

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session  
April 11, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 1:12 p.m. on Tuesday, April 11, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

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

**GUEST LEGISLATORS PRESENT:**

Senator Scott T. Hammond, Senatorial District No. 18  
Senator Julia Ratti, Senatorial District No. 13  
Senator James A. Settelmeyer, Senatorial District No. 17  
Senator Pat Spearman, Senatorial District No. 1

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Joanna Jacob, Nevada Contractors Association  
Sean Stewart, Nevada Contractors Association

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Adam P. Segal, Plumbers and Pipefitters Union Local 525 Joint Trust Funds;  
Laborers Local 872 Joint Trust Funds; IBEW Electrical Workers Local 357  
Joint Trust Funds

Bryce Clutts

Adina Cox, Boyd Martin Construction

Dan Musgrove, Mechanical Contractors Association; Sheet Metal and Air  
Conditioning Contractors' National Association of Southern Nevada

Jack Mallory, International Union of Painters and Allied Trades District  
Council 15

John T. Jones, Jr., Office of the District Attorney, Clark County

Lisa Luzaich, Chief Deputy District Attorney, Office of the District Attorney,  
Clark County

Chuck Callaway, Las Vegas Metropolitan Police Department

Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association

Kimberly Mull, Nevada Coalition to END Domestic and Sexual Violence

Corey Solferino, Sheriff's Office, Washoe County

Ron Dreher, Peace Officers Research Association of Nevada

Bailey Bortolin, Legal Aid Center of Southern Nevada; Washoe Legal Services;  
Volunteer Attorneys of Rural Nevada

John M. Saludes, Co-Chair, Nevada Gun Safety Coalition

Natalie Hernandez, Battle Born Progress

Tess Opferman, Nevada Women's Lobby

Daniel S. Reid, State Liaison, National Rifle Association

Sean B. Sullivan, Office of the Public Defender, Washoe County

Randi Thompson, Nevada Firearms Coalition

Kevin Tarkalson

Greg Quintana

Peter Hill

Vernon Brooks

Brigid Duffy, Director, Juvenile Division, Office of the District Attorney,  
Clark County

Susan Roske

Ernest E. Adler, Sierra Sage Academy

Rosemary Vassiliadis, Director, Department of Aviation, Clark County

Tina Frias, Department of Aviation, Clark County

Nadia Hojjat, Public Defender's Office, Clark County

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CHAIR SEGERBLOM:

I will open the hearing of the Senate Committee on Judiciary with Senate Bill (S.B.) 338.

**SENATE BILL 338**: Revises provisions relating to contractors. (BDR 2-518)

SENATOR JAMES A. SETTELMAYER (Senatorial District No. 17):

Senate Bill 338 revisits S.B. No. 223 of the 78th Session, which went through the Senate Commerce, Labor and Energy Committee.

The issue before us is an issue dealing with how long you hold a general contractor on the hook for a subcontractor's payment to a trust fund, especially considering that concern already paid. There has been a lot of discussion, and both sides wanted to go in completely different directions.

Everyone came to the table, and they both had to give appropriate notices to one another because both had information only the other side would have. We worked together with the contractors' unions on both sides of the aisle to try to find a fair compromise. We did not allow the bill to go one way too far or the other; therefore, this bill passed unanimously out of both Houses.

Shortly thereafter, there was a lawsuit filed in U.S. District Court challenging the law, arguing it was preempted under the Employee Retirement Income Security Act of 1974 (ERISA). That case is now on appeal to the Ninth Circuit.

This bill is necessary because both parties, general contractors and labor trust funds, need resolution. Waiting too long will just create more lawsuits.

CHAIR SEGERBLOM:

If the law passed last Session is on appeal, why are we doing it again until we hear from the Ninth Circuit Court of Appeals?

SENATOR SETTELMAYER:

The discussion has been that both parties would like to have resolution now because it could take the Ninth Circuit Court of Appeals so long to get it done and "far more contracts would be ..."

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CHAIR SEGERBLOM:

Does this change something that was raised on appeal? Would they not just go back to court on this one too?

SENATOR SETTELMAYER:

I believe if there is an agreement between the parties, they would be able to not go back to court.

CHAIR SEGERBLOM:

So this would resolve the lawsuit?

SENATOR SETTELMAYER:

We hope.

JOANNA JACOB (Nevada Contractors Association):

Last Session, there was a unanimous vote from both Houses on this legislation. This is to resolve an issue we have been trying to tackle for a long time, the concept of notice to a general contractor. General contractors under existing law have to pay their subcontractors in a timely manner. They can only withhold funds from those payments under very narrow limited circumstances after notice to a subcontractor.

CHAIR SEGERBLOM:

Does this change the bill passed last Session?

Ms. JACOB:

It will change some sections of it.

CHAIR SEGERBLOM:

Could you briefly touch on that. The reality is it was voted unanimously last time, "so we do not need to ..."

Ms. JACOB:

"The history of why we sought the bill last Session ..."

CHAIR SEGERBLOM:

We really do not have time, we only have three days to get out of here.

Ms. JACOB:

Senate Bill No. 223 of the 78th Session did a number of things. It set up varying notices which would have gone between a trust fund and a general contractor. There was notice upon the beginning of a project of when the general had workers, and then there were notices back and forth. The point was we wanted to do a notification from the trust funds to the general contractor if there were problems with a subcontractor's payments to the trust fund during the time frame while the project was open.

Under the law before the last Session, "there was a statute of limitations for ..."

CHAIR SEGERBLOM:  
Make it simple.

SENATOR SETTELMAYER:

Let me put it to you this way. I believe Sean Stewart has information down there on the general overview of the bill and the compromises that have been reached. Would you like to hear that?

CHAIR SEGERBLOM:  
That would be perfect.

SEAN STEWART (Nevada Contractors Association):

Let me just quickly highlight what this bill does and what it does change from what was done in S.B. No. 223 of the 78th Session.

This bill gives the general contractor the right to request a flash audit from the trust fund. The trust fund then has 90 days to get back and let the general contractor know if there is an issue with payment.

The last bill had more to do with notice and a set statute of limitations. This gives the ability for the two parties to work together. If the notice is clear, there is no indebtedness and no interest will accrue for the period covered.

If a suit must be filed, the prevailing party is entitled to interest and attorney fees. The hope is we will get the two parties to work together, the trust fund and the general contractor who is covering this indebtedness.

A compromise was reached on the statute of limitations in the original law, which was four years. Last year, it was modified to one year. At the request of the trust funds, the contractors are willing to go with a two-year statute of limitations to hopefully give everyone time to make sure the worker is covered.

MR. STEWART:

There is an amendment filed by Adam Segal, one of the trust attorneys ([Exhibit C](#)).

CHAIR SEGERBLOM:

Is the amendment by him?

MR. STEWART:

Yes.

CHAIR SEGERBLOM:

Have him come up.

ADAM P. SEGAL (Plumbers and Pipefitters Union Local 525 Joint Trust Funds; Laborers Local 872 Joint Trust Funds; IBEW Electrical Workers Local 357 Joint Trust Funds):

We do support the bill as amended. It definitely solves a lot of problems. It is a compromise bill as described. The ERISA preemption language has been removed so the law is completely neutral no matter what type of claimant you might have. Trust fund or not, the law works exactly the same. That would eliminate the preemption issue.

There are some clarifications of how the courts have interpreted the law over time and will remove confusion going forward.

The trust funds can accept the two-year statute of limitations, and we will gain some benefit by the increased communication on the new version of the notice provisions where potential claimants and potential original contractors under this statute have a great incentive to speak to each other, give each other notices and resolve any issues while the project is still live and before it is closed out, so contractors are not surprised years later with claims that arise. It does solve a lot of problems.

Not everything in it, of course, is favorable to the trust funds, but we did seek compromise and balance in something that would work for the industry as a whole.

BRYCE CLUTTS:

I was the president of the Nevada Contractors Association last Session when the Legislature unanimously passed legislation which provided general contractors timely notice of claims against subcontractors which had not been resolved.

Prior to that legislation, my construction firm had been sued nearly three years after a project was completed because the subcontractor on that project had failed to pay its debts to the trust fund. We were forced to pay that bill along with attorney's fees, liquidated damages, penalties and interest. It did not seem fair since so much time had passed, and we had no recourse left under the law to seek reimbursement from the subcontractor who had caused the problem in the first place. That is why we worked so hard last Session to craft legislation giving general contractors more timely notice of delinquencies they may ultimately be responsible to pay on behalf of subcontractors. This compromise language before you gives the opportunity to get notice of delinquencies in 90 days while the projects are still open, and general contractors have legal ways by which they can recover the money owed from those who are responsible.

We hope you will once again support our efforts to resolve this issue.

ADINA COX (Boyd Martin Construction):

In the past, Boyd Martin Construction (BMC) has been forced to pay trust fund monies subcontractors have failed to pay. In our case, the project had been completed for three years when BMC received notice that a subcontractor failed to pay its trust fund obligation totaling about 70 percent of the subcontractor's agreement with BMC. Despite the fact our subcontractor had been paid in full three years prior, under the existing law we were expected to pay the bill along with attorney's fees, liquidated damages, penalties and interest. We were able to settle with the union, but this required countless hours and costs on the part of BMC and substantial attorney's fees to our own counsel to reconcile the suit. It was a frustrating and unfair experience. Since so much time had passed, we had no recourse to seek reimbursement from the subcontractor who was the cause of the problem.

We worked with Nevada Contractors Association to try to get notices of subcontractor delinquencies in a more timely manner. Our hope is this 90-day period we have agreed to will be short enough that we, as general contractors, have the ability under the law to hold subcontractors accountable for their delinquencies.

DAN MUSGROVE (Mechanical Contractors Association; Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada):  
We are signatory subcontractors to labor organizations, and our trust attorney worked on this.

JACK MALLORY (International Union of Painters and Allied Trades District Council 15):

I wanted to touch base briefly about the amendment Mr. Segal spoke about. There are a couple of things that are problematic for us and I spoke to our counsel regarding this. It is the use of the words "proof of claim" in lieu of the word "notice." We are concerned and would like to have some type of legal clarification.

