

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

**Eightieth Session  
April 18, 2019**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:33 a.m. on Thursday, April 18, 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](http://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:**

Assemblywoman Dina Neal, Assembly District No. 7



**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Alanna Bondy, representing Nevada Attorneys for Criminal Justice  
Ralph E. Williamson, Senior Pastor, First African Methodist Episcopal Church; and  
President, Faith Organizing Alliance, Las Vegas, Nevada  
Lilia Ceballos, Owner and Bail Agent, Aztec Bail Bonds, Las Vegas, Nevada  
Daryl B. DeShaw, Director and Bail Agent, Surety Bail Agents of Nevada, Inc., Las  
Vegas, Nevada  
Marc Newman, Private Citizen, Las Vegas, Nevada  
Troy Richardson, Private Citizen, Las Vegas, Nevada  
Holly Welborn, Policy Director, American Civil Liberties Union of 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  
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada  
Jagada Chambers, Private Citizen, Las Vegas, Nevada  
Brandon Summers, Private Citizen, Las Vegas, Nevada  
Robert L. Langford, Attorney, Robert L. Langford and Associates, Las Vegas,  
Nevada

**Chairman Yeager:**

[Roll was called, and Committee protocol was explained.] I will open the hearing on Assembly Bill 125, which revises provisions governing bail in certain criminal cases.

**Assembly Bill 125: Revises provisions governing bail in certain criminal cases.  
(BDR 14-542)**

I think there has been a lot of interest and a lot of speculation in terms of this bill and how it might interact with another bill, Assembly Bill 325, which we heard earlier this session. I want to make it clear that today's bill hearing is to discuss the policy that is involved in Assembly Bill 125. This is not a rehearing of A.B. 325, which we heard for approximately four hours about a month ago. Folks in support or in opposition, please limit your testimony to what is contained in A.B. 125.

I also want to make clear that despite some very interesting reading of the tea leaves, the concepts that are in A.B. 325 and that have been worked on by stakeholders are not dead; they are still alive. That bill has a waiver and I think, in all likelihood, these two bills will

likely be meshed in some fashion. For those of you who were reading the tea leaves and thought that A.B. 325 and all the work that was done there was for nothing, you are incorrect about that. I wanted to make that clear for the record so everyone has a lay of the land in terms of where we are going this morning.

With that being said, welcome to the Committee, Assemblywoman Neal.

**Assemblywoman Dina Neal, Assembly District No. 7:**

I am grateful that I get a second chance to do this without having the flu, because in 2017 it was a very special moment for me. I wanted to present a little bit of history on how I arrived at a much more conservative bail reform bill.

Last session, I brought a bail reform bill, Assembly Bill 136 of the 79th Session. The original bill was aggressive, and the version that left the Legislature to be vetoed by the Governor was a compromise, which is what you see in front of you. I can only explain that compromise to be that there was a measure to provide comfort to what was described as the "preventative crime measures that have evolved since then."

The original bill language in A.B. 136 of the 79th Session provided that a defendant must be given an unsecured bond if the defendant was arrested for a misdemeanor which did not involve an act of violence, was not arrested while on bail, and did not have a record of failing to appear for bail. It defined unsecured bond as a bond which does not require advance payment for release.

I brought that bill because the last significant conversation around bail reform was in 1981. Believe it or not, it was then-Senator Sue Wagner who debated standards around own recognizance (OR) release, which was Senate Bill 310 of the 61st Session. The discussion at the time has somewhat of a déjà vu to our discussion today. There was a study done on the Reno City Jail that indicated Caucasians were better able to make bail than minority groups, and that it was much worse for minority groups because there was no standard for OR release. It was stated at the time that, although minorities made up 25 percent of the population in Reno, there were only 7.8 percent released on OR, 11.8 percent made a bail bond, and 16.8 percent made cash bail. Ms. Wagner's bill was amended by then-Senator William Raggio to reflect some of the standards that we debate over today.

When I amended my bill from the unsecured bond version that sits before you today, I had to find an anchor and comfort for myself on why I agreed to place enhanced criteria in my bill ([Exhibit C](#)). Once I realized that in 1964, Attorney General Robert F. Kennedy and President Lyndon B. Johnson had considered similar language as a national movement around bail reform, I found that maybe I was okay in allowing that language to go forward and I was just embracing or engaging in a 30-year fight. I was just fighting my way in Nevada to reignite this conversation in 2017.

The intent of the national Bail Reform Act of 1966, was to recognize that pretrial incarceration was frequently unnecessary to assure appearance at trial and that it was unjust

and discriminatory when reasonable alternatives were available. Knowing that this fight around the spirit of bail reform was not mine alone, but had a 30-year heritage, it gave me comfort to say, I will accept the version of A.B. 136 of the 79th Session, which is now the current version of A.B. 125. It also gave me additional comfort that the spirit of the Bail Reform Act of 1966 was short-lived. In 1969, President Richard M. Nixon endorsed preventative detention, which is like the framework we are in now. It was further cemented in the United States Supreme Court decision of *United States v. Salerno*, 481 U.S. 739 (1987) where Justice Rehnquist said that the "Government's regulatory interest in community safety can, in appropriate circumstances, outweigh an individual's liberty interest."

