husband on the couch playing with the revolver, and he says he is going to shoot himself. We show up and decide he is a threat to himself or others. We impound the firearm for safekeeping because it was part of the scenario. The husband had it in his hand and was making a threat to himself but had not threatened anyone else. In Nevada, it is not against the law to commit suicide or harm yourself. If he has not threatened anyone else, the husband has not committed a crime.

If people have mental health issues, we do not necessarily want to turn to arrest to solve that problem. We want to try and get them treatment and help. In those cases, we impound the firearm and transfer that person to a hospital. If a firearm is not involved, we do not search people's home to determine if they have ammunition or firearms at that time.

SENATOR HARRIS:
What constitutes the firearms impound process? Do you charge a rental storage fee for that? Does the person from whom you have taken the gun get it back?

MR. CALLAWAY:
A firearm is impounded for safekeeping, which would be the case in the situation I described, because it is in the best interest of all the parties that someone not hurt themselves or someone else. However, if a crime has not been committed, the individual can receive the firearm back. We give him or her a receipt and do a property impound report. The firearm is booked into our

evidence vault. When cleared from the Legal 2000 process, the person can receive his or her firearm back.

We impound a ton of property at our Department, including hundreds, if not thousands, of firearms and other property. There may be a waiting period before the gun is returned. There may be people ahead of that person, so it could take a week or two or longer. I have heard people say it took them over 30 days to get their firearm back. It depends on the volume at the time.

SENATOR HARRIS:
Do you have a limitation for when a person can receive the firearm back once her or she has completed the Legal 2000 process and is released?

MR. CALLAWAY:
No. I believe 72 hours is the minimum period of time. We do our best to get firearms back as quickly as possible.

SENATOR HARRIS:
Is that based on your workload?

MR. CALLAWAY:
Yes. On the other side of the coin of the Legal 2000 process is when people have committed a crime or threatened someone else or actually pushed or hit someone. This bill is somewhere in the middle of those scenarios. Officers often do not have enough to file a Legal 2000. However, if people have threatened someone or are a threat to themselves, officers can do a Legal 2000 and do not need what is in this bill.

On the other hand, if someone has committed a crime, you can book him or her into jail. You do not need what is in this bill. It covers that small area where someone says they think a person will commit a crime. Of course, officers would have to lay out the probable cause criteria with the court making the decision.

I am concerned about the logistics of the bill. Let us say the court issues a protective order, and an officer went out to the man's residence and served him with it. The officer says, "You are ordered to turn over all your firearms." The man says, "Well, I lost them in the river in a boating accident." That puts the

officer in a predicament because now he may have to take the man's word that he does not have firearms.

If something occurs, there is nothing in this bill that provides indemnification for law enforcement. There is nothing that provides for indemnification if the officer is approached by the family who wants to file a protection order, and the officer says there is not enough probable cause and refuses to submit the paperwork. If the officer thinks there might be firearms in the house and family members confirm that is true, he is going to have to get a search warrant. The house is frozen until the search warrant is obtained, and the warrant will be served with a SWAT team because it involves firearms.

CHAIR SEGERBLOM:
I did not think of that, if a police officer is ordered to go in and say, "Give me your guns."

MR. CALLAWAY:
I am laying out the logistics. One of the hot topics of discussion among law enforcement these days is de-escalation. Officers are trained to de-escalate situations and try to bring people down, especially those with mental illness. If officers show up at a house to take guns away because family members are concerned, do we potentially escalate the situation? A balance is needed in the interests of public safety.

ROBERT ROSHAK (Executive Director, Nevada Sheriffs' and Chiefs' Association):
The Nevada Sheriffs' and Chiefs' Association is neutral on S.B. 387 and shares the concerns expressed by Mr. Callaway. Our chief concern is the taking of the firearms and ammunition.

With regard to the firearms storage, I asked about the third-party element language. It was taken from NRS 33.033, which talks about a judge ordering the adverse party to give the firearms to a third party. That was of some concern in the rural counties. Senate Bill 387 says the weapon could be could be any firearm. In theory, if my great-great grandfather fought in the Civil War and his rifle was passed down generation to generation, could a law enforcement agency preserve and protect it in a fitting fashion?

We are also concerned with what Mr. Callaway said about the balance. This bill puts us somewhat on a fence. Rural sheriffs have a tendency to be

Second Amendment-oriented and look out for those rights. However, we also have to look out for that gray area, the part in police work we call JDLR, "just don't look right." You cannot put your finger on it, but maybe something is wrong and you do not need a judge just to get an opinion.

COREY SOLFERINO (Washoe County Sheriff's Office):
Washoe County Sheriff's Office is neutral on S.B. 387. I echo the comments of Mr. Callaway with respect to certain triggers this bill would create with respect to SWAT deployment for warrants issued. Things get complicated when we are dealing with highly volatile people, firearms and warrants that go beyond the scope of patrol officers.

SENATOR HARRIS:
In section 7, subsection 2, where it says "An immediate family member or a law enforcement officer who believes there is a substantial likelihood ... ," what does that mean to you? What is a substantial likelihood?

MR. CALLAWAY:
This is all related to officers' use of force. For an officer to use deadly force to defend himself, the officer must evaluate a person's opportunity, capability or ability and preclusion to carry out a threat. Does this person have the ability to carry out the threats he is making? Does he have the opportunity?

