

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eightieth Session
April 30, 2019**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:08 a.m. on Tuesday, April 30, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblywoman Lesley E. Cohen, Vice Chairwoman
Assemblywoman Shea Backus
Assemblyman Skip Daly
Assemblyman Chris Edwards
Assemblyman Ozzie Fumo
Assemblywoman Alexis Hansen
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblywoman Rochelle T. Nguyen
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Jill Tolles
Assemblywoman Selena Torres
Assemblyman Howard Watts

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator James Ohrenschall, Senate District No. 21

Minutes ID: 1072



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Karyn Werner, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General
Jessica Adair, Chief of Staff, Office of the Attorney General
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
John T. Jones, Jr., representing Nevada District Attorneys Association
Corey Solferino, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office
Tony Yarbrough, State Senior Vice Commander, Nevada Legislative Deputy Chairman, Veterans of Foreign Wars; and Chairman, United Veterans Legislative Council
Scott L. Coffee, representing Nevada Attorneys for Criminal Justice; and Deputy Public Defender, Clark County Public Defender's Office
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Kyle E. N. George, Special Assistant Attorney General, Office of the Attorney General
Sara Cholhagian, representing Dignity Health-St. Rose Dominican
Alissa C. Engler, Senior Deputy Attorney General, Office of the Attorney General
Melissa Holland, Executive Director, Awaken
Sarah M. Adler, representing Nevada Coalition to END Domestic and Sexual Violence
Samuel Martinez, Chief Deputy District Attorney, Special Victims Unit, Clark County District Attorney's Office
Sandra J. Anderson, Executive Director, State Board of Massage Therapy
William Ledford, Director of Advocacy, Lutheran Engagement Advocacy in Nevada
Kay Landwehr, Founder and President, House of the Rising Sun
John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Alanna Bondy, representing Nevada Attorneys for Criminal Justice
Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada Coalition of Legal Service Providers
Kelly Venci Gonzalez, Team Chief, Legal Aid Center of Southern Nevada
Kerrie Kramer, representing The Cupcake Girls
Megan Ortiz, Intern, American Civil Liberties Union of Nevada
Izzy Youngs, representing Nevada Women's Lobby

Chairman Yeager:

[Roll was called. Committee protocol and rules were explained.] We have a quorum. We have four bills on the agenda and we will take them in order. I will open the hearing on Senate Bill 2 (1st Reprint).

Senate Bill 2 (1st Reprint): Revises provisions relating to the Advisory Commission on the Administration of Justice. (BDR 14-407)

Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General:

This bill does two main things ([Exhibit C](#)). First, it proposes the creation of the Subcommittee on Specialty Courts under the Advisory Commission on the Administration of Justice. This subcommittee would be tasked with researching best practices and making recommendations on specialty courts to the Commission and, by extension, the Legislature. Second, this bill designates the Attorney General as the chair of the Subcommittee on Victims of Crime of the Advisory Commission.

I will now walk you through more detail on the specific changes that I just mentioned. Section 1 addresses the creation and composition of the Subcommittee on Specialty Courts so those familiar and intricately involved in all areas of the criminal justice system can review these courts. During the session, as we work towards our overall goal of criminal justice reform, the subcommittee would be composed of individuals with diverse perspectives in all areas of the criminal justice process. The chair of the Commission would retain responsibility of appointing the chair of the subcommittee, and other members would include a municipal court judge or justice of the peace, a district court judge, a current or former member of the Nevada Supreme Court, a district attorney, the Attorney General or his designated representative, and two criminal defense attorneys.

This body of appointees will be tasked with determining the efficacy of the programs, the specialty courts themselves, and any potential expansions. The subcommittee will provide their recommendations on these specialty courts to the Commission with their inclusion to be presented in the comprehensive report to the Legislature. We also define "specialty courts" in this section. I will address the need and usefulness of the specialty courts when I outline the goals of the subcommittee.

Originally, section 3 of this bill was drafted to change the composition of the Advisory Commission by removing judges as members. However, we proposed an amendment in the Senate, which was passed, that restores their membership to the Commission and amends the *Nevada Revised Statutes* (NRS) to include the Ombudsman for Victims of Domestic Violence, Sexual Assault, and Human Trafficking that is housed within the Office of the Attorney General. Also in section 3, we have defined a quorum for any official action as being a majority of the entire Commission, not a majority of those present.

Section 4 of this bill appoints the Attorney General as the chair of the Subcommittee on Victims of Crime. It also expands the membership of this subcommittee to include

a representative of the Nevada Victims of Crime Program within the Department of Administration. This subcommittee will additionally be tasked with providing input on the policies, procedures, and regulations of the Nevada Victims of Crime Program. Our office will provide the staff necessary to carry out the duties of this subcommittee.

Finally, section 5 dictates that no additional subcommittees will be created except for those designated in this statute. With these changes, if passed, S.B. 2 (R1) will help to accomplish the following goals:

1. Ensure victims of crime have a voice in the justice process;
2. Help decriminalize and remove the stigma associated with mental illness, substance abuse disorders, gambling addictions, difficulty readjusting to civilian society after having served in the armed forces, and trauma. Removing this stigma means people are free to face their challenges and to get the help and tools they need to recover and begin the healing process;
3. Expand the use and effectiveness of specialty courts throughout Nevada through examination of the efficacy of the various specialty court programs, allowing us to get feedback and make adjustments in programs.

My first experience with specialty courts was as a deputy public defender who represented parents in Washoe County's Family Drug Court. This program was phenomenal and it provided additional supervision and accountability to those struggling with addictions. Additionally, the specialty court's additional supervision is also included in other specialty courts, and it enabled us to avert lengthy incarcerations and diverted the costs of incarceration into family programs, ultimately strengthening families to the point where they became self-sufficient, positive members of our community and contributors to our economy. Addictions, trauma, and mental illness know no race, creed, or gender. What family member or person among us has not been impacted or devastated by problems caused by drug abuse, alcoholism, mental illness, or combat-related trauma?

Our communities have not escaped the grip of the opioid crisis. Despite Nevada's small population relative to some metropolitan areas, the opioid epidemic has hit Nevada disproportionately hard. According to Dr. Michael S. Levy, the founder and medical director of the Center for Addiction Medicine in Las Vegas, Nevada, we have the fourth-highest drug overdose mortality rate in the entire country. As a former deputy public defender, I often told my clients, It is not whether you fall, it is whether you get back up that matters. There is no greater joy than witnessing a person overcoming their challenges. Senate Bill 2 (1st Reprint) will not only bring healing and help to our state and standardize best practices in treatment throughout Nevada, but will also make Nevada a leader in public safety. When people get the support and treatment they need, our communities are safer.

Jessica Adair, Chief of Staff, Office of the Attorney General:

I think Christine Jones Brady represented our office's position on this bill perfectly.

Assemblywoman Miller:

I have a question about all of the different individuals who would be on this Commission. I have gone through the amended list and have seen everyone, including victims of crimes. We do a lot of things with bureaucrats telling everyone what they need and what will help them, but we know the experts are the people who have walked through these experiences. Is there any consideration of or a specific reason why we do not have individuals on the task force who participated in some of these specialty courts, people who have walked through the process and have lived through the process successfully? I think their experience and input would be very valuable.

Christine Jones Brady:

I think the idea in this bill was that the public defenders who are on the board, as well as the judges, will bring in that perspective, not just from one isolated person. When I was a public defender, I dealt with many different clients who had mental health issues or drug addictions. We were able to see a variety of different problems from the scope of clients whom I had from carrying a caseload of 90 to 150 clients at any time. That voice will be heard through the public defenders who are on that subcommittee.

Assemblywoman Miller:

I would respectfully disagree with that. There is a difference between the defendant and the defender, and those experiences are quite different. I would urge you to make those considerations.

Assemblywoman Hansen:

I had a dear niece of mine go through drug court about 15 years ago, and it was an incredible experience. I was so impressed, having never been there before, then traveling that journey with her. I was so grateful for the amount of oversight, accountability, and the rate of success.

Was the drug court the initial specialty court? I am interested in the history and in understanding what other specialty courts there were. Was the drug court the precursor to other forms of specialty courts? What are the other specialty courts?

Christine Jones Brady:

I can answer what the other specialty courts are in Washoe County. I believe Judge Peter Breen started it with the drug court. I think it began in the 1980s, but I would have to look it up. The different specialty courts in Washoe County include the adult drug court, then there is the family drug court, which is offered through the Division of Child and Family Services in the Department of Health and Human Services. They have the social workers and a variety of state-paid resources that have to be brought to bear as a result of NRS Chapter 432B reunification programs and services. Washoe County has one of the best programs in the nation. It is the model court program across the country. There is also a family mental health court, a general criminal mental health court, the veterans court, and there are a lot of offshoots. There was not a formal young offenders' court specifically for opioids, but the Second Judicial District Court started one under now-Justice Stiglich, who

was Judge Stiglich at the time. This court is for 18- to 25-year-olds for the opioid crisis piece of things. After that, since it was so successful, they started an opioid court for adults over 25 years old.

There are also courts down in Clark County, but I am not sure of the breadth of those courts. I do not know if the system in Clark County is similar to Washoe County, but it may be run differently. They probably have more people and longer waiting lists. Kyle George may be able to speak to that issue. We have some of the same specialty courts in Clark County. There are also some specialty courts in the Carson City area and Douglas County. As far as I know, Washoe County has put time and attention into the specialty courts, not just at the district court level, but also at the justice court level. They have a domestic violence court, a drug court, and a mental health court. They do not call it the drug court anymore; they call it their "community compliance program." They may have changed the name a few times. They deal with some mental illness there too, but they focus on substance abuse treatment. There are also some municipal courts that have specialty courts in Washoe County and other areas. The judges really believe in them and have seen real success, which is why they are continuing to proliferate. Senate Bill 2 (1st Reprint) will help give oversight to the creation of these different courts throughout Nevada, help to standardize practices where necessary, and help to fill the unique needs of each of those communities.

Chairman Yeager:

For clarity on the record, I believe the drug court was started in 1992. That information was given to me by Assemblywoman Nguyen. Are there any other questions?

Assemblywoman Backus:

One thing that I was looking at—and I anticipated that you want this Committee to address all specialty courts—was the definitions in section 1, subsection 7. I quickly looked up the NRS provisions and the definitions start out broad. Anticipating the definition of "mental illness or abuses of alcohol or drugs," I realized the one that has fallen through the loophole may be a gambling court, which we have down south. I was trying to create other ways in my head with the chapters, but the chapters that are cited in the NRS are broader than the specialty courts.