Our counsel has advised us that "proof of claim" is something primarily used in bankruptcy law, and we are concerned the use of the requirement for notice of proof of claim would only apply in instances where a subcontractor had gone bankrupt. We are concerned that is the case, so it would be preferable to us to use the original language of the bill which was "notice." If you could offer some clarity on that, it would be helpful for the record.

MR. SEGAL:

The original language "notice" was actually my original preference and in working with others, we ended up with "proof of claim." I am fine going back to "notice."

MR. MUSGROVE:

The other concern we have is section 8.5 in the amendment, the issue of retroactivity and how things are going to potentially apply to this. We are concerned this is going to open Pandora's box, and the amendment I reviewed showed portions of this being retroactive to 2012 and other provisions being retroactive to 2015. We are concerned this is going to create additional and unnecessary litigation. It would be our preference in this instance that the language of the bill just purely repeal S.B. No. 223 of the 78th Session effective



October 1, 2015, which was its effective date. The provisions being changed in this bill would be effective on a date certain, and they are considered prospectively.

MR. SEGAL:

I take a different view of it and so do my clients. The retroactivity is designed to make sure things are being clarified, and a codification of how the courts have treated this statute are not viewed as any new change. The retroactivity provisions will reduce litigation, not increase it. They are material to my client's support to have it set it up that way. Unfortunately, we have a law prepared in 1930 and untouched until 2015, and a lot of caselaw developed around it, interpreting it, and adding color to what it meant and what it said. Instead of continuing to fight over those things, we want those codified but in a way that does not leave a misimpression that these are changes beyond codification of what the courts have done with the law. We do believe the retroactive provisions as stated are necessary and material to have this work.

CHAIR SEGERBLOM:

We will put this on for a work session on Friday. Hopefully, you guys can figure it out, but it sounds like a fight between the plumbers and the painters as opposed to labor and management.

MR. MUSGROVE:

We are generally supportive of what this bill is trying to do. We just have some concerns with the amendment as it has been presented.

CHAIR SEGERBLOM:

I understand. Make up your mind and let us know by Friday. Remember, this is a work in progress. You can always go to the other side to work on it. It is probably better to get it out.

SENATOR SETTELMAYER:

This is just about notice and the statute of limitations being reasonable.

CHAIR SEGERBLOM:

Seeing no more people wanting to testify, I will close the hearing on S.B. 338 and open the hearing on S.B. 124.

**SENATE BILL 124**: Revises provisions concerning the ownership, possession and control of firearms by certain persons. (BDR 3-307)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

Senate Bill 124 revises provisions concerning the ownership, possession and control of firearms by persons in domestic violence, battery and stalking cases. It also increases penalties for violations relating to the possession and control of firearms for such persons.

Many of you will remember this legislation was proposed by the late Senator Debbie Smith during the Seventy-eighth Session. She championed the rights of stalking and domestic violence survivors, particularly the rights of those survivors to live safer lives by reducing the very real threat of gun violence they face. This Session, we have the opportunity to pass S.B. 124 and ensure our laws better protect Nevadans who need it most.

According to the National Coalition Against Domestic Violence, having a gun in the home increases the risk of intimate partner homicide by at least 500 percent. In households with a history of domestic violence, the risk increases to 2,000 percent.

A report from the Violence Policy Center indicates firearms, especially handguns, were the weapons most commonly used by males to murder females in 2013, which is the most recent information available. Of the females killed with a firearm, 61 percent were murdered by male intimates. The number of females shot and killed by their husbands or intimate acquaintances was 474 victims more or 5 times higher than the total number murdered by male strangers using all weapons combined, which was only 92 victims. The same report ranks Nevada fifth in the homicide rate of females killed by males in single victim offender incidents. The homicide rate per 100,000 females was 1.95, which compares to the United States rate of 1.09.

Looking specifically at Nevada in 2013, there were 25 females murdered where the offender relationship could be identified. Of these, 23 were murdered by someone they knew. Of the victims who knew their offenders, 57 percent were wives, common-law wives, ex-wives or girlfriends of the offenders. Of these, 46 percent were killed with guns.

I do not have to look far in terms of understanding what this does to ravage families. In our family, my uncle shot and thought he had killed my aunt. The only reason she survived is because she laid there without breathing. He then turned the gun on himself. My cousin, who was 13 years old, came home from school and found my aunt lying in a pool of blood and my uncle's lifeless body laying across her body. This is not something that simply deals in percentages. These are crimes that can be prevented.

As recently as 2016 in North Las Vegas, a man who should have been denied bail drove to the daycare center where his ex-girlfriend was dropping off their two children. He shot and killed his ex-girlfriend and himself after shooting the two toddlers in the back seat of the car. This is real life. The question is what will we do about it to protect innocent victims.

Senate Bill 124 makes the following revisions to help reduce the use of firearms in cases of domestic violence, battery and stalking. Existing law authorizes a court to include in an extended order for protection against domestic violence a requirement that the adverse party not possess or control any firearm while the order is in effect. In addition, the order may require the person to surrender, sell or transfer any firearms currently held in his or her possession. Section 1 makes it a requirement for the court to include these conditions in an extended order.

Existing law provides that the court may make limited exception for those cases where it has been established there is a necessity for the adverse party to possess a firearm for purposes of employment. Section 1 adds to this requirement for clarification that the adverse party only uses or possesses the firearm in the course of such employment.

Sections 3 and 4 of the measure require the court to inform every person convicted of a battery which constitutes domestic violence or stalking that the person is prohibited from owning, possessing or having control of a firearm.

Sections 1, 3 and 4 increase the penalty for violating these provisions to a Category B felony punishable for a minimum term of not less than 1 year and not more than 6 years with a fine of up to \$5,000.

In cases where the adverse party does not possess a firearm, section 2 of the measure requires the person to submit an affidavit to the court that

acknowledges the understanding that failure to surrender, sell or transfer any firearm is a violation of the extended order and State law.

Section 2 also provides in cases where a firearm is sold or transferred to a licensed firearm dealer, the dealer must provide the adverse party with a receipt detailing each firearm transferred and noting whether the transfer is temporary or permanent.

Existing law provides a list of persons in Nevada who are prohibited from owning or having a firearm in their possession or control. Section 7 of the measure adds to this list a person in Nevada or any other state who has been convicted of a crime that constitutes domestic violence or stalking or who is subject to an extended order for protection against domestic violence.

Section 5 of the measure sets forth the procedure for the surrender, sale or transfer of any such firearm. Section 6 makes conforming changes. Section 8 provides that the provisions apply to orders and judgments issued on or after October 1.

I am well aware of the usual arguments that will be presented at the conclusion of this testimony and others who are trying to help us make victims of domestic violence safe.

I have heard far too often that this is an infringement upon Second Amendment rights, and I vehemently disagree with that argument. I served our Country almost three decades, protecting the rights of free speech, life, liberty, pursuit of happiness and to include the Second Amendment. I know what it feels like to put my life on the line to protect someone's constitutional rights. That is not what this is about. This is about protecting victims of domestic violence. It is not a Democratic issue, it is not a Republican issue, it is an issue for humanity.

I would like to direct your attention to 1969 under the presidency of Richard Nixon. There was a bill passed by the Republican legislature at the federal level. The legislation was titled the Gun Protection Act. At the time, U.S. Senator Frank Lautenberg from New Jersey put an amendment on that bill, and we know it as the Lautenberg Amendment.

The Lautenberg Amendment I know very well as a commander of a military police unit where we had to qualify with our firearms, 38s and 45s. Eventually,

all military police carried 45s plus the M-16, and we had to qualify once a quarter.

One of the things I was required to do as a commander was to make sure those who were entrusted in my command and were accused or had been convicted of domestic violence either in a military or a civilian court were not allowed on the firing range. I had to say to our first sergeant before the range went hot, and that meant everyone was prepared to fire, "If there is anyone on the range who has been convicted of, been accused of or is facing charges for domestic violence, domestic battery or anything related to those charges, put your weapon down, step away from the range and go and see the first sergeant. You are not allowed by law to fire your weapon." I said that every time because it was law, and the law said if you were in the military and you are charged with or convicted of domestic violence, domestic battery, aggravated assault, if you are convicted of those crimes or facing those crimes, you cannot carry your weapon. So people on a military base or within the military community already have these protections.

My question is why cannot people in the civilian world have the same level of protection? You cannot carry a weapon in the military or lose your career. We have only to look at page after page after page, newscast after newscast. They are coming at us so fast and furious it would make our heads spin, and here we sit still talking about whether or not we should be protecting victims of domestic violence. What kind of society asks that question when people's lives are in jeopardy? Who are we?

I want to read to you a message that was penned a little less than a year before Senator Smith passed away. Those of you who were here in 2015 know she would have championed this bill. This was one of the bills we fought so hard to get out the Senate to get it passed. Unfortunately, the bill was gutted and her intent never saw the light of day.

I want to read this to you, not just in her memory, because I believe it frames the very place we are in history and to ask ourselves once again what kind of people do we want to be? This is from Senator Debbie Smith:

I want to thank everyone for the outpouring of support over the past few weeks. I have been lucky to hear from so many friends, both in Nevada and across the Country. Those kind words have

meant so much to me and to my family, and they have helped keep my spirits up. Although I'm not in Carson City, those who know me well will know I've been closely watching the legislative business. Frankly, I'm extremely concerned. As I have said, I had two major priorities for the 2015 Session. A bond rollover bill to fund school construction and a bill that helps keep guns away from domestic abusers and stalkers. I want to make something very clear, although I am unable to physically be in the legislative building right now, these bills remain my top priorities for this Session and I will not stop fighting for them. That's why I am proud that today my colleagues will introduce a bill on my behalf to keep guns away from domestic abusers. Protecting survivors of domestic violence is too important to be watered down and wrapped up in irresponsible and extremist legislation. Unfortunately, there is a risk of that happening in Carson City right now. Some good ideas to keep guns out of the hands of survivors have been loaded up with extremely bad ideas that will ultimately turn abuse survivors into political tools. I firmly stand against any attempt to put partisan politics before survivors of abuse. Thankfully, I know that my caucus will continue to fight to pass a domestic violence gun bill that will actually protect survivors. I will be a part of that fight, and I want my constituents and all Nevadans to know that despite my current circumstances, I will continue to fight for you every day.

