

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

**Eightieth Session
February 27, 2019**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:05 a.m. on Wednesday, February 27, 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:

Assemblyman John Ellison, Assembly District No. 33



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Linda Marie Bell, Chief Judge, Eighth Judicial District Court
Bryce C. Duckworth, Presiding Family Chief Judge, Department Q, Eighth Judicial District Court
Scott N. Freeman, Chief Judge, Second Judicial District Court
James W. Hardesty, Justice, Supreme Court of Nevada
Nancy Porter, Judge, Fourth Judicial District Court
Alvin R. Kacin, Judge, Fourth Judicial District Court
Alex Ortiz, Assistant Director, Clark County Department of Administrative Services
Jeffrey M. Wells, Assistant County Manager, Clark County
Jaime Rodriguez, Government Affairs Manager, Washoe County
Bailey Bortolin, representing the Legal Aid Center of Southern Nevada
Bridget E. Robb, Presiding Family Division Judge, Second Judicial District Court; and President, Nevada District Judges Association
Bradley Keating, Director of Government Relations, Community Engagement Unit, Clark County School District
A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Stephanie O'Rourke, Deputy Chief, Division of Parole and Probation, Department of Public Safety
Mark Stevens, Chief Judge, City of Henderson Municipal Court
Tony Yarbrough, Senior Vice Commander and Legislative Deputy Chairman, Veterans of Foreign Wars; and Chair, United Veterans Legislative Council
John J. Piro, Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office; and representing the Alternate Public Defender's Office
Robin V. Reedy, Executive Director, National Alliance on Mental Illness–Nevada
Terry Hubert, representing Ridge House
John T. Jones, Jr., Chief Deputy District Attorney, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing the Law Enforcement Coalition
Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers

Chairman Yeager:

[Roll was taken. Committee protocol was explained.] On our agenda today we have two presentations followed by two bills. We will go in order. I will invite Judge Bell up for a presentation on the Eighth Judicial District Court of Nevada. Their presentation is uploaded on the Nevada Electronic Legislative Information System, so you can follow along there ([Exhibit C](#)).

Linda Marie Bell, Chief Judge, Eighth Judicial District Court:

As far as where the district courts falls within the grand scheme of things, we are the trial court. There are municipal and justice courts in our state which handle misdemeanor offenses. The justice courts also handle felony and gross misdemeanor criminal cases at the preliminary hearing stage. Ultimately, felony and gross misdemeanor cases are heard by the district court, as well as a number of other matters. District court decisions are appealed to either the Nevada Court of Appeals or the Supreme Court of Nevada.

This slide [page 2, ([Exhibit C](#))] shows the historical growth of our court over the years and the way the Legislature helps us meet the needs of the court with judicial resources as our county has grown. When I started practicing as an attorney 25 years ago, Clark County had a population of about 800,000 people. We had 6 family court judges and 16 district court judges. Today, we have 52 judges: 20 in the family division and 32 in the civil/criminal division. We have 15 hearing masters who assist by handling certain cases, and we have 603 full- or part-time employees.

The 32 judicial departments [page 3, ([Exhibit C](#))] that serve in our civil/criminal division include 7 judges who were added in 2011 to hear exclusively civil cases. We were able to add those judges by creating a special funding source from increased filing fees. Additionally, we have 17 judges who hear criminal cases. We have 20 judicial departments that hear family cases of different types. Of those 20, 3 handle child dependency or child welfare cases exclusively, 1 handles juvenile delinquency cases, and 2 handle guardianship cases. The remaining 14 handle what we call civil domestic cases, which are divorce and child custody issues.

We operate out of four different facilities, primarily the Regional Justice Center and the Family Court campus [page 4]. The Regional Justice Center handles most of our civil/criminal divisions and three of our family departments. We have a couple of civil judges located at the Phoenix Building across the street from the Regional Justice Center. The remaining family and juvenile departments are located at the Family Court on East Bonanza Road and North Pecos Road. Our child support division is located at the Greystone Building.

The court is responsible for the safety and security of the people who enter the facilities. Our marshals division is made up of over 100 peace officers who are tasked with that responsibility.

The jurisdiction for the trial court comes from Article 6 of the *Nevada Constitution*, and Chapter 3 of the *Nevada Revised Statutes* (NRS). We are what is called a "general jurisdiction court." That means we hear civil cases where the amount in controversy is over \$15,000 as well as other types of civil cases, felony and gross misdemeanor criminal cases, divorce, child welfare, juvenile delinquency, guardianship, domestic violence protective orders, and appeals from justice and municipal court.

We are primarily funded through State General Fund dollars from Clark County [page 5]. The statute, NRS 3.100, is quite an old statute. However, the Supreme Court of Nevada has given a modern-day interpretation of the statute which indicates that the counties have a responsibility to provide adequate courtroom facilities and support staff for the district courts. Judges are paid through the state, and counties provide our staff and facilities. We work very hard with Clark County to ensure the court has sufficient resources to serve our community.

This is an overview of our budget. Our funding is approximately \$79 million for fiscal year 2019, the majority of which comes from the Clark County general fund. The district court special filing fee is a revenue stream that was established by the state Legislature to fund nine additional judicial departments in Clark County and one in Washoe County. Specialty court funding has seen a dramatic improvement over the time I have been involved in it, thanks to the Legislature's allocation of nearly \$3 million from the State General Fund. It allows us to help a lot more people. The "other" in the pie chart is primarily funding that relates to our truancy diversion program and donations that we receive.

This next slide shows the history of our funding over the last five years [page 6, ([Exhibit C](#))]. In 2018, the court had 78,862 filings overall. We are a very busy court. The total pending cases were 6,072 criminal cases, 29,521 civil cases, and 40,386 cases in the family division. We have made a concerted effort over the last few years to make sure we are closing cases so that our statistics are accurate.

As I mentioned previously, the district court handles felony and gross misdemeanor criminal cases. This slide [page 7, ([Exhibit C](#))] shows the number of cases that were filed in 2018. There were 7,956 new cases. We closed 11,990 as part of our effort to make sure we are closing cases that are completed. We did 130 criminal trials and 11 criminal bench trials last year. Page 7 shows the trends of criminal cases filed over the last several years.

District court also handles civil cases with an amount in dispute over \$15,000 [page 8]. We handle a really wide variety of cases, including personal injury and business disputes. Because of the diversity of Clark County, I once had a case that involved a tractor trailer hitting a cow and the issue was whether it was open range. We see a little bit of everything in the civil division. For civil cases, we have made great improvements in our dispositions. Last year in civil, we had 83 jury trials and 209 bench trials. We also use a few programs to help with the smaller cases. We have a short trial program where we have attorneys assist in hearing one-day short trials for smaller cases. We had 96 short trials last year. We also have

a very active alternative dispute resolution program where cases are sent to arbitration. Finally, we have civil judges who volunteer to hear settlement conferences for other judges at no cost to the litigants so we can try to solve as many of our civil cases as possible because of the time and expense of trial.

In the civil context, we have specialized judges to hear complex business cases and construction defect cases. We also track the number of medical malpractice cases that we have because those are some of the most complex civil cases that are heard by our judges.

Additionally, we have specialized judges to hear probate cases and adult and minor guardianship cases from both the civil and family divisions. In these case types, we have used some cross-training between our family division and our civil/criminal division because of the common issues that arise. We have worked very hard in the guardianship arena to ensure older cases have been closed out. This slide [page 9] shows the civil case filing trends, and the next slide [page 10] shows the breakdown of the types of civil cases we have. There are a large number of probate cases in addition to the regular variety of civil cases the civil judges hear.

Bryce C. Duckworth, Presiding Family Chief Judge, Department Q, Eighth Judicial District Court:

This slide [page 10] shows the statistics for family filings in 2018. There are several different case types that fall under the umbrella of the family division. That includes family-domestic, divorce, child custody, adoptions, child support, family-protective orders, temporary protective orders, civil commitments, and mental health issues. We also have juvenile dependency and juvenile delinquency departments. Oftentimes in the Eighth Judicial District Court, we will refer to civil domestic cases—all those cases except for the juvenile dependency and juvenile delinquency cases. Sometimes you will hear me reference civil domestic cases, and that is what I am referring to. You can see the case filing statistics for 2018, and the work that is being done in terms of filings and the disposed cases.

This next slide [page 11, ([Exhibit C](#))] is the case flow management for total divorce and custody cases per year. That is from 2011 through 2018 and shows the increase we have experienced in civil domestic filings that involve divorce and child custody. Finally, as far as the case flow management is concerned—similar to the presentations on criminal and civil dockets—you see the pending cases in each of the individual areas.

Judge Bell:

I would like to address our specialty courts. We are very proud of what we have been able to accomplish in this arena. We have 11 specialty court programs over the civil, criminal, and family divisions. The ones that are italicized are new programs that have been started within the last six months [page 12].

We have an adult drug court that helps people who are struggling with addiction who have come into the criminal justice system. We have a felony DUI court which is for people who have been charged with a third DUI within seven years, not ones where there was an accident

with an injury. The alternative to the DUI court program is prison. There is really no alternative. Somebody who has that third DUI can either go through a three-year program or go to prison.

We have a mental health court that helps people who are seriously mentally ill who have come in contact with the criminal justice system as a result of their mental illness. We have a juvenile drug court that helps juveniles who have been charged with a delinquent act and need assistance because of substance abuse issues.

We have a veterans treatment court, which I run. It helps veterans who have come into the criminal justice system because of mental health, substance abuse, and other issues. We have a program called the Opportunity for Probation with Enforcement in Nevada (OPEN) program, which is also a program run by me. It is for 18- to 26-year-olds who are not successfully completing probation. It is a tremendous partnership with the Nevada Department of Corrections and the Division of Parole and Probation. We work together for these very high-risk individuals. Every single person who comes into my OPEN program would otherwise be in prison. It is a group that needs assistance with education, employment, and housing. We are able to work very intensively with them to try to help them succeed.

We have a family treatment court which helps parents who are struggling to take care of their children because of addiction issues. We have recently started a gambling diversion court to assist people who have come into the criminal justice system because of a gambling addiction. We have a medically assisted reentry court. We are helping people who are leaving the prison system and have opiate addictions to make sure their path back into society is smooth. We have medically assisted treatment to try to ensure they do not return to using. They are closely monitored by the court to make sure they are achieving the goals they have for their parole.

We have a co-occurring court to address that population that does not quite fall into drug court or mental health court. We have a lot of people who have serious mental illnesses and also have addiction problems. They do not quite fit into one or the other, so we have very recently created a co-occurring court to address the complex needs of that population.

Finally, we are creating a transitional adult drug court. That pulls out the 18- to 24-year-old population from our adult drug court. There are some unique needs of the younger folks we see who have entered into the criminal justice system and have addiction problems. There is a higher percentage of opiate use. They relate differently to one another. We are able to treat that group better whenever we treat them all in one group.

I have been involved in the specialty courts, and it has been an honor and one of the highlights of my career as a judge. By coincidence, I received an email last week from a young man who was a participant when I was running the drug court program. I want to share that with you because I think it really highlights what we do in specialty courts.

This young man had an extensive juvenile record. He had gone through unsuccessfully and was sent to inpatient treatment when he was 16 years old. He was arrested on a felony burglary when he was 19 years old. He was placed on probation. He had a negotiation that would allow him a gross misdemeanor if he successfully completed probation. He was failing that probation, and the judge he was in front of sent him to drug court at the time I was running drug court. He came into drug court in April of 2013. He was a mess. He got into trouble. I sent him to jail. We sent him to inpatient treatment. He took off a couple of times. The first drug court was supposed to be a year-long program. After a year, he had not even really started. It took about 14 months for him to get on a good path. Fortunately, after the last time he took off and came back, he just got it. He graduated in May of 2015. Last week, he wrote to me and said, "Hi Judge Bell. I just wanted to let you know that things are great, and you are still a big part of my story. You never gave up on me, even after I gave up on myself. I have a 3-year-old daughter now, and she is beautiful and smart. You would love her. I have been off all that trash since I turned myself in to you all those years ago. Thank you for everything you have done for me." That is what we do in specialty courts.

These are just some statistics on our different courts [page 12, ([Exhibit C](#))]. The new ones are not on here because they are too new for us to have any numbers on them. This has our number of participants and our graduates. Unfortunately, not everybody is successful. We have a very high-risk population that we deal with and we try hard, but sometimes it does not work out.

Moving on from specialty courts, I want to talk about some of the things we have been doing in the district court [page 13]. We try very hard to make the best use of the resources we have and try to make things better for the litigants who come into our court. One of the things we have begun is a live temporary protective order (TPO) court. I will ask Judge Duckworth to address that.