Christine Jones Brady:

I think that is a really good point. In speaking with Ms. Adair, that would be something we would be willing to add. Washoe County also has a gambling addiction court, and I have former clients who have had great success there. There are oftentimes connections between the trauma, the impulse control, and other addictions wrapped up with gambling addiction. That is a special holistic treatment that those people need and receive.

Assemblywoman Backus:

I was anticipating that there may be other specialty courts as the need arises. If this is to move forward, I know you are open to working with the definitions to tighten them up to make sure we address all specialty courts.

Chairman Yeager:

We passed a bill out of this Committee, [Assembly Bill 112](#), which was something that arose out of the Advisory Commission. The gist of that legislation said that the Advisory Commission already has too many duties given it under statute and too many subcommittees. I can tell you that, as chair, it was difficult getting all of our members together—there were almost 20 members—and finding a time when everyone could meet. From a staffing standpoint, it became problematic since there are 75 or 80 interim committees that are staffed by the Legislative Counsel Bureau (LCB). On the subcommittee that you are envisioning, did you envision that it would be staffed by LCB, or did you think it would be staffed by the Office of the Attorney General or some other executive agency?

Christine Jones Brady:

It was my understanding that it would be staffed by the Attorney General's Office.

Chairman Yeager:

That was one of the reasons we brought forward [Assembly Bill 112](#): for budget reasons. We only have so many folks working for LCB, and it was really difficult to ask them to staff all of those different committees. Breaking down the Justice Reinvestment Initiative process into two different subcommittees was somewhat difficult.

My question is about the change in what would constitute a quorum. The change is that there would need to be a majority of the actual members versus the members who are present. They would have to vote in favor of any recommendations. Again, I have the same concern about having interim meetings where everyone is able to show up, since we were usually missing a handful of folks. Did you think putting in that provision might potentially make it more difficult to actually be able to do work sessions or to vote matters out of the Commission?

Christine Jones Brady:

Why that was in there is so that people who may not be present at a particular meeting—but may still want to vote a particular way on an issue—would have a mechanism to do so. I believe it may have also been put in there because of *Robert's Rules of Order*.

Jessica Adair:

The Attorney General is the chair of many task forces, committees, commissions, et cetera, and we have had similar issues with attendance. We were hoping by requiring folks to attend in order to create a quorum to vote out official actions that it would encourage participation. If you do not show up and we cannot do our work, this committee will not be able to move forward with its official actions. This might increase peer pressure from fellow committee members if they are attending meetings but other committee members are not. If you, in your experience, believe that will hinder the ability to do work, we are open to tuning that.

Chairman Yeager:

For clarification, I missed the section of the bill that related to the first question I asked, which is in section 4, subsection 9 of the bill. It indicates that, "The Attorney General shall

provide the Subcommittee with such staff as is necessary to carry out the duties of the Subcommittee." I missed that in the initial presentation.

We will open it up for testimony in support. If there is anyone who would like to testify in support, please come forward. We will start in Carson City.

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:

I am here in support of S.B. 2 (R1). The Nevada Sheriffs' and Chiefs' Association is a statutory member of the Advisory Commission on the Administration of Justice (ACAJ). That is the part we are speaking to. We appreciate having a voice on that commission. We also appreciate the addition of the domestic violence ombudsman to the ACAJ with whom the association works regularly.

Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We also have a member on the Commission, and we are in support of the bill.

John T. Jones, Jr., representing Nevada District Attorneys Association:

I am also here in support of S.B. 2 (R1).

Corey Solferino, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office:

We are in full support.

Tony Yarbrough, State Senior Vice Commander, Nevada Legislative Deputy Chairman, Veterans of Foreign Wars; and Chairman, United Veterans Legislative Council:

I would like to make a few points that I think are critical to understand. I have personally attended and observed the Administration of Justice meetings, and I have been well educated and have learned a lot of things as I have done so. I made a comment that if there is anything you want to know, you will know more than you ever wanted to know by attending or participating in those meetings. From what I have observed, the success rate is phenomenal in the specialty courts. It is a huge advantage to the individual and to the families. Obviously, it saves taxpayers money through reduced law enforcement, and it helps rebuild lives and families. The most important part of what I see is that you actually, through the entire subcommittees and committees, identify the best practices and the shortfalls that need a legislative remedy. The veterans court is one of the most important, and I have seen a high success rate. The most significant change in individuals who go through the system—and actually graduate—is that they do well. The veterans in this state certainly stand strong for Senate Bill 2 (1st Reprint).

Chairman Yeager:

Is there anyone else in support of the bill in its first reprint? Seeing no additional support, I will now take opposition testimony. Is there anyone opposed?

Scott L. Coffee, Deputy Public Defender, Clark County Public Defender's Office; and representing Nevada Attorneys for Criminal Justice:

Let me begin by saying that we deeply respect the work that the Advisory Commission on the Administration of Justice has been doing, particularly the monumental work in Assembly Bill 236. We also think that the idea of creating a subcommittee related to specialty courts is a good one. We take no issue with that.

We reached out to the Attorney General's Office yesterday and spoke to Kyle George about some proposed deletions from the bill. There are a couple of matters that keep us from supporting the bill, so we actually have to testify against the bill this morning. The concerns that we have relate to the elimination of subcommittees. I would defer to those who were on the Commission as to whether the subcommittees were useful, but knowing the way these bodies work, I am concerned that if the Commission does not have the ability to break into subcommittees to look at individual issues, things may not move forward. Sometimes it gets hectic trying to get 20 people in a room to agree about anything, or to focus. We are opposed until that provision is removed, or until we have assurances that the members of the Judiciary Committee are in favor of removing the provisions to be able to create subcommittees. I am not saying that you need to create subcommittees, but you have to trust those who worked on the Commission that did monumental work on A.B. 236 to be able to rule itself to some extent. That means the creation of subcommittees when necessary; that is our first concern.

The addition of an ombudsman on domestic violence is a good idea, but I think this is precariously balanced when you look at the composition of the Commission. We have a number of people who are involved in law enforcement or have a law enforcement background. When you add someone to the overall Commission who is a victim's rights advocate, we need to make sure we have a corresponding person added with a different viewpoint, someone similar to what Assemblywoman Miller mentioned. I thought it was a great point that we should add someone who has been through one of the programs so that we have an internal perspective of what is going on. Maybe it could be someone from a civil rights group. We currently have a victim's advocate group that is a member of the Commission, but we do not have anyone from a civil rights group or someone who is focused on civil rights. It is important that those voices are at the table.

The Attorney General has been very generous in taking our suggestions and being willing to talk with us. We hope that we can come out wholeheartedly to support this bill because it is very important to the specialty courts.

I should also mention the quorum that Chairman Yeager pointed out. If you change what is required to get something out of committee, you could hinder the committee's effectiveness. We have great faith in Attorney General Ford to move forward with a progressive agenda and to make the changes that are necessary. This is not something that will go on for just a single election cycle. This will stay in place. We are concerned about the ability to stall the committee if we do not have representation added to both sides and if they do not have the ability to conduct the internal work that they need to do by splitting into subcommittees

when they see fit. For those reasons, we oppose the bill, but are hopeful that we can support the bill wholeheartedly by the time it gets to its final form.

Chairman Yeager:

Is there anyone else in opposition to Senate Bill 2 (1st Reprint)? Seeing no additional opposition, I will take neutral testimony.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

As you have heard Mr. Piro and me state several times, specialty courts are extremely important in our state. They help reduce recidivism and assist our clients in reintegrating and bettering themselves in our society.

Regarding Ms. Brady's statement, our drug court was our first specialty court in Washoe County and it was established in 1995. I have provided additional information to this Committee on the importance of specialty courts that I received from our specialty court coordinator, James Popovich, from 2017. Those who successfully complete specialty courts have a 95 percent rate that they will not have further contact with the criminal justice system. That means they have a 95 percent greater chance to successfully reintegrate into society. More importantly, those who fail the specialty court have that rate as well. They have a much higher rate of being successful even if they go to a specialty court and fail.

We are coming in neutral for the statements that were made by the Committee members, especially Assemblywoman Miller's comments as well as Chairman Yeager's, regarding the makeup of the subcommittee and the concerns about how this bill plays out with other bills before us. We want to indicate how important specialty courts are.

Chairman Yeager:

Is there any other testimony in neutral? I do not see any other testimony, so I will invite our presenters up for concluding remarks. It looks like concluding remarks are waived on S.B. 2 (R1). I will now close the hearing on Senate Bill 2 (1st Reprint). I know I said I was going to go in order, but I had a change of heart. I am going to go out of order because the next bill will be shorter. I am going to open the hearing on Senate Bill 9 (1st Reprint).

Senate Bill 9 (1st Reprint): Provides that there is no limitation of time within which a criminal prosecution for a sexual assault arising out of the same facts and circumstances as a murder must be commenced. (BDR 14-422)

Kyle E. N. George, Special Assistant Attorney General, Office of the Attorney General:

Under current law, there are two separate statutes of limitation on sexual assault ([Exhibit D](#)). If the victim of sexual assault "or a person authorized to act on behalf of a victim of a sexual assault" [section 2, subsection 1] files a report within five years of the assault, the statute of limitation on the crime is lifted, meaning it can be prosecuted at any time in the future. If, on the other hand, the victim does not file a report within 5 years, the statute of limitation for sexual assault is only 20 years.

These statutes create a curious loophole where the victims of sexual assault who have been murdered are unable to file a report, and thus the statute of limitation to prosecute the underlying sexual assault is only 20 years. Although current statute allows a person authorized to act on behalf of the victim to file a report, other statutes provide advocates to assist living victims of sexual assault. It is unclear who is authorized to act on behalf of a deceased victim in order to lift the statute of limitation. This bill removes any ambiguity regarding this question by explicitly removing the statute of limitation when a sexual assault is committed in the course and scope of a murder.

The version of this bill that has worked its way through the Senate had several amendments that either did not make it through committee or that we withdrew in consultation with the defense attorneys. What I have just presented is really the crux of the bill, and I do not think I need to go much further.

Chairman Yeager:

Do Committee members have questions about Senate Bill 9 (1st Reprint)? I do not see any questions, so I am right that this went more quickly than the next bill will. I will open it up for testimony in support of S.B. 9 (R1). We will start in Carson City.

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

We are in support.

