

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-ninth Session  
April 14, 2017**

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 11:29 a.m. on Friday, April 14, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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 LEGISLATOR PRESENT:**

Senator Mark A. Manendo, Senatorial District No. 21

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

John J. Piro, Deputy Public Defender, Office of the Public Defender,  
Clark County  
John T. Jones, Jr., Nevada District Attorneys Association  
Scott W. Anderson, Chief Deputy, Office of the Secretary of State  
Holly Welborn, ACLU of Nevada

CHAIR SEGERBLOM:

We will open the work session on Senate Bill (S.B.) 169.

**SENATE BILL 169**: Revises provisions relating to sexual offenses. (BDR 15-472)

PATRICK GUINAN (Policy Analyst):

Senate Bill 169, as addressed in the work session document ([Exhibit C](#)), requires the Department of Public Safety (DPS) to establish a statewide tracking system for sexual assault forensic evidence kits, commonly known as "rape kits." It allows DPS to contract with appropriate public and/or private entities to create and manage the system. It also sets forth specific requirements the tracking system must meet.

Additionally, the bill requires DPS to report statistics to the Governor and the Legislature twice yearly for the preceding six-month period on the number of kits tested in each county and the State in general, along with other relevant information. Reports must be provided to the Interim Subcommittee to Review DNA of the Advisory Commission on the Administration of Justice and be published online. The prohibition on public disclosure of the names of sexual assault victims is expanded to include victims of employees, contractors or volunteers of various child welfare and juvenile justice agencies.

Senate Bill 169 also provides a Category C felony for any persons or a person who runs a foster home for engaging in sexual conduct with a person between 16 and 21 years of age. A psychosexual evaluation is required for such an offender, as are community notification, lifetime supervision and an assessment of the person's likelihood to reoffend. The records of the offender may not be sealed. Finally, the bill lengthens the statute of limitations on commencing a criminal sexual assault proceeding from 20 to 30 years.

Senator Harris has provided a mockup of Proposed Amendment 3502, [Exhibit C](#). There is another proposed amendment, [Exhibit C](#), from John J. Piro, Deputy Public Defender, Office of the Public Defender, Clark County.

SENATOR HARRIS:

Proposed Amendment 3502 was crafted in consultation with the Office of the Attorney General, which has a grant for evaluating rape kits. Implementation of the statewide tracking system might be premature. The Office of the Attorney General is working on determining the best practices. To require a statewide

tracking system before hearing the input of law enforcement and other stakeholders in determining the best process is premature and perhaps incompatible with the stipulations of the grant.

With regard to provisions about sexual conduct between certain individuals, primarily in foster care situations, the Clark County Office of the Public Defender and the Nevada District Attorneys Association provided input on changes. In the proposed amendment from Mr. Piro, in section 8, subsection 1, paragraph (a), 21 years of age or older is changed to 25 years of age. In section 8, subsection 1, paragraph (c), the age of persons with whom it is forbidden to engage in sexual conduct is changed from 21 years to 18 years. This is to avoid criminalizing sexual conduct of individuals 18 years or older.

To section 8, subsection 1, paragraph (c), subparagraph (1) is added: "A person so convicted under this subsection is not subject to registration or community notification ... " requirements. In section 8, subsection 2, it is added the provisions do not apply to people married to those who provide services to children under their control "at the time the act is committed." This was done to avoid criminalizing sexual behavior between married couples.

Section 9 of S.B. 169 is deleted in Mr. Piro's proposed amendment, [Exhibit C](#). The statute of limitation change from 20 years to 30 years is eliminated entirely. Sections 14 and 16 and other sections that designate the crime as a sex offense would also be eliminated.

CHAIR SEGERBLOM:

Is this description of your amendment accurate?

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

Yes.

JOHN T. JONES, JR. (Nevada District Attorneys Association):

Yes.

SENATOR HARRIS:

Are we adding "the person of authority" language back in to section 8, subsection 1, paragraph (b)?

MR. PIRO:  
Yes.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 169.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 169 and open the work session on  
S.B. 338.

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

MR. GUINAN:

Senate Bill 338, as addressed in the work session document ([Exhibit D](#)), changes the term "prime contractor" to "original contractor" and increases the statute of limitations on commencing an action against an original contractor from one to two years. The bill also deletes statutory provisions that include "laborer" within the definition of "lien claimant" and provides that a claimant under the bill's provisions is a lien claimant.