I make that statement to give the context and historical framework, because that is pretty much where we are today. Essentially the debate that is going on is, what is the government's regulatory interest in bail, and are we at a shift in our conversation about whether or not we should take into consideration an individual's liberty interest and actually releasing individuals upon bail?

I stated all of this because I needed to give some context and history to all of the proponents who had hope—and their hopes may have been dashed yesterday—to help them understand that there was a philosophical approach and logical reasoning behind why I brought A.B. 136 of the 79th Session. I was pretty much the Lone Ranger in 2017. I took a lot of heat on my first version of the bill and I took more heat on the second version of the bill, which found its way through both houses, and was then vetoed.

Since 2017, progressives have found a footing in this issue. They believe my bill does not go far enough. I wanted them to understand my philosophy. My journey since 2017—when I pretty much said, I am going to take on bail alone—has not been easy. I understand the passion and hope for change. My intent in presenting A.B. 125 is that you could walk away with context and history, understanding my viewpoint. I got some interesting comments yesterday about how egregious my bill was, and I thought, Well, if this is egregious, Lord, okay. I really wanted to put that on the record.

What does A.B. 125 do? The amendment ([Exhibit C](#)) reflects that the evidence-based risk assessment tool was struck out. It was struck out because as we go forward, there was a lot of consternation around that piece—even when I moved the bill. When I compromised by having that bill in there is because somehow, with the movement that was happening around Justice James Hardesty and where he was going with pretrial risk assessment, I thought why not, if I am going to amend this bill, at least attach myself to things that were occurring at the time. I thought that maybe it was a good compromise because Justice Hardesty, in particular, called me on the phone.

In section 1, subsection 11, this portion of the language is enhanced. The existing statute already has some language around ties to community; trying to make sure there is at least some community presence. This was added as a further compromise to try to deal with these preventative detention measures that gave individuals more comfort that a person was not just going to be released, but that there would be some additional factors determining

whether or not there was a community risk. This could be seen as extra, but that was the reasoning and that was the logical purpose behind it.

Section 2 is one of the pieces that was not liked by a lot of people. This basically tried to get a carve-out around these bail schedules that we have in our current court system. This particular provision states that the "magistrate may not rely solely on any standardized bail schedule" after the defendant has personally appeared. Some people have seen the bail schedule as a predetermined wealth scheme that somehow says that you set a price on freedom and that this price for freedom in the bail schedule actually discriminates against the poor because they are not able to pay the amount in that bail schedule. This particular provision in the bill would at least provide some level of comfort that the judge would have to look beyond the bail schedule and consider something else. Ultimately, that is what this bill does.

There were arguments against that section 2 provision in that we were somehow constitutionally denying bail and that bail schedules were essential for the court systems to function. You might ask yourself, Is it essential to the process? Does removing or having an alternative to the bail schedule violate the *Constitution* in some form? If it does not, you need to decide whether A.B. 125 is something you can stomach or do we need to blend it with other measures that reflect the thought in the progressive movement that we are discriminating against the poor, which is unequal and unjust. In our 30-year history of this conversation, there might be a need to have real dialogue and shift the policy in our state: the liberty interest of individuals actually needs to have an equal or greater weight than the governmental interest, and we need to balance safety with liberty. I think ultimately that is the conversation today.

**Chairman Yeager:**

Just for the record, there is an amendment ([Exhibit C](#)) on the Nevada Electronic Legislative Information System that essentially strikes the very beginning of section 1 of the bill that deals with the risk assessment piece. Do we have any questions from Committee members?

**Assemblywoman Backus:**

As a non-practitioner, I was a little confused with respect to A.B. 125. I would love to stand corrected, but with respect to this bill as it is drafted, this would be something that would come into play once there is a bail hearing. I was hoping, and I am not sure if section 2 pertains to when someone is arrested and there are those set bail schedules where someone can get out immediately. I agree with you, I am not a big fan of rich people getting out easier on those set bail schedules. Could you explain how your section 2 would play into that?

**Assemblywoman Neal:**

It is my understanding that a bail schedule is entered into when you are at the point where you are before a magistrate and they are deciding what the dollar amount for your release. This provision says that you may not rely solely on that, that you must look at other factors. In section 2—the nature and circumstances of the offense charged, the financial ability of the defendant to give bail, the character of the defendant—my assumption was that those things

would also play into this conversation and drive the reason for why a judge or magistrate may do an OR release versus a bail schedule. I do not practice criminal law, but that was my understanding of how it works.

**Chairman Yeager:**

I can add to that as well. Typically, when someone is arrested by the police department, the arrest record has recommended charges listed. When the person gets booked into the local jail, if they are not immediately released, there is a period of time during which they may not see a judge for 72 hours. I think some jurisdictions are working to make that happen quicker. But in that period—between the time the person gets booked and the time they see a judge—usually standard bail is set. The standard bail that we are talking about is a result of these existing bail schedules that some courts have, so the jail would simply look at what the contemplated charges are. Keep in mind, the district attorney has not actually filed a case yet as they might still be working on filing the complaint. Bail would be set based on what the booked charges are—the charges a person is booked on. This bill indicates that is okay, but once the person actually appears in front of a judge, there has to be an individualized determination. It cannot simply be, I am going to look at this bail schedule and set your bail based upon that. My reading of section 2 would be that it would still be okay in those circumstances, so the person would have a chance to bail out on the bail amount set. That gets set when they are booked in, but once the judge sees them, it would have to be individualized. Hopefully that provides a little more context. I know that in the context of hearing Assemblyman Fumo's bill, there was some discussion about efforts to have someone see a judge sooner in the process so that individualized determination could be made.

