

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

**Eightieth Session
April 3, 2019**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:06 a.m. on Wednesday, April 3, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 Jason Frierson, Assembly District No. 8
Assemblyman Alexander Assefa, Assembly District No. 42



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Emily Zamora, Executive Director, Silver State Voices
Annette Magnus, Executive Director, Battle Born Progress
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Ralph E. Williamson, President, Faith Organizing Alliance
Quentin Savvoir, Political Director, Make It Work Nevada
Susan Chandler, Private Citizen, Reno, Nevada
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Charles Navarro, Reentry Manager, Hope for Prisoners
Joseph Abraham, Private Citizen, Las Vegas, Nevada
Erika F. Washington, Executive Director, Make It Work Nevada
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
Stephanie Alvendia, Private Citizen, Las Vegas, Nevada
Jean Melby-Mauer, Founder, Paradise Las Vegas Indivisible
Penny James, Organizer, NARAL Pro-Choice Nevada
Doug Goodman, Executive Director, Nevadans for Election Reform
Roger Pharr, Private Citizen, Las Vegas, Nevada
Rex Reed, Private Citizen, Las Vegas, Nevada
Shirley Sandoval-Reynolds, Private Citizen, Henderson, Nevada
Jim Hoffman, Attorney, representing Nevada Attorneys for Criminal Justice
Claudia Larios, Private Citizen, Las Vegas, Nevada
Maurice White, Private Citizen, Carson City, Nevada
Dody Fuhrmann, Chief Executive Officer, Nevada Quick Search, Inc.
Joshua Hicks, representing Consumer Data Industry Association
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County
District Attorney's Office; and representing Nevada District Attorneys
Association
David Cherry, Government Affairs Manager, City of Henderson
Mary Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office
Miranda Hoover, representing Reno Sparks Chamber of Commerce
Randi Thompson, State Director, National Federation of Independent Business

Kara M. Jenkins, Administrator, Nevada Equal Rights Commission
Mindy McKay, Acting Administrator, Records, Communications and Compliance
Division, Nevada Department of Public Safety
Alison Lopez, Manager, Criminal Records Unit, Records, Communications and
Compliance Division, Department of Public Safety
Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County
Corey Solferino, Lieutenant, Legislative Liaison, Washoe County Sheriff's Office

Chairman Yeager:

[Roll was taken. Committee protocol was explained.] I will open the hearing on Assembly Bill 431.

**Assembly Bill 431: Revises provisions relating to the restoration of the right to vote.
(BDR 14-981)**

Assemblyman Jason Frierson, Assembly District No. 8:

Today, I present to you Assembly Bill 431. It is somewhat of a revisit of some progress we made last session on restoring the right to vote for those who are trying to reenter society. Assembly Bill 431 revises the provisions regarding restoration of civil rights of persons who have been convicted of felonies. It addresses disenfranchisement of the right to vote.

I was going to go through the original presentation and then discuss the amendment (Exhibit C). When we addressed this last year, there was some controversy to some extent about civil jury trials and about some other aspects. Assembly Bill 431 is specifically about the right to vote. That is what my intent has been all along. It is designed to acknowledge that in our criminal justice system, felons are given a sentence and that sentence is intended to be the punishment that fits the crime. If someone is sentenced to prison or determined to be a felon, he or she is prevented from being in the community as a reflection of both punishment and an effort to protect the community. It is my position in presenting A.B. 431 that if the system deems them to have completed their sentence and deems them to be safe to be in the community, then the system believes they should participate in the community we are asking them to reintegrate back into.

This effort started with Assembly Bill 181 of the 79th Session. I believe that when we have folks involved in the criminal justice system and expect them to reintegrate into society, there is—especially in this day and time—no better way to motivate someone to stick to the rules and comply with societal norms than allowing them to participate in the electoral process. This is a great way not only to increase participation, but to reduce recidivism. For the first time, many individuals are allowed to vote, and the notion they are going to have that taken away if they do not comply with community rules is part of the motivation behind this bill.

This is similar to the legislation presented in 2017. In 2016, The Sentencing Project, a national nonprofit research organization, estimated that 6.1 million people in the United States were disenfranchised due to felony convictions. That is about 1 in every 40 adults, or over 2.5 percent of the total United States population who were disenfranchised. That

number rose from 3.3 million in 1996 all the way up to 4.7 million in 2000 and 5.9 million in 2010. In Nevada, the estimated percentage of disenfranchised individuals with felony convictions was 4.02 percent—just under 90,000 offenders. We did make some progress in 2017. However, those numbers should not be significantly different just yet because part of the compromise in 2017 was that the law was not immediately effective. I think that was a compromise well worth it for the long-term plan of increasing participation and advancing democracy. It was not going to impact the upcoming election, but that was not the goal. That number should change to some extent this year when we look at this upcoming election cycle.

Nevada is not alone. There are other states that are doing the same thing. In 2013, Delaware removed its five-year waiting period before those who were convicted of felony offenses got the right to vote. In 2016, Alabama eased the restoration process for offenders who complete their sentence except for "crimes of moral turpitude." It is ironic that when we think about these crimes, we do not think about crimes of moral turpitude; we think about theft or other crimes that cause people to go to prison. This legislation does not change any of that. I think it is ironic that we hold that higher because we, as elected officials, are held to a higher standard, and we should be. However, for folks who have made mistakes in their lives, the process is supposed to be about second chances and giving those folks an opportunity to come back into the community in a safer and better way.

Until this year, Nevada was one of only 12 states that bars voting post-sentence. The largest number of states that have addressed this is about 18 states. Again, in 2017, Assembly Bill 181 of the 79th Session allowed Nevada to join those 18 states to permit some ex-felons the opportunity to vote starting this year. However, even in 2017, we knew this was just the beginning of, in my opinion, strengthening democracy in Nevada. I said it last session, and I will say it this session: this is not a partisan issue. Conservative states such as Texas and Kentucky are taking part in various reforms to expand democracy and make sure every single eligible voter has an opportunity to vote. I think that if we are going to expect folks to come back into this community, participate, and engage, we need to give them the opportunity to fully do so.

Just this past year, I had the honor to speak at the Hope for Prisoners graduation. These individuals are trying to reenter the community. Jon Ponder runs a wonderful program. I speak to these individuals about the opportunity they have to reenter society, and they have this look in their eyes when I talk to them about taking their kids to vote for the first time. These are the carrots that keep people complying with any conditions of supervision. These are the things that motivate someone to maintain that and to keep that right. Again, having practiced in criminal law, both as a prosecutor and a defense attorney, no one talks about indefinitely prohibiting you from being able to vote when we are talking about sentencing. That is not a consideration. Again, if we are going to say the punishment needs to fit the crime, I think when they have been deemed to be safe to enter the community, they should be able to fully enter that community.

I do want to discuss an amendment I submitted ([Exhibit C](#)). The original bill had a distinction between those on probation and those who are released immediately to the community. After some discussions with stakeholders, I decided to submit a proposed amendment that does, essentially, two things. First, it removes that distinction and basically sets forth a policy that if you are deemed to be safe to enter the community, whether you are on probation or simply released from prison, you should be restored your right to vote. There are several reasons why I considered that policy change. I think, administratively, it would be difficult for individuals and the system to determine who can and who cannot vote based on one's status of probation, parole, supervision, or presentence detention. If you are out of prison, you can vote. If you are not out of prison, you cannot. That is the intention of that amendment. The other part of the amendment deals with some language that was proposed to be changed in the original bill, specifically being able to impeach a witness due to a felony conviction. Again, this bill is intended to be about voting, so I am proposing to strike that provision and leave the law as it is with respect to the ability to impeach someone based on his or her background.

With that, I hasten to say it is a simple bill. It is an important bill, in my opinion. I think it is one well worth advancing this session.

Assemblyman Fumo:

Speaker Frierson, this will come as no shock to you I am sure: I fully support this bill. I think once a person has honored his or her social contract with society, we must honor our part of the bargain as well and restore that right to vote, so I fully support this.

