MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eightieth Session
April 30, 2019

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:16 a.m. on Tuesday, April 30, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Nicole J. Cannizzaro, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Melanie Scheible
Senator Scott Hammond
Senator Ira Hansen
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Assemblyman Tom Roberts, Assembly District No. 13
Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Nicolas Anthony, Committee Counsel
Jenny Harbor, Committee Secretary

OTHERS PRESENT:

James Dold, Human Rights for Kids
Sara Kruzan
Kristina Wildeveld, Nevada Attorneys for Criminal Justice
Marta Poling Schmitt, Nevadans for the Common Good

Holly Welborn, American Civil Liberties Union of Nevada
John J. Piro, Deputy Public Defender, Office of the Public Defender, Clark County
Tobin Fuss, Juvenile Department, Office of the Public Defender, Washoe County
Lisa Rasmussen, Nevada Attorneys for Criminal Justice
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence
Jennifer Noble, Nevada District Attorneys Association
Annette Mullin, Las Vegas Metropolitan Police Department
Kelly Blackmon, Deputy Fire Chief, Clark County Fire Department
Todd Ingalsbee, Professional Firefighters of Nevada
A.J. Delap, Las Vegas Metropolitan Police Department
Rick McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition
Mike Ramirez, Las Vegas Police Protective Association
John Fudenberg, Clark County
Marlene Lockard, Las Vegas Police Protective Association Civilian Employees
Kendra G. Bertschy, Deputy Public Defender, Office of the Public Defender, Washoe County; Office of the Public Defender, Clark County
Jennifer Rey, Victim Services Officer, Department of Corrections
Joe Rodriguez

CHAIR CANNIZZARO:
I will open the hearing on Assembly Bill (A.B.) 158.

ASSEMBLY BILL 158 (1st Reprint): Revises provisions governing criminal procedures for certain juvenile offenders who are also victims of certain crimes. (BDR 14-143)

ASSEMBLYMAN TOM ROBERTS (Assembly District No. 13):
I am here on behalf of Assemblyman John Hambrick. Assembly Bill 158 ensures our youngest inmates have a chance to successfully reenter society. It allows the courts to depart from mandatory enhancements and reduce the mandatory minimum period for incarceration for individuals who were under the age of 18 when they committed crimes and were victims of sex trafficking or sexual abuse.

JAMES DOLD (Human Rights for Kids):
Human Rights for Kids is dedicated to the promotion and protection of the human rights of children across the U.S. For too long, we have ignored the

conversation around criminal justice reform for the most vulnerable casualties of mass incarceration in America—our children. Perhaps there is no better instance of injustice than dealing with child sex crime victims who have committed acts of violence against people who previously sexually abused, raped or trafficked them.

Assembly Bill 158 seeks to rectify this injustice. Legislative findings on page 2 of the bill talk about the need to treat child sex crime victims—particularly child victims of sexual assault, sexual abuse or sex trafficking—as victims, even when they commit acts of violence against those who perpetuated harm against them.

This bill does not require judges to do anything except when dealing with these types of victims. They are authorized to depart from any mandatory minimum or suspend any portion of an otherwise applicable period of incarceration. This is only after a judge finds by clear and convincing evidence that the child victim was victimized by the person against whom he or she committed the crime within one year prior to the commission of the offense. It is a high burden for a child victim to meet, but if a judge finds he or she was victimized by the person in the case, that judge is authorized to suspend any portion of a sentence or depart from any otherwise applicable term of imprisonment.

Sara Kruzan inspired this bill, but she is not the only victim of these grave injustices where excessive punishments have been imposed on child victims. Cyntoia Brown received a gubernatorial pardon from Tennessee Governor Bill Haslam after a life-without-parole sentence for killing a john who was attempting to rape her. Cyntoia was a 16-year-old sex trafficking victim who had been victimized, raped, tortured and beaten by a violent pimp nicknamed Cut Throat.

Alexis Martin is another young girl who is serving a life sentence for a crime she committed against her rapist and trafficker. She was 15 years old when she killed her trafficker in Ohio.

This is a common occurrence in our justice system. As evidenced by the legislative findings in A.B. 158, there is a significantly high number of children who are victims of sexual abuse and sex trafficking every year. Conservative estimates put the number of girls who are victims of sexual abuse at 1 in 9 and boys at 1 in 53. The National Center for Missing & Exploited Children reports

roughly 100,000 U.S. children are victims of commercial sexual exploitation annually.