Judge Duckworth:

We are excited about these initiatives that we have implemented in the past year. In the past, when a victim applied for a protective order, the application would be completed and submitted to the court. By statute, the adjudication of that application would need to take place within one judicial day. By way of example, if an applicant completed an application today, there would have to be a determination as to whether it was granted or denied by the close of business tomorrow. We felt as though there was a way to improve that process and make it more efficient and more expedient, especially for those in that specific need. We implemented a live hearing TPO process. Today, an applicant can complete an application at the courthouse and, within an hour or so, walk in and have a hearing in front of a hearing master and have the application adjudicated immediately on that same day. This provides an exceptional amount of expediency for those individuals who find the need for a protective order at that time. Once the application is filled out, a case is created, a hearing is scheduled, the applicant walks in, and a hearing master makes a determination as to whether the TPO should be granted or denied. If the protective order is granted, the applicant leaves the court room, and the order—which is a full, complete protective order automatically generated from the bench—is then immediately entered into the law enforcement database and sent out for

service. We are excited about this program because it increases the efficiency of the process and provides those who are in need of protection with an immediate resource.

With respect to online dispute resolution, that is a program through the family mediation center. It is the first of its kind in the country. We have received visitors from international destinations who have looked into our online dispute resolution program. The mediation process is started online. It does not replace live mediation.

The family court settlement program is a program similar to the civil settlement program where all of our judges volunteer to hear settlement cases free of charge for the litigants. That is an additional service we provide.

Judge Bell:

Our homicide team was something we established a little more than a year ago because we had that case type spread out over the 17 judges who handle criminal cases, and we were seeing some backlog in a case type that needs a lot of attention. We wanted to make sure we had judges who have experience in handling the most difficult of our criminal case types. Judge Douglas Herndon, who put all of this together, has worked very hard to make this team a really big success for our court. The homicide judges each have about 90 cases, including about 15 capital cases. They have been able to process the cases more efficiently. They have been able to resolve more cases. That has been a great help to that case type where we were seeing significant delays. The jail estimates that we have saved \$1.2 million over the first year of the homicide team just through being able to get cases resolved so people are not staying in the Clark County Detention Center. Thank you for your time and letting us talk about our court today.

Chairman Yeager:

I have one question. I notice there are three vacancies in the Eighth Judicial District Court right now. I am wondering if you know what the time frame is for when those might be filled. I know some of that is out of your control, but I am not sure if you know when they might be filled.

Judge Bell:

It is completely out of our control. All of the applications are in. There is a judicial selection commission that will meet with the applicants and forward three names to the Governor, who has 30 days to select a judge. Once somebody is selected, most need at least 30 days to wrap up their practice area before they can come to the court. I would anticipate sometime around the end of April.

Assemblywoman Backus:

My questions are for Judge Duckworth. Please take a look at page 11 ([Exhibit C](#)). That is where my questions are going to be. On page 11, I see your filings in 2018 were about 17,000. Does that number also include cases that may have been resolved, such as a motion for modification of custody?

Judge Duckworth:

Those are a reflection of initial filings. It is my understanding that it does not include reopened cases.

Assemblywoman Backus:

That may make sense. When I take a look at page 11, I see over 38,000 cases that are currently pending.

Judge Duckworth:

Correct.

Assemblywoman Backus:

Would that number also include cases that have been reopened?

Judge Duckworth:

It includes cases that are currently open, so it would include reopened cases.

Assemblywoman Backus:

Would that number include stipulated filings, such as joint petitions for divorce and joint petitions for custody determinations?

Judge Duckworth:

It would include only those that have not been closed. Joint petitions or stipulated decrees, if they have been closed, would not have been counted as part of the pending count. It is my understanding that this is a year-end number, so cases that have not been adjudicated would be reflected in that number.

Assemblywoman Backus:

I understand you have 14 judges who are handling divorce, child custody, and child support matters. Do you know the average caseload for those judges?

Judge Duckworth:

I do. That is a part of the next presentation.

Assemblywoman Backus:

In that case, I will wait. Thank you.

Assemblywoman Cohen:

Can you give us a little more information about the gambling court specialty program?

Judge Bell:

There has been a statute in place for approximately ten years—it has been quite some time—which allows diversion for someone with a gambling problem. For a variety of reasons, it has not really been implemented in Clark County in any significant way. It did not require a specialty court. However, when we started to look at the issue, we determined it would be

beneficial to start a specialty court. Judge Cheryl Moss, in our family division, has a significant amount of expertise in problem gambling. It is a personal interest of hers, and this is something she has wanted to do for many years. She was very willing to take on the extra responsibility of starting the gambling diversion court.

If someone is determined to have a gambling problem that has led to them committing a crime—it is often things such as embezzling from an employer or some other financial crime where they have stolen money that they then use to gamble—their case is transferred to the diversion court. Judge Moss supervises the participants. She makes sure they are paying restitution, going to treatment, and complying with all of the rules of the program such as not entering into a gaming establishment. They meet with her every other week so she can monitor their progress.

Assemblywoman Cohen:

Can anyone who has a gambling problem get into the diversion program, or does there need to be a stipulation with the district attorney's office? How does that work?

Judge Bell:

In order to get in, the sentencing judge has to make a determination that the person qualifies under the statute. They then do an application to the program, and the program makes a determination about whether they can accept them or not. There are certain things that make it difficult to take somebody into a specialty court program. For example, one of the reasons we might deny somebody is if they have a serious sex offense. It may be difficult for them to go to places where we do treatment or drug testing. The specialty court judges always take a second look before we accept somebody to make sure they are a good fit for a particular program. It is laid out in statute how that works. There has to be a mental health professional who determines the person has a gambling problem, and the determination to send them to the gambling diversion court is made by the district court judge who is handling the sentencing of that individual.

Assemblywoman Miller:

Would that apply for all of the different diversion and specialty courts? Does the district attorney decide, or is it something the defendant can request? Is this something the defense attorney can request? How does that work, in general?

Judge Bell:

There are a complex number of ways that people get into specialty court. Sometimes it is through a request by the defense attorney. That is probably the most common way. Sometimes the judge asks for it. Sometimes it is the district attorney who is suggesting that this person has a drug offense and they might be a good candidate for specialty court so we do not see them back here again. Sometimes it is the probation officer. Sometimes it might be the defendant himself who has heard about specialty courts and is pursuing that. Anybody in the system can make a referral at the appropriate time for somebody to come into a specialty court program.

Assemblywoman Miller:

Considering best practices, research-based principles, and evidence-based programming, where are we with consistency throughout the state? If I go into a specialty court in Washoe County, in Humboldt County, or in Clark County, am I receiving the same programming or is it different?

Judge Bell:

If you walk into any specialty court, you will see they are all different. They all have their own unique personality based on what that specialty court treats. We do work closely statewide. We have a funding committee that meets regularly. We have statewide training every other year. All of us work very hard to do as much as we can to implement best practices. The rural communities have struggles with resources, I think in more significant ways than we do in Clark County. However, we also have our struggles with resources. We all do the best we can given the resources we have to make sure we are implementing the best practice standards. I think you would find that if you walked into Judge Michael Montero's drug court in Winnemucca, it would look very similar to ours in Clark County. It would look more similar than different.

Assemblywoman Miller:

So they are, in fact, being administered in the same way? When it comes to measuring effectiveness, we need to make sure we are "apples to apples." I see there are many veterans here today. I wonder, if I go into veterans court in Clark or Washoe County, would we be able to measure and compare the effectiveness? Would everyone be getting the same programming?

Judge Bell:

I would say not identical but very similar. I have spent a good deal of time in the Washoe County specialty courts, and we have very similar practices in terms of how we handle the day-to-day courts.

Assemblyman Fumo:

Can you please explain to the Committee the role the magistrate judge plays in the Eighth Judicial District Court? How many do you have and what do they do? If you do not get the amount of judges you want, would this preclude you from adding more magistrate judges to help with the caseloads?

Judge Bell:

In district court, we call magistrate judges hearing masters or commissioners. We have 15 of them over the various case types. We have a discovery commissioner, a probate commissioner, and an alternative dispute resolution commissioner. We have two hearing masters in the civil/criminal divisions who handle specialty court dockets, civil commitments, and initial arraignments in criminal cases. We have ten hearing masters in the family division. Three of them handle dependency cases, two of them handle juvenile delinquency cases, three of them handle TPO cases, and two who handle child support cases.

One of the concerns we have for the court is that hearing masters provide an incredibly valuable resource. They cannot always function in exactly the same way as a district court judge. When a hearing master makes a decision, it is subject to objections by the parties that then go to the district court judges. It can cause delays in certain processes. There has also been some concern about hearing masters making ultimate decisions in certain types of matters, such as termination of parental rights. Hearing masters really are a tremendous asset to the court, but the overuse of hearing masters can cause some issues for us. There is not necessarily something that limits us from adding more hearing masters, but I do not know if that is always wise.

Assemblyman Fumo:

By my count, we have 52 district court judges in Clark County. Was it 12 or 15 magistrate judges?

Judge Bell:

We have 15 magistrate judges.

Assemblyman Fumo:

Where is the most pressing need in the Eighth Judicial District Court? Is it family court, civil court, or criminal court?

Judge Bell:

Without a doubt, it is in our family division.

Chairman Yeager:

I do not see any more questions, and in the interest of time, we ought to move on to our next presentation. At this time, I want to move on to our next agenda item, which is a presentation from the Second Judicial District Court.

Scott N. Freeman, Chief Judge, Second Judicial District Court:

First of all, let me share with you that the Second Judicial District Court is always interesting because we cover Washoe County. Part of our jurisdiction can go from Gerlach to North Lake Tahoe and all of Reno. We have a lot of different issues and a different population than Clark County. Our mission statement is on our presentation for your review ([Exhibit D](#)). We try to strive to comply with our mission statement [page 2], both in general jurisdiction and in family court. That is the theme of our presentation this morning.

We have 15 judicial departments [page 3] in the Second Judicial District Court. We have nine general jurisdiction judges and six family court judges. We currently have one vacant position in our family court. Our general jurisdiction judges are in the historic courthouse in downtown Reno [page 4]. We have a relatively new courthouse where our family division is located. The Reno Municipal Court is located there as well; they share that building, along with the Reno Justice Court. Our general jurisdiction district court judges are in the historic courtroom.

As Judge Bell indicated, we have the same type of general jurisdiction [page 5]. We have nine elected judges. We have two masters: one who assists in probate, and one in discovery. We have jurisdiction in civil and criminal cases. When people ask what kind of judge I am, I say, "If you get a traffic ticket, and you do not like what the traffic judge does, you will appeal it to me. If you do not like what I did, you will appeal it to the Nevada Court of Appeals or Supreme Court of Nevada." That is a good definition of what a district court judge is for me. In terms of the trial level, we hear all of the jury trials.

In our family division [page 6], we have six elected judges and five masters. Currently, one master position is held vacant to exchange for our requested new judge pursuant to Assembly Bill 43. We will talk about that later, but we have a vacancy in our family court masters—what Assemblyman Fumo called magistrates. We call them court masters, but it has the same type of effect. It is a judicial officer who has tremendous responsibility but does not have the same responsibility as a district court judge. They are very helpful, and are significantly helpful in the family division.

In 2018, the Second Judicial District Court had 19,159 new and reopened cases [page 7]. You can see the division of filings related to different categories. Our family division has a significant amount of cases. The majority of cases are filed in family court.

Our next slide [page 8] shows that spike in 2018. Keeping it statistically honest, you will see the upshot: an 8 percent increase in new family court cases over the last fiscal year. That is very significant. Other cases have remained fairly consistent, but family court cases have really spiked. As far as our workload in 2018, we had 37,534 orders issued, 30,924 hearings, and 16,842 cases disposed of [page 9]. For various reasons, we did not have a complete set of judges or masters for all but nine weeks in 2018.

Our next slide [page 10, ([Exhibit D](#))] shows additional court responsibilities. In addition to the types of responsibilities the public sees in the filing office, we have other responsibilities. Those include human resources and fiscal responsibilities, which are necessary for the court to function well. I have given you a list of the different services we have in the Second Judicial District Court, which are critical for our service to the public.

In 2018, 35,332 patrons were assisted by telephone and 58,276 patrons were assisted in person [page 11]. These are some of our statistics to show you how we are serving the public the best we can in Washoe County. We are proud of those statistics.

To give you additional information regarding our jury trials, I gave you statistics related to short trials, civil trials, and criminal trials [page 12]. For those who do not know, we have a short trial program in our court. That is a way that litigants can get into court where each side has three hours to present their case. There are only four to six jurors, and the jurisdictional limit may not exceed \$50,000. We thought that was a good statistic to show you that we are using the short trial program to our advantage to move litigation along and give people access to justice.