Assemblyman Daly:

I liked your comment that if you are out, you can vote. I support the bill, obviously. I have experience trying to get people to register to vote. I understand that if you are released from prison in Nevada, it is past a waiting period, and you were not convicted of certain offenses, you can register to vote. What I have found is that people are still gun-shy. They want to integrate, but they do not want to violate any rules. Depending on which county clerk they went to talk to—Washoe County was better than some of the smaller counties—they did not understand, so they would not make the rest of the effort. If they were convicted and released out of state, we had to do the research to find out what the rules were in that state. It is very confusing and difficult. This will clean that up and make sure people can do that. That is just the practical experience I have had. I am glad we have made those steps and glad we are taking this last stride to get us there. This should clear it up and make it easier for people who want to integrate to be able to follow through and participate.

Assemblyman Frierson:

We are talking about expanding voting access for everyone. We are talking about same-day voter registration and automatic voter registration. Ex-felons are not the only people who wait until the last minute to decide whether or not they want to vote, but they have an extra burden to consider with their backgrounds. We need to make it as straightforward as possible, both for the individual and for the system, to be able to participate in that process.

Assemblywoman Hansen:

I am curious, historically speaking, why this was part of our laws from its inception. I am not sure when it was originally put into law. I am curious about the background of why this was taken away as a right.

Assemblyman Frierson:

I could not answer that question. I think it is subjective. In the 1980s, we in Nevada, along with the rest of the country, went through a "tough on crime" phase that was tough on crime and irresponsible on budgets. I think we just have to be smarter. I laugh a little bit because I frequently wonder what the reasoning was behind some of the laws we have. That is why we come back to make adjustments and adapt. We do not have throwaway citizens. In my opinion, we believe in second chances. The spirit behind the existing law came from a period where we threw away citizens. We did not value everyone's input. Only those who had the wherewithal to fully participate were able to do so. In this day of social media, the Internet, and other options to keep people engaged and informed, we need to give them an opportunity to participate.

Chairman Yeager:

I want to let the Committee know there is a letter of support on the Nevada Electronic Legislative Information System (NELIS) from Jon Sherman, who is senior counsel at Fair Elections Center ([Exhibit D](#)). He had intended to join us here this morning to testify, but he ran into some flight issues and was unable to be here. We uploaded this letter to NELIS, and he asked that I let everyone know it is there. I will now open it for some additional testimony in support.

Emily Zamora, Executive Director, Silver State Voices:

Silver State Voices is an organizing table of 501(c)(3) organizations committed to conducting civic engagement in the state of Nevada. Part of our civic engagement work is leading our voting rights coalition, which is called Let Nevadans Vote. Today, as a coalition, we stand in support of [A.B. 431](#), which would restore democracy to thousands of Nevadans. This bill is a piece of legislation that would automatically restore voting rights to people with felony convictions after they have completed their sentences. Under current law, tens of thousands of citizens in Nevada—people who have successfully completed their sentences and are living, working, and paying taxes in their communities—are prevented from voting just due to their past convictions. Nevada has the ninth-highest disenfranchisement rate in the country. As of 2016, nearly 90,000 people in Nevada are banned from voting due to past felony convictions, which is more than 4 percent of the total voting-age population. As of 2016, Nevada was one of just nine states with a disenfranchisement rate of over 4 percent, and the percentage of the population banned from voting in Nevada is 60 percent higher than the national average. The problem is only getting worse. The number of Nevadans who cannot vote has doubled since 1980. In the 1980s, it was under 2 percent.

When we are not supporting voting rights legislation, many of our partners are conducting voter registration in the field. In 2018, we collectively registered over 127,000 Nevadans. The top reason we got from folks in the field for why they did not want to register was

because they had some type of conviction. Many times, they may have actually fulfilled their requirements and would have been eligible, but because laws are so difficult to understand, they did not feel comfortable and did not want to be reincarcerated. Passing A.B. 431 would minimize any type of confusion with formerly incarcerated folks and give them the ability to vote. It will also make this simpler for election administration. Today, we urge you all to pass A.B. 431 to restore the ability to participate in democracy for thousands of Nevadans.

Annette Magnus, Executive Director, Battle Born Progress:

Today, we stand in support of A.B. 431. Over the past few years, leaders of both parties at all levels of government have come to a resounding consensus regarding America's criminal justice system; it is an affront to our country's morality and an ongoing human rights crisis that imperils the health and well-being of all of our communities. To deny formerly incarcerated Americans their right to vote is to, once again, restrict their freedom and deny their humanity. It is an extension of punishment past the point when they have served their time and rejoined our communities. The restoration of voting rights for people with felony convictions is a key part of equality under the law. Sixty-three percent of Americans, including 62 percent of Republicans, say that individuals who have committed a felony should have their right to vote restored after they have completed their sentences. This is a matter of democracy and is a nonpartisan issue. People deserve the right to vote in Nevada.

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:

We are here today in support of A.B. 431. Last session in this Committee, you heard from Dr. Cassandra Little in support of Ban the Box legislation and voting rights restoration. After 33 months in federal prison and two years of supervision, Dr. Little was able to regain her right to vote, and she asked that I share what being able to participate in democracy again meant to her. These are her words:

For me, voting has always been my duty. As a young girl, I watched as my grandfather got dressed in his Sunday clothes to go to the polls. He would remind us that blood was shed for this day and it would be a disgrace not to vote. Voting day, for me, is not a choice; it is a revolutionary act. No matter the outcome, I can use my voice to advocate for my own liberation. I will always equate my right to vote with being free. Both are essential for my sovereign soul. Once someone has paid their debt to society, they should be able to fully participate.

I ask that you support A.B. 431 because voices like Dr. Little's are important for our functioning democracy.

Ralph E. Williamson, President, Faith Organizing Alliance:

I am the pastor for First African Methodist Episcopal Church and the president of Faith Organizing Alliance. We are a 501(c)(3) organization representing a number of churches in the Las Vegas community that consist of well over 3,000 members. We engage in voter registration and education of voters' rights. We stand together in support of A.B. 431. This

bill is about civil rights and a democratic society. Once a person has served his or her time for whatever crimes he or she committed, has been duly discharged from probation, and is free from the terms and conditions of probation, he or she should have the same rights as any other citizen in the state of Nevada as outlined in A.B. 431 as it relates to the restoration of the right to vote. Too often in our state, persons who have been released from prison continue to find themselves—while not in federal or state prison—locked up by the laws and restrictions that are placed upon them in the state of Nevada. Our current laws do not allow them to actively engage in a democratic society or live productive lives as citizens in the state of Nevada. Assembly Bill 431 was crafted by individuals such as Assemblyman Jason Frierson and many others who understand the hurt, pain, and moral, social, and mental embarrassment of these ex-felons who merely want to live productive lives with the same rights and privileges as every citizen of this state. This bill is simply trying to take what is wrong and make it right. I strongly support A.B. 431.

Quentin Savwoir, Political Director, Make It Work Nevada:

I am here this morning in support of A.B. 431. We would like to thank Speaker Frierson for having the courage and tenacity to introduce this piece of legislation so that some 86,000 Nevadans regain their right to enfranchisement. As it stands, current law is one of the most restrictive measures when it comes to the restoration rights of formerly incarcerated people. It is a complicated equation of grading the severity of one's past crimes. Assembly Bill 431 admonishes that equation and automatically restores the right to vote to individuals who have fully paid their debt to society so they can participate as full citizens in strengthening our democracy. The lynchpin of any democracy is its reliance on its citizenry to have the right to vote. Assembly Bill 431 is strong public policy that strengthens democracy and deserves bipartisan support.

Susan Chandler, Private Citizen, Reno, Nevada:

I am an associate professor emeritus at the University of Nevada, Reno where I have taught for 25 years. For the last five years, I have taught on a volunteer basis at a Nevada state men's medium-security prison. I am here wholeheartedly in support of A.B. 431. The right to participate by voting is the political glue that holds our body politic together. It ensures, for example, 250 years of peaceful transition and provides that bedrock confidence we count on. Who qualifies to be a part of that body politic has been the locus of critical historical debates. Do Native Americans, for example, qualify? Do slaves qualify? Do people who cannot afford the poll tax qualify? Do women qualify? Are young men and women who are old enough to participate in war old enough to vote? What is happening in this room this morning is a continuation of that critical historical debate.