Preempted language regarding notification requirements that apply to a prime contractor or subcontractor who participates in a health or welfare fund as related to potential lien rights is also deleted. The bill creates new notification requirements and penalties that a claimant must provide to an original contractor or subcontractor. The bill requires an original contractor to be liable for the indebtedness for labor incurred by a subcontractor or other contractor. A law imposing a delinquency notification duty on the administrator of a Taft-Hartley trust is repealed.

The bill's sponsor, Senator James A. Settlemeyer, Senatorial District No. 17, has proposed a conceptual amendment, [Exhibit D](#), which replaces the mock-up offered at the initial hearing. The intent of the conceptual amendment is to replace "proof of claim" with "notice" throughout the bill, clarify the definition

of "original contractor" in section 4 and replace "pursuant to" with "described in" in section 5, subsection 7, paragraph (b). The latter is a technical change offered for clarity.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 338.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 338 and open the work session on S.B. 360.

**SENATE BILL 360**: Revises provisions relating to the protection of older persons, vulnerable persons and persons in need of a guardian.  
(BDR 15-965)

MR. GUINAN:

Senate Bill 360, as addressed in the work session document ([Exhibit E](#)), clarifies that immunity from prosecution for those who report suspected abuse or neglect of a vulnerable or elderly person does not extend to a person who was involved in the neglect or abuse.

The maximum term of imprisonment for a person who abuses or neglects an elderly or vulnerable person is increased from 6 to 20 years, and a second or subsequent offense is made a Category B felony. The bill also establishes a Wards' Bill of Rights and provides that the appropriate court must post the Bill of Rights conspicuously in the court and on its Website, make the document available to the public and maintain a copy in the court for copying and distribution to the public.

The Wards' Bill of Rights addresses several matters, including but not limited to: receiving proper legal representation; receiving proper notice of proceedings involving the ward; allowing family or other interested persons to speak on behalf of the ward; receiving education about guardianships; participating in developing a plan for the care of the ward; the ward maintaining as much

independence as possible; the ward being granted as much freedom as possible to control all aspects of his or her own life; engaging in activities that have not been expressly delegated to a guardian; being treated fairly and respectfully by one's guardian; receiving prudent financial advice and management; having a court review the guardianship as deemed necessary by the ward and giving due consideration to the preferences of the ward for health care, medical treatment, and religious and moral beliefs.

As shown in [Exhibit E](#), Senator Cannizzaro proposes to amend the bill by replacing the language regarding the Wards' Bill of Rights in this bill with similar language contained in [Senate Bill 168](#).

**SENATE BILL 168**: Establishes the Wards' Bill of Rights. (BDR 13-6)

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 360.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 360 and open the work session on S.B. 376.

**SENATE BILL 376**: Revises provisions relating to certain agreements between heir finders and apparent heirs. (BDR 12-480)

MR. GUINAN:

Senate Bill 376, as addressed in the work session document ([Exhibit F](#)), extends from 90 days to 1 year from the death of certain persons the amount of time that an agreement between an heir finder and an apparent heir is void and unenforceable if entered into during that period. There are no proposed amendments.

SENATOR CANNIZZARO MOVED TO DO PASS S.B. 376.

SENATOR FORD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 376 and open the work session on S.B. 387.

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

MR. GUINAN:

Senate Bill 387, as addressed in the work session document ([Exhibit G](#)), provides for the issuance and enforcement of various orders of protection against a person who is alleged to have committed acts that constitute a high risk of danger to themselves or others.

The bill authorizes immediate family members to obtain protection orders and prohibits a person who is subject to such an order from acquiring or having in his or her possession a firearm or ammunition while the order is in effect. The bill provides mechanisms for both the surrender and storage of a weapon and ammunition and for the return of same.

Unless the act that constitutes the violation requires a more severe penalty, a person who violates such an order is guilty of a misdemeanor and may not possess or otherwise acquire a firearm or ammunition for five years.