We are very proud of our language access [page 13]. We have an interpreter program. We do not turn anyone away based upon their language. We have different access points where people can access interpreters. This includes our filing office, our self-help center, the law library, and the protection order help center. That is very significant because as we have a moving population, our court is attempting to be a leader in interpretive services. We are looking into interpretive services for jurors who want to serve but whose primary language is not English. Interpreter services are very significant in our court.

I am a firm believer that specialty courts are the courts of the future [page 14]. I do not have any specific statistics, but I will tell you that over 90 percent of the cases I hear are alcohol and drug related. When you talk about the real criminals, it is a small percentage. The type of crimes we see people commit, in the majority of circumstances, are drug and alcohol related. Why did you steal the car? "I was high." Why did you break into the house? "I was high. I am not high anymore." Well, there are consequences for your behavior. Specialty courts provide that outlet so people are able to identify the fact that they may not be as bad as the worst things they have done. We are very proud of our specialty courts in Washoe County. Judge Bell did an excellent job of defining what they are.

I am the Youth Offender Diversion Court administrator. I oversee individuals from 18 to 24 years old who are heroin addicts. They are out of the juvenile system, and we make a significant difference with them. We also have a Medication Assisted Treatment Court. We have over 1,200 people who participate in specialty courts; 328 of them have successfully graduated.

On our next slide [page 15] you can see the success related to people who have not been arrested. People who did not graduate also have not been arrested. There are individuals who may have not successfully completed the program, but they were arrest-free. They got it along the way even though they did not successfully graduate. We are very proud of those statistics as well.

One of our family services departments operates the Family Peace Center [page 16]. We find that to be very innovative. Our Family Peace Center is a small location inside the courthouse where children and their noncustodial parents can visit while supervised. Usually this is needed because there is some sort of violence or neglect against the custodial parent or the child. Supervised visitation and exchange programs fill an important need in our community. The Family Peace Center provides a safe space for maintaining relationships or reestablishing contact between children and parents when visiting rights have been interrupted or it is unsafe after separation or divorce. By making safe contact between a child and a noncustodial parent during pending legal proceedings, important family relationships are preserved and maintained.

Our budget is around \$29 million. Some is through grants for specialty courts [page 17]. The rest of our funding is from our General Fund budget.

I leave you with this graphic [page 18, ([Exhibit D](#))], which lists some of the many stakeholders and partners of the Second Judicial District Court. Their participation and assistance is critical to ensuring we are all serving the public with excellence at all times. I would be remiss not to thank them, albeit collectively. It is a humbling and rewarding experience to serve as a judge in the Second Judicial District Court, and even more so as the chief judge of the district. I am available to answer any questions.

Assemblywoman Torres:

I was reviewing some of the material before we got into this hearing today. I know that creating these positions is, in some way, an unfunded mandate because of the costs of your court marshals, clerks, and the various individuals who work in the system. I know you have been working with different counties. I saw a letter of support from the Elko Board of Commissioners, but I am not seeing one from Clark County. I am wondering where Clark County is on this issue.

Chairman Yeager:

Assemblywoman Torres, if I could have you hold that question because we are not on the bill presentation just yet. We will have a presentation on Assembly Bill 43 where folks can weigh in on that. Hold onto that question for now. If it is not answered, we will give you a chance to ask it again.

Assemblywoman Torres:

I apologize, Chairman, I got too excited.

Assemblywoman Nguyen:

Judge Freeman, you had mentioned the Youth Offender Diversion Court. I love that court, by the way. I am wondering how many participants you have in that court right now.

Judge Freeman:

I just brought a new one in on Monday. Right now, there are between 12 and 18, depending on the circumstances. I have two graduations on Monday, and I brought a new one in who is the brother of another offender. It was a family affair of heroin addiction, so we are getting to the bottom of that.

Chairman Yeager:

Are there any other questions? [There were none.] Now, we will move on to the first bill on the agenda this morning. I will formally open the hearing on Assembly Bill 43.

**Assembly Bill 43: Increases the number of district judges in certain judicial districts.
(BDR 1-498)**

James W. Hardesty, Justice, Supreme Court of Nevada:

Assembly Bill 43 is from the Supreme Court of Nevada. It comes through one of the Supreme Court's bill draft requests. Under Article 6, Section 5 of the *Nevada Constitution*, the Legislature has the authority to increase or diminish the number of judges within the

districts of the judiciary. We come to you this year with requests for one new family court judge in the Second Judicial District, an additional judge in Elko County, and we have amended the bill to reflect six family court judges in the Eighth Judicial District. Anticipating Assemblywoman Torres' question, all of the requests have the support of each county commission. You will hear that confirmed on the record today. The Supreme Court of Nevada vets all of these requests through the Judicial Council of the State of Nevada. The Supreme Court endorses the work that has been done by each of these courts to seek these additional judicial services.

I would like to compliment the judges for their creativity, imagination, and innovation in trying to bring these issues about. I want to thank the county commissioners in each of the counties with whom we have all worked very closely in order to arrive at a consensus about the need and the way these would be funded at the county level. You do not need to hear from me; you need to hear from the district judges themselves. I have asked Judge Freeman to present on behalf of the Second Judicial District. Judge Kacin and Judge Porter are here from Elko. Lastly, we will ask Judge Bell to return to the dais and introduce the request and the needs of the Eighth Judicial District. Assemblyman Ellison is also here to support this request. I know he has another hearing. So, Mr. Chairman, if you would not mind hearing from Assemblyman Ellison first, that would be helpful.

Assemblyman John Ellison, Assembly District No. 33:

I am here to show support for A.B. 43. I was kind of shocked. Elko County is having a hard time with these unfunded mandates. However, the judges went out with some of the commission and apparently found the money they needed. This position is much needed in Elko. There is no doubt. There are so many cases that they are having a hard time keeping up with them all. It was nice to see that Judge Nancy Porter and Judge Al Kacin from the Fourth Judicial District jumped in there to find ways to help fund this judgeship. I know that eventually the crunch is going to be over. I know we are looking at three more unfunded mandates back in Elko County. I think they can handle this quite well. I am really shocked and honored that they could go and look outside of the box to find the funds they need. Elko County did send a letter in ([Exhibit E](#)). It is on the record in support. I appreciate that, and I wanted to come down to say that we support it, I support it, and I look forward to seeing that position added.

Chairman Yeager:

Thank you for your testimony, Assemblyman Ellison. I know you have other places to go. Members, if you have questions for Mr. Ellison, feel free to ask him when you see him in the building. Judge Freeman, would you like to go next?

Scott N. Freeman, Chief Judge, Second Judicial District Court:

I am the Chief Judge of the Second Judicial District Court in Washoe County, Nevada. Thank you for the opportunity to speak on behalf of A.B. 43, through which we are seeking funding for one new district court judge in our family division.

The Nevada Legislature created our family division in 1991 after statewide voters approved a ballot measure in 1990. Since then, family court judges have been using their expertise to address critical family matters and improve outcomes for our families. Our judges work with community stakeholders, including local government, members of our Washoe County Bar Association, Washoe County School District, Washoe County Human Services Agency, and community health clinics and nonprofits to target the needed support for litigants.

The workload in family court has increased since 2007 when we last requested two new family court judges. In the last 12 months, our six family court judges, with support from family court masters, oversaw in excess of 13,000 new or reopened cases. Last year, our family court judges issued over 21,600 orders; and, in conjunction with family court masters, conducted in excess of 26,500 hearings and closed over 2,172 cases. However, those numbers do not reflect the impact of changes in the work of the family court in Washoe County since 2007. Some of those changes include, but are not limited to:

- A population growth of nearly 10 percent in the last nine years.
- A 40 percent increase in the need for court interpreter services for litigants with limited English proficiency.
- Substantial requirements for more specific written judicial findings in family law cases imposed by legislation and Nevada Court of Appeals and Nevada Supreme Court rulings in the past 12 years.
- More substantive legal requirements and oversight responsibilities now required in guardianship cases.
- Enhanced due process protections for proposed protected persons and children which appropriately dictate more frequent and longer hearings.
- Termination of parental rights (TPR) cases are often referred to as the "death penalty" in family court. These cases may only be overseen by district court judges because the Nevada Supreme Court recently ruled that only a district court judge, not a court master, should hear TPR cases. In the past 12 months, our TPR cases have increased by 60 percent with 294 filings.
- Our mental health commitment cases have grown by 66 percent in ten years, with 2,700 new petitions filed annually. Our court initiated an assisted outpatient treatment program with Northern Nevada Adult Mental Health Services to provide comprehensive community-based outpatient treatment to adults. With court oversight, they are able to lead safer, more stable, and healthier lives in the community.

These are a few of the heightened demands placed on our family division. The district has taken immediate steps to address these added challenges. They include:

- The implementation of a senior retired judge settlement program to assist family court judges with settlement conferences.
- The creation of expedited dockets for preliminary family cases to triage and resolve simple matters early.
- I issued an administrative order providing emergency general jurisdiction district judge assistance to the family division by pairing family court departments with general jurisdiction departments to create backup for each family court judge.
- We temporarily transferred the adult guardianship and some juvenile cases to general jurisdiction to additionally assist the family division.

None of these efforts is a long-term remedy. Right now, the addition of one family court judge will help us address our immediate exigent challenges in serving families in Washoe County.

In requesting this singular new judge, the court is mindful of the costs associated with adding new judicial resources. Therefore, the court has agreed to eliminate a currently vacant family court master position in exchange for the one district family court judge we are requesting to allow a broader jurisdictional range of authority and oversight in all family court cases. The new judge will utilize an existing family court master courtroom and office space and existing family court master clerks and bailiffs. By eliminating the vacant family court master position, we can use that money to fund necessary judicial support staff. With this proposal, we have support of the Washoe County Commission, our County Manager, our stakeholders, and the Supreme Court of Nevada.

Thank you for this opportunity. We respectfully hope you look favorably upon this proposed legislation so we may honor our mission to deliver fair, efficient, and effective justice in our family division. I am available to answer any questions.

Assemblywoman Backus:

One thing I was hoping you would touch on in your presentation that I did not hear is what the average caseload is for each family judge in Washoe County.

Judge Freeman:

I cannot give you a specific caseload statistic. I can share with you that each family court judge in our business unit has a responsibility, although some of our family court judges do divorce and custody cases. For example, Judge Cynthia Lu hears dependency cases specifically. As we do the division, it is not divided by the six that we have. In our business unit, they each have responsibilities. I apologize—I do not have the exact statistic for their departments, but that is how our business unit works. It is not one where everyone oversees everything. They are specialized.

Assemblywoman Backus:

If Judge Lu is handling the dependency cases, are the five remaining judges in the family court handling other responsibilities? Is it all the typical divorce or child custody cases, or is one handling something such as mental health?

Judge Freeman:

The answer is yes. They will hear the traditional divorce and custody cases, but Judge Lu is the only one who is of that docket, so to speak, because of the number of cases that are required for her to oversee. She also hears the mental health docket as well as other matters. The most important thing is the increased population we have had and the incredible amount of workload that is required. We had to creatively come up with a way to find room. We had a vacancy of a court master, and it was a very pleasant surprise for the County Commission to know that we could just sort of flip-flop one position for another with no additional cost for the support staff.

Chairman Yeager:

Are there any other questions for Judge Freeman? [There were none.]

Nancy Porter, Judge, Fourth Judicial District Court:

It has been interesting listening to these presentations from Clark County and Washoe County. In many ways, our smaller jurisdiction is similar to the things that happen in those courts, but in many ways, our court system is different. We are not divided by a family jurisdiction court and a general jurisdiction court. We are a general jurisdiction court. We do have some specific divisions of cases that we have made to try to promote efficiency. Generally, we are a Jack and Jill of all trades. We hear everything from child support to murder cases and all kinds of things in between.

The most important statistic we have for you today is that the Fourth Judicial District Court went from one judge to two by legislative action in 1987. That new judge came into office on January 1, 1988. Elko County's population has boomed significantly in those years. I was born in Elko County. It was a tiny town. I grew up there. Now we have approximately 53,000 citizens. When I grew up, the county population was about 8,000. That is quite a change. Since 1987, the county population has increased by 119 percent, but we still operate with two judges. I hear 30 to 35 cases every week, and I am sure Judge Kacin does as well. Even if we have a jury trial, we are still hearing 20 to 25 cases in addition that week. That leaves us very little time to work on any complicated issues. Not everything can be decided from the bench. We have to do legal research. We write orders. We have really hit a time crunch at this point in trying to get everything done that needs to be done.