I have been going into prison almost weekly for the last five years. I work with men who are engaged, smart, hardworking, generous to each other, and generous to me. They follow the news carefully. This has been, without a doubt, one of the very most rewarding parts of my teaching experience. I do not consider myself naïve. I know there are people in prison who are there for life. However, for the vast majority, the day will come when the debt has been paid and they walk out the prison door. At that moment, I think it is critical that we include them in that body politic. It is very important to them. They will say that over and over

again. It is critical to us as a society. I congratulate you on A.B. 431, and with every bit of passion I can muster, I urge you to send it forward.

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

I am so thrilled that Speaker Frierson brought this bill forward. There are currently 6 million Americans who are disenfranchised in this country, 89,267 of whom live in Nevada. Those statistics come from The Sentencing Project. Every Friday, the American Civil Liberties Union of Nevada conducts a training on rights restoration at Legal Aid Center of Southern Nevada. Through that, we find that people are surprised that, even though they have their discharge paperwork, they are still ineligible to vote. They have to get some type of court order, and there is really no clear process. It is an elusory process. We have a statute that says you can petition a court, but it does not spell out how to go about doing that. That has led to very low participation in that court order process. The Sentencing Project estimates that less than 0.5 percent of ex-felons had their voting rights restored through a court order from 1990 to 2010. That is a very small amount.

Voting is a fundamental right that is vital to society and central to democracy. Citizens have no voice if they do not vote. Citizens deserve a say in their government, and voting is an essential part of resuming the duties of full citizenship. This bill is long overdue. There is really no link between the right to vote and whatever criminal activity a person has committed. Once they are in society, they should be able to fully participate, and they want to. We encourage your support of this bill.

Charles Navarro, Reentry Manager, Hope for Prisoners:

It is with great pleasure I come before you today to express my support for A.B. 431. I am here to help lend my voice to an effort to make tomorrow better than today. In my capacity with Hope for Prisoners, I have had the fortunate opportunity to experience transformation of inmates with a front-row seat. The opportunities and values we instill in the individuals we touch help transform our communities. With A.B. 431, the state will now play a vital role in that same process by restoring a person's constitutional rights. Through their sentencing, prisoners receive the punishments our courts have deemed appropriate and suitable for the crimes they have committed. I am not here to advocate for lesser sentencing or more lenient punishments; rather, I am here to support Nevada's role in allowing a person to regain the essence of being a citizen again. If prisoners retain their civic status after their sentence and are subject to the same rule of law, it follows that prisoners should regain the most fundamental part of their civil rights: the right to vote. Disenfranchisement creates a class of people who are still subject to the law, but without a voice in the way they are governed.

The language of this bill does not shorten a sentence or allow a person to petition for lesser punishments. Instead, once they have completed their sentence decided by the courts, their rights are then restored to help them become active members of our communities. Nobody is arguing that governments should not punish citizens by revoking their liberties, but we should always be open to finding ways we can build up our fellow men. When they are done with their sentence, they should be done with their sentence. I can support this bill because—as Hope for Prisoners aims to do—this bill provides individuals with an

opportunity. It is an opportunity they should not take lightly, but learn to value. They should learn to value the impact their voice has on matters, and learn how to understand their role in becoming contributing members of society, stigma-free.

Joseph Abraham, Private Citizen, Las Vegas, Nevada:

I am a registered voter, but only because I had my rights restored after being convicted of multiple felonies in 1999. Today, nearly 20 years after my conviction, I own and operate four businesses in the state of Nevada and one in the state of Texas. I have completed my undergraduate degree at the University of Nevada, Las Vegas. I am a member of Victory Baptist Church. I am raising an incredible family, and I serve a great deal of time in service to my community. I am a practical man. I do not believe restoring an individual's rights will have a tremendous impact on the recidivism rate. However, I am absolutely certain of one thing: if you prevent a convicted person from engaging in the voting process, you eliminate the possibility of them building into the community in a positive fashion. Continuing to disenfranchise convicted persons who have paid their debt to society is bad policy. I am here today to ask you to support Assemblyman Frierson and pass A.B. 431.

Erika F. Washington, Executive Director, Make It Work Nevada:

I am here in support of A.B. 431. At Make It Work Nevada, we strive to advocate for economic, racial, and reproductive justice issues. We feel that this bill will give people back a part of something they lost so they can be productive members of society.

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

I will just say we are grateful for the Speaker bringing this forward, and we urge your support of this measure.

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

As elected officials, I believe everyone on this Committee understands that one vote can really be powerful. Providing that vote to individuals who may have had a past should not concern this Committee. I had a client who committed some offenses shortly after he turned 18. One of the first things he mentioned to me when he spoke with me and the judges was that he will never have a chance to vote. That was very impactful for him.

Stephanie Alvendia, Private Citizen, Las Vegas, Nevada:

I urge this Committee, along with the rest of the Assembly and Senate, to vote in favor of Assembly Bill 431, which would allow the automatic restoration of voting rights for all people who have completed their sentence. I know, firsthand, how confusing and cumbersome the law is for people who have served time and wish to have their rights restored. I am a field registrar: a volunteer trained by the Clark County Election Department to register qualified voters on behalf of the Registrar of Voters. When I am out at libraries or other public venues, I frequently encounter formerly incarcerated people who either do not know they can have their rights restored or explain to me the difficulties they have had in restoring their voting rights, such as having to go through the process of sealing their record,

petitioning a court, or receiving a pardon. This process can be time-consuming and costly. This issue affects tens of thousands of Nevadans across our state of all ages, races, genders, and political affiliations. The current law is opaque, at best, and disenfranchisement at its worst. This bill, by allowing automatic restoration of voting rights, will remove unnecessary, costly barriers to help these people reengage as good citizens of our state by allowing them to vote again.

Jean Melby-Mauer, Founder, Paradise Las Vegas Indivisible:

I am here to testify on behalf of A.B. 431. Paradise Las Vegas Indivisible has, as one of its major missions, the expansion of suffrage. We have been actively involved with voter registration and making voting easier and broader. We frequently meet potential voters who respond to our registration efforts with, "I cannot. I am a felon." Even when we give them brochures indicating they have a possibility to restore their voting rights, we are met with sad faces. We strongly support the restoration of voting rights to Nevadans who have served their sentences. Please pass A.B. 431 and show that we are capable of restoring people to full citizenship.

Penny James, Organizer, NARAL Pro-Choice Nevada:

I am in support of A.B. 431. I am from a very small town. Everybody I knew had a felony; their brothers had felonies; their sisters had felonies; their parents had felonies. It was a whole community that had no voice. That was probably one of the scariest communities I have ever seen. They served their time but will never be able to vote. I think we have a chance to fix that, and we should do that for them.

Doug Goodman, Executive Director, Nevadans for Election Reform:

I urge you to do the right thing: send A.B. 431 to the floor with a full, unanimous do pass.

Roger Pharr, Private Citizen, Las Vegas, Nevada:

Last year, I had the opportunity to go into several jails in the Las Vegas area to teach inmates about their voting rights. I did this as a volunteer with the Mass Liberation Project and the American Civil Liberties Union of Nevada. Our goal was to help people understand the laws surrounding voting with a criminal record and make voting accessible to them. The law, as it stands today, is very confusing. Although two-thirds of our jail population is held pretrial, most inmates do not know they retain their voting rights. In fact, when I made my presentations and asked how many people in the room were eligible to vote, only a couple would raise their hands. Many were registered voters and had thought they had lost their right to vote because they were serving a sentence for a misdemeanor.