Senator Julia Ratti, Senatorial District No. 13, the sponsor of the bill, has proposed two amendments, [Exhibit G](#). The first proposed amendment seeks to eliminate the surrender of ammunition; change the implementation date from January 1, 2018, to June 30, 2018; allow for automatic court hearings for an extended order for protection against a high-risk individual within 14 days after the date of the initial emergency protection order or within 21 days after the date of the initial ex parte protection order; allow law enforcement to secure third-party storage of firearms; allow for a family member of the high-risk

individual or for law enforcement to request a renewal of a high-risk protection order at any time within 3 months before the expiration of a high-risk protection order; and allow that a person who files a petition for an ex parte high-risk protection order after notice and hearing, knowing the information in the petition to be false or with the intent to harass, is guilty of a misdemeanor.

The second proposed amendment to S.B. 387 seeks to provide legal standards of proof throughout the bill; include provisions for notice and opportunity to be heard in order to protect due process and provide a pathway to dissolve the order if the situation merits; and provide a pathway to remove the order from a criminal history report held by the Central Repository for Nevada Records of Criminal History, General Services Division, Department of Public Safety.

SENATOR ROBERSON:

Some standards of proof in S.B. 387 have been changed in the proposed amendments. In section 8, subsection 2, paragraph (a), Senator Ford had raised concerns about courts being required to first look at and exhaust less-restrictive options before imposing protective orders. There are no less-restrictive options. In the original bill, it was easier to get a protective order and remove someone's firearms than to get a Legal 2000 order. The proposed amendment does not change that. Offices can get Legal 2000 orders as easily as orders of protection. Why not just get the Legal 2000 orders so there is a mental health evaluation? The bill offers no help for the mentally disturbed; we are simply taking weapons away. Senate Bill 387 is still precrime legislation that removes constitutional rights with no evidence people have committed crimes. The bill does not provide other means to deal with people whom we suspect are dangerous.

CHAIR SEGERBLOM:

My understanding is there is a gray area between the Legal 2000 order and current *Nevada Revised Statutes* (NRS).

SENATOR CANNIZZARO:

For a Legal 2000 order, an officer or emergency medical technician evaluates a person to determine if he or she needs to be taken to a hospital. To be admitted, the person must be evaluated using several criteria in order to determine a mental health diagnosis. A Legal 2000 order allows up to 72 hours of custody. That is a different procedure than in the bill. If a person is at the

crisis level, that is different than a protective order designed to ensure the safety of those in contact with the individual.

I talked to Senator Ratti about redefining "reasonable cause" as "probable cause," which is a legal standard, in terms of determining whether a person is high risk. We looked at a preponderance of evidence for extended orders and at providing additional due process protections for people subjected to extended orders. The proposed amendments offer significant changes in how that would work, so if someone applies for an extended order, there are due process protections.

SENATOR ROBERSON:

Is there a less-restrictive option that must be exhausted before firearms are removed?

SENATOR CANNIZZARO:

A Legal 2000 admission into care facilities or removing people from their homes could be means to that effect. Every situation will be fact-intensive and examined by judges.

SENATOR ROBERSON:

What is the required standard of proof to issue a Legal 2000 order?

SENATOR CANNIZZARO:

There is no standard of proof. It is not subject to the notice and hearing requirements in the bill, with a preponderance of evidence for extended orders. For a Legal 2000 order, after being taken to a hospital, the individual will be assigned an attorney to determine if mental health is a concern. The legal process is not the same as going before a judge.

SENATOR ROBERSON:

The bill indicates that process would have to be followed before firearms are seized. That is a lesser burden of proof and constitutes a less-restrictive option. Notices of hearing are required for extended orders, not ex parte or emergency orders. That does not fix the gray area. If someone is truly a danger to himself or herself and others, mental health is a concern and the Legal 2000 process can be initiated.

CHAIR SEGERBLOM:

That is a policy decision. There may be a perceived threat, but mental health may not be an issue, at which point the bill would take effect.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 387.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR GUSTAVSON, HARRIS AND  
ROBERSON VOTED NO.)

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CHAIR SEGERBLOM:

We will close the work session on S.B. 387 and open the work session on  
S.B. 393.

**SENATE BILL 393**: Revises provisions relating to the Department of Corrections.  
(BDR 16-608)

MR. GUINAN:

Senate Bill 393, as addressed in the work session document ([Exhibit H](#)), requires the Director of the Department of Corrections (DOC) to develop and establish standard specifications for acquiring supplies, materials, equipment and services used or required by the DOC, which may be provided by programs within its facilities. The Administrator of the Purchasing Division is to exempt the DOC from the provisions of the State Purchasing Act for the purposes of the bill.