John T. Jones, Jr., representing Nevada District Attorneys Association:

I am also here in support.

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We are here in support of this bill.

Corey Solferino, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office:

We are in full support.

Sara Chalhagian, representing Dignity Health-St. Rose Dominican:

We are in full support of this bill.

Chairman Yeager:

Is there anyone else in support? I do not see additional support, so I will now take opposition testimony. Is there anyone in opposition? Seeing no one, I will take neutral testimony. Is there anyone neutral? I do not see anyone, so are there any concluding remarks? Concluding remarks are waived, so I will now close the hearing on Senate Bill 9 (1st Reprint). That was close to being a record.

Now we will go to a bill that will take a little more time, so I will open the hearing on Senate Bill 7 (1st Reprint).

Senate Bill 7 (1st Reprint): Revises provisions relating to the prohibitions against facilitating sex trafficking and pandering. (BDR 15-406)

Jessica Adair, Chief of Staff, Office of the Attorney General:

Attorney General Aaron Ford could not make it today, so he asked that I read his testimony into the record. I will also provide a written copy of his statement ([Exhibit E](#)).

As Attorney General, I have committed myself and my office to meaningful criminal justice reform. On occasion, this means employing a more merciful approach to those who commit certain non-violent crimes. However, as the state's top law enforcement officer, I also have a constitutional duty to safeguard, protect, and be the voice of victims who cannot speak for themselves.

SB 7 is intended to combat the insidious problem of [child] sex trafficking in Nevada.

This is not a victimless crime. Children who are victims of sex trafficking are forced to live with the trauma of this crime for the rest of their lives. This bill aligns the punishment with the gravity of this crime. [She continued to read from Attorney General Ford's statement as follows:]

As the AG, I have the opportunity to stand up and protect the victimized, and I urge you as legislators to stand alongside me.

My apologies for not being able to be here in person today, but my team is more than capable of presenting detailed testimony on our behalf and stand ready to answer any questions you may have.

Alissa C. Engler, Senior Deputy Attorney General, Office of the Attorney General:

I am Senior Deputy Attorney General for the Nevada Attorney General's criminal prosecution unit and the Nevada Children's Advocate. I am here in support of Senate Bill 7 (1st Reprint).

Human trafficking is a \$32 billion-per-year criminal industry, making it the second-largest and fastest-growing criminal enterprise worldwide. The illegal sex industry made national attention in recent months with the arrests of those connected to the Orchids of Asia Day Spa in Jupiter, Florida, including the New England Patriots' owner, Robert Kraft. In April, the Minnesota Department of Public Safety announced a five-day sex trafficking sting during the National Collegiate Athletic Association Final Four that netted 47 felony arrests for individuals who solicited minors for prostitution. A similar operation was done in Minneapolis for the Super Bowl in 2018, where dozens of individuals were arrested for soliciting minors for prostitution. This past February, the Federal Bureau of Investigation reported that around the time of the 2019 Super Bowl in Atlanta, 34 people were arrested for attempting to engage in sex acts with minors.

Nevada is among the worst states for this type of activity. In a 2014 University of Nevada, Las Vegas *Nevada Law Review* article titled, "America's 'Disneyland of Sex': Exploring the Problem of Sex Trafficking in Las Vegas and Nevada's Response," Ms. Chariane K. Forrey wrote:

The domestic trafficking of minors is particularly pervasive. The Federal Bureau of Investigation listed Las Vegas as a top thirteen city for high intensity child prostitution. Though Las Vegas has only a quarter of the population of New York City, it has three times the number of juvenile arrests, with the average age of a child prostitute being age fourteen.

Later in the article, Ms. Forrey observed:

In 2009, the organization performed a study of minors trafficked domestically within the United States. The number of suspected domestic minors in sex trafficking in Las Vegas, Nevada, was 5,122—the highest estimate among all cities researched. The next highest estimates were 227 minors in Kansas City, Missouri, and 150 in Dallas, Texas.

The illegal sex industry would not exist without buyers. Camilla Wright, an expert in this field, has stated that, "If buyers were not willing to pay, and even demand younger and younger children, the traffickers would have no reason or opportunity to exploit our children." Our myopic focus on the supply side of sex trafficking has made Nevada less than fully effective on combatting this problem. In 2014, of the 99 suspected cases of sex trafficking, 28 percent of identified victims were minors. In 2015, that number was 27 percent of 114 suspected cases. In 2016, 29 percent of the victims in 161 suspected sex trafficking cases were minors. In 2017, it was 23 percent of 199 cases. Last year, 26 percent of the victims in 169 suspected human trafficking cases were minors.

Nevada needs to get in line with the national trend of attacking consumer-level demand to eradicate sex trafficking by imposing penalties that match the gravity of this crime. Our current penalties for solicitation of a child are: For a first offense, a category E felony, which is mandatory probation; for a second offense, it is a category D felony; and for a third offense, a category C felony.

To put this in perspective, this means Nevada treats a first-time conviction for solicitation of a child the same as using a false name when applying for a driver's license. A second conviction for this crime is right up there with possessing contraband tobacco. And the person who is convicted of this crime three or more times is punished the same as a person who steals property valued at less than \$3,500 one time. That is the value we have placed on these children.

There is no question that the customers whose demands fuel the sex trafficking industry are as responsible as those who fulfill the demand. Senate Bill 7 (1st Reprint) seeks to increase

the penalties for those individuals who are an integral part of the illegal sex industry: the buyers.

Kyle E. N. George, Special Assistant Attorney General, Office of the Attorney General:

Ms. Engler's data spotlights two issues regarding child sex trafficking: the extent of the problem and the absurdity of our current penalties relative to the gravity of this crime. This bill seeks to address both issues.

Our office filed an amendment yesterday, and I hope the Committee has it ([Exhibit F](#)). In the amendment, all changes to section 1 of *Nevada Revised Statutes* (NRS) 201.300 are withdrawn, restoring the existing language. The only change to NRS 201.300 in this bill is minor clarifying language in section 1, subsection 2, paragraph (b).

By way of background, in Nevada the sex trafficking crimes are broken into two sections: NRS 201.300, which pertains to sex trafficking, and NRS 201.301, which pertains to the crime of facilitating sex trafficking. Simply put, the facilitating sex trafficking statutes target those who support the primary crime of sex trafficking through their activities; for example, by transporting customers or selling sex tourism involving trafficked victims.

The United States Department of Justice defines "child sex trafficking" as "the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a minor for the purpose of a commercial sex act." Let us be clear about this. Any child engaged in commercial sex work is by definition the victim of sex trafficking. The rationale underlying this definition is that children lack legal capacity to consent to commercial sex work.

Section 2 amends NRS 201.301 to provide that any person who solicits a child, an undercover officer posing as a child, or a person hired by the police to pose as a child, is guilty of facilitating sex trafficking. I will note that this version of the bill replaces the language "who the person believes to be a child" with "peace officer posing as a child" to allow for sting operations without punishing thought crimes. This amendment punishes specific acts towards soliciting a child for commercial sex rather than the belief that the officer is a child. This section aligns Nevada law with federal law by calling the act of soliciting a child what it is, an act of sex trafficking. Although customers of child victims may not have directly recruited, induced, or sold these children into prostitution, these customers provide the financial lifeblood that keeps this industry alive.

It is important to note that if solicitation of the sex worker takes place outside a licensed brothel and the victim turns out to be a child, it is not a defense that the customer did not have knowledge of the victim's age. This is consistent with Nevada's existing sex trafficking law where NRS 201.300(5) provides that, "It is not a defense that the defendant did not have knowledge of the victim's age, nor is reasonable mistake of age a valid defense." That is existing law. According to the National Conference of State Legislatures, 32 states in total have laws that prohibit defendants from asserting lack of knowledge of a child's age as a defense to certain crimes.

The Attorney General's Office has previously heard opposition to this bill that removing the knowledge element to this crime is problematic because it will result in the conviction of people who did not intend to solicit children for sex. We wholeheartedly disagree with this position. In Nevada, if a person drives drunk and injures someone, we will hold them fully accountable for the injury to the person, not just the DUI. If a person throws a rock intending to scare a person, and the rock actually contacts the victim, the defendant is liable for the battery, even if he only intended assault. If a defendant only intended to beat someone up, but that person dies, he is liable for murder. In all those cases, the defendant intended to break one law, but the resulting harm resulted in far more serious charges. Similarly, if a person intended to break the law by soliciting a prostitute and the sex worker turns out to be a child, then that person must be liable for his role in sustaining the sex trafficking industry. This is why section 2 of this bill has a carve-out for solicitation within a licensed brothel, where the customer has demonstrated a good-faith effort to abide by the law and no criminal intent can be inferred.

Section 3 of this bill grants concurrent jurisdiction for the Office of the Attorney General to prosecute the crime of facilitating sex trafficking.

Section 4 provides conforming changes to allow victims of sex trafficking to pursue civil actions against those convicted of facilitating their trafficking.

Section 5 of this bill aligns Nevada law with federal law by providing that child sex workers are victims of sex trafficking and by providing that soliciting a child constitutes the crime of facilitating sex trafficking, and not solicitation.

Lastly, section 6 of this bill adds the crime of facilitating sex trafficking to the racketeering statutes, providing a tool to prosecute all persons involved in the stream of commerce in the sex trafficking industry.

Chairman Yeager:

I have a clarifying question on some of the language of the amendment. I am looking at page 3 of the amendment. It would be the new section 2, subsection 1, paragraph (d) where it says, "Solicits a child, a peace officer posing as a child, or a person assisting a peace officer posing as a child." My question is on the last part, "or a person assisting a peace officer posing as a child." Do you intend that the police officer is posing as a child and someone is assisting the officer, or that the person who is assisting the officer is the one posing as a child? It is unclear in the language.

Alissa Engler:

In conversations with colleagues in other states who have done sting operations, they have utilized other individuals, such as models, to advertise for photographs during those sting operations, and so the intent behind this would be the individual who is assisting law enforcement would be the one posing as a minor. The intent is not to have actual minors being posed for sale. It is to use adults to be perceived as minors.

Kyle George:

We took this language directly from Arizona's statutes.

Chairman Yeager:

Thank you. I wanted to get that clarification on the record. Obviously, this is the amendment that was drafted. If we process the bill, it will go through the Legislative Counsel Bureau (LCB), and they will do what they need to do with the language. That would be helpful in the event they come up with another amendment to the bill.