Alvin R. Kacin, Judge, Fourth Judicial District Court:

I would echo everything Judge Porter said. I would also adopt a lot of the comments that were made by Judge Bell and Judge Freeman in their presentations about specialty courts. It is an honor and a privilege to be a judge in the Fourth Judicial District Court.

We have taken measures to process the caseload as best we can. We came into office in 2012. Both of us were appointed by the Governor in 2011. We wanted to get a feel for what the caseload was like, although we had a sense from the bench and the bar that we did need more district judges. We wanted to test it out for ourselves. After eating the pudding, we realized we cannot consume any more, so to speak. We feel very comfortable coming in front of you today. We do appreciate the support from our Assemblyman, Mr. Ellison. As you have heard we have unanimous support from the Elko County Commission. They have certain concerns, as you have heard, about budgeting. However, we have assured the Commission that we are willing to work with them to help fund the support staff that will be needed for this new position. I believe we bring—between the justice court and the district court—a substantial sum of money to help retrofit our courthouse, which is very old. It is 110 years old now, I believe. We can retrofit it to accommodate the new judge and really make this work. We have been commended very much by the Commission for our efforts in seeking to make this work financially for the county, including sharing bailiffs between the justice court and district court. Of course, we are open to other suggestions. I think that is how we have the unanimous support of our Commission.

Judge Porter:

I would also like to inform you that we have the unanimous support of the Elko County Bar Association, the North Central Regional Judicial Council, and the Nevada District Judges Association. We have given a presentation to all of those groups, and they understand the need for this new position. I would like to give you a couple of real-world examples about how this affects the people in Elko County. Each of us are scheduling three or four jury trials every week. Behind those jury trials are scheduled other civil matters that need to be heard if the jury trials do not go ahead. In Department 1 just the other day, I had a complicated guardianship case. I hear nearly all of the guardianship cases. It was a teenage boy who was troubled and there were different people vying for guardianship of this boy. I had a quick, one-hour hearing that needed to be done immediately. To have a full-day hearing, we have had to schedule that for the end of July. This young man and the people who are interested in caring for him are not going to be able to get a resolution for that long because there is simply nowhere else we could fit in a full-day hearing. I am scheduling things now for 2021. In the bigger jurisdictions, that is probably common. However, in Elko County, it is rather new to be doing something that far out. Judge Kacin also has a real-world example of how this is affecting children in our community.

Judge Kacin:

I am the juvenile judge. As you all might know, there has to be an appointed juvenile judge in each judicial district. When I took the Department 2 seat, I took over for Judge Andrew Puccinelli. Termination of Parental Rights actions are being set out way too far, and that is what is really concerning me. That is the bottom line. As I am sure a lot of you are aware, we have federal guidelines that are well-reasoned to get children into permanency as soon as possible, either back with the parents or on to adoption, hopefully. Due to the criminal caseload and other factors, we are having a really hard time setting those hearings and getting them done. They take a lot of time. I do not have any statistics about how many cases are like that. I am going to speak more anecdotally today, but it is happening in Elko County.

The other thing I would like to point out is that we do have one court master in Elko County. He helps us and does a very good job. His name is Andrew Mierins, and he helps us with the child support caseload, the juvenile delinquency caseload, child in need of supervision caseload, and the child welfare cases. He is running full bore as well. We are processing those cases as best we can with him, but we do not have additional court masters or a whole lot of other support staff. We each have one law clerk. We just got the salary bumped up on that, so we are attracting more applicants these days out to our neck of the woods, which can be tough. That is where we are as far as support personnel, just in case you had any questions about who works for the district court.

Judge Porter:

Over the seven years that we have been on the bench, we have made changes in our court system to try to handle a lot of cases more efficiently and quickly. We have shuffled staff around. We have asked the justice court to take over the temporary protective orders, which they have. Despite these efforts we have made, we still cannot keep up with the growing caseload. Our statistics in terms of cases the last few years have remained relatively steady. They spiked, I believe, in 2015. However, the cases are becoming more complicated as well. Right now, we both have several medical malpractice cases. It was not that way seven years ago. As you might imagine, those can become quite complicated.

There are the new statutes for guardianships, as Judge Freeman mentioned earlier. I sat on the state guardianship commission, and I had a hand in getting some of those statutes written and presented as a bill. Those cases require quite a large amount of time to oversee, and they are very important. Those are vulnerable children and vulnerable adults. It is important that there be court oversight to make sure those guardians are doing what they are supposed to do.

We also have specialty courts, as the other judges described. Those take quite a bit of time, but I find that to be a very important part of my job as well and I really enjoy that. We have had quite a bit of success in those programs. These specific issues we are addressing were not present in 1987 when Elko had one judge. There are quite a few more responsibilities that judges have now than they had 30 years ago.

Judge Kacin:

One of the things we really would like to see and we would be able to accomplish if we had a third judge is actually working on more court projects to improve the system for the people we serve, including developing new court rules and working on other projects, such as developing a mental health court. I want to underscore that we do not have all of the specialty courts that they do in the major metropolitan areas. That is something we aspire to, even though we do not have quite the same resources that they do, although they have resource issues as well. We would like to work on a mental health court. We would like to work on a veterans court so that we can deliver better justice for the people in our community. We need to do that. Of course, to do that, we have to get our head out of our caseload a little bit and start working on these improvements. I think that is a main reason

why I am here to support this position. That is a main reason why I jumped on board and brought it to the Commission, and now you. Thank you for hearing us out today. If you have any questions, we will be happy to take those.

Chairman Yeager:

Thank you for traveling here from Elko today to provide your testimony. Are there any questions before we move on with the presentation? [There were none.]

Justice Hardesty:

Now, Mr. Chairman, we will turn to the presentation by the Eighth Judicial District Court.

Linda Marie Bell, Chief Judge, Eighth Judicial District Court:

Our initial request for judges was 15; as you see, we have amended it down to 6 ([Exhibit F](#)). I would like to start by thanking our county commissioners and county management for working with us on priorities of the court for our community, and understanding the fiscal impact of adding judges to our county to come to a number that we can all agree on. When I was first appointed Chief Judge back in July, we started doing an analysis of what the needs of the court were [page 2, ([Exhibit G](#))]. In 2021, it will have been ten years since the last new judge was added in Clark County. In that time, our population has increased by 25 percent. The projections are about 2.4 million people in 2021. This creates some significant burdens on our court. We did an additional analysis and determined that what we really need to be fully staffed is 15 judges: 9 in the area of family where we have significant need, and 6 in our civil-criminal arena where we have become more specialized as time has gone on. We have business courts and construction defect courts. In our large urban area, we are becoming more specialized as judges to deal with the complexity of cases.

As Judge Kacin and Judge Porter mentioned, for all of us, cases have become more complex over time. Some of the things we were concerned about were the increase in our homicide filings [page 3]. Those have gone up, unfortunately, 25 percent since 2011. We have dealt with that by adding a homicide division which pulled away two full civil judges. We felt that was a critical need for our community. In fact, we need to add additional resources there.

Additionally, civil commitments have gone up tremendously [page 4]. In the last year, we have seen a small reduction in the filings. We attribute that to our phenomenal hearing master who is handling those cases and has done an excellent job of working with the hospitals to ensure the petitions are being filed appropriately and the cases we have in front of us are the cases we should have. That is really a dramatic increase: 86 percent over the last ten years in terms of civil commitments. That is a big concern for us because when someone is civilly committed, they lose all of their rights, even more than somebody who is in custody, because they lose the right to make any financial decisions as well as their liberty. We take that case type very seriously and have worked hard to make some improvements there. That was another area of concern for us.

We also have concerns, as Assemblyman Fumo highlighted with his question about the overreliance on hearing masters in some time-sensitive areas, including dependency, civil

commitment where there are issues regarding forced medication—we have an objection period, and it creates some delays—and arraignment court where we have a hearing master dealing with a very critical part of criminal proceedings. Those were some of the things that went into our initial number.

Our clear priority is our family division and access to justice for children and families in the Eighth Judicial District Court.

In working with our county and getting to the number of six, our priority is to replace the three dependency hearing masters with district court judges. That would ensure that our most vulnerable population, those children who are in the child welfare system, are moving through the system as quickly as they can without delay. Also, when TPR decisions are made, they are final. We are not doing anything to create issues for those kids. I am going to ask Judge Duckworth, who presides over the family division, to talk about the specifics of our request as it relates to the family divisions.

Bryce C. Duckworth, Presiding Family Chief Judge, Department Q, Eighth Judicial District Court:

These next two slides [pages 5 and 6, ([Exhibit G](#))] really go to the questions asked by Assemblywoman Backus. The first slide is a graph which shows the growth, not only in the filings, but the reopened cases [page 5]. That is an important question. I think it is important to recognize that as cases are filed in the family division, there are unique cases that often have a life that goes beyond the final decree that is entered. They reopen frequently. As more cases are filed, the reservoir expands, and the reopened figures begin to rise as well. You can compare the number from 2011, which is approximately 11,500, to the 2018 numbers.

Again, the next slide [page 6] answers Assemblywoman Backus' question. It is the per-department filings. That goes through 2017. I will add that in 2018, the total civil/domestic filings were 63,650. If you divide that by 14 departments, the number is 4,546, so it is a little bit lower than 2017, but still a high number in comparison to where we have been. What is important to recognize on that graph is that we added five new departments in 2009. We went from 13 family division judges to 18 family division judges. I have had the privilege to serve since that time. I took the bench in 2009, and it has been an honor to serve in the family division since that time. In 2009, when those five new departments began, they were all assigned civil domestic dockets. They were not assigned to juvenile delinquency or dependency. Two new judges were also added in 2011, and you see that on the graph as well.

What you will also see is a reflection of judges that we have reallocated from civil/domestic. When I took the bench, we had one district court judge who oversaw juvenile dependency. We have essentially tripled that number, out of need, to three dependency judges. Those were taken away from the civil/domestic docket.

We have also reallocated two district court judges to minor and adult guardianships. Again, those judges came from civil/domestic dockets. Apart from the population growth, the filing growth, and the increase in reopened cases, we have reallocated four of the five positions that came on board with me in 2009, which was much needed. I think it was a necessary reallocation of resources. By adding the three district court judges to handle the dependency docket and also three civil/domestic departments, in some respects we have returned to where we were at back in 2009 when I took the bench.

Judge Bell:

The issue of space is a big one for us [page 7]. Fortunately, with the agreement for our municipal court to build their own courthouse, we will have room in the Regional Justice Center to house the new judges. We have been able to resolve the space issue, at least as it relates to our request for additional judges and the number we have agreed on. That was another factor in our agreement with the county for the number that we are requesting. We appreciate the Legislature considering our request for additional judges. It will improve access to justice for the members of our community in the very important areas dealing with children and families.

Assemblyman Roberts:

This question would be for Judge Duckworth. I live in Clark County. I have been involved in the criminal justice system. I know there is a definite need for increased judges. In your presentation, you have a 29 percent increase in family court filings, but you are asking for a 45 percent increase in our judges. I know you talked about reallocating some of the judges to other courts. Can you explain the significant increase for the filings?

Judge Duckworth:

As I indicated, we have seen the growth over time. In terms of the number of filings, you are right. It is a 29 percent increase. However, if you look at the cases per judge, there has been an increase of approximately 40 percent simply because we have made that reallocation of resources. The civil/domestic arena is the arena from which we are always taking judges to cover the other divisions. Instead of two civil/domestic departments covering those types of cases—divorce and custody—they have been reassigned to juvenile dependency. Similarly, there was a great need to make sure we dedicated sufficient resources to handle guardianship. We have dedicated two district court positions for guardianship. Again, those came from civil/domestic dockets. Apart from the 29 percent growth in filings, there has been somewhat of a regression in terms of the resources we have had to cover civil/domestic. In reality, we are returning to the levels we had in 2011 in terms of district court judges overseeing civil/domestic departments. We are still below that level. Even if we add the three judges, we are still higher than where we need to be on a per-judge calculation.

Assemblyman Edwards:

Running the numbers as you just did with 60,000 cases and 14 judges with a 2,080-hour work year, you basically have about 30 minutes to hear each case, and that is if you are not coming here to committee hearings and a whole lot of other duties assigned to judges. What would be the average amount of time that you can actually dedicate to a case right now?

Judge Duckworth:

That is an important question, and that is one reason why we are making the request for more judicial resources because of the time allocation. A typical morning calendar for me would include four motion hearings per hour beginning at 9 a.m. I would also have an uncontested calendar at 8:30 a.m. I would schedule four hearings at 9 a.m., four at 10 a.m., and generally three at 11 a.m., with a trial set for the afternoon. To get to your question, in theory, each case has 15 minutes of law and motion time. That is an incredibly short amount of time for the types of cases we are dealing with, and sometimes cases will go shorter or longer. It varies, but that is the typical morning docket on my law and motion calendar with a full civic/domestic caseload. It is not enough time.