As I said, I know the well-rehearsed words of opposition in response to this type of legislation, but there is no one on this planet who can question my commitment to protect individual's constitutional rights of which the Second Amendment is one. This seeks to do for the civilian community the same thing the Lautenberg Act of 1969 did for members of the military community. That is all that this is and nothing more.

SENATOR JULIA RATTI (Senatorial District No. 13):

I knew when I tried to fill the shoes of Senator Debbie Smith I was stepping up to something that would be particularly challenging. I believed if Debbie were here to talk to me, she would say it is not your job to replace me, it is your job to be the best version of yourself you can be. I have spent the past 60-plus some days trying to be the best version of myself in order to live up to the legacy she left us.

There is one bill where I feel it is not my role to be myself but it is my role to channel her voice. This is the bill that meant so much to her because it meant so much to not just domestic violence survivors but another group of people she cared deeply about and that was people who had been the victims of stalking.

I am here today to try and channel my mentor and friend and say that this is important and we need to move forward on it.

CHAIR SEGERBLOM:

As I understand it, Senator Smith had this bill in 2015; part of it was taken out, and this is the other piece that remains that never was passed back then.

SENATOR SPEARMAN:

Yes. This was the heart of the bill, and this was Senator Smith's passion. As Senator Ratti said, it is for those who were victims of domestic violence as well as victims of stalkers. As I tried to channel the good work of our friend, I say again, it could not be any clearer unless we drew cartoon pictures: this is not about abating the Second Amendment. This is about protecting victims of domestic violence and those who have become victims of stalking. That is what this is and nothing more. I do not care what people try to say and tack on to this, that is all this is, nothing more.

SENATOR ROBERSON:

Do we not currently, due to the passage of S.B. No. 175 of the 78th Session, mirror the Lautenberg standard today here in Nevada?

SENATOR SPEARMAN:

I think it comes close, but there is a difference between what you see in the mirror and the actual image the mirror reflects. This part is not in S.B. No. 175 of the 78th Session, and the Lautenberg Act is not mirrored in your legislation.

SENATOR ROBERSON:

What part? How so?

SENATOR SPEARMAN:

It is not. It does not protect victims of domestic violence.

SENATOR ROBERSON:

Senate Bill No. 175 of the 78th Session prohibits anyone convicted of even misdemeanor domestic violence from owning or possessing a firearm, period. We can drill down more to that, but I would like to know exactly where current law here in Nevada differs from Lautenberg. I think that is important.

I am a little confused by the different effective dates of this bill. It references a lot of different *Nevada Revised Statutes* (NRS) and in some places it says it applies "to an extended order issued pursuant to NRS 33.030 on or after October 1, 2017," and that is on the last page of the last section—section 8, subsection 4.

Section 8, subsection 3 says: "The provisions of paragraphs (a) and (c) of subsection 1 of NRS 202.360, as amended by section 7 of this act, apply to an offense committed before, on or after October 1, 2017." So I am trying to understand who this captures because in theory—if this includes all people irrespective of when they have committed a crime—you could have people who were convicted of misdemeanor stalking decades ago; they have not been a prohibited purchaser all this time, they currently carry weapons and if this bill is signed into law, they are automatically now a Category B felon for carrying a weapon, and they will not even have notice that the law has been changed.

I do not know if it is your intent because I do not know which sections are effective October 1 or for crimes committed October 1 going forward or whether it includes previous crimes. If it includes previous crimes, potentially this bill would create a large number of people who were not felons yesterday but tomorrow are, solely based on this bill; they are felons by being a prohibited purchaser based on a crime that may have been committed decades ago.

SENATOR SPEARMAN:

I do not think that is what we are talking about in this bill: October 1 for those who have those extended orders after that period.

SENATOR ROBERSON:

What about individuals convicted of stalking?

SENATOR SPEARMAN:

Will you show me what you are referring to?



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SENATOR ROBERSON:

I mentioned a couple of different sections. If you go to section 8, subsection 3.

SENATOR SPEARMAN:

What page?

SENATOR ROBERSON:

It is on page 12, at the very bottom of the page. It says "provisions of paragraphs (a) and (c) of subsection 1 of NRS 202.360." I do not know offhand what NRS 202.360 says. It says it applies to "an offense committed before, on or after October 1, 2017." I only seek clarification here as to what your intent is for who would be included in the universe of people who would suddenly become prohibited persons and be liable for a Class B felony. Is this someone who has committed a crime on October 1 or later? Or does it include anyone who has ever committed this crime?

SENATOR SPEARMAN:

If I am reading the English correctly, it says, "apply to judgments of conviction issued on or after October 1."

SENATOR ROBERSON:

That is in subsection 2.

SENATOR SPEARMAN:

That is what you are referring to in the provisions of NRS 200.

SENATOR ROBERSON:

No. That is where the confusion comes in. I am actually looking at this section below it which references a different NRS subsection. I am only seeking clarification.

NICK ANTHONY (Counsel):

Section 8, subsection 3 of this bill essentially would amend NRS 202.360 in such a fashion that if you were convicted at any time of a crime which constitutes domestic violence or stalking, you would be a prohibitive person in the future.

SENATOR ROBERSON:

That is what I was trying to get at. Let me just acknowledge for the record, currently under S.B. No. 175 of the 78th Session, you are already a prohibited purchaser for being convicted of domestic violence. It sounds like what this bill would do is to expand it to say if you have been convicted of stalking, even misdemeanor stalking, at any time in your life, you would now be considered a prohibited purchaser once this bill goes into effect. Did I state that correctly?

MR. ANTHONY:

That is correct.

SENATOR ROBERSON:

Senator Spearman, is that your intent?

SENATOR SPEARMAN:

My intent is to make sure persons who are convicted of domestic violence or stalking do not have an opportunity to purchase a weapon. If that needs to be amended so the adjudication is reviewed, I am willing to do that. I do not want to water the bill down much more.

SENATOR ROBERSON:

I am just seeking clarification of what your intent is.

SENATOR SPEARMAN:

I think I gave it to you.

SENATOR CANNIZZARO:

In my line of work, we deal with prohibited persons all the time. My understanding is S.B. 124 would also prohibit individuals who are under an extended order of protection from having firearms but changes the courts "may" to "shall?"

SENATOR SPEARMAN:

That is in line with trying to strengthen. The whole purpose of this bill, as I said before, is simply to say if you have been convicted of domestic violence or stalking, you should not have a weapon.

Yesterday, in San Bernardino a guy walked into an elementary school where his estranged wife worked and shot and killed his wife, an eight-year-old student and himself.

SENATOR CANNIZZARO:

Obviously, this is a topic we have had a lot of discussion about in this Committee and something I have dealt with on a regular basis. I just wanted to clarify that this would change "that" to a "shall" in addition to domestic violence which would also cover individuals under an extended protective order.

SENATOR SPEARMAN:

It is very easy to talk about this in abstract terms until it hits your house.

SENATOR CANNIZZARO:

That is a conversation I have had with all too many victims' families on a regular basis.

I want to clarify because we currently charge people for a prohibited person in possession of a firearm if they do have a prior domestic violence conviction, and I do not think the current law prohibits us from considering domestic violence convictions prior to 2015. I am almost certain I have had cases where I have charged somebody with prohibited person in possession of a firearm for a domestic violence conviction that has not yet been sealed from his or her record but is prior to 2015. Just from a logistical, operational standpoint, I think it is something we currently do. It seems to me this would operate in the same fashion with the understanding if you have your record sealed, you would not be able to use that.

CHAIR SEGERBLOM:

Was Senator Roberson's bill retroactive?

SENATOR ROBERSON:

It was because it lined up with the federal standard with Lautenberg. I think you will hear today that this goes beyond Lautenberg and beyond the federal standard. That could create some potential issues for people who believe they have the legal right to carry a firearm. They have had the right to do so for years and now they do not. It was already federal law that you could not have a domestic battery conviction and carry a weapon. What we did with

S.B. No. 175 of the 78th Session is help the state law enforcement by creating a state law against it as well.

SENATOR GUSTAVSON:

I understand your passion for this issue and everyone has passion for this issue on one side or the other. Domestic violence is a terrible crime. I understand people who are convicted should be dealt with. You keep saying the primary purpose of this bill is to keep those people who have been convicted of domestic violence from owning or carrying a firearm. My concern is in section 1, subsection 1 on page 2 where it is taking away the judge's discretion to decide whether the person under an extended order should have firearms or have firearms taken away from him or her. My real concern is there are people out there I know of who have been falsely accused of domestic violence, whether they are men or women. If people are accused of domestic violence and the judge takes away their right to protect themselves with a firearm, how are you going to protect yourself from other crimes that may happen to come about in the meantime waiting for a trial date? You would not be able to own a firearm to protect yourself.

SENATOR SPEARMAN:

This is really about protecting victims of domestic violence. I understand you are saying if the court hearing is protracted, how do you protect yourself? I would say once again with understanding and sympathy to someone who might have that as a real life issue: If there is something that needs to happen for the innocent, I am willing to entertain it in an amendment. I think we have enough cases that show us for people who are domestic abusers, it is not something they do on Tuesday and decide not to do again on Friday. Many times the victim's life is placed in more jeopardy between the time the person is charged and convicted or whatever. This is really about protecting the victims of domestic violence. If you have language that does that and at the same time affords those who feel they must have a weapon to protect themselves, I will consider it. The primary purpose, as I said before, is really about protecting victims of those who have been convicted of domestic violence and stalkers. Nothing more.

SENATOR GUSTAVSON:

I do have some language we could use: delete section 1, subsection 1 which takes away the judge's discretion.

SENATOR SPEARMAN:

Bring it to me and we will talk about it.