Assemblywoman Cohen:

I have some scenarios I want to walk through because we know the importance of dealing with commercial sex workers, especially when talking about minors and ensuring minors are not being abused in this way. I want to make sure we are capturing the people whom we are intending to capture.

Scenario: At a high school party, one guy, who is 17 or 18 years old, likes a girl who is 17. The guy's buddy is definitely over 18 and says he will set it up to get her for him tonight. There is no force, but the buddy makes the arrangement to "get him laid." Does this capture him?

Jessica Adair:

I think in that scenario, if there is an exchange of payment, it would fall under facilitating child sex trafficking. In that scenario, we would need a few more factual details.

Assemblywoman Cohen:

I do have some more scenarios worked out in my head. If the guy says, "Thanks for helping me" and offers him a case of beer, that gets captured. Right?

Jessica Adair:

I am not quite sure. Maybe Alissa Engler has a better response. Who we are trying to capture is the commercial sex worker, not the scenario like you described. I would be concerned in that scenario that we have someone over the age of 18 who is inducing someone who is a child to engage in sex in order to be paid.

Assemblywoman Cohen:

What if we make the scenario that the case of beer is given to the girl? Is it different if the payment is made to the friend or to the girl?

Alissa Engler:

We are talking about any form of consideration. In that situation, the case of beer is a form of payment for sex. She is a minor, so under existing sex trafficking statutes and what we have proposed here, for anyone under the age of 18, it is the inducement. That would be considered sex trafficking. In the majority of cases, the payment is actually provided to the female sex worker who then turns it over. It does not have to be provided specifically to

the pimp or the person facilitating the sex trafficking. The payment can be provided to the victim sex worker for the actual crime to have occurred.

Assemblywoman Cohen:

I am concerned. We all know that commercial trafficking is abhorrent, and we must do everything we can to stop it. However, there is a big difference between a bunch of kids hanging out at a party and the commercial sex trafficking practices. We need to make sure we do not capture young people whom we are not intending to capture.

Alissa Engler:

Unfortunately, what we see in these pimp and sex worker situations is that it starts out like the scenario that you pointed out—where they set up a one-time thing—then they realize they can get paid for it. The friend starts giving the same sex worker to another friend, then another friend, and another friend, and before you know it, this person is being revictimized. I understand your concern of wrapping someone up in this situation, but these are the very situations that start a trend of victimization that continues and continues.

Assemblywoman Miller:

I am concerned about ensuring we are not capturing the wrong people. We need to understand what your intention is. Based on the amendment—and Mr. George addressed this—the idea is that the person believes that she is a child. With sensitivity and nonjudgment, I am going to ask this question. There are people who—whatever the appropriate term is—have a fetish or a preference for younger individuals, but legally and morally would not do that. We know that people role-play and that type of thing. In the situation where there are individual sex workers who role-play as underage children for the sake of fantasy, would this be impacted? We are only referring to when there is specific knowledge, or they believe this individual is actually underage, correct? This would not include the situation where the individual is posing or role-playing as underage.

Jessica Adair:

I think the scenario that you are describing is exactly why we proposed this amendment to strike the language that a person believes her to be a child. Under this bill, the only way you can be charged with this crime is if the person you are soliciting is actually a child, or a police officer or someone assisting a police officer posing as a child. This is not a legal adult who may be posing as a child in that scenario. What you are talking about is a market that would not be encapsulated under this bill. It would only be people who are minors or police officers posing as minors.

Assemblywoman Miller:

In the case where the solicitor—in some cases the term would be customer or client because it is legalized in certain areas here in Nevada—knows this is an adult posing as a child or is role-playing, they are not subject to this bill. It is only if that person actually thinks this is an underage individual.

Jessica Adair:

Yes, that is correct. If they are an adult posing as a child, as long as they are not a police officer engaged in a sting operation, that person would not be wrapped up in this bill. That is exactly why we added the carve-out for legal brothels. If someone wants to participate in legal prostitution, they have every availability to do so and would not fall under this bill. If a brothel owner is employing children, that becomes a problem for the brothel owner, but not for the customer who is availing himself in legal prostitution. If the adult person is posing as a child for purposes of marketing, that would not fall under this bill.

I want to be very clear that the mistake of age is not a defense. I know that is something that was also mentioned in your question. We often have children who engage in sex work, who are not legally allowed to engage in sex work, and who are victims of sex trafficking. We have customers who solicit children, then when they are arrested, claim they did not know the person was a child. This is what we are getting at with the transferred intent. You are already engaging in an illegal transaction, and then it turns out that this person is a child. That is when you are wrapped up in facilitating sex trafficking. If you are engaging in a legal transaction with prostitution, you would not be wrapped up in this bill.

Assemblywoman Miller:

I appreciate the distinction between the legal and the illegal. For the person going into a legal brothel, if for some reason the sex worker is underage, that is on the owner of the brothel because the customer should have the assumption that everything is legal within this arena.

Jessica Adair:

Yes, you are exactly right. The good-faith basis is that you are engaging in a legal transaction at a legal brothel and that brothel only employs those who have sex worker cards. They are adults, and they are participating in the regulatory scheme. You should be able to have the protections that this entails.

Chairman Yeager:

I understand the exclusion for a licensed brothel because of the process to work there. The scenario that I have heard and contemplated and want to get your take on is the language that says, "reasonable mistake of age is not a defense." I have heard the scenario where you are at a casino bar and no one can be there unless they are 21. The girl next to you is drinking alcohol, so presumably there has been some type of identification check, and then you end up having the scenario where you solicit her and it turns out she is a minor. I do not want farfetched examples, and that is not why I am asking, but I wonder if that scenario is likely to happen. That scenario is where someone is not trying to demonstrate that criminal intent. There is criminal intent in that they are soliciting prostitution, yes, but not criminal intent in the sense of trying to solicit a minor for prostitution. All of the circumstances would lead a person to believe the person is over the age of 21, not just over 16. Do you have any thoughts or comments on that?

Jessica Adair:

That scenario is possible. That is the importance of the transferred intent. You are right that it is an illegal transaction. People should be aware that it is illegal, and they can only participate in soliciting sex workers in licensed brothels. It is possible that someone could go to a casino bar and solicit a person who is under the age of 18, even though it would appear they are over 21 since they are engaging in activities that would lead them to believe their identification was checked. Frankly, I think that is exactly where we are trying to go. We are trying to get to the situation where pimps are counting on this scenario to lead young people into bars to meet customers. That is what we are trying to crack down on.

I understand this is uncomfortable. We do not want to send folks to jail for a very long time if they did not intend to do that; however, the reality is that the child who is involved in this crime is going to live with the trauma of this experience for a much longer time than the perpetrator would ever be in prison.

Assemblywoman Krasner:

I have a real concern with section 2, subsection 2, paragraph (a) "In a prosecution for facilitating sex trafficking . . . Unless the offense was committed in a licensed house of prostitution, it is not a defense that the defendant did not have knowledge of the victim's age." I have a problem with that. I am sure the johns like that they can get a child who is 14 years old just because they happen to be in a licensed brothel. I have some real concerns, so maybe you can walk me through that.

Jessica Adair:

I want to make sure I understand your question. Are you talking about the reasonable mistake of age in general or in a licensed house of prostitution?

Assemblywoman Krasner:

If it is not a defense that you mistake their age, and you really thought they were 18, why should it be in a house of prostitution? I know you will say because the prostitutes go through licensing. What if there is one who is not licensed but happens to be working there and is only 14? What then?

Jessica Adair:

In that situation, the brothel owner would be able to be prosecuted for facilitating or for sex trafficking. It is not the customer. It would be the owner and the employees of the brothel who are knowingly employing a child.

Assemblywoman Krasner:

Why not the john too?

Jessica Adair:

I understand now. In that scenario, we have someone who has gone through the process of engaging in a legal transaction. You assume when you go to a legal house of prostitution that everyone working there has gone through an intensive regulatory scheme of being approved,

weekly testing, and everything that is involved in getting your licensed sex worker card. In that scenario, we want to encourage them to avail themselves of Nevada's laws that allow licensed prostitution.

I understand your concern. It does not sit well with me either, but at the same time we want to make sure we are not punishing those who have gone through the process to participate in the legal prostitution scheme here in Nevada.

Kyle George:

I would direct your attention to section 2, subsection 2, paragraph (d). There is a shifting of burden that takes place in this bill where, if the state has reason to believe the person knew the child was underage, the state can still charge him. What this bill does is create the burden shift. There is a presumption that if it is a licensed brothel, not just legal, the person went to the effort of abiding by the law and intends to do the right thing. If, on the other hand, the state knows that a particular brothel has a pervasive problem where there are underage workers available and they believe the customer knew, they can still prosecute him for knowing under this carve-out. The burden lies with the state at that point to prove knowledge. Under those circumstances only, the state has to prove knowledge that the victim was underage.

Assemblywoman Tolles:

I appreciate the comments that we may be talking about years in prison for those who are prosecuted under this, but we are talking about a lifetime of damage to the victims. I appreciate your acknowledging that before our Committee. We have other conversations about limitations on defense and being in court for certain crimes. We heard a bill last week that dealt with that. I appreciate an additional example of where reasonable mistake of age is not a valid defense. I will keep that in mind as I am considering the other bills where we are limiting defenses for certain criminal activity.

Regarding the amendment under section 2, subsection 3, paragraph (b), it says, "If the victim is less than 18 years of age, or if the person who is found guilty of facilitating sex trafficking believed a peace officer posing as a child or a person assisting a peace officer posing as a child was less than 18 years of age, shall be punished" and then it gives the punishment. Does that also include online stings? Would they also be considered guilty of facilitating sex trafficking if they believed the person online whom they were soliciting was under the age of 18?

Alissa Engler:

Yes, that would absolutely include online solicitation. In fact, the stings that I referenced in my testimony that related to Minneapolis were, in fact, online solicitations. That is the heart of what we are trying to achieve with this bill.

Assemblywoman Torres:

I have one major concern with this piece of legislation. Sometimes we do not know the age of an individual. I can think of many instances outside of the classroom, working with

high school kids, where my students lie about their age. When my parents met, my dad lied about his age for many years. It was not until they got married at the courthouse that my mom found out how old my father really was. I can think of many instances in which an individual might not know the age of an individual. I am not sure there is enough language in here that prevents those individuals from being prosecuted, especially if the individual has a fake identification. It may be obviously fake to law enforcement, but I probably could not tell the difference. Please address those concerns.