**Assemblywoman Nguyen:**

I do practice in the area of criminal law, so I do deal with this on a daily basis. When we are talking about some of these conditions in section 1, subsection 11 that have been added in the bill that would mitigate, my concern is, this looks a lot like the federal system where you have pretrial release conditions. There are restrictions on residence or travel, restrictions on associations, and restrictions on maintaining active employment, but I do not see how, under the current system, this would be monitored. In the federal system, there are pretrial officers who verify this information. I was just wondering who would be responsible for these pretrial conditions? Who would monitor them?

**Assemblywoman Neal:**

I would ask the same question when you look at existing law, which is under *Nevada Revised Statutes* 178.4853, when it says, "at a minimum shall consider the following factors concerning the person:" the length of residence in the community; the status and history of employment; the relationship with the person's spouse and children; reputation, character and mental condition; the prior criminal record; identity of responsible members of the community; the nature of the offense with which the person is charged; the nature and seriousness of the danger; and the likelihood of more criminal activity. Who now is engaging in that practice of monitoring those factors? My assumption in adding those factors in the bill was that the same individual who was doing that under existing law and looking at those relationships and ties to the community would be the same individual, judge, or court

that would be looking at the additional factors that were added. If there is something that I need to understand in practice, then I would appreciate the clarity on who is now doing factors 1 through 10.

**Assemblywoman Nguyen:**

In Clark County they use a pretrial risk assessment tool—whether people agree with it or not—and the conditions on it are somewhat evidence-based; it was vetted through an extensive 18-month process. I have concerns because some of these conditions are much more restrictive than verifying an address, which is done a lot of times through pretrial services. Some of the restrictions are monitored by a pretrial officer, if we had such a thing.

**Assemblywoman Neal:**

I think when I was looking at this particular provision, I looked at some documentation in either a pretrial study that was done by the Bureau of Justice Statistics of the U.S. Department of Justice, or another national pretrial study from which I had gathered and pulled that information. I will find it and send it over to the Committee after the hearing. It was not random, but I did look at an actual study around pretrial release to figure out and gather that information.

**Assemblywoman Cohen:**

I have questions about section 1, subsection 11, paragraph (i), where intensive supervision is referenced. Is that the ordinary meaning or is that a specific program that you are getting at?

**Assemblywoman Neal:**

It was the actual meaning that is written there. As I stated in my introductory remarks, this amendment ([Exhibit C](#)), which was beyond the unsecured bond, was to provide comfort to the people who were in opposition at the time who had the belief that they wanted to focus more on safety than liberty. This language was crafted in order to allow those individuals to release their opposition around this. It truly was the plain language of intensive supervision. If there is consternation around that, I am clearly open to revisions in this bill so we can go forward.

**Assemblywoman Cohen:**

We know that this can be done; we have the infrastructure for the supervision to occur. Also, in section 1, subsection 11, paragraph (b), I read that as focusing on the victims, even though it is open-ended because it says "without limitation." Sometimes you hear when someone has been granted parole or probation, one of the terms is that they cannot be around known felons or gang members—that type of thing. Are we considering that as well, about who they can be around besides just keeping them away from the victims?

**Assemblywoman Neal:**

I think that could be considered. The provision in section 1, subsection 11, paragraph (b), in the original language, only dealt with misdemeanors, and this opened it up to pretty much all crimes. We were trying to figure out how to mitigate the risk of failure to appear and risk to public safety, and so I would not be opposed to having that conversation. I think it would be

proper for a person to not associate with individuals with whom they might have the propensity to commit an additional crime which might create a risk of violating their bail. This particular provision was around if it was something greater than a misdemeanor and they left, and then there were safety concerns about their being released, and there were individuals who stated that they do not want a person who committed a crime to be on the street to go back and continue to harass or do harm to a witness or a victim. That was the idea and the intent behind that language.

**Assemblyman Fumo:**

I just want to praise you for bringing this bill forward. It is a step in the right direction. I just want to add some clarity to something that Chairman Yeager said about the bail schedule. In North Las Vegas, the goal was to get all defendants to a judge immediately. In Clark County, it was within 72 hours, and in North Las Vegas, which is a predominately African-American and Hispanic population, it took a week. So people who were accused but convicted of nothing were sitting in custody for seven days prior to getting a hearing before a judge because they could not afford standard bail. It was not until a lawsuit was brought by somebody in Las Vegas that they had to change that, and they are trying to make efforts to get them in there within the 72 hours.

As to the history of standard bail in Las Vegas, ten years ago there was a chief judge who doubled the standard bail to try to mirror what California was doing. Obviously, the average income in Clark County or Nevada is much lower than it is in California, and when they doubled the bail schedule, what happened is the jail population, especially in the Clark County Detention Center, exploded. Subsequent to that, Clark County had to build a second detention center called North Valley Complex which is over by Nellis Air Force Base. It makes it much more difficult to get them to and from court as they have to be transported. Clark County cannot fund the North Valley Complex. They refuse to fund it because they just do not have the budget, so they are paying time and a half to the employees who work there, which explodes the cost even more for Clark County and for hardworking Nevadans in Clark County who are having to pay more than what they would be paying if they just had a regular bail schedule.