JOHN T. JONES, JR. (Office of the District Attorney, Clark County):

I am here on behalf of the Clark County District Attorney's Office and with me down south is the Chief of our Domestic Violence Unit, Lisa Luzaich.

LISA LUZAICH (Chief Deputy District Attorney, Office of the District Attorney, Clark County):

I want to share with all of you that guns astronomically increase the probability of death in domestic violence situations. I want to provide you with a couple of examples as to how I know this is true.

Chloe had a boyfriend who abused her on a regular basis. She was able to get away from her boyfriend, and he attempted to stab Chloe's new boyfriend. He was prosecuted and went to prison. When he got out, he found Chloe, he shot her and her friend in a car. They did not die. He was prosecuted and went to prison for attempted murder. When he got out of prison, he tracked Chloe down again and broke into her house. He shot and killed her and her new boyfriend.

Chelsea, another domestic violence victim, had a boyfriend whose prior victim lived in California. He beat her and kidnapped her. Unfortunately, the prior victim recanted by the time trial came around, so he got a greatly reduced sentence and he did go to prison. Despite the fact of going to prison for domestic violence, he came here when he got out. He found Chelsea and abused her. When she was able to get away from him, he broke into her home and shot and killed her in front of her three-year-old niece. A bullet hole was actually found in the bed where the three-year-old niece slept. He shot Chelsea's mother multiple times. Of the eight shots fired, two of those shots went through the wall to the apartment next door. One of them passed through the side rail of a toddler bed of an innocent child.

Christie was a domestic violence victim who was strangled by her boyfriend. He kept stopping and starting the choking for a period of 20 minutes until she almost lost consciousness. That case was reported, a criminal case was filed and a warrant was issued. In that time frame, she was able to get away from him and went into hiding. He tracked her down and broke into her house through a window. He held her and their three children, who were 11, 8 and 3 years of age, hostage at gunpoint for 8 hours. He pointed the gun at her head,

he told her he was going to kill himself and her. He called their children into the room, pulled out the gun and accidentally shot himself in the leg. This occurred the day before he was supposed to go back to court for his strangulation case.

The North Las Vegas daycare case Senator Spearman talked about was more horrific than you know. Not only did he shoot his ex-girlfriend while at the daycare, he shot both of their children as well. This is an individual who should not have had a gun. He shot her while she was on the ground holding her three-year-old child in her arms. He shot the child and then he shot and killed her. The three-year-old child is going to grow up knowing she watched her father kill her mother and himself.

This is what domestic violence abusers do. The problem is domestic violence abusers come from every background. It is just not the individuals who are not employed, who are abusing drugs and alcohol. It is businessmen, police officers, teachers, professional football players. You never know who it is going to be. It is not enough to just have laws prohibiting domestic violence abusers from possessing guns. We must proactively order those firearms removed as well, and that is what S.B. 124 does. It gives us the mechanism to take guns away from people who are convicted of domestic violence so victims can be safe.

CHAIR SEGERBLOM:

With respect to the retroactivity of this bill, Senator Roberson pointed out when he did his bill it was retroactive and the Lautenberg law made those things illegal so people were on notice. Whereas in this bill, the stalkers who have had a prior conviction would not know this bill was passed, and they would be committing a crime the day the bill was passed if they owned a gun. Do you have any comment about making this bill retroactive with respect to stalkers or just have it prospective?

MS. LUZAICH:

I would absolutely be open to hearing whatever anybody has to say. It is my understanding Senator Roberson's bill did make it a prohibitive person to have the guns. It did not give anybody the ability to actually get the guns.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

I have some logistical concerns about law enforcement being required to obtain search warrants and going to people's homes and taking their guns. I was told that was not the intent of this bill. The person surrenders the firearms, and

there is no requirement for law enforcement to obtain search warrants. I am in support of S.B. 124.

ROBERT ROSHAK (Executive Director, Nevada Sheriffs' and Chiefs' Association):  
Some of the rural sheriffs had concerns with storage, and Senator Spearman accepted an amendment we proposed to reinstate stricken language in the bill on section 2, subsection 1, subparagraph (b) and to amend section 5, subsection 1 by adding the above language, allowing the judge to order an alternate place to have the weapons impounded or stored.

CHAIR SEGERBLOM:  
Was that in writing?

MR. ROSHAK:  
Yes. It was submitted as a proposed conceptual amendment ([Exhibit D](#)).

KIMBERLY MULL (Nevada Coalition to END Domestic and Sexual Violence):  
We are in support of S.B. 124. We see this as the systems and processes aspect from the federal law and Senator Roberson's law of putting into statute the process and the requirements to get those weapons from offenders.

COREY SOLFERINO (Sheriff's Office, Washoe County):  
We support S.B. 124. Domestic violence continues nationwide to be one of the most volatile calls that service law enforcement responds to on a daily basis. We believe this legislation will assist domestic violence victims and give them a little peace of mind in an otherwise heinous and despicable act that is good for community safety and public safety.

RON DREHER (Peace Officers Research Association of Nevada):  
We support S.B. 124. As most of you know, I am a retired homicide detective from Reno. I have seen a lot of cases like this, but we have always had the issue of representing the victims, and that has been part and parcel to going to these horrific crime scenes.

The importance of this legislation which makes a difference is the fact that you now have an ability to go in and get a weapon out of a house or those people are supposed to turn them over. While that is sometimes hard to do, it is permissible by this legislation.

I have seen the victims, and if you have never been through it, it does not have a relationship to anything else you have a reference to. Crimes of domestic violence are the most serious and the most deadly for law enforcement. This provides some teeth, maybe not enough but it does not have to—and I have to echo what Senator Spearman said. In my opinion, this has nothing to do with the Second Amendment. You will not find more proponents for the Second Amendment than law enforcement. In this instance, I agree with Senator Spearman this is not about Second Amendment, it is about protecting the victims.

BAILEY BORTOLIN (Legal Aid Center of Southern Nevada; Washoe Legal Services; Volunteer Attorneys of Rural Nevada):  
All three of those offices have departments representing victims of domestic violence.

The only point I want to add is there is a very real debate in the domestic violence victims advocate community as to whether a protection order makes someone more safe or less safe because you are giving perpetrators more of a reason to come after you. You are telling them where to stay away from, and we have seen cases where people, because they have been served with protection orders, have gone and killed the victims. This allows something this Committee considers all the time—protection orders to actually protect people.

We support S.B. 124.

JOHN M. SALUDES (Co-Chair, Nevada Gun Safety Coalition):  
Our mission is to advance effective gun safety legislation and policies that save lives and reduce injuries. We support S.B. 124 because we feel strongly it will save lives by providing the mechanism to remove firearms from the adverse party during the period of a domestic violence protection order. It makes sense to do this because we recognize when firearms are present in highly-charged situations, the propensity to use them is elevated and lives are lost.

NATALIE HERNANDEZ (Battle Born Progress):  
We support S.B. 124. In Nevada, a person is killed with a gun every 20 hours. Unfortunately, for women like me, Nevada is among the deadliest states for women in terms of gun-related homicides. Forty percent of those homicides are committed by intimate partners, and firearms are used in approximately 50 percent of those cases. Regrettably, many of these deaths could have been



prevented if Nevada had stronger gun laws. A person convicted of battery domestic violence or stalking should not be in possession of a firearm. If there is an order of protection in place against certain individuals found being abusive and threatening, why are we still allowing them to purchase guns?

Women in Nevada are murdered with guns at a rate 38 percent higher than the national average. Senate Bill 124 will help women and their communities feel safer.

TESS OPFERMAN (Nevada Women's Lobby):  
We are in support of S.B. 124.

DANIEL S. REID (State Liaison, National Rifle Association):  
We oppose S.B. 124. We have some concerns with the bill. In 2015, a state counterpart was introduced in relation to the Lautenberg Amendment that did cover misdemeanor domestic violence. So there was an additional tool for prosecutors and law enforcement to use in going after people who are prohibited under federal law, which they already were, but now we do have a state counterpart.

Our concerns with this bill are the expansion beyond the federal law with certain misdemeanor crimes as well as stalking. The removal of the judicial discretion on protective orders, the third-party surrender issue and the surrender provision in general are Fifth Amendment concerns in regard to caselaw.

In regard to the expansion beyond federal law, there are certain parameters for the federal law that made someone disqualified even prior to the 2015 law going into place. By expanding this, you are going to have people who may have pleaded out for various crimes. I know Senator Ford has a bill that actually deals with the informal, collateral consequences of pleading out on certain misdemeanor crimes, and so there could be people out there who pleaded out to certain misdemeanor crimes, including stalking 20 or 30 years ago, who had no idea they were going to lose their guns.

CHAIR SEGERBLOM:  
So we could address that issue as far as making this prospective?

MR. REID:  
That is definitely something we could look at.

SENATOR FORD:

In addition to making it prospective, what about a pending case? What if we do not focus on people who have a stalking conviction from 30 years ago but focus on someone who is currently in the system under a stalking crime and go prospectively. I do not know what the phraseology looks like in the bill to do that. What do you think about that?

MR. REID:

Can you clarify that?

SENATOR FORD:

What I would not want to do is miss a group of people who should be considered under this law and are currently in court for domestic assault allegations, under an extended order of protection or facing charges for stalking. I do not want to address people 30 years ago who may have pleaded out. The people who are in the system or are going through the system prospectively seem to be in a category of people this bill should probably be focused on. What do you think about that?

MR. REID:

It is definitely something I would be happy to discuss with you as well as how that would actually be implemented and who we include—that is, whether someone was convicted two weeks ago versus someone who has pending charges today. It is something we could definitely discuss. With this expansion, we do get into issues where people might have pleaded out because of whatever circumstances they were under, and this is going to impact them in certain ways. You could have someone who went to either purchase a firearm or renew a carry concealed weapon (CCW) permit or do some other activity and the person became flagged. Suddenly, these people are prohibited, and they are essentially becoming felons at that point.

CHAIR SEGERBLOM:

I think we recognize that and would try to avoid that.

MR. REID:

The judicial discretion was touched upon by Senator Gustavson. Right now, there are certain factors to look at, extended orders and removing the ability to possess firearms. We have some concerns with actually removing the judicial discretion.