Jessica Adair:

We do have instances of children who are encouraged by their pimps to tell police that they are over 18 when they are arrested, so their pimps will not be caught up with child sex trafficking. The burden is on the state to prove that the child is a minor. If the state is going to prosecute someone, they have to prove that the victim is under 18 and that solicitation occurred. Or are you talking about the mistake of age on the customer's end?

Assemblywoman Torres:

My concern is that the individual who is soliciting illegal prostitution—while that in itself is a crime—would get caught up in child sex trafficking, which is a significantly different crime. That individual is going to be prosecuted for child sex trafficking although he had no reason to believe that the individual was a child. My concern is that the individual is going to be prosecuted for child sex trafficking when he was really committing a different crime.

Jessica Adair:

I want to make sure we are clear. There is sex trafficking, and there is facilitating sex trafficking. This particular bill would charge facilitating sex trafficking. We have all thrown around those words, so I want to make sure we understand. The fact that you cannot use the mistake of age as a defense is very consistent with Nevada law, federal law, and 32 other states that have a similar law. It is a common refrain from defendants that they did not know. The fact of the matter is even if you do not know what happened to the victim, the actual act that occurred is still illegal, and it is still going to be a lifetime traumatic event for the child.

The crux of this bill is to get to the punishment for the act and for the trauma that occurs to children for what occurred. It is not as simple as soliciting an adult on the street, in a bar, or online. What is happening is that a child is being raped because they cannot legally consent. That is what we are talking about: raping a child for money. That is exactly why we think this bill is so important and that we must punish that behavior appropriately.

Kyle George:

I am very sensitive to your question and I appreciate where it is coming from. However, as I indicated in my testimony, we do this already in Nevada law. If someone intends to commit one crime and something of far greater harm results, we punish the greater harm. A good example is speeding. I am going to take a chance and go 100 miles per hour down Highway 95, but I kill someone. I did not intend to kill anyone, but I did. I have to live with the consequence of that. These are people who have such a flippant attitude to the sex trafficking industry that they are willing to take a chance. They gamble on it. Sometimes

they are willfully blind to the victim. We are punishing those who take a chance, who gamble on it, and lose. This is not a case of someone sleeping with an underage person where money is not exchanged, and it turns out that the person is underage. This is someone who intentionally commits a crime by paying for sex. They knew going in they were breaking the law; they just did not know which law they were breaking at the time. They have to be held liable because these are the people who fund the sex trafficking industry through their dollars.

Assemblyman Edwards:

Your earlier examples give me pause. When you mentioned that a friend wants to offer a girl at a party a case of beer if she will at least talk to another guy, that concerns me. How do these people know ages if they are just at a party? We need to make a distinction between individuals who are at a party at a private residence and guys and girls at a bar. They have to actually know they are committing a crime. How do you defend yourself if you do not know that this kid is being sex trafficked? There is a high price to be paid if you are 21 years old at a bachelor's party at a bar in Las Vegas, and you hook up with someone you think is interested in you just to find out later she was only interested in getting paid. You do not know she is underage at the time, so you do not think you are committing a crime of any kind. How do you defend yourself? How does this bill make sure you do not get trapped into being accused of doing something you never intended?

Jessica Adair:

Under those scenarios, the state still has to prove beyond a reasonable doubt that there was solicitation. We are not talking about consensual encounters between two adults at a bar, or those who are 18 and 16. We are not talking about handing over a case of beer to go talk to a girl in that scenario. We are talking about solicitation and payment for prostitution. The state still has to show that solicitation occurred, that the victim is a child, and everything else they would have to prove in a court of law to a jury of their peers in order to obtain a conviction. I hope the context will help the Committee feel more comfortable with what we are talking about. We are not talking about consensual encounters that are not occurring under the guise of prostitution or solicitation.

Assemblyman Edwards:

Going back to your examples, anything could be considered payment; anything could be considered some form of compensation for having sex. That would lead to the question of what if you are at a bar and see a pretty girl and you want to buy her a couple of drinks. How do you make the distinction in this law so that innocent hookups are not considered a crime that is going to ruin your life?

Alissa Engler:

In talking about those scenarios, we, as prosecutors, still have to show there was an agreement between the parties for payment for sex. In the situation where you meet at a bar, you have a conversation, and you buy a couple of drinks; later, you have sex and then find out that she is a sex worker. That is a situation where charges would likely not be filed. There is always prosecutorial discretion whenever cases are submitted regarding any of these

types of crimes. The heart of what this bill is, and what we are trying to get at, is to have penalties that are appropriate for the crimes being committed, and that we are protecting the most vulnerable population, our children. We need to look at whom we are trying to protect in the situation. Are we trying to protect children, or are we trying to protect johns who are buying sex?

Assemblyman Edwards:

I want to make sure we do not create johns by not writing the law well enough so that innocent people get trapped and categorized as something they really are not. Given some of the examples, I am concerned that innocent people could get caught up while doing the right thing for people who are going through the horrendous situation of being sex trafficked. I do not want to do harm to additional people inadvertently; it is always the unintended consequences. We need to understand there is a distinction between people being sex trafficked and those who are just hooking up.

Kyle George:

The legal term of relevance is "solicits." This does not constitute solicitation as a matter of law. I do not believe that would be implicated in this case.

Jessica Adair:

If we have the scenario of two people at a bar buying drinks for one another, and they have a consensual encounter, if both people are over 18, that is already not being charged as sex trafficking. No one is charging that as a crime. It is not sex trafficking. It is not solicitation for sex. That is not being charged so I am not concerned. It is very clear that this is not solicitation. Charging that as a crime is not happening here in Nevada, and it is not happening across the country. I am not concerned that this law would change how we are currently operating in the state. It would just increase penalties if that person was involved in an actual solicitation of prostitution with a child.

Chairman Yeager:

In the interest of time, we should move on from questions. If Committee members have additional questions, you know how to reach the presenters. I will now open it up for support testimony of Senate Bill 7 (1st Reprint). I know we have people here in Carson City, but if there is anyone in Las Vegas, please come to the table. We will start here.

Melissa Holland, Executive Director, Awaken:

Our primary focus is working with victims of trafficking. Last year was the first year we got capacity to work with minors of trafficking. During our first year of working with minors, we served 48 minors in Reno alone. That does not count the unidentified trafficked minors who have worked with other organizations.

I am here in support of this bill, and I would like to clarify some of the things that are being addressed and draw further details around sex buyers. I love the positive intentions I have heard towards these guys, but I would like to show you what the data says, as well as share a little about how this really looks from their stories.

When I heard about this bill, I talked to one of our victims and asked her about her entry into being trafficked. This is very typical. She dated a guy for about two months. She was a teenager, and he was about 22 years old. She really liked the attention she got from him. They would go to parties, and there was nothing suspicious about him for two months. She ran away from home one night because she was bored, and he found her and put her up in a hotel. He spent a few nights there just hanging out. Again, nothing suspicious. One night he went over there and told her, "Baby, I lost \$500." Since she was just a kid, she thought, "Okay, what am I going to do since I am just a kid?" He was thinking, "You can help me." He asked her, "How much do you love me?" "I definitely love you." He told her, "I need you to help me. I have some guys that will pay me if you have sex with them so I can get my money back." She told him, "No. I do not want to, and I want to go back home." He physically beat her into submission. I asked her what happened. She told me that he had the guys come in, and they all had sex with her. When asked how many there were on that first night, she told me he had six guys just waiting—six men that first night after having beat her. I asked if any of them asked her age, and she told me, "No. They did not care." When asked if anyone commented on the marks on her body since she had just been beat up, she replied, "No. Not a single one asked or cared."

This is not an anomaly. This is the norm of what we saw with each one of those 48 victims last year. This is the narrative that is being captured in this bill. That is who we are going after: those six guys. Had they not been there, this would not have happened and would not be facilitated. I told her about today's proposed bill with the increased penalties, and her reply was, "Wow! That is good, but they will just say they did not know." She felt the same way as what I am hearing here. I explained to her that this would not pass for a defense. She thought it was great and was happy about more accountability for them. She is absolutely in support of this; the victims are in support of this bill. She is now 20 years old, and 9 days sober. She has a meeting today to start a plan to finish high school. That is the harm caused by the buyers and what they have done to her.

It is important to be made aware of the magnitude of the demand for child sex trafficking, as well as the nature of the demand. About two years ago, our nonprofit commissioned a study by Creighton University to actually get the prevalence of trafficking for Nevada, because we keep getting asked how bad it is. We needed to have an answer to that. Adjusted for population, Nevada's commercial sex market is the largest of any state in our country. Nevada is 63 percent higher than the next highest state, New York, and twice the size of California. These are conservative estimates. They suggest that, in any given month in Nevada, you will find 5,000 women and children being illegally trafficked online for sex. That is just the illegal prostitution and trafficking; that is all this is capturing. Imagine how many sex buyers it takes to facilitate that demand; to meet that demand. The annual number in Nevada alone is 20,000 women and children a year being trafficked in our state illegally.

The ads that are online—and this is important to consider—market to the taste of the consumers, just like any commodity. You create an ad based on the audience of the consumer. This is no different in the sex trade. They provide insight into the sex buyers, which creates the demand for the market. What this study showed is that there are higher

prices being charged for the younger girls in Nevada. This is the market and what they are responding to. This is the demand and the sex buyers' taste. Furthermore, the relationship between youth and the price charged is strongest for the very young. The more indicators of youthfulness, the higher the price points. The higher profit margins create incentives for traffickers to recruit young individuals. The data put Nevada in the top ten states in terms of youth being exploited. There are phrases like "just turned 18," "fresh meat," "new girl here," "cute, sweet, and young," "unexplored sexy young lady," "brand new," and "daddy's little girl," all used to imply the youthfulness of the trafficked individuals. A full 72 percent have at least some indicators of being young, with the potential of being underage and being trafficked.

In terms of sex buyers, a study from Georgia included a scientific survey of 218 men who paid for sex with girls. Three times they had escalated warnings to sex buyers. Three times they were told for their information that the female was, in fact, under 18 years of age. Forty-seven percent of the men were undeterred by this information. Even with that knowledge, almost half were still undeterred. They did a companion study designed to quantify buyers' demand for young girls. It revealed that buyers preferred the girls who were younger at a rate of about 150 percent more than those without a specified age. This is who we are capturing in this bill.