Senate Bill 393 also authorizes the DOC Director to purchase from those programs supplies, materials, equipment and services used or required. When calculating its required profit and loss reports regarding programs for the employment of offenders, the DOC must not include the cost to purchase goods manufactured by offenders. Finally, the bill deletes the current prohibition on offenders conducting telemarketing or opinion polls. There are no proposed amendments.

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CHAIR SEGERBLOM:

I suggest we remove the first part of the bill and leave in the telemarketing provisions in section 3.

SENATOR HARRIS:

A central issue during the hearing on S.B. 393 was whether the DOC would be subject to open bidding, as required under NRS. If we deleted those sections, would competitive bidding be allowed?

NICK ANTHONY (Counsel):

Section 3 would exempt prisons from the State Purchasing Act. If that section is deleted, existing permissive law would be unchanged.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 393.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 393 and open the work session on S.B. 405.

**SENATE BILL 405**: Requires the establishment and use of a statewide animal abuser registry. (BDR 14-10)

MR. GUINAN:

Senate Bill 405, as addressed in the work session document ([Exhibit I](#)), creates a statewide animal abuser registry and Website within the Central Repository for Nevada Records of Criminal History and requires certain persons to register for ten years for felony and five years for misdemeanor violations relating to animal abuse. Such a person is also prohibited from owning, possessing or caring for an animal for ten years for a felony and five years for a misdemeanor, while failure to register is a misdemeanor. Commercial sellers of animals, animal breeders and operators of animal shelters must access the Website prior to selling or allowing the adoption of any animal.

The bill's sponsor, Senator Mark A. Manendo, Senatorial District No. 21, has submitted Proposed Amendment 3743, [Exhibit I](#). The amendment proposes as an alternative to create both a registry that would be available to law enforcement and a Website that would be available to the public. It also would create an animal abuser registry Website separate from the sex offender registry. It is also proposes offenders would be required to register as provided and would only provide online the information required in section 30, subsection 6 of the amendment, which is deemed public information. It also proposes to remove the public records and confidentiality provisions, presuming what is required to be posted is public record already. It would also remove the provision authorizing the Department of Public Safety to accept gifts, grants and donations because it would no longer be necessary for the Department to maintain the registry.

CHAIR SEGERBLOM:

There was a large fiscal note attached to the bill, which was removed when it was deemed the registry would be created by private individuals, not the State.

SENATOR CANNIZZARO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 405.

SENATOR FORD SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR GUSTAVSON VOTED NO.)

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CHAIR SEGERBLOM:

We will close the work session on S.B. 405 and open the work session on S.B. 409.

**SENATE BILL 409**: Revises provisions which prohibit a person from allowing a cat or dog to remain unattended in a motor vehicle under certain circumstances. (BDR 15-100)

MR. GUINAN:

Senate Bill 409, as addressed in the work session document ([Exhibit J](#)), repeals provisions of NRS that prohibit allowing a cat or dog to remain unattended in a motor vehicle and reenacts those provisions with revisions based on provisions

of NRS related to leaving a child unattended in a motor vehicle. The bill adds a definition of the term "motor vehicle" to NRS 202, "Crimes Against Public Health and Safety," to apply to provisions added by the bill and the similar NRS that applies to children. The bill also removes a definition that applies to children, which is made superfluous by the new provisions. Senator Manendo has a mock-up of Proposed Amendment 3547, [Exhibit J](#).

SENATOR MARK A. MANENDO (Senatorial District No. 21):

At the hearing, Fred Volz suggested adding grocery store or mall security guards to those authorized to remove animals from vehicles.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
[S.B. 409](#).

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on [S.B. 409](#) and open the work session on [S.B. 433](#).

[SENATE BILL 433](#): Revises provisions relating to guardianships. (BDR 13-487)

MR. GUINAN:

[Senate Bill 433](#), as addressed in the work session document ([Exhibit K](#)), provides for the appointment of a lawyer by the court for an adult ward or a proposed adult ward who is unable to retain counsel and requests the court to do so. The bill lowers the fee from \$72 to \$5 for filing a petition of guardianship when the estate is worth more than \$2,500, imposes a new \$3 fee for the recording of certain documents, and provides that the resulting revenue go to the provider of legal services for the indigent and for providing legal services to proposed adult wards or adult wards.