Assemblyman Edwards:

That leads me to my final question: are you asking for enough judges? Should you be asking for more? I ask that in all seriousness because if I come before your court, I do not want to be rushed in and out and not get my fair day in court. With twenty minutes to hear some of these cases, it seems to me as though you need a lot more resources than what you are asking for.

Judge Bell:

Our initial request was for 15 judges. We agree that we could use significantly more judicial resources than we have. One of the reasons we have not asked for judges for the last ten years is because we were concerned about the economy and about coming to the Legislature and making that request when everyone was in such bad shape financially. We have worked very hard with our county to identify our most critical needs. This will definitely help us. It is something that our county will be able to manage financially.

Chairman Yeager:

Are there any more questions? [There were none.] At this time, I will open it up for testimony in support of A.B. 43. If anyone would like to testify in support, either in Las Vegas or here in Carson City, please come forward.

Alex Ortiz, Assistant Director, Clark County Department of Administrative Services:

I am here in support of A.B. 43 with the proposed amendment from the Supreme Court ([Exhibit F](#)). With me today in Las Vegas is our Assistant County Manager, Jeff Wells, who has been working on our behalf in talks with the district court and Supreme Court. I would like to defer to him to continue testimony.

Jeffrey M. Wells, Assistant County Manager, Clark County:

I know that when I served years ago as a legislator, I was always pleased to have the parties come to an agreement. I am pleased to tell you that the Clark County Commission and Clark County management is in support exactly as Justice Hardesty said, with the addition of six family district court judges. Three of those would be added to their civil/domestic unit. Three of those would be added to the dependency unit. That brings the total up to six judges.

I had the pleasure of serving on the Supreme Court's Blue Ribbon for Kids Commission a few years ago. One of the things we talked about repeatedly was "one family, one judge." By adding these three judicial officers in place of the hearing masters, we can accomplish that goal. We are pleased to show our support today.

Jaime Rodriguez, Government Affairs Manager, Washoe County:

On behalf of Washoe County, we come here in support. I want to thank the Second Judicial District Court and Judge Freeman for putting on the record our agreement to allow for this new judge to come in with a minimal fiscal impact to the county. It is something that we have agreed upon. As stated, both my County Commission and my County Manager are in full support of that agreement.

Bailey Bortolin, representing the Legal Aid Center of Southern Nevada:

I represent the Coalition of Legal Service Providers. We want to thank all of the stakeholders, the Supreme Court, the judicial districts, and the counties for working on this. We would like to highlight how important this is for our kids in foster care. This bill will stop delays in permanencies and adoptions for children. The Supreme Court of Nevada has held that hearing masters cannot hear TPRs, but they hear many other aspects. Whenever a hearing master is assigned to that kid, it really delays permanency in all aspects because of the way the system is set up with appeals.

In the short term, that has led to a child being stuck in congregate care over Christmas waiting for that appeal to be heard. In the long term, for example, we have a little girl who was brought into care in 2014 when she was five years old. Her parents' rights were first terminated in 2016, which should be the end of the case. Due to all of the appeals over the legality of hearing masters, she is still in foster care and still waiting for that permanency and adoption that should have come three years ago. We do feel this will be very impactful for our kids, and we urge your support.

Bridget E. Robb, Presiding Family Division Judge, Second Judicial District Court; and President, Nevada District Judges Association:

I am here specifically in support of this bill with regard to Elko County. Judge Kacin and Judge Porter came to our annual meeting of the Nevada District Judges Association. They gave us their presentation, they asked for a vote, and the vote was unanimous. I promised them that, as president, I would come here and express that to the Committee.

Bradley Keating, Director of Government Relations, Community Engagement Unit, Clark County School District:

We at the Clark County School District (CCSD) recognize the need and importance of having adequate judicial resources in our community. Passing A.B. 43 would enable the justice system to decide child welfare, juvenile justice, domestic violence, and custody cases efficiently and timely, all of which directly benefits our students and teachers. Finally, I want to highlight the family court truancy diversion program, which is a program that CCSD and the Eighth Judicial District Court have been jointly operating for several years. It has been a huge success. We are addressing truancy and reducing the number of youth entering

the juvenile justice court system by utilizing volunteers in our community. We are proud partners of this program. We appreciate the court's effort in helping the school district address our absenteeism issues, and we are in strong support of A.B. 43.

A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

On behalf of the Las Vegas Metropolitan Police Department, we are in support of this measure. Anything that relieves the stressors that can be brought on our community by the justice system is going to be in our benefit as far as not making decisions that would lead people back to the police. We are certainly in support of this measure.

Chairman Yeager:

Is there additional testimony in support of A.B. 43? [There was none.] Is there any testimony in opposition? [There was none.] Is there anyone neutral on A.B. 43?

Stephanie O'Rourke, Deputy Chief, Division of Parole and Probation, Department of Public Safety:

We are neutral on this bill. However, we recognize that with the additional judges, this could increase criminal calendars. That could have a potential increase on our presentence investigation production and the need for more presentence investigation writers. We have not submitted a fiscal note yet, as we are not sure how impactful this will be.

Chairman Yeager:

Is there additional neutral testimony? [There was none.] I will invite whomever would like to come up to give concluding remarks on the bill.

Justice Hardesty:

We really appreciate the patience of the Committee in listening to the presentations. Hopefully they have been informative. I think they demonstrate a lot of work by the district court judges in our state, especially these three districts, to develop innovative ways to deal with very difficult and complex issues. There is no question that these additional judicial resources are necessary and needed. Assemblyman Edwards' point is well taken. Quite frankly, the judges work long hours to be able to accomplish these objectives. We invite any member of the Judiciary Committee to come to court any day and watch a judge's work to learn firsthand exactly what they experience. I think you would be very surprised, and I trust you would be very impressed. We urge the Committee to support A.B. 43. We would be happy to provide any additional information that you may need in your evaluation. Thank you for your time.

Chairman Yeager:

Thank you to all who came to Carson City today to testify and to those who testified in Las Vegas. I will now close the hearing on Assembly Bill 43. I am going to turn this meeting over to our Vice Chairwoman, as I will be presenting the next bill.

[Assemblywoman Cohen assumed the Chair.]

Vice Chairwoman Cohen:

I will now open the hearing on Assembly Bill 222.

Assembly Bill 222: Revises provisions relating to specialty courts. (BDR 14-842)

Assemblyman Steve Yeager, Assembly District No. 9:

Assembly Bill 222 deals with veterans court and mental health court. The veterans court was first established by then-Speaker Barbara Buckley in the 2009 Legislative Session. That legislation resulted in the formation of the veterans court program that can now be found in *Nevada Revised Statutes* (NRS) Chapter 176A, sections 280 through 295. The way the bill was originally drafted and passed was essentially that the prosecutor had a veto power if the crime involved violence, the threat of violence, or if an applicant had a previous felony conviction for violence. Essentially, if a prosecutor did not agree that such an individual should get into veterans court, the person, by statute, was not eligible for veterans court. Over the last several years, the veterans court statute has been modified. Last session, this legislative body expressly authorized the courts of limited jurisdiction—the justice courts and municipal courts—to operate a veterans court. Truthfully, they were already operating veterans courts before that, but that change expressly allowed them to do it. Additionally, last session, the statute was opened to allow additional offenders into the veterans court program.

So, why are we here? Earlier this year, the prosecutor's veto power in statute was challenged in court and the case went all the way up to the Supreme Court of Nevada. The Supreme Court ultimately decided that the assignment to specialty court—meaning the judge's decision whether to send somebody to a specialty court—was a sentencing decision, and the prosecutor's veto power violated the separation of powers doctrine. The executive was not allowed to override a judicial decision. Rather than strike down the entire veterans court statute, the court determined the statute was severable, meaning divisible, and simply deemed the part about the veto power unconstitutional. That case was *State v. Second Judicial District Court* 134 Nev. Adv. Op. 96 (2018), also known as the *Hearn* case. I have uploaded that to Nevada Electronic Legislative Information System (NELIS), as I know some of our Committee members like to dive into judicial decisions ([Exhibit H](#)).

What does this mean as a practical matter? As it stands right now, this means that nobody whose current offense is violent or who has a prior violent felony can get into veterans court. They are categorically excluded. This is for the Eighth Judicial District Court in Clark County. I do not have statistics for the rest of the state yet, but of those who are currently in the veterans court program, 49 percent of them would not have been eligible if this opinion had been in play before they applied. That is 49 percent who are now in the program. That is 51 people who would not have been able to get into the program. Since the court's opinion came down in December of 2018, the veterans court had to rescind an acceptance letter that was sent to an applicant. A full 76 percent of those who have applied to veterans court have been denied solely on the basis of the Supreme Court's opinion. Now, the opinion did not deal with mental health court, but the mental health court statute is drafted in a similar way.

Therefore, the same logic likely applies, though it has not been challenged in court. Just by way of reference, of the 145 participants in the Eighth Judicial District mental health court, over 80 percent would not have been eligible for the program had this court opinion and this restriction been in place.

I am not here to debate the merits of the Supreme Court's opinion. It is what it is, but I feel as though it is something that needs to be fixed and needs to be fixed right away. Indeed, the opinion itself invited the Legislature to take this issue up. I want to read one sentence from the opinion. On page 11, the court wrote "While we recognize that severing the language allowing a violent offender to be assigned to the program upon the prosecutor's agreement impedes the Legislature's secondary goal of allowing some violent offenders to be assigned to the veterans court, it is for the Legislature, not this court, to remedy this impediment." Here we are to remedy this impediment.

This is a pretty straightforward bill. There are not a lot of changes to the actual language. What the bill does is say that if your current crime is a category A felony, you cannot get into the veterans court or the mental health court. We talk a lot in the Committee about what the different levels of felonies are. On NELIS, you will find a fact sheet which lists out all of the category A felonies ([Exhibit I](#)). There are quite a number of them, and they are the most serious felonies in our system. They include things like murder, sexual assault, and kidnapping. If your current charge is one of these, you cannot get into veterans court or the mental health court. That is what the bill says.

What does this mean in real life? It means that the judge is going to have the final say on people who apply to specialty court, whether it be veterans court or mental health court. I am hopeful that Judge Bell will take you through that process a little bit, but I do not want to give the impression that you just apply and you get in to the court. There is a process in place. I have uploaded some documents to NELIS about the specialty court application that is filled out ([Exhibit J](#)) and some participant handbooks [[Exhibit K](#)] and [[Exhibit L](#)]. Normally, the offender fills out the application with an attorney and presents it to the court. There are risk assessments that are done. If it is mental health court, they gather your mental health documents to make sure you are eligible. Even then, you have to get probation first because if you get sent to prison, you are not going to be doing a specialty court program. Your initial sentencing judge must decide that you have committed a crime where it is appropriate that you be on probation. Then you apply for the specialty court program. We will hear a little bit more about that. Essentially, the district attorney gets to weigh in on why he or she believes the person should or should not get into the specialty court program. The defense attorney weighs in. Ultimately, the judge and his or her staff decide whether admission is appropriate based upon a number of factors. As you can imagine, someone with a violent offense or a violent history is going to get some additional scrutiny in terms of whether they can safely be admitted into the program. I do not want to give you the impression that you apply and get in. It is not that. This is a very collaborative process. The prosecutors will continue to have a say and continue to be able to weigh in on whether someone is appropriate.

What happens if we do not pass this bill? What happens if we do not rectify the Supreme Court opinion? I believe our community will be less safe because defendants are not going to get the help they need to overcome their issues and integrate back into society. Particularly, some veterans with violent offenses or histories—sometimes the result of post-traumatic stress disorder (PTSD)—are not going to be able to get into this program.

I have not put this out in writing, but I believe we ought to make this legislation effective upon passage and approval. Right now there are folks applying who otherwise would be eligible based on the judge's discretion and the totality of the circumstances but they are not allowed to get in. Every day, people are applying and they are being categorically denied when they would benefit from treatment. I guess the last thing I will say is, if someone gets probation, and the option is they get into a specialty court or they do regular probation, they are going to be better off in the specialty court. Specialty court really is a wraparound service where you have service providers, the Division of Parole and Probation (P&P), and they are monitored more closely. If they are having issues, the specialty court is going to know that. On probation, sometimes you do not check in as often. When we are looking at whether specialty courts make sense, keep that in mind. If the person does not get into the specialty court, they are likely going to be on probation without that support. That is why I think this is a public safety bill as much as anything. Programming and getting to the heart of the issues that brought people into the criminal justice system is public safety. With that being said, I would like to turn it over to Judge Bell.