If Senator Spearman is accepting the third-party surrender provision, it is something that would alleviate the concern with any costs of storing with law enforcement.

I want to talk just a minute about the surrender provision in general. There is caselaw that could complicate things. Under this bill, a person subject to this is ordered to surrender within a certain time period and sign an affidavit.

The court case *U.S. v. Hancock* (9th Cir 2000) 231 F3d 557 deals with a person who had purchased firearms and was convicted of misdemeanor domestic violence before the Lautenberg Amendment went into effect. He was served with an order that told him he could not possess firearms. The order was served on him by law enforcement. He complied with them and since he was at work, he said, okay I will drop them off right after work. He arranged for law enforcement to come and confiscate his firearms. Several months later they used that surrender to actually prosecute him under the federal law for being a prohibitive person in possession. By having that affidavit aspect, you could have some Fifth Amendment concerns where there is that gap that once you become prohibitive, you could be hit with additional charges for dealing with an extended order.

CHAIR SEGERBLOM:

As I understand it right now, Lautenberg has been law for so long there would not be any federal issues as far as this bill, right?

MR. REID:

For this bill, we are expanding beyond what Lautenberg covers in regard to misdemeanor crimes that are going to take away your Second Amendment rights. There might be some implementation issues as far as what is going to constitute being a prohibited person.

With the *Hancock* case, I believe it was two years after the Lautenberg Amendment went into effect that he was convicted.

SENATOR FORD:

The Lautenberg Amendment was in 1969? Is that the testimony I heard?

MR. REID:

It was not actually in effect until, I believe, 1998.

SENATOR FORD:

So in the year 2000 is when *Hancock* took place?

MR. REID:

That is correct.

SENATOR FORD:

What if we contemplated a safe harbor provision of sorts that would say under the circumstances you have described, under the fact scenario in *Hancock*, if people turn over their weapons because of this concern, they are not deemed to be prohibitive persons for purposes of turning the weapons over. Does that make sense?

MR. REID:

I do understand where you are going. The issue we could potentially run into with *Hancock* is this was done by federal law enforcement and not state law enforcement. How that is going to be implemented and enforced is of concern.

SENATOR FORD:

What about other states that have done this already? How have they interacted with *Hancock*? How have they reconciled their provisions in state law with *Hancock* such that it is not a concern in their respective states?

MR. REID:

I do not have a 50-state survey in front of me to really touch on that.

SENATOR FORD:

You would agree other states have done this and have reconciled their laws with *Hancock*?

MR. REID:

There are some states that do have surrender provisions and there are some that do not.

SENATOR FORD:

But are those that have reconciled with *Hancock* such that they do not have to concern themselves with the issue you have spoken about?

MR. REID:  
I am not certain.

SENATOR FORD:  
If they are reconciled, would you object to borrowing language from those states for our Nevada statute, so we could likewise reconcile our statutes with *Hancock*?

MR. REID:  
I would certainly be willing to look into that.

SEAN B. SULLIVAN (Office of the Public Defender, Washoe County):  
I do agree with Senator Roberson's point about section 8, subsection 3. When I stand before a justice of the peace and we enter a plea to a domestic battery based on plea negotiations, there is an execution of the constitutional waiver of rights form. We make sure, myself included, the district attorney, the judge, everyone who canvasses that person, to ensure the defendant knows he or she is not only giving up the right to own a firearm based upon the plea to the domestic violence conviction but also the right to own any ammunition associated with that firearm.

With the stalking as it were, if this bill were to go into effect as drafted, you would have a lot of persons who would capture and immediately be in violation of the terms and the provisions of these sections by simply owning firearms and never having been canvassed either by a licensed attorney, the district attorney or the judge prior to entering a plea to misdemeanor stalking.

I also agree with Senator Gustavson's point. I am a huge proponent in giving judges judicial discretion, so we would like to see section 1, subsection 1 refer back to "may."

I am not sure if anyone has addressed the penalties. Nevada enjoys a rich and long history of graduated penalty schemes. In fact, we see in the domestic violence arena when you have a first domestic battery conviction, it is a misdemeanor. The second one is a misdemeanor but with increased penalties, and the third one becomes a felony. We see this in DUIs as well, going from a gross misdemeanor which would carry 364 days in jail and up to a \$2,000 fine all the way up to a Category B felony that would carry 1 up to 6 years and a \$5,000 fine. We think it is too excessive, and we ask this Committee to

consider a more graduated approach. There has to be an increase in penalty, possibly going from a gross misdemeanor to a Category E felony instead.

SENATOR FORD:

The concern you have is about as drafted, applying to people who may have pleaded out. That would be addressed, though, if we were to go the route I have indicated, which is to talk about pending cases and future cases, right?

MR. SULLIVAN:

That is correct. That would alleviate our concerns.

SENATOR FORD:

In regard to the discretion component, I do not know the law, so I am asking, what is the current standard for courts related to domestic violence? So they have the discretion, or is it a "shall"?

MR. SULLIVAN:

They do not have the discretion. When people enter a guilty plea, they are convicted of domestic violence. They do not have the right to own firearms.

SENATOR FORD:

So you want us to continue to treat stalking and being under an extended order of protection differently from domestic violence by allowing the judge to have discretion as opposed to removing the discretion?

MR. SULLIVAN:

I think every case turns on its own unique set of facts and circumstances, and I would submit that the court should have discretion in certain areas.

SENATOR FORD:

Then do you disagree with the discretionary component being removed in the domestic violence context as well?

MR. SULLIVAN:

That is a fair question. "If we are just talking about owning a firearm ..."

SENATOR FORD:

With everything being equal, based on the conversation we are having, I am trying to understand the distinction you and Mr. Reid have drawn between the

discretion the judge is given when we are talking about domestic violence—which is none, versus the discretion you want us to give a judge when we are talking about an extended order of protection or stalking, which as we have heard the testimony generally leads to some form of domestic violence and sometimes death.

MR. SULLIVAN:

The cases I have represented with individuals in domestic violence cases where they have been convicted or they do enter a plea and their Second Amendment rights have been taken away from them: I have wished under certain circumstances the judges did have discretion on behalf of my clients because of just the simple nature of the facts. There may have been pushing or shoving, the person may have been in the military, they may have needed to seek treatment. There are a number of factors where I have wished the judge would have had discretion to not take away a person's Second Amendment rights having been convicted of a misdemeanor domestic violence.

SENATOR FORD:

But it is true, though, the process leading up to the conviction considers those items as well, do they not? Does the process not consider those extenuating circumstances?

MR. SULLIVAN:

Yes.

SENATOR FORD:

I want Mr. Reid to have an opportunity to offer me his rationale for wanting to treat the discretion we allow to a judge, which is none when we are talking about domestic violence, and the discretion you are asking us to give to a judge in the context of stalking and extended orders of protection.

SENATOR ROBERSON:

Can I just clarify what we are talking about? I think we are talking about a couple of different things.

Current law under S.B. No. 175 of the 78th Session "applies to an extended order of protection with regard to ..."

CHAIR SEGERBLOM:  
Before a conviction?

SENATOR ROBERSON:

Before a conviction—with regard to domestic violence. What the current law, I believe, is you are prohibited from purchasing a gun during the time you are subject to an extended order of protection with regard to domestic violence. It is up to the judge, whether the judge will require you to surrender guns you already own. I believe this bill would take away that discretion as far as surrender both for domestic violence protection orders and stalking protection orders. Is that correct?

There is no discretion right now when it comes to an extended order for domestic violence as far as a prohibition on a person who is subject to an order going out and purchasing a gun. The person cannot do that today. I believe this expands it to say the person has to, irrespective of what the judge thinks, surrender all guns.

CHAIR SEGERBLOM:

That is preconviction. After conviction with domestic violence, you have to give up your guns?

MR. SULLIVAN:

Senator Ford, I apologize. I thought you were talking about a domestic battery conviction. Under that set of circumstances, due to my argument, the judge would not have discretion. The person automatically loses his or her rights.

SENATOR FORD:

The actual question related to your objections to section 1 is the removal of the court "may" to the court "shall." Maybe I need a better understanding of what your objection is and compare it to the current standard for that section relative to a domestic violence circumstance.

SENATOR CANNIZZARO:

I want to clarify that what we keep talking about is prior to conviction. There is no conviction for an extended order for protection being issued by a judge. A judge issues an order of protection and an extended order is after a notice and hearing to both parties to show up to court, and then the judge in his or her



discretion issues that order. It would be upon issuing that order, if this bill were enacted, that possession of firearms would be prohibited.

Likewise to my colleague Senator Roberson's point, under current law if such an order is issued by the judge, this is not about a conviction. Domestic violence convictions are separate from a protective order; they can exist separate and apart from one another. The individual who is the subject of an extended protective order cannot purchase new firearms. However, this law would require that person to surrender any current firearms. I want to clarify that because we keep talking about an order of protection prior to conviction, but this bill does not deal with anything prior to conviction. It is a conviction for a misdemeanor offense or an issuance of a protective order by a judge after a hearing has been had. It is for an extended order, not for an emergency or for a temporary order. I want to clarify a couple of those points because I think that might be confusing things as well.

RANDI THOMPSON (Nevada Firearms Coalition):

The Nevada Firearms Coalition is dedicated to the ownership and safe use of firearms for self-defense, hunting and recreation. We protect the rights of law-abiding citizens. We totally agree with the goal of this bill, which is to get guns out of the hands of bad guys. I have to reiterate that judicial discretion and the surrender provisions are our two concerns.

KEVIN TARKALSON:

I am a retired law enforcement officer. I was a lieutenant and was disabled in the line of duty. I retired in Nevada and live in Henderson.

I am here because I am really concerned about this bill. I understand Senator Spearman's concerns. However, I take offense at her attitude, as if she is the only one who understands this bill and she is kind of above all of us in her concerns over this issue.

I worked on the street my entire career, even as a lieutenant. I was not somebody who rode a desk or stayed in the station. I was out on the street and at the crime scenes, and I saw the results of these types of crimes.