You spoke a lot about the history of bail and went through federal and brought us all the way up to the time of then-President Nixon which was in 1974, but in 1984 the Bail Reform Act that was provided by Congress. My question is, how would this bill comport with that? If there are some changes in there that we could see that are not comporting with that, would you be willing to amend it so that it falls in line with the Bail Reform Act of 1984?

**Assemblywoman Neal:**

There are only portions of this that I would say comport with the Bail Reform Act of 1984. I was not able to go entirely through it. I looked at the *Salerno* case which challenged that this was a violation of rights and we were not following the Bail Reform Act of 1984. I would be open to changes to make it comport fully, because I believe the 1984 version allowed a little bit more flexibility than my language here. I recognize that the compromise language that I moved out, which is a reflection of last session, and this session was a little



bit more restrictive and it was the reason to try to at least get a baby step out of the Legislature in 2017. I am open to amendments and changes and allowing this bill to reflect the direction of where we are going now and how we are trying to find a place of equity, a place of appropriate liberty for defendants.

**Assemblyman Fumo:**

I do think we need to keep a certain amount of bail when someone gets in; they can post the bail to get out if that is the direction we are going to go this session. Once they do get the hearing before a judge, have the judge look at nonfinancial alternatives first, because if a person has sat in there for 48 hours, they obviously cannot afford the standard bail. If a judge does get the person before them and can look at things like nonfinancial conditions, such as intensive supervision or house arrest and things like that, and if they are going to make a determination of a monetary condition to be added on there, try to make it something that the person can afford. The problem we have, at least in Clark County right now, is a judge will give a standard bail and the district attorney might ask for \$500,000 and they just give it out without any consideration of what the person makes. If the person is making \$10 an hour, they might as well have no bail. I would like to see that amended on there if you are willing to work on that.

**Assemblywoman Neal:**

Yes.

**Assemblyman Daly:**

I am not exactly sure, because I do not practice in this area, it is a step in the right direction, but maybe I am cynical. How does it work? We heard discussion a little bit about if you can afford the standard bail and you have not seen the judge, here are the prospective charges and you can pay that, and then you can get out. If you cannot, what I am hearing is, you have to wait to go before the judge and there are currently ten things that he can look at to say, What am I going to use to set the bail? He cannot put any conditions on you or any of this. The judge can say, You have a job and people who can support you, so I am either going to OR you or lower the bail so you can get out of jail. I guess I am looking at section 1, subsection 11, and looking at it inversely. If I am that guy and now they have section 1, subsection 11—I say cynical because people are people, and behaviors are consistent and predictable—the judge would say, You have all of these ten factors, and before I had this subsection 11, I would have let you out for \$200. But now I have these other things so now it is going to be \$200 and you have to do X or Y. These people are still just accused; they are not convicted. There was a comparison earlier about how they do it with parole or probation, but that is after you have been convicted. We are putting conditions on their release, but these people are not convicted. I have reservations about putting a penalty on somebody prior to being convicted. They should just be looking to set their bail or they are not. I understand people may not be able to pay, but I think that there will be conditions put on even if you can pay and just say, We are going to get you out, you can pay the \$200, but you also have to accept this or we are not going to let you out at all. I just think it is a problem.

**Assemblywoman Neal:**

Thank you for your comment. I agree that there is definitely some debate around if technically I have not been convicted, you are putting restrictions on my life and the restrictions that are created in section 1, subsection 11, further restrict. But the idea and the position behind that was because I was couching myself within the opposition—there was a need to focus on community safety. I know there is disagreement on what that means, but for individuals at the time, there was a discussion that there was still a belief in this building and, although it is shifting, that there was a need to place more weight on community safety versus individual liberty.

I get that we are now moving in a different direction that is more progressive, that is focused on, if I have not been convicted then you should not be limiting my life in this way. I think that A.B. 125 is a conduit to have that conversation around this balance and where we find ourselves and where we see ourselves in the future of Nevada around bail reform. How are we going to weigh what are now community interests around safety and liberty? I am going to stay there; I am going to stay couched there because, honestly, if you look at anything from line 1 through 44 in section 1, that ultimately was the idea, the intention and the purpose, that there were individuals who were saying that there are rights for safety for the community and that if you are going to put anything in this bill, I need you to lean more toward the safety interests versus the liberty interests.

I know that we are now in a new space, but I am trying to help the Committee understand what the intent was, why this language was there, why this bill was reproduced in the same exact manner that it was in 2017—minus the risk assessment piece—and why I did not move from that. I do not want to open this up, but there are some other statements I could make, such as that I killed my own bill and did not even have a hearing on this bill, but it was revived and brought back for this discussion, right? At the end of the day, that is where we are. We are at the place of, what is the balance, where do we want to go as a state? This Committee gets the honor of trying to figure out that new public policy direction and how we are going to merge existing measures, language, thoughts, and community sentiment around where we need to go.

**Assemblywoman Peters:**

These conversations are really interesting to me. I had similar thoughts going over enforceability of the conditions in section 1, subsection 11, paragraphs (e) and (i) and wondering, do we already utilize familial or community supports in these decisions? If someone comes in and says, I stand with this person, I will be responsible and assist in making sure that they adhere to this curfew. Do we do that already? Is that a potential method for enforceability of these kinds of conditions?