Linda Marie Bell, Chief Judge, Eighth Judicial District Court:

The National Association of Drug Court Professionals has done studies that have shown that, in the specialty court context, when somebody comes in with a violent charge, that has no predictive value on their ultimate success in the program. In some ways, the folks who are committing violent acts when they are on drugs or because of mental health reasons are the ones who need the help the most because they are the ones who pose the highest risk to our community.

When somebody is charged with a crime and they go in front of the sentencing judge, that judge must make a decision about whether the person has committed an act that requires the person to be sent to prison or whether they are eligible for probation. If they are eligible for probation, the judge then makes a determination about what the conditions of probation are. Specialty courts can be a condition of probation. Before the judge can send somebody to specialty court, the specialty court itself has to look at the applicant. In the Eighth Judicial District Court, we have an application that is universal. We get the application, and our team looks at the applicants to determine whether we think they would be a good fit for the program. Our team includes a district attorney, a defense lawyer, and P&P. In veterans court, we have veterans justice outreach folks who assist in connecting our veterans with the United States Department of Veterans Affairs (VA). We have other treatment providers. We have a whole team of people who work on these specialty courts. We have a meeting and we look at the applicants to determine if they would be a good fit. The Division of Parole and Probation can raise concerns. The district attorney can raise concerns. As the judge presiding over that court, I have to balance out the safety of the team and the safety of the other

participants with our ability to help that person in crisis who is applying to come into our specialty court. That is something I take very seriously. We never want to see somebody in one of our specialty courts cause harm to somebody else. We want to make sure we are taking people into the program who we can truly help and hopefully put them in a position where they are not reoffending, not reengaging in the criminal justice system, and they are able to be productive members of our community.

Assemblywoman Nguyen:

I did work with specialty courts for about five years. I worked with the drug court, the veterans treatment program, and I still continue to do that in my private capacity. Can you explain the team process? I know people have questions about that. It is ultimately on the judge to make those determinations on whether or not someone is appropriate, but can you explain the process of the application?

Judge Bell:

The application comes in. We have copies of that. Sometimes there is supporting documentation. In mental health court there has to be a diagnosis of a serious mental illness. In veterans court, we verify that the person is a veteran. Our coordinator will go and meet with the person, collect information. We then have a meeting with all of our team. It is usually before we are talking about whatever cases are going to be handled in court that day. At that point, everybody has the opportunity to weigh in. I take very seriously the input from P&P if they have safety concerns about taking someone, as well as the district attorney's office. We all talk about whether the person is a good fit and what we can do to help that person. What would our plan be if they came into the court? If people have concerns, what are those concerns? We do turn away applicants. We have worked really hard, particularly in the veterans arena, to identify people who are eligible for our program. We have gotten our numbers up to the mid-50s. Right now, I am turning away 75 percent of the people who apply. It is frustrating.

We always want to work with our community partners to make sure the people we are selecting are the right fit for our program.

Assemblywoman Backus:

Judge Bell, I have a question for you regarding the existing language in the current statute. One of the things I saw in here is that if someone had already previously been assigned to the program, they would be precluded from participating in the specialty courts. That is kind of disheartening after I listened to your letter on the success of someone who had done the program. I was kind of curious about what happened at the end, if the specialty courts ultimately helped them.

Judge Bell:

The email I read to you was actually something I received last week from a participant who has been tremendously successful since graduating but, as many participants do, really struggled. We do have people who sometimes do not make it, or do make it and then we see

them back later because they have struggled since leaving the extreme structure provided by a specialty court. We internally have a policy that we like to wait at least two years because of the use of resources. We like to have a little time in between reaccepting somebody into a program. It does not happen particularly often with veterans court. I think we have only had one that I recall where we have had to turn somebody away because they went through the program and then they have come back. It is a little unfortunate, frankly, because there are circumstances where somebody just does not complete or they complete and they do well for three or four years and then they struggle again. With addiction, it can be a lifelong struggle for some people. Returning to that structure can be very helpful.

Assemblyman Edwards:

First of all, I want to thank you for bringing the bill forward because I think it will help a whole lot of veterans who really need it. As a veteran myself, I became very familiar with the veterans court. I have talked with several of the judges. I worked with Judge Mark Stevens when they brought the bill forward last session. I think we have made the point that the veterans treatment court has been extremely successful with a success rate of around 98 percent who never reoffend. That is one of the highest successes of any program I think we could have. I understand the Supreme Court's decision, and I understand we need to fix it, so I appreciate the opportunity to fix it. My question comes down to, in your view, if what you have written will fix this problem so that the 76 percent who now must be rejected will not continue to be rejected in the future?

Judge Bell:

Absolutely.

Assemblyman Roberts:

I, too, appreciate your bringing this forward. I am a veteran. As a police officer, I know that specialty courts are very successful. I know veterans court is as well. I know the threshold for this goes all the way up to category A felonies. That would leave category B felonies. As a police officer, crimes against police officers and other protected people are category B felonies. We have had conversations about expanding that in this Committee. How would those be assessed for eligibility into the veterans court, and would there be considerations for that protected class on whether you accept them or nominate them?

Judge Bell:

I think the first thing to keep in mind is that if someone commits a serious crime of violence against a police officer, that sentencing judge may not determine that the person is appropriate for probation. That is the first step before somebody is accepted into a specialty court program. We make the decisions on a case-by-case basis. It is very hard to say in a vacuum that somebody charged with this particular thing would never be eligible. A veteran who has terrible PTSD who acts out, even toward law enforcement, is potentially somebody that the system might determine is an appropriate candidate for the veterans treatment court. We look very seriously at the people we take in, whether we think we can provide assistance to them and whether we think they will be a danger to the other participants or the treatment providers while they are in the program. We do look at each one on a case-by-case basis.

There is always that initial filter of the sentencing judge making that decision of whether that person is an appropriate candidate for probation in the first place.

Assemblyman Roberts:

Thank you, that is a great answer. I feel comfortable with that. In the Supreme Court decision, did it require it to move up to category A felonies? Was that a part of the decision?

Assemblyman Yeager:

What the Supreme Court did was simply strike the language that gave the prosecutor the veto power. If you look at the language now, it reads the same as statute because it has not been officially stricken. The way that it works in effect is that if your current crime is one of violence or the threat of violence, you are categorically excluded. The court does not have the option to even consider you, all the way from category A felonies down to misdemeanor offenses where you might have two brothers fighting, for instance. You would just not even be able to be accepted. You can apply, but I think when judges look at the application, unfortunately there is going to be a denial letter based upon the court's interpretation of the statute.

Assemblywoman Miller:

My question is along the same lines about eligibility for the program. A few minutes ago, you stated that there are somewhere around 50 veterans in our veterans court right now. You also said you have had to turn away about 75 percent of the applicants. Can you be more specific on why they were turned away?

Judge Bell:

As soon as the Supreme Court case came out, I was no longer able to take anybody who had a violent charge or history of violence. It is very common for us to see folks in our mental health court and in veterans treatment court who have had charges of domestic violence. The one I recall from this week who I was not able to take was someone who had called in a bomb threat. There may have been some people in that 75 percent who we may have decided not to take for other reasons, but we are not even getting past their charge or their history. We just have to turn them away. I would anticipate that in a year, at this rate, I would have 15 people in my veterans court.

Assemblywoman Miller:

When we are talking about a history of violence, is that someone who had a violent offense last year, or does that also include someone who had a violent offense 25 years ago without any other violent offenses? I am not trying to make an overgeneralization, but sometimes when people are suffering from severe PTSD, it is exhibited in violent acts. That is one of the ways that we see it manifested. I want to make sure we are not being counterproductive with the people that need the services the most. If you could please explain a violent act. What does the history imply?

Judge Bell:

I agree with you 100 percent. It is common, both in people who have serious mental illness and people who suffer from PTSD, to sometimes see domestic violence and concerns such as that. The way the statute is worded is "If the offense committed by the defendant involved the use or threatened use of force or violence"—so if the current offense is anything violent, such as domestic violence, battery, battery on a protected person, or if you have somebody who is mentally ill who batters a health care provider—then it says, "or if the defendant was previously convicted in this state or in any other jurisdiction of a felony that involved the use or threatened use of force or violence," so there is no time frame on that. If 20 years ago somebody had a battery causing substantial bodily harm felony on their record and they are now coming as an applicant to the veterans treatment court, I cannot take them.

Assemblywoman Miller:

You are referring to actual convictions, not charges?

Judge Bell:

It is a history of felony convictions for violent offenses, but any current charge involving violence when they come to us.

Assemblywoman Miller:

So if the current charge involves violence, we will look back at the history? Or does the history of violent conviction supersede at all times, even if the current charge is nonviolent?

Judge Bell:

It is either one. If there is a history of violence, they would be ineligible. If the current charge involves violence in any way, they would also be ineligible.

Vice Chairwoman Cohen:

I have a question having to do with the dishonorable discharge conditions. It discusses the extraordinary circumstances the judge can utilize to assign someone who has been dishonorably discharged into the program. Is there a standard for these extraordinary circumstances?

Judge Bell:

Those are done on a case-by-case basis. Very frequently, it is a problem for us to take somebody with a dishonorable discharge just off the bat because we do not have services for them. For somebody who is eligible for services through the VA, we work very closely with the VA. One exception I can think of is perhaps someone who has suffered military sexual trauma. We work with the veterans center that will treat people who are victims of military sexual trauma for whom, regardless of their discharge status, we are able to provide with resources depending on the circumstances of the discharge and the circumstances that bring them to the court. It is something we look at on a case-by-case basis. We never automatically exclude somebody because of their discharge status. We look to see what the circumstances of the discharge were and what the circumstances were that brought them to the veterans treatment court before we make a decision.

Assemblywoman Backus:

I did not appropriately come with my follow-up because I kept obsessing on the language under NRS 176A.287. It almost seems as if the way the process is happening, this statute could be interpreted to preclude consideration of those cases where someone is coming back for consideration for the specialty court. That is in drug court. I would hope this could extend to our veterans and our mental health. My question for you is, would it be okay if an amendment was proposed to remove that just to allow the team flexibility in considering those who have tried to go through the specialty court one time?

Judge Bell:

I would be absolutely in favor of that.

Assemblywoman Nguyen:

For the support team, you have not only the judge but the prosecutor, the defense attorney, the VA and different counselors, and P&P, who are all involved in determining whether or not a person is recommended. There is an additional layer, too, because I know a lot of these programs started as true diversion programs. What percentage of the people who are in these programs are not necessarily getting the dismissal they initially intended when these statutes were created but are in the program as a condition of probation?

Judge Bell:

I do not have the specific number for veterans treatment court. Honestly, in Clark County we get a very low number of people who come through as a true diversion. We frequently see folks who have a treatment court as a condition of probation. I know in the mental health court it is 3 percent who are there under what we would call a true mental health court plea where they are going to end up without something on their record when they complete the mental health court. It is a really low number in Clark County.

Vice Chairwoman Cohen:

We will move on to support for A.B. 222. If anyone is here in support, please begin.

Mark Stevens, Chief Judge, City of Henderson Municipal Court:

I also have a veterans treatment court at the misdemeanor level. I strongly support A.B. 222. I agree with Chairman Yeager's statements as well as Judge Bell's statements. As Judge Bell said, it really reduces a lot of individuals' acceptance into the program. The types of cases we typically get at the misdemeanor levels are domestic batteries and DUIs. It would reduce the number of people who are allowed in the program greatly.

Assemblyman Fumo:

Judge Stevens, thank you for your work in the veterans program. I have had many clients go through there with great success, and they do not reoffend. Would you also be in favor of removing the condition that Judge Bell said she would be okay with? Would you allow people to come back after they have previously been assigned to such a program?

Judge Stevens:

We have never allowed that, but I certainly would not be opposed to it. We would look at the circumstances and the situation in deciding if that was approved. I would support it.

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

I represent nearly 9,000 members of the Veterans of Foreign Wars. I also represent close to 500,000 members of the United Veterans Legislative Council as their chairman. The United Veterans Legislative Council is an organization of all the veterans in the state, including all active duty military National Guard families and advocates, and of course those seated behind me as well as some of you on the Committee. I am sure many of you have veterans in your family history who have direct experience of active duty military service. As we move forward, please remember them, the family sacrifices, the commitment to serve our country, and how proudly you support them. All we really want to do is our very best for them.

We are in support of this bill. I want you to know that in my dealings with this number of people who I represent, sometimes it is difficult to explain to people what veterans treatment court really is. They do not fully understand it. They sometimes think somebody is getting a free walk. It warms my heart to hear the conversation here today from people who fully understand and embrace the circumstances and the plight that a lot of our veterans are going through trying to make themselves whole again. I deeply appreciate that. I will stand down and say I fully support this bill with every one of our members.