After the presentation, there were a lot of questions about what to do if they had a prior felony conviction and did not know what class it was and how they get the discharge paperwork from a prior conviction so they can register. When I was done, almost everybody knew they had the right to vote. There were only a few people who did not, mostly those from out of state. Our Nevada jails see tens of thousands of people come and go annually. Almost none of them lose their right to vote, but most think they do. This is because our laws are needlessly complex, and restoration of rights is unduly burdensome. As you have

already heard, voter registration cannot be done in the field if you have a criminal record. This reduces access to voting significantly because many people are registered through these "get out the vote" efforts. In effect, the law is causing us to disenfranchise a much larger number than the 85,000 people who are lawfully disenfranchised. This bill addresses this problem and will open up access to voting, not just for people who legitimately lost their voting rights under law, but for the many people who think they might have.

Rex Reed, Private Citizen, Las Vegas, Nevada:

I am here to state my support for Assembly Bill 431. When a person is released from incarceration, they deserve a chance to participate in society: to work, to raise families, and to vote. They deserve to be valued and to have a voice in the political decisions affecting them, their families, and their communities. They live in these communities as citizens. The current process for rights restoration we have here in Nevada is filled with barriers and obstacles that prevent people from voting. This bill will help streamline the process. It will get rid of the complex restoration procedures that require burdensome administration, use up government resources, spend taxpayer dollars, and ultimately infringe on people's rights to engage in society. We call our country a democracy, and we need to work to make that true for everybody.

Shirley Sandoval-Reynolds, Private Citizen, Henderson, Nevada:

I am here today in support of A.B. 431, and I respectfully request that you and your Committee support this important bill. This bill will restore certain civil rights, including the immediate restoration of the right to vote to a person who has been discharged from probation or parole or released from prison. I believe restoring voting rights to ex-felons is a winning solution for our state and our communities. Ex-felons will have the opportunity to reenter and join their communities as accepted members of their communities and full American citizens with all the rights guaranteed by the *United States Constitution* to all persons in our country. As I am sure you are aware, disproportionate numbers of Hispanics and African Americans are incarcerated, not only in Nevada, but throughout the country. Reentry into society is difficult for these ex-felons who routinely cannot get a job or buy a home, which impacts their ability to take care of themselves and their families. This bill will provide circumstances that will give them a sense of pride and purpose. I hope, as you make decisions regarding this bill, you will agree with me that giving a second chance to Nevada's ex-felons to enjoy the constitutional rights guaranteed for all will help build stronger communities and responsible citizens. We stand in support of this bill, and we look forward to working with this body on criminal justice reform.

Jim Hoffman, Attorney, representing Nevada Attorneys for Criminal Justice:

We support this bill. I represent a lot of these inmates, and they do not have anything to do all day but read about news and politics. They go in there—a lot of them do not even have high school degrees—and they educate themselves and learn a lot about how politics and civics work. This is a good bill because it will allow them to use that knowledge to be the educated, responsible citizens we want. Nevada Attorneys for Criminal Justice supports this bill.

Claudia Larios, Private Citizen, Las Vegas, Nevada:

I want to voice my support for this bill. When somebody has served their time and paid their debt, they should have the right to vote. They should have the right to participate in their democracy. I support A.B. 431.

Chairman Yeager:

I will now open it for opposition testimony.

Maurice White, Private Citizen, Carson City, Nevada:

Unfortunately, I stand in opposition to A.B. 431. I had originally been in full support of this bill until the amendment was introduced. I believe voting rights should be easily restored when the full penalty is paid: that means when parole or probation is over. The victims of these criminals pay the full price from the beginning. In many cases, they never stop paying that price. Indeed, these civil rights should be restored after the penalty is paid. You should be working on what a lot of these people testified on: making it easier to restore these civil rights after the penalty is paid.

Chairman Yeager:

Is there anyone in neutral? [There was no one.] I will close the hearing on A.B. 431. At this time, I will hand the meeting over to Vice Chairwoman Cohen, as I will be presenting the next bill.

[Assemblywoman Cohen assumed the Chair.]

Vice Chairwoman Cohen:

I will open the hearing on Assembly Bill 417.

Assembly Bill 417: Revises provisions governing the dissemination of certain records of criminal history to certain persons by the Central Repository for the Nevada Records of Criminal History. (BDR 14-714)

Assemblyman Steve Yeager, Assembly District No. 9:

It is my honor to present Assembly Bill 417 to you this morning. Those of you who were on this Committee last session might remember Assembly Bill 26 of the 79th Session. That legislation dealt with background checks and employment screening services that conducted background checks through the Central Repository. We spent a lot of time on that bill last session, and it ultimately passed. It was enacted into law. I was somewhat disheartened to learn last year that the impact of that bill we passed was to substantially lessen the workload of Nevada-based employment screening service businesses. I do not believe that is what any of us in 2017 intended, but that is what happened. I have Dody Fuhrmann with me today. She is with Nevada Quick Search, Inc. She will tell you how things worked prior to our passage of Assembly Bill 26 of the 79th Session, what happened after that legislation passed, and what this bill in front of you would do to fix some of the issues that arose.

I do want to say this bill is a work in progress. I had a very productive meeting yesterday with the Central Repository for Nevada Records of Criminal History. I do think there are going to be some changes made to the bill. I apologize for not having those for you here today. As you know, things are moving quickly in the building, and it is sometimes difficult to get these ready for a hearing. The Central Repository made some good suggestions about how to make this bill better. Stay tuned. I think we can make the language even better, but for now, we can talk about the bill as drafted. I imagine some of you will probably have some of the same concerns I discussed with the Central Repository. With that, I would like to hand it over to Ms. Fuhrmann to take you through some of the issues with the bill from last session and how this bill fixes those issues.

Dody Fuhrmann, Chief Executive Officer, Nevada Quick Search, Inc.:

I am a licensed private investigator in Nevada and a business owner. Assembly Bill 417, if passed, will correct an unintended consequence of A.B. 26 of the 79th Session. The unintended consequence has adversely affected the employment screening industry in Nevada, a thriving Nevada business—Nevada Quick Search—and the revenue stream for the Central Repository.

I have been a licensed private investigator since 2006, and my business has been licensed since 2007. Nevada Quick Search has been a legal, fully compliant, authorized participant of the Central Repository since 2010. We utilize the Central Repository solely for the criminal portion of an employment background screen of candidates in Nevada only. Several national background screening companies outside of the state who have contracts with some of the largest employers in Nevada hire firms such as Nevada Quick Search to be their Nevada subcontractors for purposes of providing the criminal background check portion of the employment screening process. This is because Nevada is very different when it comes to retrieving public record information from the various courts. Despite what is portrayed in television shows, there is no public national database to draw criminal histories from. Most criminal court research must be accessed by each court. Using the Central Repository's Civil Name Check for this purpose is much more efficient and greatly reduces the turnaround time of the employment background check, thereby allowing Nevada employers to hire more quickly, with more confidence, and get Nevada citizens on the job sooner. We provide a vital service to Nevada employers and have proudly done so for many years. We have successfully and confidently passed all statutorily required state audits of our access and use of this system. As a licensed private investigator in Nevada, we not only have the standards of the Central Repository to comply with, but we also have a higher standard of credentials and conduct that we must maintain and be compliant of: the Nevada private investigator statutes, specifically *Nevada Revised Statutes* Chapter 648.

We had our best year in 2016. During that year, Nevada Quick Search paid approximately \$450,000 to the Central Repository for this service, which is approximately 38 percent of the Central Repository's annual revenue for this program. That is not a drop in the bucket. Nevada Quick Search has been a top producer of revenue for this service in the state, and we continue to be the top producer of revenue for this service, but now at a drastically reduced rate overall. After the passage of A.B. 26 of the 79th Session, revenue has plummeted for

both my business and the Central Repository. Due to this decline in business, I have had to lay off staff, and so did the Central Repository. My revenue is currently down some 50 percent of what it was in 2016. The Central Repository has reportedly reduced its staffing by two thirds of what it was before the law change due to the drop in revenue.