When people decide they are going to commit one of these heinous acts, they commit them whether they have access to firearms or not. They use baseball bats, knives, screwdrivers; they use any other tool they can get. They use the

tool as a weapon, whether it be a firearm or one of the other things I listed. These crimes are horrendous; I was there.

I appreciate the homicide detective who spoke earlier. He knows as well as I do or any other officer who works at these crime scenes. They are full of passion and they are personal. They are not just a crime of opportunity, they are for real.

We keep talking about guns and our society blames guns and firearms. That is not right. We are punishing the gun owners with bills like this.

The case study that was referred to, the first conversation of the person who committed the crime and killed the victims, that person should have been in jail. He should not have been released. Let us remove the real problem. Let us keep these people locked in jail. Do not blame the firearms and punish everybody else.

This afternoon, everybody has talked about the Second Amendment. We are not just talking about the Second Amendment with this bill, we are also talking about the Fourth Amendment. We are seizing people's property. Some of them have not been convicted. A lot of them, not all of them, are falsely accused. Let us not do that either. We keep blaming guns and we blame gun owners. That is not the right way to approach this.

I want to make the point clear, just because there were some law enforcement officers who testified in favor of this bill, not all law enforcement feel the same way. I was in the street, I went to these crime scenes and I saw the mess created.

The other point I want to make is we are not in the military. When you join the military, you sign your life away to the military. We are citizens; we are civilians. We as civilians in this society should not be expected to live by the rules that apply to soldiers, marines, sailors, coast guard and all the other branches of the military. What Senator Spearman experienced in her career when she was in the military, she should not expect us to have to follow those rules as well.

GREG QUINTANA:

I oppose S.B. 124. Under this bill, if you are convicted of misdemeanor stalking, the key word being misdemeanor, you would lose your gun rights. Under NRS 200.575, it gives the definition of stalking, and if you read it, it is quite broad. "A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member," is basically stalking. Intimidation, how do you define that? It seems like a very broad term.

Let us imagine your next door neighbors are having all-night parties, they have been doing this for a long time, and you finally have had it because the police cannot do anything about it. In a fit of anger, you go up to the wall and start yelling at your neighbor. Next thing you know, you are charged with misdemeanor stalking because all the partygoers are witnesses, and they said they felt intimidated by you. It just seems like a broad definition, and it worries me that something like that would cause you to lose your gun rights.

I agree with everything else that was said before me.

PETER HILL:

I was the best of friends with a judge while I was in college. Most of my experience in the government has been in a judicial branch. This judge was very restrain-oriented. He taught the original intent of laws as they were written and the way they were supposed to be written.

A real quick example is juvenile protection laws. Juvenile protection laws were intended to prevent juveniles who have minor skirmishes with the law from getting a permanent criminal record. They were never intended to allow juveniles who commit violent crimes to go free on the grounds they were too young to understand what they were doing. Juveniles who commit violent crimes should be tried and sentenced as adults.

Let us look at the Second Amendment. The original intent of the Second Amendment applies to possession and carrying of a firearm. Imagine for a minute this pen I am holding is a firearm. It is on my person; it is not in my hands. I am not using it; I am carrying it. That is what is protected by the Second Amendment.

Once the gun is in my hand, I am no longer carrying it. I am now using it, and the Second Amendment does not apply.

Here is another example. There is a reason you separate the military and the police. One guards against the enemies of the state, the other serves and protects the people. When the military becomes both, the people tend to become enemies of the state. Look only at any communist country to see that. The U.S. Supreme Court addressed this in *District of Columbia v. Heller*, 554 U.S. 570 (2008). The right to bear arms does not give a civilian the right to walk around and carry in public a shoulder-fired Stinger missile capable of bringing down an aircraft, a rocket-propelled antitank grenade or other weapons designed for military use.

I oppose this bill as it is written. The Second Amendment pertains to carrying only. Change one word in this bill as it is written, the Second Amendment is no longer an issue, and you will blow the Second Amendment arguments right out of the water. Change the word "possess" to "unlawfully use"—no more Second Amendment argument. Once the gun is in your hand, the Second Amendment does not protect you. You are not protected from using a gun unlawfully.

VERNON BROOKS:

As I have said in previous testimony, I come in here purposely with an open mind. I do my best to not come in with prepared remarks so I can listen to what everyone has to say. As a result, my testimony will sometimes seem a little bit scattered because I am taking notes as we are going on the things that concern me and things that may make it better and may make it acceptable.

I do want to find a way to support the premise of this bill. As it sits right now, I cannot because of many of the concerns that have already been raised.

Thus far, the conversation on the support side of this bill lacks the word "allegedly" an awful lot. It really should be used a lot more. If it was, this bill would make a lot more sense because we are expecting people who have allegedly done things to lose rights.

I definitely share the concerns about the "may" versus "shall" in judicial discretion. Every case is an individual, and I do not see a reason why we need to remove the judge's discretion in those cases.

To correct some information that was stated in the initial explanation of the bill. In 1968 the Gun Control Act, not Gun Protection Act, is a very different thing. And the Lautenberg Amendment was added in 1996, which amended the Gun Control Act. It did not apply to military. It applied to everyone, and it still does. Persons convicted of misdemeanor domestic violence are already prohibited persons.

In earlier testimony, I heard a lot of stories about prohibited possessors with guns doing bad things with them. This has nothing to do with that. Those stories are tearjerkers, they are sad, they are terrible and they have nothing to do with this bill because those people were already convicted. They were already prohibited possessors. They were already not allowed to have firearms, and they were already in the commission of crimes.

A question was asked earlier why are we allowing people to still purchase guns under certain circumstances. That is because they are innocent until proven guilty, and that is how rights work.

I will say the conversation regarding retroactive versus prospective gives me a better feeling about it. If we make those changes, it would not be as bad to me, and maybe we can actually fix what is wrong with it.

SENATOR SPEARMAN:

There is a gentleman who alluded to the fact that maybe I thought I was being self-righteous. I apologize if that is the way he felt. I would encourage everyone not to mistake my passion for self-righteousness. I am passionate about this because I believe this is something we need to do.

With respect to the inference to what happens in the military, I think I was very clear with that. Persons in the military are protected using the Lautenberg Act. I was a commander in 1981 to 1983, and that was the time I had to make those statements at the range.

This is not about taking people's weapons who are law-abiding citizens. This is simply about protecting victims of domestic violence, and I am sure if our colleague, Senator Debbie Smith, had not been ill last Session, she would have fought very hard for this bill if she had been given the opportunity to have it heard.

CHAIR SEGERBLOM:

I think she is very proud of you and all of us today.

Seeing no more people wanting to testify, I will close the hearing on S.B. 124 and open the hearing on S.B. 470.

**SENATE BILL 470**: Revises provisions governing the release of information relating to children. (BDR 5-347)

SENATOR SCOTT T. HAMMOND (Senatorial District No. 18):

Senate Bill 470 is the first of three bills requested by the Legislative Committee on Child Welfare and Juvenile Justice during the Interim, which I was privileged to chair.

As you may know, over the last several years the Committee has developed a close working relationship with the Supreme Court of Nevada's Commission on Statewide Juvenile Justice Reform, as that body has been doing some amazing work that we are happy to not duplicate but, more important, to support.

Each of the Committee bills you will hear today was a recommendation from the Commission that we agreed to carry.

Senate Bill 470 is pretty straightforward in content. Section 1 of this bill adds to the list of entities to which a juvenile justice agency may share information related to a child who is subject to an active criminal investigation by a law enforcement agency, a delinquency proceeding or a situation that poses a threat to his or her safety or the safety or well-being of others. It is important to note this provision applies to a child who is already subject to the jurisdiction of a juvenile court.

Section 1 also expands the type of data shared among entities already named in statute to data from an educational record of a child maintained by a school district. The important thing to note about this provision is that it applies only if the school district and the juvenile justice entity in question have entered into a written agreement to share such information.

BRIGID DUFFY (Director, Juvenile Division, Office of the District Attorney, Clark County)

I do not have anything to add. I am just here to answer questions if the Committee has them.

SENATOR GUSTAVSON:

On section 1, subsection 2, paragraph (k) regarding "data from an educational record of a child maintained by the school district." What data would the law enforcement agency be getting?

Ms. DUFFY:

In 2013, we put in paragraph (k), but we missed the school district being able to provide information to the juvenile justice agency. When the child is on probation, the probation officer is supposed to be engaging the child and the family to ensure the child is going to school and if the child needs help in school. This allows a communication mechanism because there are a lot of laws around the school district providing information outside of the school. This allows a memorandum of understanding to provide information to the juvenile justice agency.

SENATOR GUSTAVSON:

I want to make sure that it is nonidentifiable information being given out.

MR. CALLAWAY:

We are in support of S.B. 470.

CHAIR SEGERBLOM:

Seeing no more people wanting to testify, I will close the hearing on S.B. 470 and open the hearing on S.B. 472.

**SENATE BILL 472**: Revises provisions governing registration and community notification of juveniles adjudicated delinquent for committing certain sexual offenses. (BDR 5-345)

SENATOR SCOTT T. HAMMOND (Senatorial District No. 18):

Senate Bill 472 is the second of three bills generated by a recommendation of the Nevada Supreme Court's Juvenile Justice Reform Commission. This bill revises juvenile sex offender registration and notification requirements and is intended as a replacement for the provisions contained in S.B. No. 99 of the

78th Session. As you know, that bill was vetoed by the Governor for reasons not related to these provisions, and the Commission decided to request this measure for 2017 containing only the juvenile provisions.

Sections 4 through 14 of the bill contain new provisions governing registration and community notification for juvenile sex offenders, several of which are definitions. The key elements of the sections I would like to highlight are as follows: Section 5 adds a definition of aggravated sexual offense which includes administering a drug or controlled substance to another person with the intent of committing various sex crimes, including those that result in substantial bodily harm. The definition also includes any sexual offense if the juvenile has previously been adjudicated, delinquent or placed under juvenile court supervision related to a sexual offense.