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

We testify in support of this bill. I will also let the Committee know that I am also a veteran. It is not as if we sent people off to a bake sale. When they come back, they are coming back messed up. In Judge William Kephart's veterans court when he was running it, there was a young man who came back and he was talking with the judge about taking his medication. He said, "The medication makes me sleepy, so I do not want to take my medication anymore because I do not want to go to sleep. When I go to sleep I have nightmares, so I do not want to sleep." The judge and the treatment team had to come around and figure out a solution. That is the point of veterans court. It is actually trauma-informed care. It is collaborative, and we are working on solutions to help these people reintegrate into society. This is what we want.

This bill gives judges discretion. It removes a prosecutorial veto. The prosecutors still get to argue on whether this person gets in. They just do not get the veto anymore. Now it is up to the judge and the treatment team at sentencing to decide if this person is appropriate for this treatment program. It is not a walk in the park. When you enter this treatment program, it is hard. There is accountability. These are all of the things that the Advisory Committee on the Administration of Justice (ACAJ) report is requesting: accountability, immediate sanctions, and working with them. If I can reference page 10 of the [January 2019] ACAJ report, "Compared to other states, Nevada uses prison more frequently than community supervision." Even in our own state, we are really not even using the solutions that are

available as frequently as we can. What we are trying to do is open it up so that we do that. Prison does not reduce recidivism. This program does. I think that is what we want. I think that is good policy.

Thank you, Chairman Yeager, for bringing this bill forward. This creates a tool that can be evaluated on a case-by-case basis. It removes the prosecutorial veto. I ask and urge this Committee, both as a veteran and a public defender who defends my brothers and sisters who come back from these situations, to carefully consider this bill and support it.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office; and representing the Alternate Public Defender's Office:

Today I am here to support A.B. 222, not only with the Washoe County Public Defender's Office, but also with the Alternate Public Defender's Office. The Alternate Public Defender's Office is in charge of handling the specialty court programs from the public defense standpoint. They could not be here today, so they did request for me to provide you with the information that they are in support of this bill.

The whole goal of *Hearn* was to make sure that individuals who are in crisis can receive the services if the judge makes that determination. We just wanted to make sure the judge would be allowed to hear all of the facts and circumstances, for the district attorneys to make their arguments, for the defense attorneys to make their arguments, for the victims to make their arguments, for P&P to make their recommendations, and have the judge make the decision as to whether that individual should or should not be allowed to enter into veterans court.

Hearn was not the only time where this became an issue. In Washoe County we had another individual who had been charged with a violent offense who went through the process where the court said the veto power is a violation of separation of powers and let the person into the program. Just so everyone knows, that individual did successfully complete the veterans court program.

I will tell you a little bit about Matthew Hearn. He came into the Washoe County jail on a misdemeanor violation. He was in booking. For those of you who do not know what the booking is like, it is a very difficult process where there is a lot of noise going on, there is a lot of crying. Sometimes they have movies playing. Sometimes they have war movies playing in the booking area. I can let you know from some of my other clients, if they are told they have to go back to the Washoe County jail because of a violation, it is extremely heart-wrenching to watch how they plea to the judge about how traumatic of an experience this can be because of the PTSD. Unfortunately, that is what happened in this case. He was tapped on the shoulder, and he experienced a PTSD flashback and snapped. The information was just that he was acting strangely, and unfortunately a crime was committed. He ended up pleading to battery by a prisoner, which is a category B felony. The victim, who was an officer, indicated that he wanted Mr. Hearn to receive treatment. We applied for veterans court. Veterans court approved him. I am happy to provide the information of what we have to do for the application process. It sounds to me as though it is a little different than in Clark County. We have to provide a form that establishes a nexus between the military

experience and the current crime ([Exhibit M](#)). He was approved, went to sentencing, the district attorney refused to stipulate, and we went forward from there.

I just provide that information to help the Committee really understand the importance of veterans court and what types of crime this really could be. We are just requesting for the judge to be able to make that determination. If you look on any of the websites that are out there about veterans courts, the statistics are absolutely astounding with just how impressive of a program this is. From what I hear from my veterans who are asking for this court, the main reason is that they want to have those services. A lot of individuals do not seek out services on their own from the VA. From speaking with the VA, it is my understanding that many individuals feel they should not use the resources. It is better for someone else. They have survivor's guilt, and they do not want to be a burden on the system. This really helps connect individuals with the resources. They have additional supervision to ensure they are successful in our community. As we have heard, the rate of individuals who are veterans who suffer from substance use and mental health issues is horrible. We need to do something. The Supreme Court of Nevada has indicated that it is up to the Legislature to make that fix, and we are requesting you do so.

If you look at the bottom of the *Hearn* decision's dissent, Justice Pickering states it eloquently that "Veterans court is Nevada's acknowledgement of the service of the men and women in our military and the debt we owe them for their service. In establishing veterans court, the Legislature acknowledged that combat-related injuries have led to increased contact with the criminal justice system for some veterans and that these veterans would benefit from rehabilitative services." Again, this is not a free pass. We are just helping to connect them to the resources to make sure our communities are safer.

Assemblywoman Nguyen:

I notice there was a proposed amendment from the Clark County District Attorney's Office ([Exhibit N](#)) under which category B felonies would not qualify for the veterans treatment program and would cause the treatment team to decline that applicant under the circumstances you told me. Is that correct?

Kendra Bertschy:

That is correct. That individual would not be allowed to enter into veterans court.

Robin V. Reedy, Executive Director, National Alliance on Mental Illness–Nevada:

It should come as no surprise that we at the National Alliance on Mental Illness sit in support of this bill which gives increased access to services. While I do not have statistics, I certainly have many anecdotes that come to us about the success on the path of recovery. I will end by saying "ditto" to what we just heard.

Terry Hubert, representing Ridge House:

I am a Vietnam War veteran. About 10 years ago, with the Vietnam Veterans of America, we pushed an agenda regarding the veterans court. We advocated the need for veterans court in Nevada. When we passed that legislation in 2009, we were really excited. I live in

Washoe County, and we quickly hit all of our specialty courts to find out who the veterans were, and we shifted them from whatever court they were in to be treated with other veterans. It has been highly successful. I am dismayed to hear that so many people are being rejected. That is why I am here.

Veterans sometimes do not act appropriately, mostly against our own families. When I first joined the Ridge House, they had a similar policy. They had a no-violence restriction on the application of people applying to our programs. Being a community-based program, I can understand why they would be hesitant to bring violent offenders into a neighborhood. As board president, not only was I able to implement a veterans house within the Ridge House, but I got them to look at what we call a pattern of violence. Many times, it is a singular act and we were remiss. That should not preclude you in the future. We look for a sustained pattern. If you go to Ridge House now, you will find people doing a life sentence on a murder charge out on parole. They need these types of services. We look at their prison disciplinary action as well and we can easily establish whether or not there is a pattern of violence. I would urge you to look at that. Do not exclude veterans.

Vice Chairwoman Cohen:

We will move to opposition. Is there any opposition testimony?

John T. Jones, Jr., Chief Deputy District Attorney, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:

I am here in opposition to A.B. 222 as it is currently written. I want to say at the onset that district attorneys across the state are supportive of both mental health treatment courts and veterans treatment courts. With respect to veterans, of course we honor the sacrifice by veterans and understand that there is service-related trauma and emotional behavior or substance abuse problems that arise from service that need to be addressed. We also understand there are people in our communities with mental health and other issues that require special attention. You have heard over and over again this session about how our criminal justice system is usually the first system that is required to deal with these issues.

I am not here to bash veterans court or mental health court. In fact, with veterans court in particular, we can pull in the VA and pass some of the costs of treatment along to the VA. We can utilize services in this program at little or no cost to the state. That is important, and we support that. However, as our amendment ([Exhibit N](#)) alludes to, there are certain crimes that cause victimization to others that cause us to oppose a certain violent offender's being in these courts, specifically because at the end of veterans treatment court they would be allowed to get a dismissal and immediate sealing of their case. Going to Assemblyman Roberts' question at the beginning, if you are an officer who comes in contact with somebody who has been in veterans treatment court who had a battery on an officer charge, they are not going to see that charge that had existed in the system. They are not going to know about it when they have the potential subsequent contact with the offender.

It is not just battery on an officer that is a category B felony; there is also robbery, battery with a deadly weapon, attempted murder, and child abuse. All of these serious offenses we

are potentially letting in and, the way the statute is currently written, would require a dismissal.

Prior to the *Hearn* case, the prosecutor would use their discretion with respect to violent offenses and would fashion a negotiation that would allow them into mental health or veterans court but in a way that did not specifically result in a total dismissal of the case. For example, if somebody is charged with a category B robbery, we might plea it down if they successfully complete the program. The offender would plea to a robbery, but if he successfully completes mental health or veterans treatment court, we would give him a reduced charge instead of an outright dismissal. That is simply because some violent offenses need to remain on somebody's record. For example, if you are an individual who is not a veteran or otherwise eligible for mental health court, the sealing period for category B felonies is 10 years. The Legislature says that after completing your sentence, that case needs to be on your record for at least 10 years so we can see if you have truly changed.

I am willing to work with anyone on this bill. I understand there may be issues with our amendment that we need to correct and I am willing to work with you. I think the district attorneys across the state think that dismissal is not appropriate in every case. That is why we come to you today in opposition. I want to talk about something Chairman Yeager brought up. He said 49 percent of those in veterans court right now are basically crimes of violence that are no longer eligible for veterans court. That means that in 49 percent of the current cases in veterans court, a prosecutor has stipulated that the defendant with that violent crime belongs in that program. Eighty percent of mental health people would no longer be applicable. That means that in 80 percent of mental health court cases, a prosecutor stipulated the defendant should be in there despite their crime of violence. I would submit to you that we did use our discretion appropriately. I am sure there will be good faith disagreements on our use of that discretion. I would argue that we did use it appropriately.

To explain our amendment as currently written, it excludes category B crimes of violence and sex offenses from specialty courts. Again, those crimes of violence would include robbery, battery with a deadly weapon, attempted murder, home invasion, or other similar offenses. The second part of our amendment also makes clear that it is the charge to which the defendant pleads that determines whether or not the person is eligible, not the offense with which they were ultimately charged. That way, through the negotiation process, a district attorney and a defense attorney can potentially work out a negotiation that would make somebody who is otherwise ineligible for the program eligible. Basically, what we are opposing is a one-size-fits-all approach to this. A dismissal is not always the appropriate resolution to these offenses. We would hope we can work with you to fashion some sort of resolution that takes that into account.

Assemblyman Watts:

I just have a quick clarifying question. Under this proposed amendment, the story we heard earlier about Mr. Hearn, he would not be eligible to participate in this court and would be categorically excluded. Is that correct?

John Jones:

Based on the charge to which he plead, yes. It does leave open that we, through the negotiation process, could possibly plea to an attempted battery causing substantial bodily harm, which is a category D felony, to mitigate that. We could drop it down to a category C or D to make them eligible for the program through the negotiation process.

Assemblywoman Nguyen:

You gave an example of a negotiation just now about how sometimes you will plead someone to a robbery, and they will have mental health court as a condition of probation and then later get a drop down. However, even under your own scenario, a robbery is a category B felony, so that person would not be accepted. Is that correct?

John Jones:

That is correct. What I was indicating was what we did prior to the *Hearn* case. That is how we would resolve the case. Considering my amendment, we would have to tweak our negotiations a little bit. As I said, I am not wedded to this. I am willing to work with anybody as long as we can address what we consider to be the one-size-fits-all approach.

Assemblywoman Nguyen:

We learned about this through the presentations today. You are aware that, as part of the application process, there is a team and a district attorney is a part of that specialty court team that makes recommendations. Do you not trust the person who is in there from your office to have that input if you disagree with the person who is coming in?

John Jones:

My argument would be that the treatment team's decision is whether or not that person is clinically appropriate for the program. In other words, is there a diagnosis, and did the crime that was committed occur because of that diagnosis? What the treatment team is trying to determine is eligibility for the program, whether or not treatment is appropriate. I think a district attorney in the courtroom's question is, what is in the best interest of public safety? In some instances, it is for that defendant to go through a specialty court. However, it may also be that the person go through treatment court, and have a charge on their record. Then, when Assemblyman Roberts has a subsequent contact and pulls that defendant up in the system, he can see there is a prior charge for a similar offense.

Assemblywoman Nguyen:

I understand the treatment thing, but I am talking about the application process. The district attorney has input on whether or not they think that person is going to be a danger to society and should not be allowed in to the program. Is that correct?

John Jones:

We are part of the treatment team. You are correct. We can voice objections there, but I will let my prior testimony stand with respect to the treatment team.