Senator Cannizzaro proposes to amend the bill, as noted in [Exhibit K](#), by incorporating the provisions of [S.B. 158](#).

**SENATE BILL 158**: Revises provisions governing guardianships. (BDR 13-468)

Also included is another amendment proposed to S.B. 433, [Exhibit K](#), by the Administrative Office of the Courts, Nevada Supreme Court.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 433.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR GUSTAVSON VOTED NO.)

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CHAIR SEGERBLOM:

We will close the work session on S.B. 433 and open the work session on S.B. 454.

**SENATE BILL 454**: Enacts the Uniform Powers of Appointment Act.  
(BDR 12-1070)

MR. GUINAN:

Senate Bill 454, as addressed in the work session document ([Exhibit L](#)), enacts the Uniform Powers of Appointment Act, which seeks to codify common law with regard to estates. The initial sections of the bill provide general provisions and definitions. It then sets forth provisions governing the creation, revocation and amendment of powers of appointment; the exercise of a power of appointment; the disclaimer or release of a power of appointment; and the right of a creditor of a holder of a power of appointment with respect to property subject to that power. There are no amendments.

SENATOR FORD MOVED TO DO PASS S.B. 454.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 454 and open the work session on S.B. 490.

**SENATE BILL 490**: Revises provisions relating to the Foreclosure Mediation Program. (BDR 9-488)

MR. GUINAN:

Senate Bill 490, as addressed in the work session document ([Exhibit M](#)), makes the Foreclosure Mediation Program permanent; requires the Housing Division, Department of Business and Industry, to administer the Program and sets forth the specific functions the Division must undertake in this regard, including submitting to the district court the terms of any loan modification or settlement agreement.

The bill also renames the Account for Foreclosure Mediation as the Account for Foreclosure Mediation Assistance, provides that it be administered by the Housing Division and clarifies that any money collected for the Program may only be expended to support the Program. The bill requires a \$25 filing fee from certain persons to take part in the Program, increases the fee for mediation services from \$400 to \$600 and requires the parties to pay their share of the fee.

There are two proposed conceptual amendments, [Exhibit M](#). The first amendment applies to section 10 of the bill and provides a 30-day window from the enactment of S.B. 490 for certain homeowners to enroll in the Foreclosure Mediation Program.

The second amendment seeks to separate in NRS the additional requirements for residential foreclosures from the statutory provisions that apply to all foreclosures. The proponent of the amendment, Karen D. Dennison of the Real Property Law Section of the State Bar of Nevada offered an explanation, [Exhibit M](#).

SENATOR HARRIS:

The process established in S.B. 490 will be efficient and provide good protections for homeowners. Our concern is safeguarding that funds meant for the Foreclosure Mediation Program are actually spent on it. The remedy is the creation of the Account for Foreclosure Mediation Assistance. However, more

work needs to be done to ensure the financial integrity of the Program so the funds cannot be repurposed. The Program applies particularly to residential properties only. Commercial properties would have to get certificates to follow foreclosure processes.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 490.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 490 and open the work session on S.B. 229.

**SENATE BILL 229**: Revises provisions relating to guardianships. (BDR 13-87)

MR. GUINAN:

Senate Bill 229, as addressed in the work session document ([Exhibit N](#)), revises provisions related to guardianships. It creates a form that persons may use to nominate guardians for themselves; adds guardianship request forms to the Secretary of State's electronic "Lockbox" program; provides the most current of multiple valid guardianship designations prevails; expands requirements regarding out-of-state guardians and the registered agents they must designate within this State; and revises current provisions governing registered agents by allowing them to serve as agents for nonresident guardians.

SCOTT W. ANDERSON (Chief Deputy, Office of the Secretary of State):

The Office of the Secretary of State has worked with Senator Harris and Supreme Court Justice James W. Hardesty on S.B. 229. There was a provision in NRS in the wrong place, and Proposed Amendment 3194, [Exhibit N](#), clarifies that provision, places it correctly in NRS and removes a \$500 filing fee.

SENATOR HARRIS:

That inappropriate \$500 filing fee is reduced to \$60, which puts registered agents in parity with other agents. Is that correct?