While initially drafted to increase our ability to function and work with the Central Repository, A.B. 26 of the 79th Session was amended to massively alter the way we can legally utilize the access to the Central Repository. The amending of that bill, while having the best intentions—protecting the public—was not a necessary change due to the fact that any authorized participant to the Nevada Central Repository must have an active, valid, Nevada private investigator license. In addition to passing the credentialing requirements of the Central Repository, including regular audits, Nevada Quick Search and our associates are all highly regulated as consumer reporting agencies under the federal Fair Credit Reporting Act, as well as regulations issued by the Federal Trade Commission and the Consumer Financial Protection Bureau. This governance is not only transparent and far-reaching, but it ensures the protection of consumer information at every step of the employment screening process.

Despite the fears that led to the amendment of A.B. 26 of the 79th Session, unauthorized access to or usage of this system never has been allowed. It is highly secured; it is highly audited. Assembly Bill 417 will not affect the credentialing and security measures already in place for access and usage of this system, and will, in fact, bring the system back to its full potential for the good of Nevada employers and job seekers alike. This bill, if passed, will correct the unintended consequences and help reinvigorate both the background screening industry in Nevada and the work of the Central Repository as well as increase overall public safety by ensuring employers, landlords, and volunteer organizations are confident in who they hire and rent to.

Current law authorizes an employment screening service that has entered into a contract with the Central Repository to inquire about, obtain, and provide those records of criminal history to the employer or volunteer organization. Nothing will change about that access requirement or the tracking, monitoring, and accountability that come with it. Instead, this bill authorizes a screening service that has entered into such a contract with the Central Repository to obtain and provide records of criminal history to an employer or volunteer organization, and adds "landlord," "owner," and "manager." This bill will allow other consumer reporting agencies outside of Nevada to subcontract with authorized Nevada businesses, such as Nevada Quick Search, to access information needed to complete their screenings. I respectfully request passage of this bill so we can restore a thriving Nevada industry, business, and Central Repository revenue.

Assemblywoman Backus:

Under the definition of an eligible person, Ms. Fuhrmann also included a reference to a manager. I am a little concerned about the two terms "manager" and "owner." I am an owner; can I do this?

Assemblyman Yeager:

Section 1, subsection 10(e) talks about an "eligible person." These are people who are eligible to utilize the service the Central Repository offers. You can see there is the addition of four different categories there. We are looking to potentially make some changes to that. I think the Central Repository will explain why, but I do not want to give the impression that you can just log onto the Internet and run people's names. There is a process that the Central Repository goes through. There is essentially equipment that is required. What we may be looking to do in that section is potentially take the four new categories and expressly allow them to use a service, such as the one Ms. Fuhrmann operates because her service is audited and trustworthy. We want to allow these new individuals to access the records, but maybe not directly. To be honest, I do not know that it would make sense for a typical landlord or owner to go through the burden of setting up access to this system.

I think we are going to work on tightening up the language there with subparagraphs (4), (5), (6), and (7). That is one of the sections I talked to the Central Repository about. We potentially want to bring that more in line with practice to ensure these documents do not leave the hands they are supposed to be in and also to make sure the Central Repository can audit in an appropriate fashion to make sure that is happening.

Dody Fuhrmann:

What this does not specifically state is that an authorized participant must be a licensed private investigator in the state of Nevada. An owner, manager, or employer would be authorized to hire a firm like mine that is an authorized participant in full compliance, has met all the credentialing requirements, and has an active Nevada private investigator license. Again, there would be no unauthorized access or usage of this system. It is simply not allowed. There is quite a bit of security and credentialing in place before you get there.

Assemblywoman Krasner:

A big theme about our 2019 Session has been giving people a second chance who have served their time and paid their debt to society. If landlords have the ability to access prior criminal records, would this have any effect on that?

Dody Fuhrmann:

Landlords are covered under a different federal law. In a sense, they can use some of that information. It is possible. They are not covered as strictly under the federal Fair Credit Reporting Act as employment screening is. They have a different set of rules they can abide by, but I believe they can look at convictions only; they cannot hold someone accountable if that person has not been convicted. There is a certain period of time with respect to employment screening, it is a seven-year period where you can go back. If you had a conviction from 15 years ago, it is illegal to use that against you with respect to employment screening and possibly tenant screening.

Assemblyman Yeager:

I do not want to speak out of turn, but I think, depending on what type of housing you are applying for, there are some federal restrictions on who can live in that housing. Part of the

intent here is to make it easier for landlords in our state to be able to access our state information. I do not want to go into too much detail because it is not my area of expertise, but I think with some of the federally subsidized housing there are certain things that could be on your criminal record that would prevent them from leasing to you. We want to make sure that information is readily available to our landlords in Nevada.

Vice Chairwoman Cohen:

Ms. Fuhrmann, you have told us about the security within the system and how only certain people with credentials are able to use it. Can you tell us a little bit about the security protecting the system from outside hacking?

Dody Fuhrmann:

Yes, the Central Repository requires quite a bit of security for the building the access is in. It has to be totally secured, locked, and alarmed. The database has to be secured. There is a special firewall that has to be purchased and can only be utilized for this access. Before they turn on your access, you have to pass quite a bit of fingerprint background checks, file for their application, and they require a site inspection. They have to come out to make sure everything is flowing and secured and locked down the way it is.

We are also subject to periodic audits whenever that is possible. They also currently have audits of the usage of the system, which we have passed successfully and confidently since we have had access in 2010. Before I got to this point, I had to be a licensed private investigator to do background screening in Nevada. The credentialing and what I had to deal with to get that was quite strict, and I have had to maintain that throughout this time.

Vice Chairwoman Cohen:

I will open it up for testimony in support.

Joshua Hicks, representing Consumer Data Industry Association:

We have submitted a letter of support for this bill ([Exhibit E](#)). The Consumer Data Industry Association consists of a number of credit bureaus and background check screening companies, including many that are very active in Nevada. These services, as you have heard, provide a very important feature for employers, landlords, and those kinds of situations where people are looking to get into a unit or to get a job and want to be able to get their background check done as quickly as possible. That is what these screening companies do.

We have been involved, through the Consumer Data Industry Association, over several sessions, on bills that have impacted this area of the statute, in particular Assembly Bill 47 of the 78th Session and A.B. 26 of the 79th Session. I think we left last session with some concerns over exactly how A.B. 26 of the 79th Session was going to work. We have heard some of that today. We do think this bill as drafted does a very good job of cleaning up some of those issues. There is always a bit of a balancing act under this statute as far as making sure the information on people's background is protected and only sent to authorized people and screening services, as well as making sure the barriers are not so strict

that they slow that down and stop those background checks from happening so people can actually get jobs and get into rental units. It has been a work in progress every session. This bill removes some of those issues for my client, and we look forward to continuing to work with Central Repository, Chairman Yeager, and Ms. Fuhrmann on any potential amendments.

Vice Chairwoman Cohen:

I will open it up for opposition testimony.

Jim Hoffman, Attorney, representing Nevada Attorneys for Criminal Justice:

We understand that the main purpose of this is to make some tweaks and fix some issues that came up last session. We do not oppose that part of the bill. However, you hear about the "Ban the Box" movement: the idea that it is a form of discrimination to ask people about their criminal history and employment record. Assembly Bill 315, which is up for hearing today, actually has a really good "Ban the Box" provision. What A.B. 417 does is make new boxes. It makes boxes for landlords, and it makes boxes for credit agencies. As Assemblywoman Krasner correctly stated, this hurts our ability to give prisoners a second chance. You get out of jail and you need a place to live. You probably want to get a car or a mortgage, and this bill would make it harder for people to do that. Landlords would be able to run background checks and deny people the ability to live in a place. We know that having stable housing is a really important way to prevent recidivism. If you pass this bill, it will make it harder for ex-felons to get stable housing. It will make it more likely that they go on to commit more crimes. If we really care about second chances, we should not expand who can do these background checks. We should not create more of these boxes; we should ban them. Again, while Nevada Attorneys for Criminal Justice is neutral on the bill as a whole, we are opposed to all these expansions of who is an eligible person.

Vice Chairwoman Cohen:

Is there anyone in neutral? [There was no one.] I will invite the presenters back up for concluding remarks.