Section 8, similarly, adds a definition of sexual offense which among other provisions makes an exception for consensual sex between children when the victim is at least 13 years of age and the perpetrator is no older than 17 years of age.

Section 9 sets forth the conditions under which a child who is at least 14 years of age and who is adjudicated delinquent for committing a sexual offense must register with the court of the Youth Parole Bureau and must notify the appropriate entity within 48 hours of any significant changes in personal circumstances, such as a name change, a residential or school change, a change in what vehicle the child drives, etc. This section also requires a parent or guardian to ensure the child complies with these requirements and the parent or guardian notifies the proper entities should the child run away or otherwise leave.

Section 10 lays out the actions a juvenile court must take in order to ensure the process is followed appropriately for a child who is subject to registration notification provisions as well as notification of his or her parent or guardian. This section also provides that the court may not terminate jurisdiction over the child until it has either relieved the child from these requirements pursuant to statute or ordered that the child remain subject to registration and notification as an adult.

Section 11 allows the juvenile court, upon a motion by a child, to exempt the child from the registration and notification requirements if the child has not been



adjudicated delinquent for committing an aggravated sexual offense as defined in the bill, and the court finds at a hearing an extensive set of criteria have been met in regard to the child in his or her circumstances and behavior.

Section 12 requires the court to hold a hearing on or near the child's twenty-first birthday. It sets the findings that must be made in order to relieve the child from the requirements or to order continued registration and notification as an adult.

Section 13 requires the court to maintain control over these cases and not refer them to a master for any findings or determinations. Section 14 prohibits the sealing of records while the juvenile is subject to registration and notification.

Section 17 makes clear the term "convicted" does not apply to any adjudication from which a juvenile has been relieved in subsequent sections and makes similar conforming changes.

CHAIR SEGERBLOM:

Ms. Roske, I have one question for you. Is this comparable to S.B. No. 99 of the 78th Session the Governor vetoed?

SUSAN ROSKE:

Yes. This just takes out the aspects of S.B. No. 99 of the 78th Session to apply only to juvenile delinquency adjudications. It has no impact on the laws affecting adult sex offenders.

CHAIR SEGERBLOM:

Is it literally S.B. No. 99 of the 78th Session as the Governor vetoed it?

Ms. ROSKE:

We took the language of S.B. No. 99 of the 78th Session applying to juveniles and made it its own bill which is reflected right here.

I want to emphasize how important this is because right now the law that is on the books has been held in abeyance; it has been stayed. If this does not pass, the laws that are on the books that have been stayed will go into effect. These laws have been stayed since 2008 because of the horrible impact they would have on children in our community. This is an extremely important bill.

SENATOR FORD:

I want to commend Senator Segerblom for his leadership on this issue. Senate Bill No. 99 of the 78th Session got vetoed under a technicality, but I am glad to see people are working to make this happen.

CHAIR SEGERBLOM:

We have been able to keep the law at bay for two years. Hopefully, we get it done this Session.

Seeing no more people wanting to testify, I will close the hearing on S.B. 472 and open the hearing on S.B. 473.

**SENATE BILL 473**: Excludes juveniles from increased penalties for certain sexual offenses. (BDR 15-346)

SENATOR SCOTT T. HAMMOND (Senatorial District No. 18):

This bill was requested by the Nevada Supreme Court's Juvenile Justice Reform Commission, and it essentially cleans up NRS sections. In order to exempt juveniles from increased penalties that were never intended to apply to them, Senate Bill 473 adds the phrase "by a person 18 years of age or older" to a few sections of NRS 201 that provide increased penalties for open or gross lewdness and indecent or obscene exposure committed in front of a child or vulnerable person.

Testimony before the Legislative Committee on Child Welfare and Juvenile Justice last Interim indicated that not making these provisions apply only to adults was an oversight that ended up slipping through with the passage of A.B. No. 49 of the 78th Session. We agreed to fix the oversight in this bill.

CHAIR SEGERBLOM:

Seeing no more people wanting to testify, I will close the hearing on S.B. 473 and open the hearing on S.B. 488.

**SENATE BILL 488**: Revises provisions relating to sexual offenses. (BDR 15-1086)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

Senate Bill 488 revises provisions relating to sexual offenses. According to United States federal law, human trafficking offenses are separated into two categories, commercial sex acts and involuntary servitude.

Commercial sex acts constitute trafficking that is induced by force, fraud, coercion or in which the person who is induced to perform such an act has not attained 18 years of age. Involuntary servitude is the recruitment, harboring, transportation provisions or obtaining of a person for labor or services using force, fraud or coercion for the purpose of subjection to involuntary servitude, pandering, debt bondage or slavery.

According to the National Conference of State Legislatures, approximately 293,000 children in the United States, mostly girls 12 to 14 years of age, are at risk of becoming exploited and trafficked for sex. An estimated 78 percent to 90 percent of youth victims of sex trafficking have histories of sexual abuse. According to the a Department of Public Safety, in 2015 there were 165 commercial sex acts and 2 cases of involuntary servitude that were not subsequently cleared.

Based upon data and the finding that Nevada is one of the states most affected by human trafficking, Governor Brian Sandoval issued Executive Order 2016-14 to establish the Nevada Coalition to Prevent Commercial Sexual Exploitation of Children. The Governor serves as the Chair to the Coalition, and the Administrator of the Division of Child and Family Services of the Department of Health and Human Services serves as the cochair. Among other duties, the Coalition is required to prepare a comprehensive statewide strategic plan with recommendations to address federal law relating to sex trafficking. The Coalition must also provide an annual report on or before October 1 of each year.

I was at the first meeting of the Women's Legislative Caucus, and I realized that in Nevada we do not have statutes that protect children who are exploited at this level.

Senate Bill 488 makes the following revisions to straighten Nevada's laws relating to sex trafficking and to improve the quality of services to victims of sex trafficking. Pursuant to NRS 201.300, certain crimes constitute sex trafficking. Section 1 of the measure expands the list of crimes to provide a

person is also guilty of sex trafficking if he or she facilitates, arranges, provides or pays for the transportation of a person to or within Nevada for the purpose of engaging in unlawful sexual conduct or prostitution; if the person is a child engaging in certain acts relating to pornography involving the person who advertises, sells or offers to sell travel services that include or facilitate the travel of another person to Nevada for the purpose of engaging in sexual conduct with a victim of sex trafficking or certain acts relating to pornography involving minors; travels or attempts to travel or knowingly causes another person to travel or attempt to travel within Nevada for the purpose of engaging in sexual conduct with a victim of sex trafficking or certain acts relating to pornography involving minors.

Pursuant to NRS, the penalties of crimes relating to sexual offenses vary according to the type of crime, whether the victim is an adult or child, and if a child, the age of the victim.

The penalties for sex trafficking are outlined in NRS 201.300 and provide that a crime is a Category A felony. If the victim is under 14 years of age, the sentence is 15 years to life with a maximum fine of \$20,000. Section 1 of this bill increases the minimum sentence to 20 years. To assist victims of sexual trauma who are eligible for Medicaid, section 2 of the measure requires the Department of Health and Human Services to develop a Medicaid service package called a Sexual Trauma Services Guide. The information contained in the Guide must be posted on the Department's Website and be made available upon request.

Finally, section 3 of the measure requires the Department of Health and Human Services to hold periodic informational meetings to coordinate efforts of key stakeholders to improve the services for victims of sex trafficking and to achieve the goals of the statewide strategic plan developed by the Coalition.

As I said in my opening remarks, this was something that was brought to my attention. I had no idea in Nevada we did not have statutes that protected our young people from predators of this nature.

Ms. MULL:

In 2015, I was the policy intern for Shared Hope International. Shared Hope International is the predominant leading organization on policy issues relating to domestic minor sex trafficking. Every year states are given a "grade" on their

laws and their legislation pertaining to child victims of domestic minor sex trafficking. Nevada has a zero in one aspect when it comes to child sex tourism.

In 2015, I was excited to tour the National Center for Missing and Exploited Children headquarters in Washington, D.C., and learn more about what it does to help victims of domestic minor sex trafficking. We arrived to the fourth floor, which was the child sexual exploitation/child victim identification program which serves as a central repository in the United States for information relating to child victims depicted as sexually exploitative images and videos. Our tour guide explained how the unit had reviewed more than 132 million images and videos since it began in 2002. The focus is to assess federal and state law enforcement agencies and prosecutors with child pornography investigations, plus help law enforcement identify child victims so law enforcement can locate and rescue them from their exploitative situations. She said something to me that had never crossed my mind. She said, "We are constantly cataloguing series. We get photos from the 1980s and 1990s on a regular basis."

I had never let myself imagine the images of my 11-, 12- and 13-year-old self being sexually abused by multiple men were still floating around in cyberspace, let alone still being traded as part of the "game." The notion sexual exploitation is solely the result and responsibility of those partaking in the picture or physical abuse is beyond me, maybe because members of normal society can hardly wrap their minds around the act itself. It is rare someone will walk into a XXX store and purchase child pornography, although it does happen. More often than not it is done online in a mass chat room or on the dark net. The majority of those engaged in these clubs, rooms, societies, etc., participate in what is known as "pic for pic." In essence it means, I will trade you a picture of child pornography I own for a picture you own. This allows the members to screen for law enforcement and see if the new buyer has quality images. Unfortunately, this also fuels the cycle of violence because any imagery easily obtained for a new viewer of child pornography is going to be old, out-of-date and most likely already owned by other members.

In my case, I became the way for an individual to have nude photos he could trade. Over time it progressed, and he went from trading my pictures to trading me. Not every member of these groups physically rapes you. Some just watch. Others bring their own children so they can watch. Some facilitate, organize and transport. Some watch from webcams in far off places, some from the room. Some pay to have you shipped or other children shipped to these events so they

can watch. Some, like one individual in my case from the Nevada/Utah area, traveled across the Country to "meet me" when I was 13 years old.