What will deter them? What does the research show? That is what we are asking. Will this bill work? We are going to great lengths. Is it effective? This is what men are saying will deter them. It is not what we are thinking, it is what they are telling us will actually be successful in deterring them from buying underage girls. Men interviewed in London stated that the consequences that would deter them from using prostitution included the threat of being added to the sex-offender registry, imprisonment, public exposure, increased fines, and increased criminal penalties. They are acknowledging it and saying that will help them not to do this. Men interviewed in Chicago said the same thing. The overwhelming majority of men who buy sex stated that severe penalties for soliciting prostitution would, in fact, deter them, but it will only work if the law is enforced.

When faced with legal consequences, many men will choose not to buy sex and communities will understand that this crime will not be tolerated. In November 2018, Demand Abolition, which is a United States-based group that campaigns against sex trafficking, released groundbreaking research. They interviewed 8,201 adult men across the nation who are sex buyers. They asked the same question. From that research, they realized that the risk of arrest is a primary—not a secondary—deterrent for men looking to buy sex. Only 6 percent have ever been arrested. They just need the perception of risk. That is the first deterrent. The second deterrent is actually being arrested. The key recommendation of the report is to shift the limited resources law enforcement has from seller to buyer. If these men were not buying, there would be no incentive for the human traffickers to channel girls into the sex trade in the first place. By doing so, they would protect the rights of children to obtain a life far from exploitation, just like the young lady whom I shared information about in the beginning.

After each of those six men had their way with her, they left money. The money seems to be the very thing that causes a world of confusion. If they had not left money, society is very, very clear on the penalty, and it should be severe. Please do not let their money buy their way out of tougher laws. This is finally the penalty that fits the crime and the pain that these girls feel with every buyer. We are in strong support of this bill.

Chairman Yeager:

I want to say on the record—because I want to make it clear to those who are watching—that the statutes that exist today do capture a lot of what you mentioned. The fact that those individuals actually had sex with the underage person would be sexual assault on a minor, which is one of the most serious crimes on the books. This bill tries to get to the solicitation angle. What happens when someone solicits but there is no actual sexual act that is consummated? That is what we are looking at in this bill. I want to make it abundantly clear that Nevada law, as it exists, does allow us to capture some of what you referenced either on the purchaser side or on the facilitator side. It sounds like there was some type of kidnapping of a minor involved in that case as well. We are able to capture some of this, but we are looking at the front end of that.

Sarah M. Adler, representing Nevada Coalition to END Domestic and Sexual Violence:

The Coalition is in strong support of Senate Bill 7 (1st Reprint) as amended. Sexual violence knows no age limit. Child sex trafficking is a shame and stain on Nevada. Being known as the "Disneyland of Sex" is a problem. The Coalition appreciates the Attorney General's assertive response to this tragic situation that exploits children and leaves behind a lifetime of harm.

[Assemblywoman Cohen assumed the Chair.]

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:

We are here in full support of Senate Bill 7 (1st Reprint). We appreciate the Attorney General's Office for bringing this forward.

John T. Jones, Jr., representing Nevada District Attorneys Association:

I am here in support of the bill.

Samuel Martinez, Chief Deputy District Attorney, Special Victims Unit, Clark County District Attorney's Office:

This is an issue that has plagued our society for a long time and will continue to do so as long as there is demand. This is really a simple notion of economics. There will always be a supply if there is a demand, so there has to be a deterrent to the demand side of this economic problem. I would like to share some quotes from a case in the United States Court of Appeals for the Eleventh Circuit, *United States v. Daniels*, 685 F.3d 1237 (11th Cir. 2012). This was a case involving a 14-year-old child being transported over state lines. The felony that was the issue was transporting a minor, but the language that the court of appeals used applies exactly to what we are talking about today and addresses the concerns that we have regarding soliciting children to engage in prostitution. These are the quotes, and I ask you to

try to apply it to what we are trying to do today: "This statute is written for the protection of minors caught in the web of these illicit activities, rather than for offenders choosing to turn a blind eye to the age of the victims they transport," and, "Our decision to reject a knowledge requirement to convict . . . is consistent with congressional intent to protect the most vulnerable among us." Daniels was "on notice that he is violating the law when he transports an individual of any age in interstate commerce for the purpose of engaging in prostitution." As such, the statute had issues and not requiring the government to prove knowledge of age did not run the risk of criminalizing otherwise legal behavior. "Although there is a general presumption that a knowing *mens rea* applies to every element in a statute, cases concerned with the protection of minors are within a special context, where that presumption is rebutted."

As Mr. Jones noted, I prosecute these cases every single day, and I have been doing it since 2015. I am shocked by the number of times child victims have been in my office and not even realized that they are, in fact, victims of sex trafficking. There is no one in this community who would be happier if this bill does not pass than the pimps whom I prosecute. The world of prostitution has shifted and adjusted to the laws, and our state has done a great job in focusing and punishing the supply side of this problem. Now it is time to put some teeth into the deterrence on the demand side. It is those people who decide to turn a blind eye to those victims whom they solicit who are not protected otherwise by legally protected behavior. It breaks my heart every day to see these children who are used by these traffickers to engage in this horrific conduct. Once again, there is no one who would be happier than the pimps requiring an age requirement. They can just instruct their victims to tell everyone they are barely 18, as was stated before. There are ads like that, and we are in full support of the bill.

**Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department:**

Last year we had over 100 cases of child sex trafficking. In brevity, we are in support of this bill.

Corey Solferino, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office:

We are here in full support of S.B. 7 (R1). With the newly elected sheriff, Darin Balaam, coming to northern Nevada, he has regionalized efforts to combat sex trafficking in our area. Some of the statistics that Ms. Holland spoke to are both staggering and unbelievable that this is happening to such a degree in northern Nevada. With those efforts, we are happy to support this bill.

Sara Chohagian, representing Dignity Health-St. Rose Dominican:

We are in full support of this bill. Compelled by their healing mission, Dignity is committed to being part of the solution. Human trafficking is one of various community health issues to which they dedicate their resources. By leadership and example, they hope to encourage others in health care and the government to take bold action to integrate an effective response to end human trafficking.

Sandra J. Anderson, Executive Director, State Board of Massage Therapy:

While we do not typically deal with minors in this industry, anything we can do to address the demand side is going to facilitate a reduction in prostitution within the massage establishments as well. I am very much in support of this bill.

William Ledford, Director of Advocacy, Lutheran Engagement Advocacy in Nevada:

Historically, my organization has strongly supported all bills that involve sex trafficking, especially of minors, because we believe it is the responsibility of the church and this legislative body to protect children from crimes, especially crimes as heinous as sex trafficking. Based on our social statements about sexuality and criminal justice, we very strongly support this legislation.

Kay Landwehr, Founder and President, House of the Rising Sun:

This is a brothel ministry. Why would I be here supporting a bill for children? Because over the years, 12 to be exact, I have seen minors in legal brothels, so I support anything we can do to shut down the pimps.

I have written a book, and I reviewed it the other day to see how many women I had written about in the book had pimps. I wrote about 17 women, and half of them have pimps. I am so much in support of what you people are doing. You are getting information about people here who focus on sex trafficking. I think what you are doing is a start. I think the statistics are very low. I wish we could get past the age thing because women who are trafficked—like the Chinese women being brought over from China—that are in the strip clubs and brothels need all we can do for those women. I support this bill.

Vice Chairwoman Cohen:

Seeing no one else in support, we will move to opposition. If there is anyone in opposition in Las Vegas or Carson City, please come to the tables.

John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:

We opposed this bill in the Senate, and we oppose it here for the same reasons. It strips lack of knowledge as a defense. Part of the concern is that it becomes a strict liability crime. I understand that the Attorney General's Office has said that it is not really a big problem, but it actually is a big problem. We have moved away from putting intent into our laws. America has become the leader in incarceration in the world. The Equal Justice Initiative just published a study about how we lead the free world in incarceration. A lot of that has to do with removing intent from a lot of our bills. What that does is—even though the scales are supposed to be balanced when you walk into a courtroom—when you remove intent or a defense, what you are doing for the prosecution is putting a thumb on the scale. All the prosecution has to do if they want to prove these cases is to take these cases to trial.

If you want to make an impact, take these cases to trial. Do not deal with them. Put press releases out. Make it known that this is what we are doing. Ms. Holland is correct that the No. 1 deterrent for crime is the fear of getting caught. So let us put money into Metro's budget. Let us put money into Washoe's budget, and let us increase their vice sections. Let us make a real impact on part of this problem instead of just coming here beating the same drum of increased penalties like they are going to make a difference with no research backing that, and no data that shows the penalties we have on the books are not making an impact. There is no, Here is what we are prosecuting and here is what we are doing. They are not bringing any of that to you. They are just beating the increased-penalty drum that keeps getting beaten. We continue to be No. 1 in these terrible areas, so obviously that solution is not working. That is the same tired solution that continues to be brought to the table with these bills that seek to do that.

Part of the concerns that we have with this are the bar and nightclub scenarios. I understand that the person who solicits a prostitute in Clark County proper is breaking the law. I will say, though, we have a million-dollar industry that advertises to everyone who comes to town that, "What happens in Vegas, stays in Vegas." Perhaps we should start moving away from that advertisement because it lends a false narrative that it is okay here. They know prostitution is legal in the state, but they do not know that it is not legal in the jurisdictions of Clark County, the City of Henderson, or the City of Las Vegas. They do not know you have to drive 45 minutes outside of town for it to be legal. Maybe we should do better. Maybe we should put some money there for that as well. It is not that we seek to protect johns from victimizing young women, because that is not what we are seeking to do here.

The law, however, does recognize higher and lower penalties. We have our category A, B, C, D, and E felonies, and we recognize that based on the intent—the intent of the person who is committing the crime and the harm done. Those are the two elements that go together, the intent and the harm done, when we decide what a penalty is for a criminal law. What this bill seeks to do is remove any defense on the intent for a person who was intending to solicit but not intending to solicit a minor. That is where our major concern with this piece of legislation comes from. For that reason, we oppose the bill.

Alanna Bondy, representing Nevada Attorneys for Criminal Justice:

We are in opposition to this bill as well. I would like to start by saying that we have already said this, but increasing punishment does not deter people from engaging in criminal conduct. That is especially true if people are not even being arrested for their criminal conduct to begin with. The speaker from Awaken mentioned that in one of her studies that she reviewed, only 6 percent of buyers have been arrested for engaging in solicitation of prostitution. As Mr. Piro mentioned, maybe we should be putting resources behind enforcing the laws that we already have.