**Assemblywoman Neal:**

To a degree, yes. The existing law has ties to the community and length of residence. If you look at section 1, subsection 11, paragraphs (a) through (j), those are already existing and were already in play. I looked at the legislative history around that and tried to see the minutes and think about how we landed here. That is why I referenced 1981 because there

were portions we drafted in 1981 and there were additional portions we drafted in 1997 in this building. Additionally, it was brought up around the Bail Reform Act of 1984. I will read some of the things that were in that Act. Some of the factors that were considered for release are:

- (1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;
- (2) The weight of the evidence against the person;
- (3) The history and characteristics of the person, including—
  - (A) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and
  - (B) Whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, state, or local law; and
- (4) The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

So that was it. I guess what was interesting and why I found comfort in certain language was because I needed to find, in the amendment ([Exhibit C](#)) and in the opposition, that there was some legal place for me to land, that it was not something that came out of the sky that was manufactured from opposition. I needed to find that there was at least a basis in history for me to say, All right, I will accept these changes. I think the conversation is shifting because when the Bail Reform Act of 1984 came out, there was a shift in our philosophy around crime. We were doing the war on drugs, literally; we were on a rampage and attacking and doing high incarceration and incarcerating people of color even more so than we had in 1970. There is a framework for this Committee to engage in how certain measures come out. The truth is, the war on drugs created significant disparities that we are facing right now in 2019 and trying to remedy and trying to heal. And that is the truth.

When I brought this bill, I was facing that same level of heat. I heard, How dare you bring this bill even in its most moderate and conservative format? You are shifting the dialogue and you are not focused on safety. When I brought this and agreed to the amendments, because the amendments happened before I even came to the table for the hearing because people bombarded me in my office. I thought, OK, I am new to this, I am engaging in a brave new world, and I have all of these things going on—minus the fact of having the flu—so let me find a place of comfort. Let me find a place where at least if I have to go home and argue my position on this bill and what was A.B. 136 of the 79th Session, I will have a legal argument to rest myself in. Whether or not I chose the Bail Reform Act of 1966 and then found my way into the Bail Reform Act of 1984, at least I will be able to make the argument that I debated within myself about what I was comfortable with and what I thought I could move out of this building, being it was our first bail reform conversation.

There were people coming to my aid and there were people who took the position, I will do everything to kill this bill. So at the end of the day, I think that is how I got here. We had a revised, ramped-up version. Assemblyman Fumo was at the table with me. Assemblyman Flores was trying to figure out how to get some other things in the bill, but what we knew at the time, there was no way you are getting a measure out of this building unless it is somewhat conservative and unless it is somewhat moderate. I think we find ourselves in the same conversation right now. As I said before, this Judiciary Committee is now being given the responsibility to figure out if that is going to continue to be the narrative, or if you are going to be brave and say, This is where this conservative, moderate conversation ends and we are going to have a more progressive approach that at least meets the need of allowing individuals to be released who should be released. That is what this bill is putting to and couching for you. I do not expect everyone to agree with this version. I recognize that it was the conservative approach. I recognize that it was the moderate approach to get it out of this building, and then it ended up being vetoed, so what was the point? It started the dialogue and that is a good thing.

**Assemblywoman Peters:**

I really appreciate everything you said and I feel the same way. Obviously, this is my first session so I did not see the process of the last bill. The history you are giving us is great and interesting. My question is a little bit dialed back from the purpose of this and more about if there is a mechanism for allowing our communities to participate in the decision of what safety means for us. Can we have the community say, Look, this person is part of our community and we agree to assist in ensuring this person stays in this space to be held accountable for the accusations and have that be a part of what you are suggesting for the bail reform process so that person does not have to go on their own or be ostracized or have to be left to selling their house or cashing in their retirement or whatever it is to take care of something that may or may not be their responsibility. I was wondering more if we have a mechanism to do that, or is that a conversation we can have about this process or the regulatory process on how to enforce these kinds of things without putting an undue burden on our existing resources?

**Assemblywoman Neal:**

I would say emphatically, yes. This measure is not being positioned to deny the community a voice or their ability to engage continuously in this conversation. I know that is the sentiment, that they feel as though they worked so hard and then they were shifted out of another bill. But as the Chairman stated at the very beginning of this hearing, the measure that everyone poured their heart into is not dead. I value community just as much as everyone else. I would never move on a policy without engaging them. That is where we are, that is a good space, an awesome space to be in, where now the community is dialed into this issue and they are dialed in so much that they care about the sentences that are being written.

**Assemblywoman Krasner:**

Thank you, Assemblywoman Neal, for all of your thoughtful hard work on this bill. It seems very reasonable to me. Let me just go through it. In section 1, you are saying and deciding,

when there is good cause to release a person, the court can use the ten existing factors, and then you give section 1, subsection 11, which allows them to use other factors if they want to make sure the person does not fail to appear and also takes into consideration public safety. Then in section 2, you are saying that the magistrate may not solely rely on the bail schedule to set the amount of bail. Is that correct?

**Assemblywoman Neal:**

Yes.

**Assemblywoman Krasner:**

Thank you. It is very reasonable.