Assemblywoman Backus:

In your proposed amendment, you have included an exception for those who have committed a felony that constitutes a sexual offense as defined under the statute. I am not a criminal attorney, but what if someone with a mental health diagnosis experiences a mental episode whereby they are running around naked? I was looking at NRS, and there is open and gross lewdness and also indecent or obscene exposure. Was that intended to now be excluded from the specialty courts?

John Jones:

That is a great question. The way we structured it, no. That person would still be eligible for the program. A first instance of open and gross lewdness or indecent exposure is a gross misdemeanor under statute. That is why we have "felony sex offense." The first instance of someone engaging in that conduct would still be eligible for the veterans treatment program.

Assemblywoman Torres:

Earlier you stated that dismissal is not always appropriate. I think the majority of us would agree with that. My understanding of this piece of legislation is that dismissal is not guaranteed if you are participating in the veterans court. Is that not still within the judge's discretion? Should we not have faith that our judges are going to use their discretion appropriately?

John Jones:

That is a great question. I understand what you are getting at. Yes, the person would have to complete the program over a period of time before they could get the dismissal. I will point out, though, that mental health issues do not stop when mental health court stops. If you have a person who has gotten a dismissal, law enforcement and others may want to see that there are issues there. When we have subsequent contact, we can look at that individual. For example, this Committee just passed through a background check bill. We are trying to keep people with mental health issues from having guns. There are situations where people have mental health issues, they have engaged in violent crimes, and we want something on their record that we can see to perhaps keep them from purchasing a gun. There are situations like that where we want to extend beyond the mental health court program and keep track of what is going on.

Assemblywoman Torres:

Just to add on to that, it is important to note that mental health is something that every single person deals with regardless of whether or not they have committed a crime. I think that point is invalid. Additionally, it is important to note that the judge still has discretion. Would the judge and the district attorneys not be able to work together to determine if they should not be dismissed?

John Jones:

Your point is well taken, but in this instance, we are dealing with people with mental health issues who have committed a violent crime. That is what I am focused on. With regard to your second question, judges cannot inject themselves into the negotiation. It is technically

not appropriate for a judge to say they will take a felony case and make it a gross misdemeanor. Judges are not supposed to be injecting themselves into negotiations like that.

Vice Chairwoman Cohen:

You just said people with mental health issues, and we are talking about people committing crimes. As a society, are we not always better off if they have the wraparound services that come with specialty courts as opposed to regular probation, which is more of just a check-in?

John Jones:

Yes. That is why we, in the past, have fashioned negotiations where they get both the treatment, and there is accountability for the crime moving forward. We have tried to fashion negotiations that take that into account.

Assemblywoman Miller:

You just stated a few moments ago "because of the diagnosis." What I understood that to be was that admittance into the program would be based upon a diagnosis. Is that saying that for someone suffering from some mental health issues or a person suffering from PTSD, they are not accepted into the program if they have not been clinically diagnosed?

John Jones:

No. In fact, I have had numerous cases where somebody has not been diagnosed prior to the commission of a crime, but through the negotiation process, defense attorneys have picked up on issues and subsequently have had somebody evaluated and issues pop up that we then try to deal with. I am not saying it has to be somebody with a prior diagnosis. I am also not saying that simply because somebody has a diagnosis we should have a crime that is on their record forever. What I am saying is there are some situations, because of the diagnosis and the crime they committed, that we may want to do more than just dismiss the case.

Assemblywoman Miller:

Would you agree that those diagnoses are often the reason why these crimes are committed?

John Jones:

It can be, yes. I have seen people who commit crimes for various reasons, and they do it when there is no real nexus between their mental illness and the crime they commit. I have seen everything through my service as a deputy district attorney. There are instances where it is absolutely clear that they committed the crime because of a mental health issue.

Assemblywoman Miller:

I would like to say that, especially when we are speaking of veterans, we need to be very sensitive to the fact that this is a community of people where valor, honor, integrity, structure, and respect for authority are at the core of who they are. When we see somebody coming from that institution and now committing violent offenses, we have to look at the connection. There is a reason why that is happening. When it comes to violence, people do not generally enter the military as violent individuals. Again, there is a lot more going on there, and I think we all need to be aware of that and do the best we can for our people.

John Jones:

I could not agree more.

Vice Chairwoman Cohen:

I want to make sure I understand the concern with law enforcement and their access to information if there has been a violent crime in the past. Do they not always have access to those records? We are only talking about 2 percent who have a dismissal, correct?

John Jones:

It is less than 2 percent under our old model where a prosecutor, through their discretion, can cause someone to go in with something other than a dismissal. Because that discretion is taken away, I think that number is going to go up significantly.

Vice Chairwoman Cohen:

The judge still has discretion.

John Jones:

The judge would have discretion to put them in the program, not to say they will put them in the program and give them a certain charge at the end. That would be an executive function that would be handled through the negotiation. Through the sealing process, I, as a district attorney, do not have access to your records if they are sealed. I work for an agency of criminal justice, so if you seal your records, I get an order that says "seal these records, they are no longer visible to you." I cannot view sealed records.

Vice Chairwoman Cohen:

Sealing records does take time, and it is a court process. It is not something where someone can commit a crime, be convicted, and immediately go get their record sealed.

John Jones:

Under the ordinary sealing statute, yes it is. When you look at the sealing statute in the mental health court, it is expedited. It is done instantly when the case is dismissed.

Vice Chairwoman Cohen:

Are there other questions? [There were none.] Do we have anyone else in opposition?

A. J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

I think Mr. Jones covered the points very well. Specifically, why I am before the Committee is to address the portion of the category B felony statutes that brings in the batteries and assaults on officers. We have concerns about that as far as protecting our workforce and the circumstances they are involved in. Specifically, what is most concerning to us is the expedited sealing aspect of this. We want to know about the violent past of the individual we are dealing with. That person may have received the treatment they needed and they may be on a great course. Unfortunately, it is not uncommon for us to have to deal with individuals

on a recurring basis, and the more information we have going into those situations—whether it is an investigation or a first response type of circumstance—the better prepared we will be to deal with that circumstance. We realize the court has much discretion through the process. Hopefully, we will not have to deal with that on a common basis, but this change does concern us, specifically the record sealing.

Vice Chairwoman Cohen:

Are there questions from the Committee? [There were none.] Is there anyone here to testify in neutral?

Mike Ramirez, Director of Governmental Affairs, Las Vegas Police Protective Association Metro, Inc.; and representing the Law Enforcement Coalition:

I have to say at first I was going to come up in opposition. After hearing Judge Bell and Assemblyman Yeager present, I decided to move to neutral. It is still up to the judges to make the decision as to whether or not these folks get in. I do understand the need for these courts. It is a good tool. Our concerns were mentioned by John Jones. The Las Vegas Metropolitan Police Department wants as much information as they can have in order to help identify if someone has an issue with mental health or something, to help our officers be able to address the situation. As long as it is still up to the discretion of the judge, we are in neutral. We would not be opposed to the amendment to add category B felonies.

Richard P. McCann, Executive Director, Nevada Association of Public Safety Officers:

I, too, walked in here thinking we were going to oppose it only as written because we liked the amendment. I was going to tell you that adding category B felonies related to the commission of violent acts was consistent with the bill. I was going to tell you about sexual offenses being consistent with the bill. Then I heard what was said. I was going to tell you about officer safety issues that we have discussed here. That is very important. However, in the final analysis, that would be wrong for me to come in and say that. There is another feeling I have. That is that judges, two of whom we have heard today, and district attorneys are part of the equation. If I leave you with no other thought, I have a lot of respect for that equation. Anybody who opposes the bill in general form is a damn fool. What we need is a continuation of this process, not cessation, not a limitation. Keep in mind, I am here representing law enforcement. They have rights too, and they are the subject of an awful lot of violent acts. We do support that, but we can live with this as written. That is why I am neutral.

Vice Chairman Cohen:

Do I have any questions? [There were none.] Is there anyone else here to testify in neutral? [There was no one.] I will ask the bill presenters if they would like to come back up.

Judge Bell:

Mr. Jones said that what he is trying to avoid is a one-size-fits-all approach. I think the bill proposed by Chairman Yeager avoids a one-size-fits-all approach. It allows the system to sort out who is an appropriate candidate for these programs and who is not. The Legislature has made the policy determination that there are certain categories of people who, if they do

the hard work to get through one of these programs, deserve to have a dismissal at the end. These programs are not easy. Veterans treatment court is a minimum of 18 months. Mental health court usually lasts at least three years. They are very closely monitored. They have to do drug testing. They have to go to treatment. They have to come see the judge every week or two. There are consequences if they are not performing the way they are supposed to. If they do not successfully complete, they do not earn the opportunity that this Legislature has given them to have their cases dismissed at the end. The system that is set up works well with having a team from all areas of the criminal justice system—P&P, prosecutors, defense lawyers, the judge—make that determination of who is appropriate to enter into these programs.

Assemblyman Yeager:

Thank you for your attention this morning. It is always good to have Mr. Jones up here. I have a tremendous amount of respect for his position. In this case, I disagree with the amendment. I think the amendment is a one-size-fits-all approach. It is a categorical exclusion of category B felonies that are violent. We heard about Mr. Hearn, who was the subject of the case we talked about. He would not have been admitted into veterans court if this amendment were to be passed. Keep in mind, the victim actually wanted him to get treatment but he would have been categorically excluded. I would like to say that if the amendment from the Nevada District Attorneys Association were adopted, nearly 20 percent of those who are in mental health court right now in the Eighth Judicial District Court would not have been eligible. I note that they are there now because prosecutors stipulated to them being there. The amendment does seem somewhat inconsistent with the practice that is happening. It does appear to be a one-size-fits-all approach.

Keep in mind, what we are trying to do is get to the root causes of criminality. That is what these courts do. It is not easy to get into these courts. It is not easy to complete these courts. In this building, we talk all the time about mental health and what we are going to do. Our state is one of the worst states in the country for mental health services, whether it is infrastructure or programming. What can we do for the seriously mentally ill? We can pass this bill. That is one of the things we can do this session. Assembly Bill 222 is right for our veterans, it is right for our seriously mentally ill, and it is right for our justice system. I urge your support.

Vice Chairwoman Cohen:

I will close the hearing on A.B. 222. [([Exhibit O](#)), a letter from Nevada Attorneys for Criminal Justice in support of Assembly Bill 222, was submitted but not discussed and will become part of the record.]

Do we have anyone here for public comment? [There was no one.] Meeting adjourned [at 11:20 a.m.].

RESPECTFULLY SUBMITTED:

Lucas Glanzmann
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Eighth Judicial District Court Overview," dated February 26, 2019, presented by Linda Marie Bell, Chief Judge, Eighth Judicial District Court; and Bryce Duckworth, Judge, Eighth Judicial District Court.

[Exhibit D](#) is a copy of a PowerPoint presentation titled "Second Judicial District Court," dated February 27, 2019, presented by Scott N. Freeman, Chief Judge, Second Judicial District Court.

[Exhibit E](#) is a letter dated February 25, 2019 to Justice Hardesty, from Rex Steninger, Chair, Elko County Board of Commissioners, in support of [Assembly Bill 43](#).

[Exhibit F](#) is a proposed amendment to [Assembly Bill 43](#), presented by James W. Hardesty, Justice, Supreme Court of Nevada.

[Exhibit G](#) is a copy of a PowerPoint presentation titled "2019 Nevada Legislature AB 43," presented by Linda Marie Bell, Chief Judge, Eighth Judicial District Court; and Bryce Duckworth, Judge, Eighth Judicial District Court.

[Exhibit H](#) is a copy of *State v. Second Judicial District Court* 134 Nev. Adv. Op. 96 (2018), submitted by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit I](#) is a document titled "Fact Sheet: Penalties for Category A Felonies Under *Nevada Revised Statutes* (NRS)," dated February 2018, by the Research Division, Legislative Counsel Bureau, submitted by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit J](#) is a copy of the Eighth Judicial District Court specialty courts application, submitted by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit K](#) is a copy of the participant handbook for the Eighth Judicial District Court mental health court, submitted by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit L](#) is a copy of the participant handbook for the Eighth Judicial District Court veterans treatment court program, submitted by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit M](#) is a copy of a Washoe County veterans court referral form, submitted by Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office.

[Exhibit N](#) is a proposed amendment to Assembly Bill 222 from the Nevada District Attorneys Association, presented by John T. Jones, Jr., Chief Deputy District Attorney, Clark County District Attorney's Office.

[Exhibit O](#) is a letter dated February 26, 2019 to the Assembly Committee on Judiciary, from Nevada Attorneys for Criminal Justice, in support of Assembly Bill 222.