Assemblyman Yeager:

I appreciate the comments that were made. As I said, this is still a work in progress. The last thing we wanted to do was take all of this business away from the state of Nevada as well as a funding source for the Central Repository. The only other thing I wanted to mention is that in section 1, subsection 6 of the bill, you will see the word "written" is stricken there. I think we want to restore that language because that is the way the Central Repository, when they do an audit, can figure out whether the person who has been run through the system actually gave authorization to be run through the system. There was some concern there about eliminating "written" consent. That is one of the changes we will be making before we get to the work session.

Vice Chairwoman Cohen:

Thank you. [([Exhibit F](#)) was submitted but not discussed and will become part of the record.] I will close the hearing on A.B. 417 and invite Assemblyman Yeager back up to resume the hearing.

[Assemblyman Yeager reassumed the Chair.]

Chairman Yeager:

I will open the hearing on Assembly Bill 315.

**Assembly Bill 315: Revises provisions relating to records of criminal history.
(BDR 14-831)**

Assemblyman Alexander Assefa, Assembly District No. 42:

This morning, I am presenting Assembly Bill 315. The original version of this bill included several components. I have made substantial improvements and changes to the bill. I have submitted a conceptual amendment on the Nevada Electronic Legislative Information System ([Exhibit G](#)). I would like to speak to the amendment, rather than the bill as drafted. To clarify, the proposed amendment would delete all parts of the bill that are not related to the removal of records of a person who is wrongfully arrested.

The entirety of the bill boils down to this: if it is determined by a court of jurisdiction, an arresting agency, or a district attorney that the arrestee was the wrong person, an "add, change, and delete" (ACD) procedure shall be ordered on the arrest record pertaining to that particular arrest, entirely deleting and forever destroying that arrest record. The arrestee would fill out an application of no more than one page to initiate the process. If the application to add, change, and delete is initiated in accord, the court of jurisdiction would verify with the district attorney or other applicable entity that the arrest was wrongful, and, upon such verification, the court shall approve the application to delete the records. I would be happy to take any questions.

Assemblywoman Hansen:

Would a mugshot also be destroyed? As I understand, those stay around even if the arrest has been wrongful.

Assemblyman Assefa:

All records, including mugshots, pertaining to a wrongful arrest will be destroyed.

Assemblywoman Hansen:

When there is a wrongful arrest and it is dismissed or the record is sealed, do you still have to disclose that on an application? It will ask whether you have been arrested even though you have not been convicted. I am curious how that works. If the records are destroyed and the mugshot is no longer there, do you have to say you were arrested even though it has all been settled?

Assemblyman Assefa:

You can rightfully say you were never arrested if the records are destroyed.

Assemblywoman Torres:

Based off the amendment, we are striking all of the other parts of the legislation, correct?

Assemblyman Assefa:

Correct.

Assemblywoman Torres:

I think we should also consider adding a timeline of how long it should take. As we know, some of these processes can take months or perhaps years. I think it might be worth considering adding a timeline.

Assemblyman Assefa:

Just as a clarification, do you mean a timeline for the person to apply?

Assemblywoman Torres:

I meant a timeline for the courts and the arresting agency to administer the ACD process. If an individual files an application, it should not take a year for them to complete the ACD process. It should only take a certain amount of time, just to ensure the court and the local agencies are being expedient and not just waiting on a backlog.

Assemblyman Assefa:

The ACD procedure is an administrative procedure that is routinely done if necessary. I have not heard of a situation where time was a problem, but that is something I will consider.

Chairman Yeager:

At this time, I will open it up for testimony in support of A.B. 315.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

Under the rules of the Committee, I am here in support of the conceptual amendment. We were in opposition to the original bill. We appreciate Assemblyman Assefa taking the time to meet with us. We 100 percent support what he is trying to do with sealing records of someone who was wrongfully arrested in cases of mistaken identity. I believe the district attorneys will speak to it, but I have one question about the amendment; we typically use the term "sealing" of records, and I am not really sure if there is a legal definition of what ACD is or if there is an outline of what that is in statute compared to a normal sealing process.

To Assemblywoman Torres's point, we would certainly support language such as "as soon as practical" to seal the record. Putting a very strict timeline, such as 30 days, could be problematic with the workload we have for record sealing. We appreciate your consideration of that.

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

We are also here in support of the conceptual amendment to A.B. 315. Again, we want to see the final language, but we have met with Assemblyman Assefa and we completely support the premise behind the bill.

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

We are in support of this bill and the conceptual amendment. As far as Assemblywoman Hansen's question, the mugshot may be sealed, but right now, we have no mechanism for sealing those online sites that show people's mugshots. There is no method for that yet. Maybe that is something we can address at a later time. The sealing process is generally pretty lengthy. Perhaps, we could put it as a priority. We could say the sealing of this type of record for someone who is falsely accused or arrested is a priority above other record sealing. That may be helpful as far as a timeline, but if you put a strict timeline, I think it would be difficult to comply. We are in full support of this measure.

Chairman Yeager:

You bring up a good point. We have had discussions in this Committee about what to do with these online websites that pull public information from public sites and then it is very difficult to get them to take that information down, especially when they are not operating within the state of Nevada. I do not know that we have a great state-based solution for that, but I remain hopeful—however much of a long shot it is—that the federal government, at some point, can take a look at that. I think that kind of legislation probably has to come from the federal level. That being said, if anybody has ideas about what we might be able to do on the state side to make those websites stop listing people and showing their mugshots when someone is wrongfully arrested or has their record sealed, I would certainly be open to suggestions.

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

We also support this legislation. We think it is a complement to many of the record sealing bills that are making their way through the session. We do want to work with Assemblyman Assefa to make sure we reconcile any procedural processes with Assemblyman McCurdy's bill [Assembly Bill 192] and this legislation. We support the bill.

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

I echo the statements made before me. This is an extremely important bill in order to ensure individuals who are wrongfully arrested do not have to report it. Something as simple as a school application can involve an arrest record, and that has an extreme impact on individuals in our society. We really appreciate Assemblyman Assefa for bringing this legislation forward.

David Cherry, Government Affairs Manager, City of Henderson:

We are also here in support of the conceptual amendment. That would be great if we could also have the term "city attorney" added along with "district attorney" to make sure it reflects the practice of the municipal court of the City of Henderson.

Chairman Yeager:

I think that is a fine suggestion, and I believe that would be agreeable to Assemblyman Assefa, so we will be sure to add that as well.

Mary Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office:

We are also here in support of the conceptual amendment.

Miranda Hoover, representing Reno Sparks Chamber of Commerce:

We are in full support of the bill with the conceptual amendment presented today. We believe it will help increase the workforce across the state.

Randi Thompson, State Director, National Federation of Independent Business:

We are also in support. I was in opposition, but I like the amendment, so we support the amendment.

Chairman Yeager:

Is there anyone here in opposition? [There was no one.] Is there anyone in neutral?

Kara M. Jenkins, Administrator, Nevada Equal Rights Commission:

The Nevada Equal Rights Commission (NERC) is neutral as it pertains to filing a complaint with the Equal Rights Commission if someone feels they have been discriminated against based on their criminal background. Everything looks fine; we just wanted to let the Committee know that NERC did submit a fiscal note of adding two more investigators to our staff to anticipate more cases being filed with NERC.

Mindy McKay, Acting Administrator, Records, Communications and Compliance Division, Department of Public Safety:

We are in neutral. We are thankful for being requested to participate in this legislation. As far as the term "add, change, delete," I believe Assemblyman Assefa received that term from us when we spoke with him. That is our process. The reason why we prefer to use the wording "delete" rather than "sealing" is because of our process within the Central Repository. If we are given an order to seal, we suppress that, which means it is still in the system and is still available to certain entities under statute. If the intent of this legislation is to truly remove it because it was a wrongful arrest and it should not have been there in the first place, we would prefer to use the term "delete" or whatever term you would like to use. If you use the word "seal," and we get a seal order, we will just suppress that; it is not going to be removed from the system. I just wanted to provide some clarification on that.