For example, if a man says, "I am going to beat up my son," but his son is in New York and he is in Las Vegas and does not have transportation, he does not have the opportunity or the ability. As to preclusion, officers ask, is there an imminent threat? Can it be carried out immediately? Those factors would apply here. If I did not see those factors, then I would be reluctant, especially without indemnification in the language of S.B. 387, to proceed down that path from a law enforcement perspective.

CHAIR SEGERBLOM:
Let us say I call and report, "My husband has been acting very erratic, and I think he is going to kill himself." Does law enforcement come out for a call like that?

MR. CALLAWAY:
Yes, we would show up to the house. We get those calls all the time. Usually it is to check the welfare of a person or sometimes it is an attempted suicide. In

the scenario of Senator Harris, we go into the bedroom and talk to husband. He says, “She is full of it, I do not want to kill myself.” Sometimes, those situations become a "he said/she said." We may try to contact another family member or ask the wife if there was a witness. She says, "He has been depressed lately.” We talk to him, and he says, “Nope, she is wrong. I feel great, officer. I've never wanted to hurt myself in my life. In fact, she is the one who is crazy.” We get that all the time. An officer has to make a decision based on the totality of the facts.

CHAIR SEGERBLOM:
If the officer decides the wife is correct, is the husband arrested or placed in a Legal 2000?

MR. CALLAWAY:
That person would be in a Legal 2000 under the law. Let us say the wife says the neighbor heard it, too. We talk to the neighbor, who says, "Yes, I heard him say he was going to hurt himself." If we believe he is a threat to himself, we are going to call the ambulance and do the Legal 2000.

SENATOR ROBERSON:
It seems the Legal 2000 is the appropriate means to handle these situations. Statute provides a means to deal with those individuals in most cases with appropriate due process. I am just not sure how we accomplish what the proponents of this bill are trying to accomplish without violating due process rights of people who have not committed a crime and who have not been adjudicated mentally ill.

CHAIR SEGERBLOM:
It sounds like we are taking away their due process rights based on a mental health observation.

MR. CALLAWAY:
Mental health adjudications go into the Criminal History Repository, unbeknownst to local law enforcement. We do not have the ability to put them in our local background check system.

To give an example, an officer driving down the street can run the license plate of the car in front of him. He knows if the driver has tattoos, has scars, when he registered his car, if he works in a hotel or casino, if he has warrants out for

his arrest, if the license plate is suspended, a whole variety of things. However, we do not know if he has a mental health adjudication that prohibits him from possessing a firearm.

SENATOR RATTI:
There was quite a bit a testimony that this was unchartered territory. We are not the first state to do this. At least four other states have done some version of S.B. 387, and it is not the first time Legislators have considered abridging constitutional rights. The temporary protective order concept has been in law for quite some time. It has been tried, true and tested and is built on the temporary protective order model. We abridge people's rights of association with the temporary protective order model and people's right of freedom with the Legal 2000 all the time. I have issues with the testimony that we have not found compelling societal reasons to temporarily abridge rights, particularly in the temporary protective order space.

There are questions about why we are focusing on guns when there are other weapons that cause harm. Guns tend to be more fatal and have a broader reach. You may have a knife and hurt one or two people, but if you have a gun, as we saw in the IHOP shooting, you can do significant damage. Suicides are more lethal. Many people try suicide with substances or other ways, but the actual point of death does not happen nearly as often. When you use a gun, you are more likely to die.

We have many good laws in place to address this. The testimony from law enforcement described the gray area between the Legal 2000 and when somebody is convicted. They said they do not have a tool to address it. In the Legal 2000 process, a mental health professional has to do a mental health diagnosis. We have people in crisis who go through the Legal 2000 who do not leave with diagnoses. This bill is not solely about mental health diagnoses; it is about temporary restraining orders for people in crisis. There is a space where there is no diagnosis, but there is still a person in crisis. That is probable cause.

CHAIR SEGERBLOM:
Could we create a crisis diagnosis?

SENATOR RATTI:
Which is abridging people's rights more, a Legal 2000 where they are detained and no longer have freedom of movement or taking their guns away because we think there is probable cause they will do harm? Taking the gun away is abridging their constitutional rights in a less severe fashion.

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CHAIR SEGERBLOM:
We will close the hearing on S.B. 387. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 4:49 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	2		Agenda
	B	18		Attendance Roster
S.B. 377	C	3	David Carroll / Sixth Amendment Center	Resume
S.B. 377	D	14	John McCormick / Nevada Supreme Court	Proposed Amendment
S.B. 377	E	11	Mark B. Jackson / Nevada District Attorneys Association	*Ten Principles of a Public Defense Delivery System*
S.B. 377	F	7	Matthew Stermitz / Office of the Public Defender, Humboldt County	Written Testimony
S.B. 431	G	3	Stephen C. Balkenbush	Written Testimony
S.B. 387	H	12	Senator Julia Ratti	Proposed Amendment No. 3395
S.B. 387	I	2	Pat Fling / Nevada Gun Safety Coalition	Written Testimony
S.B. 387	J	1	Linda Cavazos	Written Testimony
S.B. 387	K	1	Jacqueline Cope	Written Testimony
S.B. 387	L	2	Michael Hackett / Nevada Public Health Association	Letter of Support
S.B. 387	M	1	Daniel S. Reid / National Rifle Association of America	Written Testimony
S.B. 387	N	2	Randi Thompson / Nevada Firearms Coalition	Letter of Opposition
S.B. 387	O	2	Craig DeLuz / Firearms Policy Coalition	Letter of Opposition