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MR. ANDERSON:  
Yes.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 229.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:  
We will close the work session on S.B. 229 and open the work session on  
S.B. 402.

**SENATE BILL 402**: Restricts the use of solitary confinement on persons in  
confinement. (BDR 16-1087)

MR. GUINAN:  
Senate Bill 402, as addressed in the work session document ([Exhibit O](#)), repeals existing law concerning when corrective room restriction, commonly known as solitary confinement, may be used on a juvenile. It sets forth new restrictions on the use of solitary confinement on a child who is held in a state, local or regional facility and whether solitary confinement is being used to protect or punish the child. The bill sets forth the same restrictions on the use of solitary confinement for adult offenders.

The bill's sponsor, Senator Pat Spearman, Senatorial District No. 1, has proposed to amend the bill by deleting sections 1, 2 and 7, which address juveniles, [Exhibit O](#). A second proposed amendment, [Exhibit O](#), was provided by the ACLU of Nevada and created in consultation with DOC.

HOLLY WELBORN (ACLU of Nevada):  
The ACLU wants to maintain the status quo from S.B. No. 107 of the 77th Session while reflecting the administrative regulations of the DOC. Our proposed amendment is a compromise agreement.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 402.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SEGERBLOM:

We will close the work session on S.B. 402 and open the work session on S.B. 124.

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

MR. GUINAN:

Senate Bill 124, as addressed in the work session document ([Exhibit P](#)), provides that a court shall order a person who is subject to an extended order for protection related to domestic violence to surrender, sell or transfer any firearms in that person's possession while the order is in place, except in certain circumstances in which a firearm is necessary for employment. Procedures relating to the surrender, sale or transfer of said firearms are provided in the bill.

A person who is convicted of battery constituting domestic violence or stalking is prohibited from owning, possessing or having a firearm under his or her control. The penalty for violating these provisions is increased to a Category B felony punishable by 1 to 6 years in prison and a fine of up to \$5,000. If the offender does not own a firearm, he or she must acknowledge understanding of these provisions via an affidavit to the court. In instances in which a firearm is sold or transferred to a licensed dealer, the dealer must provide a receipt detailing the transfer of the firearm and whether the transfer is temporary or permanent.

Senate Bill 124 also provides that any person who has been convicted in Nevada or any other state of a crime constituting domestic violence or stalking or who is subject to an extended order for protection against domestic violence be added to the list of persons prohibited from possessing a firearm.

Chair Segerblom has submitted Proposed Amendment 3744, [Exhibit P](#), to address several concerns voiced during the hearing on the bill. The Proposed Amendment reinstates judicial discretion regarding whether to order an offender to surrender his or her firearms and revises portions of the bill that would have made its provisions retroactive regarding the penalties for these offenses.

Proposed Amendment 3843, [Exhibit P](#), was submitted by Senator Roberson.

CHAIR SEGERBLOM:

At the hearing, an issue of concern to me was I do not want people who pleaded guilty to stalking 10 years ago, not knowing what the consequences would be, to be subject to the provisions of S.B. 124. Regarding the court discretion, it is problematic every time something is made mandatory.

SENATOR ROBERSON:

I concur with the changes you suggest. I am concerned about the required affidavit, which could affect the Fifth Amendment rights of offenders and create criminal liability under federal law. If people sign the affidavit before they turn in firearms, they are acknowledging they are a prohibited purchaser while they still have the guns. My proposed amendment, [Exhibit P](#), fixes that, but requires offenders to surrender firearms in a short period.

The more important issue is specificity on what the bill addresses. Every member of this Committee and the bill's sponsor want to protect victims of physical abuse and threats of bodily injury. However, it is our responsibility to be precise with laws, especially when they strip constitutional rights. My proposed amendment clarifies that in order to permanently take away constitutional rights, there should be a showing with reference to S.B. 124 that the person committed a crime that includes the element of use or attempted use of physical force or threatened use of a deadly weapon or threatens a victim with the intent of placing the victim in reasonable fear of death or substantial bodily harm. That is the intent of the bill.

The problem is the NRS definition of domestic violence includes misdemeanor larceny, trespassing and destruction of personal property. We need to be clear and precise: if the Committee intends to permanently take away constitutional rights for the above misdemeanors, we need to make that clear. Without this amendment, that is what we will vote on.