Additionally, we also have an issue with removing the knowing element from the crime for reasons that Mr. Piro already went through. We also have an issue with removing the defense of reasonable mistake of age. The Committee went through several scenarios today which highlight why this is an issue and why reasonable mistake of age needs to remain a defense and a question for the jury to decide.

One thing I thought of while listening to the hearing was online solicitation. What if we have a child who is posing as an adult? Not having the knowing element and not having a reasonable mistake of age will capture that person when they had no intent to solicit a child. I also think not having that defense available waters down the intent of the bill, which was to cut off the demand for children. If we are removing a defense which would exclude people who reasonably mistook the age of the person, I do not think that is going to the intent of cutting off the demand for children. Those people were never seeking out children. We oppose the bill.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

I spoke with the Attorney General this morning about the new amendments. I appreciate his taking the time to speak with us. This is an extremely important issue and it should be an important issue for everyone on this Committee. We do not want our children to be trafficked; we are all in agreement with that. We are in disagreement with how to ensure that the next generation of children is not trafficked.

We are in opposition to this bill for the reasons stated by my colleagues. We really need to shift our focus, and I am concerned about what I heard from one of the supporters. We have been focusing on punishing the supply side. We were punishing the victims. We were punishing those who were being trafficked. Now our next step is to go after the johns and the employers. But we still have this generation of victims whom we have not been helping. Why not? Why are we not focusing on the victims and the ones who are currently being victimized? Let us provide them with resources.

This is my first session here, and what I am learning is that the programs we have in Reno versus the rurals versus Las Vegas is very disconcerting. As a defense attorney, I am extremely fortunate to have Awaken in Washoe County and to be able to work with them. I have clients who are also their clients. I really enjoy being able to collaborate with them because they have resources. We need to provide them with more resources. We need to also provide Las Vegas with those resources. When we have a victim of human trafficking, we can provide them with housing, counseling, employment opportunities, and education to ensure they leave that lifestyle and are able to heal and to better themselves.

In a study from December 2018, Nevada had the highest homeless youth population. That is where our focus should be. The homeless youth are the ones being targeted by these traffickers: the teenage population who are out there on the streets because they are afraid to go home. We are not providing resources for them. On any given night, anywhere in Nevada, there are 400 to 600 young people on the streets. That is where our focus needs to be, so they do not end up being encapsulated as victims. That is where our concerns are.

We are starting to strip away these defenses. We are watering down our criminal justice system. We have already heard the statement that we are hoping the individuals who are accused of crimes are innocent until proven guilty, and this just keeps putting the thumb on the scale of justice against the defendant.

Regarding the proposed amendment, I do have some concerns, and I do not know if the language that comes up from LCB will help change that. I hope to be able to continue our conversation with the Attorney General's Office, specifically regarding the peace officer posing as a child and a person assisting a peace officer posing as a child. We are turning that into a strict liability crime. I have concerns with that, even if it is online, in a bar, or at a high school party. I am concerned with how that is going to play out. We were just provided the amendment this morning, and I did not have enough time to start thinking about it.

Vice Chairwoman Cohen:

I want to be really clear and not to be contrary. Over the last few sessions, we have heard in this Committee about grooming, and we know that grooming is taking place. This is occurring to children who are not homeless, and while we do need to be very cognizant of our homeless teen population—whether it is local teens who are homeless or teens moving into the area who are homeless—these children are not coming from where people would think: stereotypical broken homes.

Assemblywoman Tolles:

Can we have it both ways? Can we continue our efforts to help the victims while going after the traffickers and the demand side? Having been part of the sentencing commission and engaging more deeply this session in our overall criminal justice reform conversations, I noticed that much of what we talk about is how we can save the penalties for the worst of the worst crimes. We need to take a look at other crimes that may need readjusting to be more appropriate. The worst crimes are typically murders, child molestation, and rape. This is commercialized rape of children. What is the justice system if it is not there to protect? That is what this bill is trying to accomplish. I appreciate the concerns, but the debate coach in me calls that a red herring if we say, "Not this, but how about this or this or this?" How about what we are looking at right here in front of us, what is absolutely appropriate to address the worst of the worst. I appreciate the concerns about the penalties and the increases in the penalties, but we are commercializing the rape of children and that is the worst of the worst.

John Piro:

I agree with you that it should be both. However, in my experience in two sessions here, that has generally been the only solution that we come to the table with. If the Legislature wants to increase penalties on the solicitation side, by all means do it, but make sure the person does it knowingly. That is our main concern. We need to make sure the person was knowingly soliciting the minor and was not making a mistake of age. I do not think that is too unreasonable of a burden for the prosecution to prove that at trial.

Vice Chairwoman Cohen:

Is there anyone else in opposition? Seeing no one, is there anyone neutral in Las Vegas or in Carson City? Seeing no one, would you like to make concluding remarks?

Jessica Adair:

We appreciate your thoughtful questions. We know this is something that is dear to our hearts and yours as well. I want to echo Assemblywoman Tolles' comments, and those of Ms. Bertschy, about the importance of assisting victims. One thing we did not get into very much was section 4 of this bill where it defines sex trafficked children as victims under Nevada law. That is important as a policy statement, but also brings the added benefit that those victims can then engage in civil actions against those who have been trafficking them. We wholeheartedly agree and will use the Office of the Attorney General to support programs that assist victims. That is an important aspect of this bill that allows victims assistance regarding child sex trafficking.

I also agree with Mr. Piro's statements about the necessity of making sure that those who come to visit Las Vegas or Reno or other parts of Nevada understand that legal prostitution is only available in certain areas. We in the Attorney General's Office are currently working with the Nevada Resort Association and other partners to engage in public education so those who come to enjoy Nevada understand that prostitution is not legal in many areas where they might be visiting. I agree with him on that. Mr. George will address another comment that was made about the importance of increasing penalties as it relates to effectiveness.

Kyle George:

One of the statements that we heard in opposition—and it has been a frequent refrain this legislative session—is that they come without any data, and there is no data to show that increased penalties have a deterrent effect. Today we have the data. In Sweden many years ago, they passed a law that mirrors this to some degree by shifting the emphasis of enforcement to the demand side. Since then, that law has been well studied, and a lot of data has been produced that shows that increasing penalties did, in fact, reduce the demand for commercial sex trafficking.

I have four articles that were distributed to the members of the Committee. One [by the Shapiro Group, Inc.] is titled "Men Who Buy Sex with Adolescent Girls: A Scientific Research Study." That was a case study done in Georgia. Another study [from Demand Abolition] is "Who Buys Sex: Understanding and Disrupting Illicit Market Demand." Another study that is specifically for Sweden [from The Swedish Institute] is "Prostitution

Policy in Sweden-Targeting Demand." The last is a very lengthy law review article [from *Women's Studies International Forum*] titled "Sweden's prohibition of purchase of sex: The law's reasons, impact, and potential." Maybe with this in the Committee's hands, we can finally put away some bad narrative that, "They come to you with no data." We have lots of data.

Jessica Adair:

I was just speaking with Ms. Holland, and she educated me that there is research that shows pimps actually travel to and operate in states where penalties are lower. She is going to provide me with that information, and I will pass it on to the Committee. There is plenty of research out there that shows the traffickers know what they are doing, and that this is a commercial enterprise—as Ms. Engler mentioned—one of the most commercially, economically successful criminal enterprises in the world. They are coming to our state for this very reason.

Alissa Engler:

I will just echo that I support my colleagues up north, and they did a good job of wrapping up our position.

[Additional exhibits include letters in support from City of Reno Mayor Hillary L. Schieve ([Exhibit G](#)) and from Sarah Bendtsen ([Exhibit H](#)), and written testimony submitted by Kimberly Mull ([Exhibit I](#)).]

Vice Chairwoman Cohen:

With that, seeing no other questions, I will close the hearing on Senate Bill 7 (1st Reprint). I will open the hearing on Senate Bill 173 (1st Reprint).

Senate Bill 173 (1st Reprint): Revises provisions relating to criminal convictions of victims of sex trafficking and involuntary servitude. (BDR 14-595)

Senator James Ohrenschall, Senate District No. 21:

Senate Bill 173 (1st Reprint) is a step forward in Nevada law for victims of sex trafficking and human trafficking. In 2011, our colleague, Assemblyman Hambrick, sponsored legislation which allowed victims of trafficking to petition a court to have their conviction vacated and sealed. That passed, and it was a great step forward. It was limited to convictions dealing with solicitation and prostitution. In 2015, then-Assemblyman Elliot Anderson sponsored a bill which sought to expand that to include loitering. Many victims of trafficking are either arrested for loitering—often in casinos—or charged with prostitution, which is frequently pled down to trespassing.

What Senate Bill 173 (1st Reprint) hopes to do if it is passed into law and signed by the Governor is to expand the list of convictions to any nonviolent offense to allow the victim to petition the court to vacate the conviction and seal the record. You are going to hear stories from witnesses who come forward about victims and some of the things their traffickers got them involved with. They never would have gotten involved had they not been in that

horrible situation. It could be a crime like trying to cash a forged check and being arrested on felony charges of burglary, forgery, theft, or other things. They now have a conviction that, even though they served their time and finished parole, still haunts them in terms of employment opportunities, opportunities to be a foster parent, and many other opportunities.

Senate Bill 173 (1st Reprint) will open the courthouse doors to those victims. It does not guarantee that the conviction will be vacated and the record sealed, but it will give them an opportunity to petition the court to put the awful things that happened to them behind them and to move on with their lives with as much of a clean slate as we can give them.

Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada Coalition of Legal Service Providers:

As the Senator mentioned, this has been a process throughout the last couple of sessions. We at Legal Aid Center of Southern Nevada have started assisting these victims with filing their petitions to vacate their judgments and seal their records. What we are finding is that we are successful in petitioning for some of the more serious crimes, such as the prostitution charges, that are holding them back; however, they may have a petit theft charge that was committed at the direction of their pimp. They are unable to get that wiped from their slate at the same time, which still prevents them from moving forward and attaining gainful employment. We think it makes sense to allow the petitioning for all nonviolent crimes.

I would like to make clear, process-wise, that this just allows us to file the petition to request it. I want to thank the district attorney's office for working with us on this first reprint and coming up with some language that works for everyone. It does not say that a judge has to grant these petitions. It does not remove any judicial discretion. It just gives us the ability to file the petition for a greater number of things that may be on a victim's record. The judicial process will sort through what is appropriate to grant. We believe that is a well-measured approach to ensure we can help these women start their lives again.