**Chairman Yeager:**

Committee members, if you have additional questions, I will ask you to take those offline. We do have a number of folks who want to testify, and I want to make sure we get as much of that testimony on the record as possible. Thank you, Assemblywoman Neal, for presenting the bill. Before I open it up, I want to let everyone know that I am going to limit comments to two minutes, based on the number of people that I have signed in. I think we can get through all of it in the next 30 minutes or so. I will be timing and I will let you know when your two minutes are up. At that point, please wrap up to help us move this hearing along.

I will now open it up for testimony in support of A.B. 125.

**Alanna Bondy, representing Nevada Attorneys for Criminal Justice:**

I would like to thank Assemblywoman Neal for bringing this important bill. Of course, bail reform is an important issue that we have been trying to address for a few sessions now. I think this bill is a good step forward. It addresses issues with the arbitrariness with which bail is presently administered, and it more directly addresses the purposes of bail, which are simply to ensure the defendant's presence at court proceedings and to ensure public safety. I just wanted to add that we also supported the language of A.B. 325, and we hope that the two bills could be meshed together. We are in support of the bill, and we think it is a good step forward.

**Chairman Yeager:**

Do we have any other support testimony? [There was none.] I will open it up for testimony in opposition to A.B. 125, either in Carson City or Las Vegas.

**Ralph E. Williamson, Senior Pastor, First African Methodist Episcopal Church; and  
President, Faith Organizing Alliance, Las Vegas, Nevada:**

I understand and applaud your historical context of bail reform in our nation and why A.B. 125 as written today is before this Committee. I truly appreciate your work as a Lone Ranger over the years in the fight for fair and equitable bail reform. However, I do not believe this bill alone says enough to refute the injustice of the current set of bail laws for

release. The current bail system is broken and in need of a more comprehensive reform. I, therefore, oppose A.B. 125 as written.

**Lilia Ceballos, Owner and Bail Agent, Aztec Bail Bonds, Las Vegas, Nevada:**

I oppose A.B. 125. First, I want to start out by saying that we could all come to an agreement on this bill if some things were changed. I know we are short on time, but I tend to agree with a statement that was made earlier that section 1, subsection 11 is so restrictive. They require intense monitoring, and who is going to do that if the people are not required to bail out? As it is, monitoring the first ten is already failing anyway; it is not being monitored. We see that firsthand. How are we going to make sure that they are in bed at a certain time? How are we going to make sure they are not hanging out and drinking with the wrong people? How are we going to know that? There is no way to police that. All I see in my brain, aside from what I do for a living, is my tax dollars going to this when it needs to be somewhere else, and I cannot agree with that. If you can give us a proposal as to how this is going to really come to play—where is it going to come from, who is going to do it, how much is it going to cost, and where is the money going to come from—I might be able to change my mind, but at the moment I cannot.

**Daryl B. DeShaw, Director and Bail Agent, Surety Bail Agents of Nevada, Inc., Las Vegas, Nevada:**

As A.B. 125 is written, I do not think it will survive a court challenge on constitutionality as related to Article 1, Section 7 of the *Nevada Constitution*, which says all persons except those that are restricted under that section are entitled to bail. If bail is offered in addition to other terms of release, which was something we used to see a few years ago, I could picture that. You can have house arrest or you can have a bail bond; which one would you like? House arrest is far more restrictive. If you want to require a person to maintain employment, I think that is questionable.

As was mentioned earlier by one of the members of the Committee, it seems like you are infringing upon the defendant's rights prior to a conviction, the same as ordering a medical or psychological treatment of a defendant. If you wanted to put some intensive supervision in, you should look at the options for pretrial release to be extended to include intensive supervision by surety bail agents as outlined in the manner of NRS 176A.300 to NRS 176A.370, inclusive. It could easily be expanded to that. It is faster, it would be less expensive than house arrest options, and it would be much more effective.

Some of the other rights of defendants that are being overlooked when you turn around and order these things, you have defendants who should be released within six hours of being ordered by a court. They should not sit there for 24 hours or languish or have the sheriff decide he is not going to release them and wait two weeks installing the system and the district attorney plays games and defendants do not get out, regardless of the reason that the court ordered their release.

**Marc Newman, Private Citizen, Las Vegas, Nevada:**

I am a former chief of staff for City Councilman Steve Seroka at the City of Las Vegas from July 2017 to September 2018. I also have a three-day business relationship with a man who has, among other businesses, a bail bond agency that I would like to disclose, but it is not a violation or an ethical conflict. I am here on my own.

Facing discrimination solely on race is extremely short-sighted. Nevadans want all-encompassing justice reform based on their support for Marsy's Law. As an adult male survivor of childhood sexual abuse, I have known discrimination all of my life, and the laws are designed to protect my abuser, not me. It was decades before I could cognitively comprehend or communicate the abuse enough to begin a life path from victim to survivor. Meanwhile, the statute of limitations has long passed for me to receive any justice. You do not have any concern for that inequity against me, and if you cannot see that as discrimination, I suggest you attend some support groups for adult male survivors. My abuser was an extended family member and the abuse was discovered by a blood relative of the abuser who punished me for not being her blood descendant even though I was a 13-year-old child compared to her 19-year-old grandson.