We all agree someone convicted of attacking a spouse or family member with a threat of physical harm should not own a gun. That is why the amendment references the federal definition of domestic violence, which includes the use or attempted use of physical force or the threatened use of a deadly weapon. In NRS 33.018, acts that constitute domestic violence include battery, assault, sexual assault, stalking, trespassing, larceny and destruction of private property. We need to precisely clarify who the bill intends to target.

SENATOR FORD:

Chair Segerblom, I was led to believe your Proposed Amendment 3744, [Exhibit P](#), would give the bill bipartisan support. I do not agree with that and must examine Senator Roberson's analysis of the intent of the bill.

SENATOR FORD MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 124.

SENATOR CANNIZZARO SECONDED THE MOTION.

SENATOR ROBERSON:

My analysis is very simple and based on NRS. I would like to hear arguments against that.

SENATOR CANNIZZARO:

The bill requires judges to issue extended protection orders designed to protect victims from the threat of domestic violence. Another intent of the bill is to ensure people engaging in that conduct do not have weapons because those situations are the most deadly calls for law enforcers and first responders. The situations are likewise the most deadly for people in relationships with and living in the homes of those threatening violence. The situations predominantly result in violent homicides.

I liked S.B. 124 in its original form because it did not give judges the option to decide whether perpetrators in those situations will be a threat. If the evidence is there, that is the reason for the extended domestic violence protection order. As a criminal prosecutor, I have dealt with these situations and always prefer if someone is under an extended order of protection for domestic violence, he or she does not have access to firearms.

In its original form, S.B. 124 and Chair Segerblom's Proposed Amendment 3744 include a prohibition for individuals convicted of stalking and harassment from possessing firearms. With those crimes, prosecutors have to prove a course of threatening and terrorizing conduct versus single incidents. Senator Roberson's Proposed Amendment 3843 removes that provision unless someone is convicted of felony aggravated stalking. Under current NRS, all felons are prohibited from owning firearms, so the Proposed Amendment does not add a lot of teeth to NRS. Judges still have to look at whether someone has a history of domestic violence and has used or threatened the use of a firearm in commission of a crime before removing the right to own firearms. However, in the same respect, we still have many related dangerous crimes that are not addressed in Senator Roberson's amendment.

SENATOR ROBERSON:

I do not disagree with the extended protective order provisions of Proposed Amendment 3744 and the concerns of Senator Cannizzaro about the behaviors we are trying to prevent by people allowed to own guns. Stalking is under the definition of domestic violence in two places in NRS. If someone is convicted of misdemeanor domestic violence involving stalking, he or she is prohibited from possessing firearms. A separate stalking law, NRS 200.575, has three subsections. Under subsection 1, you could have a homeowners' association or neighbor dispute and be convicted of misdemeanor stalking. We are not talking about wanting to prevent trespassing, larceny and private property destruction, which are included in the original bill. Those misdemeanors may result in permanent removal of a constitutional right.

THE MOTION PASSED. (SENATORS GUSTAVSON, HARRIS AND ROBERSON VOTED NO.)

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CHAIR SEGERBLOM:

We will close the work session on S.B. 124. Seeing no more business before the Senate Committee on Judiciary, we are adjourned at 12:43 p.m.

RESPECTFULLY SUBMITTED:

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Pat Devereux,  
Committee Secretary

APPROVED BY:

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Senator Tick Segerblom, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	5		Attendance Roster
S.B. 169	C	29	Patrick Guinan	Work Session Document
S.B. 338	D	7	Patrick Guinan	Work Session Document
S.B. 360	E	2	Patrick Guinan	Work Session Document
S.B. 376	F	1	Patrick Guinan	Work Session Document
S.B. 387	G	4	Patrick Guinan	Work Session Document
S.B. 393	H	1	Patrick Guinan	Work Session Document
S.B. 405	I	20	Patrick Guinan	Work Session Document
S.B. 409	J	7	Patrick Guinan	Work Session Document
S.B. 433	K	21	Patrick Guinan	Work Session Document
S.B. 454	L	1	Patrick Guinan	Work Session Document
S.B. 490	M	11	Patrick Guinan	Work Session Document
S.B. 229	N	10	Patrick Guinan	Work Session Document
S.B. 402	O	9	Patrick Guinan	Work Session Document
S.B. 124	P	23	Patrick Guinan	Work Session Document