Kelly Venci Gonzalez, Team Chief, Legal Aid Center of Southern Nevada:

I coordinate the legal services for victims and survivors of human trafficking ([Exhibit J](#)). We have been working with survivors on vacating and record sealing over the last couple of years. The average length of time a victim stays in servitude is about four years. In that time, many use drugs because the circumstances are as horrendous as you can imagine, and then they end up being picked up and convicted of additional charges. Once they are able to break free, the people we work with become powerful members of society. They want to contribute and give back. They want to move on. Part of the healing process is to vacate the crimes they would not have been charged with had they not been under the control of the trafficker. For example, we worked with women who wanted to become nurses but had issues with the licensing board that could be solved by vacating and sealing their records. The little we do in helping to vacate their records makes big changes in their lives; it changes the trajectory.

The Washoe County Public Defender talked about focusing on victims, and I believe this bill does that. This is very much victim- and survivor-focused. It allows women to move on. Some women were even beaten. We worked with one survivor who was almost beaten to death when she tried to leave her trafficker. She spent many weeks in the hospital recovering. These are real conditions in which women do not feel they have the ability to leave. This bill brings us into best practices with what other states are doing, is progressive, and meets the needs of survivors so they can move on and become fully functioning members of society. I would urge you and hope that you vote in support of this legislation.

Vice Chairwoman Cohen:

We have been working on this process over several sessions. As Ms. Bortolin said, this will involve the more minor crimes as opposed to the larger crimes that we have already addressed in the Legislature. Can you tell me when the victims are going to court? Does it seem like the judiciary is understanding what we put in place? With the discretion they have, are they understanding it and sealing records to help these victims?

Senator Ohrenschall:

Our statutes are limited right now to loitering and solicitation. If this passes, many victims who have gotten a conviction for something minor like petit theft or felony forgery—forced to cash a check like we heard—have the potential to be helped while not taking away any judicial discretion.

Kelly Venci Gonzalez:

The judiciary has been largely responsive to the clients we work with. We do a lot of vetting before we even submit the petitions, so we have accompanying affidavits and letters that tell what the victims have done to heal themselves. We send them to the district attorney's office, and they approve and sign off on them. By the time they reach the judge's desk, he may sign it without a hearing since the evidence is so compelling. This will add to the ability of survivors to fully heal.

Assemblywoman Backus:

I need clarification on section 1, subsection 6, regarding the stipulation by the prosecuting attorney who prosecuted the petitioner for the crime. Is that expansive to include the district attorney, and does it extend to the attorneys—like deputy attorneys—who are under the district attorney? I am trying to understand who the person would be who would sign the stipulation. How broad is that term and how inclusive?

Senator Ohrenschall:

This is language that came from the amendment in the Senate. We worked with the Nevada District Attorneys Association, and I appreciate their working with us on language that we could all agree to. This would apply to the district attorney's office, a city attorney—if someone was prosecuted by a city attorney for continuing to cash bad checks—and a prosecutor in the Attorney General's Office.

Vice Chairwoman Cohen:

Are there any other questions? [There were none.] We will move to support testimony. Anyone in support in Carson City or Las Vegas, please come to the table.

John T. Jones, Jr., representing Nevada District Attorneys Association:

We are in support of Senate Bill 173 (1st Reprint). We had a collaborative discussion and are in support of the bill. With respect to Assemblywoman Backus' question, in the amendment it did say, "the office of the prosecuting attorney who prosecuted the petitioner." The "office of" language did not make it into this amendment, which would make it clearer. It would encompass the city attorney's office, the Attorney General's Office, or the district attorney's office. We want to make sure it is clear that it is the office that initiated the prosecution who would engage in the stipulation and not necessarily the specific deputy who prosecuted the case. I read it that way as it is currently written, but we can add back "the office of" to make it abundantly clear. Maybe that would be the best thing to do.

Alanna Bondy, representing Nevada Attorneys for Criminal Justice:

I am here to support this bill. I think it is an important piece of legislation that allows victims of sex trafficking to move on with their lives and ensures their past does not continue to harm them for the rest of their lives. It is for that reason we are in support.

Kerrie Kramer, representing The Cupcake Girls:

We are in strong support. I have had the opportunity over the 2015 and 2017 Sessions to work on legislation like this. We are happy to support anything that increases resources to the victims of trafficking.

Vice Chairwoman Cohen:

You are out in the trenches with women who have been sex trafficked. When it has been a few years since their convictions, how are they getting the word that this is an option? Is that information out there for them? Is everyone starting to know about it?

Kerrie Kramer:

To the best of my knowledge, it is getting out there through different organizations such as The Cupcake Girls. Legal Aid has been amazing in southern Nevada, and I am sure they have seen a lot about it in Washoe County as well. It has just been more of a whisper campaign. These women come to different organizations, and they need help with getting these convictions removed from their records. They are finding attorneys on a pro bono basis or with Legal Aid or within these organizations that are there to help them. I have worked with a lot of attorneys who have taken these cases pro bono. Streamlining these processes and the attorneys' help has worked out much better. Each session as we continue to streamline this process, word has gotten out there, and it makes it easier for victims of trafficking to benefit from the legislation.

John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:

This is a measure that helps people get their lives back after they have been through a horrific situation. In this Committee, we have talked about the crimes not necessarily being the ones you would immediately think of, such as soliciting or trespassing—which is a common plea down for soliciting in Clark County. The crime might be theft when a victim is forced by the trafficker to do something illegal. I spoke with you at the beginning of the session about my client, whom we will call Mrs. Smith, who was forced by her trafficker to commit some theft crimes. This is a measure that would immediately help her. I urge your support of this legislation.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:

I would echo the statements by Mr. Piro that this is a step in the right direction by providing resources to our victims to ensure they are able to reintegrate into society and have all the benefits that are available to them. I would also note that it is for victims who are charged with the more serious crimes of property theft than just prostitution. Those go hand in hand.

Megan Ortiz, Intern, American Civil Liberties Union of Nevada:

I think everything has been said, so I will echo the sentiments of all of my colleagues before me. We always support any efforts to help victims rebuild their lives.

Sara Chohagian, representing Dignity Health-St. Rose Dominican:

I would also like to echo the comments of the other supporters. We support this bill.

Izzy Youngs, representing Nevada Women's Lobby:

We are in support of this bill.

Kay Landwehr, Founder and President, House of the Rising Sun:

I really support this bill.

Vice Chairwoman Cohen:

Seeing no one else in support, do we have anyone in opposition? Seeing no one in opposition, do we have anyone neutral in Las Vegas or Carson City? Seeing no one, we will invite Senator Ohrenschall up for concluding remarks.

Senator Ohrenschall:

You probably hear from lots of presenters that this bill will change people's lives. I do believe that this wonderful bill will change a lot of people's lives because of those collateral consequences of a conviction that can prevent someone from getting a job and taking care of their family.

There was a letter just uploaded from the Senate hearing from Amy Ayoub, whom many of you know ([Exhibit K](#)). She is a prominent southern Nevadan who was a victim of trafficking. There is one sentence from this letter that I want to quote because it really hits

the point of the bill and what the bill will do to help people: "It is such a burden to have a record that does not reflect who you are in any way . . . it only reflects who someone else is and you are the victim of that person's actions." That really sums it up. This bill will expand the list of crimes that someone can get vacated and sealed and help them move on from things that only happened because they were victims of a trafficker.

[Additional exhibits submitted include a chart of state statutes and the offenses covered ([Exhibit L](#)) and a letter of support of Senate Bill 173 (1st Reprint) ([Exhibit M](#)).]

Vice Chairwoman Cohen:

With that, I will close the hearing on Senate Bill 173 (1st Reprint), and open for public comment. Is there anyone who has any public comment? Seeing no one, before we adjourn, a reminder we will be starting tomorrow morning at 8 a.m. We will be starting with a `work session, so please be sure to be here on time. That information has been emailed to you. Also, there is a Consent Calendar, and if you have any concerns about the Consent Calendar and what that means, please check with Mrs. Thornton. With that, the meeting is adjourned [at 10:37 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is written testimony presented by Christine Jones Brady, Second Assistant Attorney General, Office of the Attorney General, in support of [Senate Bill 2 \(1st Reprint\)](#).

[Exhibit D](#) is written testimony presented by Kyle E. N. George, Special Assistant Attorney General, Office of the Attorney General, in support of [Senate Bill 9 \(1st Reprint\)](#).

[Exhibit E](#) is written testimony, including a statement from Attorney General Aaron Ford, presented by Jessica Adair, Chief of Staff, Office of the Attorney General, in support of [Senate Bill 7 \(1st Reprint\)](#).

[Exhibit F](#) is written testimony and a proposed amendment to [Senate Bill 7 \(1st Reprint\)](#) presented by Kyle E. N. George, Special Assistant Attorney General, Office of the Attorney General.

[Exhibit G](#) is a copy of a letter dated April 28, 2019, to Chairman Yeager and members of the Assembly Committee on Judiciary, authored by Hillary L. Schieve, Mayor, Reno, Nevada, in support of [Senate Bill 7 \(1st Reprint\)](#).

[Exhibit H](#) is a copy of a letter dated April 30, 2019, to Chairman Yeager and the members of the Assembly Committee on Judiciary, authored by Sarah Bendtsen, Policy Counsel, Shared Hope International, in support of [Senate Bill 7 \(1st Reprint\)](#).

[Exhibit I](#) is written testimony dated April 30, 2019, submitted by Kimberly Mull, Private Citizen, Las Vegas, Nevada, in support of [Senate Bill 7 \(1st Reprint\)](#).

[Exhibit J](#) is written testimony dated February 28, 2019, submitted by Kelly Venci Gonzalez, Team Chief, Legal Aid of Southern Nevada, in support of [Senate Bill 173 \(1st Reprint\)](#).

[Exhibit K](#) is written testimony dated February 27, 2019, submitted by Amy S. Ayoub, Private Citizen, Las Vegas, Nevada, in support of [Senate Bill 173 \(1st Reprint\)](#).

[Exhibit L](#) is a chart of state statutes and offenses covered submitted by Senator James Ohrenschall, Senate District No. 21.

[Exhibit M](#) is a copy of a letter dated February 26, 2019, to the members of the Senate Committee on Judiciary, authored by Jessica Kay Halling, Private Citizen, Las Vegas, Nevada, in support of [Senate Bill 173 \(1st Reprint\)](#).