Chairman Yeager:

In the scenario that Assemblyman Assefa is envisioning here, someone would have been wrongfully arrested. You are going to receive notice of that arrest. I assume fingerprints were taken and the person's identity can be verified. That record of arrest is going to go into your records, but then, of course, the local arresting agency is also going to have a record. As far as ACD, what you are saying is, when the court decides it really was the wrong person arrested, you would like an order from the court instructing your agency to delete, rather than seal, the record. Do I have that right?

Mindy McKay:

Whatever language they would like to use other than "seal" would work. For example, "remove," "delete," or "destroy" would be okay. It could be anything other than "seal" which, for us, is suppression.

Chairman Yeager:

Does this happen now? Do you get orders from courts to do things other than seal in the fashion we are contemplating with this amendment?

Alison Lopez, Manager, Criminal Records Unit, Records, Communications and Compliance Division, Department of Public Safety:

Yes, that ACD process is used by law enforcement agencies currently. If they need to add additional charges, change charges, or change demographics if there are erroneous fingerprints taken, they use that process now to do all of that to criminal histories.

Chairman Yeager:

Does the process that is currently used involve the court, or do you get that request directly from the law enforcement agency?

Alison Lopez:

We get that just from law enforcement agencies. Courts do not submit those.

Chairman Yeager:

That is helpful. I am just trying to figure out how we are going to word this process. We have very competent legal counsel on this Committee that will probably be tasked with drafting that amendment. I wanted to make sure we got as much information out there about the current process and how we might be able to structure this. Assemblyman Assefa, I will invite you back up to the table to make any concluding remarks.

Assemblyman Assefa:

I just want to say thank you for your time. It is just the right thing to do. When someone is arrested and they were never the correct person, just opening the door and letting them go is not sufficient. Making sure the record associated with that particular incident does not follow them down the road, possibly preventing them from being gainfully employed, is incumbent upon us.

Chairman Yeager:

I will now close the hearing on A.B. 315. At this time, we will open the hearing on Assembly Bill 272.

Assembly Bill 272: Requires law enforcement agencies in certain counties to participate in the National Integrated Ballistic Information Network. (BDR 15-603)

Assemblyman Tom Roberts, Assembly District No. 13:

Basically, Assembly Bill 272 requires law enforcement agencies in certain counties to participate in the National Integrated Ballistic Information Network (NIBIN). I will start by explaining a little bit about what NIBIN is and what it does. I will provide some examples of how we have used it in Clark County at the Las Vegas Metropolitan Police Department (Metro) and elsewhere around the country. I will give you a success story and tell you why we are moving forward with this bill. Then I will go over the bill itself and turn it over to Director Callaway to answer any more technical questions I may not be able to answer.

Before we go, I want to say there are a couple of amendments I already know I will need to make. One is specifically with the term "firearm" throughout the bill. It should say "semiautomatic pistol" because not all firearms can be entered into NIBIN, only semiautomatic pistols. Another issue we came across is that several stakeholders in local government—specifically Clark County—had asked for some language for the ability for the labs to charge for the service if it exceeds current staffing capabilities.

So what is NIBIN? Basically, it is a gun crime-fighting tool operated by the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Right now, I thought there was only one machine in Nevada, but there are two machines. One is located at both of our regional labs at Metro. The other is at the lab in the Washoe County Sheriff's Office.

What does the machine do? Anytime you shoot a semiautomatic pistol, it ejects a shell casing. That shell casing has a unique fingerprint that is unique to that gun. It is not forensic quality, but what NIBIN does is provide leads. You enter that shell casing into a gun. The premise is that if you enter multiple shell casings from crime scene to crime scene and impounded guns, you are connecting crime scenes to each other and crime scenes to guns. If you expand that to an intelligence gun crime center, the faster you do that, the quicker you can identify a crime gun, identify someone who is using a crime gun, and connect crimes together. In one instance, you may have a limited description on someone, but for the other crime you connect them to, you may have a car. With those two, you may be able to develop a lead and a suspect in that case to make an arrest. Basically, that is the premise of it.

What occurs in Metro's jurisdiction now is that all shell casings recovered from crime scenes are entered into NIBIN, as are a majority of our guns. While I was at Metro, we were not really using NIBIN to the full extent. We were just using them on a case-by-case basis. It was not until we visited other jurisdictions around the country that we realized the key is the more evidence you put into it, the more hits you will get, and the more you will be able to connect crimes and make arrests. We ramped that up. We put a couple of different ranges

out at our crime lab so we could shoot guns and handle the amount of guns from other labs. We also added a lot of personnel and firearms examiners. Once you make the connection, you still have to do a forensic examination afterward.

The National Integrated Ballistic Information Network is all over the country. There are only two machines in Nevada, but there are several all over the United States. I can tell you, from our experience, as we have ramped up our use of NIBIN, we are connecting crime guns that we recover in Las Vegas to shootings that occur in Los Angeles, Oakland, and other places around the country and vice versa—they are recovering crime guns from our shootings. It is really just a tool for law enforcement to point us in the right direction. Why is it important? The more you put in, the better we can work together. As of right now, there could be a gun in evidence at the Henderson Police Department that could be connected to a homicide that we have recovered shell casings from in our jurisdiction.

That brings me to a story of how we had a success once we ramped it up. A couple of years ago, we had a homeless individual sleeping on the sidewalk off of Main Street and Foremaster Lane. An individual walked up to him while he was sleeping, discharged his firearm into him several times, and killed him. The only witness we had was a shadowy figure, and that was pretty much it. We had no leads. There were shell casings left at the scene. During our canvass, we canvassed in Metro's jurisdiction, but we also contacted North Las Vegas and did a canvass in their jurisdiction. We came to find out there was an illegal shooting three or four blocks from that location. We went out and canvassed that area in the daytime and recovered some shell casings. When we put those two shell casings together, we connected the two together. We went back out and did a canvass of an apartment complex. We knocked on a door, and a woman said, "Yeah, that guy comes out and shoots on his balcony all the time. He lives in that apartment." Sure enough, we found not only new shell casings, but old shell casings. That led us to a possible suspect. The long story is that we were able to locate that suspect, recover a gun, get a search warrant, and arrest him for the murder. We never would have known that had we not put these two shell casings in together. I can tell you a lot more success stories since we have ramped it up, but that is just one that really hits home.

What does this bill do? Section 1 of the bill applies to counties with a population of over 700,000, which is Clark County. I did that originally thinking that only one machine existed in the state. I will approach the stakeholders in Washoe County to see if that lab can handle it, and maybe we can do it outside of Clark County. The next thing the bill does is require the Board of County Commissioners to designate a lab. That is pretty much done already. There are only two primary labs in the state. There are some other smaller labs. It requires law enforcement agencies to send their crime guns to the labs. What was left out in the drafting of this was shell casings, which is one of the most important parts. That would definitely be a part of an amendment. The bill actually specifies what the crime lab will do. They will fire the gun, enter the shell casings, and once you connect that to a crime, they will do the forensic exams on the firearms through a certified examiner and provide backup testimony in court and/or reports to support it. That is pretty much it. The bill is pretty

simple. It designates forensic laboratories in the NIBIN and provides definitions for those. In section 2, it connects it to other acts in the *Nevada Revised Statutes*.

There are only two states in the country where NIBIN entry is mandatory. Those are New Jersey and Maryland. New Jersey did it in 2013, and as a result they saw a significant drop in gun violence in their state, specifically in some of their most hard-hit cities such as Hoboken and Newark. With that, I will turn it over to Director Callaway.

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

This is vital for crime fighting. We embrace new technology. As Assemblyman Roberts stated, we have been using this technology for quite some time. This year alone, we have had 648 stolen guns in our jurisdiction. What we see is that criminals on the street often pass guns off. They will commit a crime with it and then sell it or pass it off to another criminal. This gives us the ability to connect crime scenes and connect the dots, so to speak. It used to be police practice not too long ago that shootings where nobody was hit or injured—maybe a citizen calls in and says he heard gunfire and an officer shows up and finds some shell casings—were not necessarily taken that seriously or followed up on. We realized that these incidents are often connected to other crimes because things escalate. It is not uncommon that somebody drives down a street and fires some rounds off out of a car window and nobody is hurt and nobody has a lot of information on that. Then, maybe 20 minutes later, those same suspects rob a convenience store. This technology gives us the ability to connect crimes and to track down leads and hold those who do these types of crimes accountable. We are very much in support of this, and we hope the Committee will support it as well.