We have inequities in our justice system, and there needs to be better-vetted solutions from the framework of this bill. As part of becoming a survivor, I would not want my abuser to lose any aid he receives while all of his legal rights are respected through our judicial process. That is how you go from being a victim to a survivor spiritually. This bill is not about restoring justice, but about attacking an industry. As I listened to the racial bias referenced, I do not dispute that it exists, from the discrimination I still currently receive in relation to the crimes committed against myself and my former boss and elected official. Race was not involved in the crime against me then or what is currently happening, to this day, from a developer in my community. Any bill slanted in only one direction is going to fail because it is not more encompassing.

**Troy Richardson, Private Citizen, Las Vegas, Nevada:**

I agree with the prior testimony about section 1, subsection 11. Who is going to perform all of these types of supervision? I perform most of them now as a bail enforcement agent, tax-free. This bill puts more restrictions on one person than the current bail process puts on him before that person is convicted.

**Chairman Yeager:**

Do we have any other testimony in opposition to A.B. 125? [There was none.] I will open it up for neutral testimony on A.B. 125.

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

We appreciate Assemblywoman Neal for bringing this bill forward and working so hard to address this issue. I am offering information to the Committee today and I am sure that we will get to a point where we are supportive of this legislation as it moves through. We did not see the amendment ([Exhibit C](#)) until this morning. I do want to give some information on risk assessment tools and why it is that we have such strong opposition to them, and then also

to clarify for the record that while yes, there are provisions in the *Nevada Constitution* that require bail or some sort of conditional release or allow for conditional release—*Varden, et al. v. The City of Clanton* [Case No. 2:15-cv-00034-MHT-WC]—the *United States Constitution* supersedes what is in the *Nevada Constitution*. Bail schedules, in our opinion, are just wholly unconstitutional and there is a lot of case law that shows that. We appreciate that part of the bill.

The primary consideration in any pretrial assessment should be whether the person is likely to appear. Scores that are based on demographics and arrests and not convictions should not be used to indicate the probability that a suspect will return to court. Furthermore, risk assessment tools reinforce racial disparities in the criminal justice system. Arrests alone should not be considered in any assessment. It is well established that minority communities are policed at much higher rates than majority white neighborhoods. Minorities are arrested at higher rates than their white counterparts despite making up only a fraction of Nevada communities. In practice, this means that risk assessment tools—like the one that was recently adopted by the Nevada Supreme Court that would consider risk as a factor—come with built-in racial bias. It also looks at juvenile arrests, and even though the court represents that the juvenile arrests are for crimes where the child would be eligible for transfer to an adult court, it is still considering that, and we believe that is contrary to the case law that exists and contrary to the overall policy acceptance that juveniles are different than adults. We do appreciate that this was amended out of the bill and look forward to working with Assemblywoman Neal on this to come together and foster real bail reform.

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

We are in neutral today as well. When we met on the previous bill, I told the Committee we would work sunup to sundown in the woodshed, and I have definitely spent more time working on that bill with John Jones than I have with my family. We would like to thank Assemblywoman Neal for bringing this bill forward. We are hoping that we can work together to take the solutions that we have been trying to come to, work them into this bill, and move forward.

The only information that I would give here is, when the opponents of this bill come up and talk about the bail bond industry, we had them in the room with us and we have been working with their lobbyist up here to work on this issue. Part of my concern, when they talk about putting in pretrial measures that are supervised by a court or that we look at, is whether those things actually work. When you pay a bail bonds person money, they do not really follow you around, they do not really check up on you; they just make sure that you come to court. If you do not come to court, then they want to arrest you. That is all that they really do. It does not make our community one bit safer. There is no amount of money, no 15 percent paid to a bail bonds person that makes our community any safer. We are trying to find solutions for pretrial release and that is what we have been doing. I promise you that I will continue to work on those solutions.



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

We are also here in neutral on this bill today. I would like to provide some additional context regarding section 1, subsection 11, with the conditions. In Washoe County we do have a Pretrial Services Division. You heard from their director at the hearing for A.B. 325. We do have the infrastructure in place in Washoe County where, if there are conditions placed on our clients when they are on pretrial release, there is some supervision in place. It depends on the judge to look at what they consider to be the least restrictive factors, the least restrictive conditions to put on them. I just wanted to provide that information to the Committee regarding that subsection.

What I would note and what I think you have heard from everyone in neutral is that we do need to have some form of reform. We do have to have some overhaul of our current bail system. Just to provide information, I had a client who was in custody for over 15 days because she could not afford \$375. She was middle-aged, had a child, had a job, and unfortunately used alcohol to the point of excess when she was with her child. She was charged with child abuse and child neglect, and, rightfully so, was taken into custody as she had committed an offense. It was not until ten days later, when she finally had court, where we were able to request a bail hearing. The bail hearing was unfortunately set for four days later due to the weekend. She then was not transported to the hearing and, to this day, I do not know if that was because of the court or because she was not on the transport list or what the reason was, but the next day we were finally able to have a hearing where she was released. That was 15 days that were unnecessary at \$109 per day or a total of \$1,635 that we did not need to be paying as taxpayers. We could have gotten her out earlier. In that time, she lost her job, she lost her child to Child Protective Services, and luckily, she was able to work with the system and her child was returned to her. But that is just some of the information that I think that this Committee needs to know of the impact; that if we do not do anything, we are going to continue in this system where people are not brought before the judge, and they have bail hanging over their head that they cannot afford. It was a \$2,500 bondable bail which was \$375 that she had to pay and could not pay.