Let me be clear, in cases of both adult and child sex trafficking, those in this dark world who participate in and specifically those who facilitate sex tourism encourage the commercial exploitation of adult and child victims alike. It creates incentives for traffickers and facilitators to increase profits, while it furthers the underground nature of trafficking offenses by interfering with the detection of trafficking crimes disguised as travel services, transportation or advertising rather than what they actually are. They are traffickers.

Many people continue to believe sex tourism only exploits children and victims overseas, but it is fueling the demand for children and victims here in the United States. Federal law already criminalizes child sex tourism and the definition includes arranging, inducing, procuring or facilitating the travel with knowledge the traveler is traveling in interstate commerce or foreign commerce for the purposes of engaging in illicit sexual conduct, and the arranging was done for commercial advantage or private financial gain.

Many states including Alabama, Alaska, Hawaii, Louisiana, Missouri, New York, Tennessee and Washington have expanded upon this to also protect adult victims who fall prey to not only pimps but also facilitators of their victimization.

This is why it is so crucial for Nevada to join them with S.B. 488 and recognize as a society it is not only the serial typical pimp or individuals locking girls in basements who are traffickers. Those who facilitate, advertise or make arrangements for victims are more than bystanders, they are traffickers.

I am haunted every day by other kids who were in those pictures with me. What happened to them? Did they make it? Are they functioning? Are they alive? How are people still trading our pictures online?

Please help me and others like me take one more step to protect children and adult victims of sex trafficking by holding all of those involved in the trafficking process accountable. It is hard to express what it feels like to know you have been bought and sold. But I can tell you why survivors like myself speak out: it is not because we want people to feel sorry for us or feel pity for us. It is because we need our stories to mean something. We need to know that what

we went through and what we continue to go through every time we share our story matters. We need to protect those who will come after us. Help stop another young girl from sitting in this chair ten years from now and having this same exact conversation with this Committee.

SENATOR CANNIZZARO:

Ms. Mull, I have listened to your testimony on a number of occasions, and I am always moved by your bravery and by your ability to sit here and talk to us about some of the things that unfortunately go on in our society. I want to thank you for coming again today, for speaking ever so eloquently every time you are before this Committee and others I have watched you in, and just for being brave enough to be here and be a voice for those who really do need a voice.

SENATOR FORD:

I want to echo what was said. You are strong and you are brave and you are helping us right now understand something many of us could not even fathom. Thank you for bringing your testimony forward.

ERNEST E. ADLER (Sierra Sage Academy):

A lot of people ask what are we doing about sex trafficking in terms of treatment, and I think the final section of this bill is really beneficial in that it provides a funding source and a means of helping out these girls. In Nevada we do have one program, which is the Sierra Sage Academy in Yerington. It is a residential school that has several aspects of a normalized school with sports, basketball, baseball, things of that nature. The 4-H program holds meetings in Yerington on the campus. These girls, for the most part, suffered sexual trauma or other related traumas, and there is an intensive counseling program.

I know Senator Spearman is trying to get a tour to go out there to see the facility and talk to some of the girls. Governor Sandoval has already toured the facility as has Richard Whitley, Director of the Department of Health and Human Services. I would invite any of you who want to go on a tour to contact me, and I will try to arrange a tour. We are trying to offer treatment and provide a normalized environment for girls who have been victimized in this way. I wanted to have Rebekah Graham, who is the director of the program, do a presentation today but unfortunately there was not enough time.

SENATOR HARRIS:

As I am sure you are aware, section 2 actually refers to victims of sex trafficking and not by gender. In your comments, you repeatedly referred to young ladies. I would expect there are some young men who are also victims of sex trafficking.

MR. ADLER:

We do not know exactly what the split is. Unfortunately, we are trying to do a campus with just one sex, so we obviously picked girls because there are more of them in sex trafficking than boys. But I really do not know the statistics in the number of boys.

SENATOR HARRIS:

Your facility just treats young women?

MR. ADLER:

Yes.

SENATOR HARRIS:

But we do have young men who are probably victims of sex trafficking in the State as well?

MR. ADLER:

I am sure we do, and I am sure they are largely going untreated.

SENATOR HARRIS:

We need to find a way to address that.

ROSEMARY VASSILIADIS (Director, Department of Aviation, Clark County):

We support S.B. 488. This important legislation will strengthen human trafficking laws.

Human trafficking awareness and prevention is very near and dear to the airport community since aviation is a common means for transporting victims of human trafficking.

Our airport is the gateway to more than 47 million passengers last year, and we know these horrific crimes travel through the airport. We believe we have a



responsibility to play a part in protecting our passengers and community against human trafficking.

Staff at McCarran International Airport has been working to combat these violent crimes for over a year now. Since that time, we have conducted executive-level training, worked with national advocacy groups to administer airport-wide training, posted static public service announcements which rotate throughout the terminals and developed signage for the restroom stalls with the national hotline information for victims, which we are installing right now. We are in the process of rolling out the National Human Trafficking training materials to all department employees.

However, human trafficking is a worldwide epidemic, and it is going to take a collaborative effort to be effective in preventing these crimes and protecting victims. We believe S.B. 488 is a strong step in that direction.

TINA FRIAS (Department of Aviation, Clark County):

United Airlines also supports S.B. 488, but representatives could not make it today and asked if I could read a brief statement ([Exhibit E](#)).

MR. SULLIVAN:

We oppose S.B. 488 due to the increase in penalties. We believe it should remain 15 years to life as a Category A felony.

NADIA HOJJAT (Public Defender's Office, Clark County):

I want to address several problems with S.B. 488. Senate Bill 488 is not making sex trafficking a crime. NRS 201.300 already has sex trafficking as a crime.

The revisions that are being suggested here have serious problems in terms of being overbroad and being vague. These revisions are ripe for constitutional challenge.

I want to start by talking about the difference between pandering and sex trafficking in NRS 201.300 because it goes to the heart of these revisions.

As it stands right now, there is a difference. The law recognizes the difference between pandering and sex trafficking. They are two very different crimes. The Legislature recognizes that sex trafficking involves force, threats, violence and coercion, and the penalties for sex trafficking recognize that. We are talking

about ten years in prison, mandatory prison sentence, nonprobationable crime, mandatory minimum of three years in prison, and an individual must register as a sex offender if convicted of sex trafficking.

In contrast to that, section 1 of NRS 201.300 talks about pandering. Pandering is simply encouraging or helping an individual who wishes to engage in prostitution. It is still a crime, but it is a Category C felony. We are talking about one to five years in prison. This is where the problems with the revision in S.B. 488 begin. If you look at section 1, subsection 2, paragraph (a), subparagraphs (4) through (6), the distinction between sex trafficking and pandering are completely blurred. We are now talking about making sex trafficking to assist an individual who wants to engage in consensual prostitution with no violence, no force and no coercion, and we are making this person a registered sex offender with mandatory minimum of three years in prison with up to ten years in prison for assisting an individual in what is a Category C felony, pandering. The mere act of paying for a plane ticket now makes a person a sex offender who has to go to prison.

There is no requirement of force in section 1, subsection 2, paragraph (a), subparagraph (4). This is a major problem. This revision is going to blur the lines between what is pandering and what is sex trafficking. It is going to blur the lines between what these individuals are consenting to, these individuals the law recognizes as wanting to be prostitutes. In fact in Nevada, outside of certain counties, it is legal to be a prostitute. That is an even greater problem with this statute.

I would draw your attention to section 1, subsection 2, paragraph (a), subparagraph (4), subsubparagraph (l) that says if you facilitate, arrange or provide or pay for transportation to cause a person to engage in prostitution or enter a place within the State in which prostitution is practiced, encouraged or allowed for sale for the purpose of sexual conduct. "Or allowed" is very important. What that means is the proprietor of one of these legal facilities up north, if he now hires somebody and agrees to pay her transportation costs for her to come and work lawfully for him, he is guilty of sex trafficking. That is what the language of this bill does.

When I talk about it being overbroad and vague, I am sorry that time is limited because I have quite a bit to go into about the language of this bill. There are serious problems. As a lawyer I can tell you commas matter, the word "or"

matters. This bill is going to entrap all sorts of people. This net that is being cast is far too wide.

SENATOR CANNIZZARO:

You mentioned this would apply to legalized brothels that are in certain counties of this State, but the way I am reading this particular piece of legislation would not be so broad as to include pandering. It relates back to section 1, subsection 2, paragraph (a), subparagraphs (4), (5) and (6); these subparagraphs are not dealing with a child. Causing a person to engage in prostitution or allowed for the purpose of sexual conduct or prostitution in violation of subparagraphs (1), (2) or (3) relates back to NRS 201.300, subsection 2, paragraph (a), subparagraphs (1), (2) and (3), which is our current sex trafficking statute. When it relates back to sex trafficking statute, how is this going to encompass all of the activity you have been detailing? In my reading of this, you still have to talk about it in the context of sex trafficking, not in the context of what we can agree to disagree, to have a conversation about consensual sexual conduct vis-à-vis prostitution.

CHAIR SEGERBLOM:

Would you be willing to come back at 1 p.m. tomorrow and let us debate this for a few more minutes?

Ms. HOJJAT:

Absolutely.

CHAIR SEGERBLOM:

She seems to have raised some valid points, and I am not sure if they are accurate or not, but we need to talk about it.

SENATOR SPEARMAN:

I want to end with this: There was one objection with respect to 15 years to life being an inordinate amount, and I would ask the person who said that to talk with Ms. Mull and ask her how many years since she was made to do this and at what point in her life does she leave that prison. At what point in their lives are the children who have been exploited like this free from the prison? Fifteen years to life for a lowlife who has done something like this to children, are you kidding me?

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CHAIR SEGERBLOM:

Because of time constraints, we will close this hearing on S.B. 488 at 3:33 p.m.

RESPECTFULLY SUBMITTED:

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Eileen Church,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

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

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	10		Attendance Roster
S.B. 338	C	7	Senator James A. Settelmeyer	Proposed Amendment 3705
S.B. 124	D	1	Robert Roshak / Nevada Sheriffs' and Chiefs' Association	Proposed Conceptual Amendment
S.B. 488	E	1	Tina Frias / Department of Aviation, Clark County	Letter of Support, United Airlines Inc.