Chairman Yeager:

I have a couple of questions. I find it pretty fascinating that you can look at a gun and look at a casing and figure out that they work together. Do you have any idea how, scientifically, that happens? When the gun is shot, you said it makes some kind of unique mark, but can you say any more about how that works?

Chuck Callaway:

My understanding is that when a firearm is made at the manufacturer, each firearm barrel and ejector on the firearm is unique and has unique characteristics. When a round is chambered into the weapon, fired, and ejected, it leaves marks on the shell casing that are unique to that firearm. The technology allows for the shell casing to be put into a microscope-type device which does three-dimensional digital imaging of the shell casing and identifies the scratches and marks that are on the shell casing as a result of being ejected from the firearm. Then, when you find a gun, you do a test fire with that gun and take the shell casing from that gun. You are able to put that digital image in and compare the two. It is really like a fingerprint. You can show that the marks and scratches on those two shell casings line up perfectly. We always have to do a confirmation. When we get the hit in NIBIN that shows the shell casing is a match, we have to actually confirm that by testing the firearm and having a forensic lab technician review that casing to ensure it is truly a match.

Assemblyman Roberts:

The match is not evidence that is good for court. You have to have a forensic examiner follow up and do a more thorough examination, but the hit rate is pretty accurate.

Chairman Yeager:

I have a question about the workload for the lab. I noticed there was not a local government fiscal note. I do not know if they solicited that or not, but if this bill were to be enacted, do you have a sense of how much additional work you are talking about for the lab? Will it not be that much? Any information you can give us would be appreciated.

Chuck Callaway:

As of right now, we have not put a fiscal note on the bill. I know this is a policy Committee. I think the proposed conceptual amendment from the county where a fee could be charged, if there is an appetite for the body to accept something like that, would resolve any financial issues we might have. In the big scheme of our budget, the cost would be very minimal. Our lab says we would probably need to hire one person to work in the lab. It would probably be about \$100,000 annually. It is minimal. We always support any revenue to support that type of additional workload. At the end of the day, the ability for us to catch violent criminals and get them off the street outweighs the cost, in our opinion.

Assemblyman Roberts:

Over the last three years while I was still at Metro, we added several forensic examiners to the crime lab. We also reassigned some light-duty personnel to handle the actual firing and entry of the casings into NIBIN. We probably tripled the size of that unit knowing we would have to service other jurisdictions the lab is responsible for. That estimate could be right: maybe one additional person with the increased workload.

Chuck Callaway:

For us, over the last year, we had 4,170 NIBIN entries. We are already doing this. The potential additional workload would be from those law enforcement agencies that would be submitting guns to us that are not currently participating.

Assemblywoman Hansen:

You mentioned the language in the bill says "firearm," but you wanted to change that to "semiautomatic pistol." We are only using those firearms? We are not going to categorize any other firearms?

Assemblyman Roberts:

That is correct. Because of the way the extractor works, it only works for a semiautomatic pistol. If you have a revolver or rifle or anything else, those shell casings will not work.

Assemblywoman Torres:

I am concerned that there might be instances where the technology does not work and we are not able to determine completely that the casing is from that gun. In the court system, are we

going to require that additional evidence is used and required once those cases go forth, or is this going to be the sole basis of an arrest and eventually a case?

Chuck Callaway:

The cases we do—especially a homicide case or a violent crime case—use a totality of the evidence. I am not aware of any case where just a NIBIN hit alone results in an arrest; it may be statements from witnesses, circumstantial evidence at the scene, DNA evidence, the recovery of a firearm that we can show was used in the commission of a crime, or statements from the suspect who is captured. It is a totality of circumstances, not just the NIBIN information. It would not hold up in court in and of itself. You need those other facts.

Assemblyman Roberts:

Director Callaway is correct. We have been using NIBIN for several years. Basically, it just points us in the right direction. We still have to have a scientist go through and do a forensic examination of the gun to confirm it. It is no different than fingerprints or the Combined DNA Index System—when you put DNA together, even though you get a match from the system, you still have to go out and do a second test to reaffirm that. It is no different than that.

Chairman Yeager:

Director Callaway, you brought up the recovery of stolen firearms. Prior to the 2015 Session, Clark County had the Blue Card program where folks had to register handguns. That went away in 2015. I am not going to get into the politics of why it went away, but I wonder if you can give a perspective on whether the elimination of that Blue Card program has made it more difficult for Metro to return stolen firearms to their owners. I know it does not relate directly to the bill, but it does relate somewhat to trying to correlate firearms to crimes.

Chuck Callaway:

I would not say we are having a much more difficult time returning stolen firearms. The only issue we do see is that some folks do not write down the serial number of their firearm. Often, when you purchase a firearm, it comes with a little certificate that has the serial number, make, and model. It is common that people will have that information so we can enter it into the SCOPE background checks or the National Crime Information Center to help us return stolen guns. There are cases where people do not write the serial number down or they purchase the gun through a private party and do not have that information. Through our pawnshop detail and through comparing firearms that are recovered in search warrants to crime reports from burglaries, we are often able to return those guns.

Assemblyman Roberts:

If you do not have the serial number yourself and you are the original purchaser of the firearm, you can do an eTrace [Electronic Tracing System]. There is a federal database in which you can run your name and find out all the firearms you have purchased from original point of sale. That would be another way to get the serial number if you did not have it.

Chairman Yeager:

At this time, I will open it up for testimony in support of A.B. 272.

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

We are here in support of A.B. 272, especially with the two additions Assemblyman Roberts has proposed based on some of our recommendations to the bill. One is to change section 1, subsection 1 to allow additional laboratories to be included. The second change is to include some language to allow for the labs to be able to charge for some of these services they provide. With that said, Clark County is in support.

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

We are here in support of A.B. 272. We would be amenable to including Washoe County in that demographic as far as lowering the population. We have been participating in the NIBIN program since 1997. We currently have one full-time forensic scientist assigned to firearms and we have two part-time scientists who are former range masters who we use to augment some of the influx of cases.

Chairman Yeager:

Is there anyone here in opposition? [There was no one.] Is there anyone here in neutral? [There was no one.] I will close the hearing on A.B. 272. Would anyone like to give public comment? [There was no one.] Just a reminder to Committee members: If you have outstanding bills waiting on amendments, please continue to work on those and get them to us as soon as possible.

Tomorrow, we will start at 8 a.m. with three bills on the agenda. We will have a work session on Friday with around ten bills beginning at 8 a.m. We will be hearing bills on Monday, Tuesday, Wednesday, and Thursday. You can anticipate a long work session next Friday, April 12. We will probably try to split that up and have a work session on April 11 as well. I hope everyone has a great day. The meeting is adjourned [at 10:03 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 proposed amendment to [Assembly Bill 431](#), submitted by Assemblyman Jason Frierson, Assembly District No. 8.

[Exhibit D](#) is written testimony submitted by Jon Sherman, Senior Counsel, Fair Elections Center, in support of [Assembly Bill 431](#).

[Exhibit E](#) is a letter dated April 1, 2019, to Chairman Yeager, submitted by Eric J. Ellman, Senior Vice President, Public Policy and Legal Affairs, Consumer Data Industry Association, in support of [Assembly Bill 417](#).

[Exhibit F](#) is a letter dated April 3, 2019, to Chairman Yeager and members of the Assembly Committee on Judiciary, submitted by Brent Smoyer, Director, State Government Relations and Grassroots, National Association of Professional Background Screeners, in support of [Assembly Bill 417](#).

[Exhibit G](#) is a proposed amendment to [Assembly Bill 315](#), submitted by Assemblyman Alexander Assefa, Assembly District No. 42.