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

We just want to add to the record that we thank the bill's sponsor for bringing this forward and are happy to see the risk assessment language amended out today. We are committed to working closely together on this topic.

**Jagada Chambers, Private Citizen, Las Vegas, Nevada:**

I definitely want to commend Assemblywoman Neal for having the fortitude to bring her bill back. I am definitely in a neutral space right now as a member of the community. We have a shifting, pivotal space right now in our country and with criminal justice reform, and I am very, very hesitant to go forward with A.B. 125 as it is written right now. We have to take this opportunity to really make some groundbreaking transitions and changes when it comes to how we are doing our bail situations here in Nevada.

Also with the pretrial risk assessment, it was good to see that amended. I was formerly incarcerated and have been home for nearly 16 years, but I think I scored out as kind of risky, even with employment. We can find a better way and there are enough brilliant people in this space to do such.

Finally, I do want to commend Assemblywoman Peters always shining bright and being informed and invested in this discussion. We do want to play a role as a community making sure our community members and our family members are held accountable. We want to assist that. Is there a way where that can be incorporated into the bill's language, where our court systems and our district attorneys do depend on our community systems that could possibly help with this situation?

**Brandon Summers, Private Citizen, Las Vegas, Nevada:**

I am a violinist, substitute teacher, and Vegas native. As a full-time musician, I perform year-round for special events and inside resort properties. But my professional music career began outside of resort properties as a street performer. That was my introduction, as well, to the criminal justice system. I had a clean record before I started performing on the Las Vegas Strip, but since 2011 I have been ticketed and/or arrested five times. Though the issue of First Amendment speech has been litigated over a decade and performing is legal, police officers often ticket and arrest street performers. My first arrest resulted in a \$3,000 bail to which my parents came to my rescue, fortunately. They paid a bondsman \$450. I was in jail for 12 hours, but I could have easily sat in jail for two to three days for a misdemeanor that was ultimately dismissed. I have spoken to several other performers about their experiences, and some have sat in jail for multiple days and it is definitely not fair. The system is inherently flawed to serve those with means and punish those who are poor.

**Robert L. Langford, Attorney, Robert L. Langford and Associates, Las Vegas, Nevada:**

I want to thank Assemblywoman Neal for bringing this bill today, and I want to thank you, Mr. Chairman, for making the comments that the work that has been done by all of the stakeholders was not for naught and that there are good things coming out of all of that work.

First, I want to say that the group that I represent is a coalition of people of all walks of life and all political persuasions from Nevada Policy Research Institute and Americans for Prosperity to the Progressive Leadership Alliance of Nevada. It is not just progressives, it is everyone who has a concern for someone's liberty who has not yet been convicted of a crime, but also everyone who is concerned about community safety. I believe there is a path where we can have both of those. Let me say unequivocally, cash bail as a standard bail schedule is unconstitutional. Almost all courts that have weighed in on this matter have said, if you do not do an individualized hearing or review of a person's circumstance and their ability to pay prior to setting a cash bail, it is a violation of the equal protection clause. We have got to be careful to make sure, as we form the language in this bill, that we are mindful of the fact that it must be constitutional, it must protect the community and victims, but it also has to be sensitive to the constitutional rights of someone not yet convicted.

**Chairman Yeager:**

Do we have any other neutral testimony on A.B. 125? [There was none.] I invite Assemblywoman Neal back to the table with any concluding remarks.

**Assemblywoman Neal:**

I want to thank the Committee for the dialogue and conversation around A.B. 125. I look forward to how this bill moves forward and the language that may be included and that you take heed to the fact that you are in a very unique position to move this conversation in a historic way and to allow some shift around bail reform. Hopefully we will find what that common ground is that represents community, legislative needs, and all stakeholders involved.

**Chairman Yeager:**

Assemblywoman Neal, I would like to thank you. As you noted, you were really out there by yourself last session bringing this issue to the forefront. That obviously takes courage, and I thank you for your work on that and for your work here this session. I also want to recognize those in the room here and those in Las Vegas who have continued to work on this issue. As Mr. Langford said, that work has not been in vain, so I would urge folks to continue with those discussions and that work. We are quickly approaching the end of session, but at the same time, we still have 45-plus days which seem like an eternity sometimes in this building. I want to one, thank you for your work, and two, ask you to continue to work on these issues so we can get it right here as a Committee and as a Legislature. I will close the hearing on A.B. 125.

I will now open it for public comment either in Carson City or Las Vegas. [There was none.] Are there any questions or comments from Committee members? [There were none.] In terms of scheduling, we will start tomorrow's meeting at 9 a.m. and we have three bills on the agenda. I am confident that we can get those three bills up and down in a couple of hours. Good news: We will be canceling the meetings on Monday and Tuesday. Those of you who have been here previously know that Monday and Tuesday are going to be very long days on the Assembly floor to make sure we meet Tuesday's deadline.

We will not be having Committee hearings, but my guess is the floor session will be starting a little earlier than normal. Be on the lookout for that. I do expect that next week we are likely to have meetings Wednesday, Thursday, and Friday, as we are receiving bills from the Senate Committee on Judiciary.

This meeting is adjourned [at 10:48 a.m.].

RESPECTFULLY SUBMITTED:

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Traci Dory  
Committee Secretary

APPROVED BY:

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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 125, submitted and presented by Assemblywoman Dina Neal, Assembly District No. 7.