One of the things that makes these cases unique, both in the context of sex trafficking and child sexual abuse, is the dynamic of traumatic bonding. This is where a child goes through a process of grooming, usually coupled with an older adult who has embedded himself or herself in the child's DNA by acting like a friend, gaining the child's trust then betraying that trust and sexually abusing that child. The child develops a misplaced sense of loyalty, and that traumatic bond is difficult for the child to break. Oftentimes, children will feel the only way out of those situations is to commit an act of violence against that person. This is why children like Cyntoia, Alexis and Sara resorted to violent acts to escape their traffickers.

There are a number of similar cases in the testimony I provided (Exhibit C contains copyrighted material. Original is available upon request of the Research Library.). There was the case of a 16-year-old boy who killed his sex abuser. He had been abused over a period of four years before acting out when the man tried to sexually abuse him. The boy stabbed the man 56 times. In that case, prosecutors went after the lesser charge of manslaughter; the judge did not impose prison time. Unfortunately, a reduced charge does not happen in many of these cases.

The question arises, "Why, under the law, wouldn't a self-defense claim be adequate?" One of the problems with self-defense statutes in these types of cases is the child victim needs to show there was an urgent and pressing danger for the act of violence committed to be necessary to save his or her life or to prevent significant bodily injury from occurring.

These children often act with what the law regards as premeditation. They will plan the act and commit a crime against their abusers. Even in those instances, A.B. 158 takes into account the child was a victim of sexual abuse, rape or sex trafficking, and a term of imprisonment that might be appropriate for someone else under different circumstances is not appropriate for a child in these particular circumstances.

The idea of imposing life sentences on children like Sara, Cyntoia and Alexis who commit acts of violence against those who have sexually abused, sexually assaulted or sex-trafficked them is nothing short of a human rights abuse.

Nelson Mandela once said, "There can be no keener revelation of a society's soul than the way in which it treats its children." Child victims deserve our understanding, empathy and love. They do not deserve to be demonized and thrown away by the justice system. We ask this Committee to send an unmistakable message to child victims like Sarah, Cyntoia and Alexis that we see you, we hear you, we will protect you and we love you.

SARA KRUZAN:
I am 41 years old. Twenty-five years ago, I inflicted violence upon my trafficker and took his life. The fact that it has taken 25 years for an opportunity to make changes in policy makes my heart sad. We must acknowledge child sexual exploitation is a form of slavery that impacts our global community to the degree that we have become numb. Our systems and institutions have focused on the actual act of violence, but it is more than that.

My indoctrination with George Gilbert Howard (G.G.) started when I was 11 years old. I was raised by a single mother, and we were undersourced. My mother was a victim of complex post-traumatic stress disorder and incapable of offering protection. Even though growing up with my mother was extremely violent, I excelled in school and I wanted to become a pediatric surgeon. I did not understand I was being exposed to continuous trauma, both physically and mentally.

Traffickers look for victims who fit this specific criteria: vulnerable, compliant and highly fearful. Children who experience this are not able to identify what they are feeling, they just begin to show it in different forms.

At the age of 11, I was walking home from school, my mother was not home, and G.G. convinced me to get in his car for ice cream. This led to us going to his home where I experienced a gentle imposition of luring, touching and molestation. This was confusing as I saw him as a protector. I was afraid of my mom's response when he took me home because of her aggression and physical abuse toward me. There was no trust, I did not feel safe, and I felt everything that happened to me was my fault.

In addition, our home was not a safe environment. My mother allowed men of various ages to come into our home. Boundaries were not imposed, and I was exposed to my mother's sexual interactions with those men. This began to have an effect on me. I withdrew and, at times, contemplated suicide.

The indoctrination of G.G. began to take a more intense form. It is an organized intention and traffickers have different approaches. Some are tough, others are calculating. G.G. was an intentional and calculating individual.

By the age of 12, G.G. was visiting my mother. I would see him hand her money. At this time, my mother introduced a 23-year-old man, Roosevelt Carroll, into my life as a mentor. He would bring food to our house and my mom would say, "Take this bitch. Get her out of my hair."

While my grandfather was strong in his belief about not mixing with other ethnicities, my mother intentionally had children with men outside of her race, so there was anger and resentment. My sister and I grew up being referred to as the "N" word. These are the building blocks of individuals who are usually targets for these traffickers.

My grades fell from As to Ds and Fs. I gave up. At the age of 12, Roosevelt Carrol distorted my belief window on men. I had a fear of men of color.

In 1991, I was gang raped by three men in the middle of the day at the same school in which I had become student body president. This instilled a deep sense of hopelessness.

Through education and awareness and my work capacity today, I know traffickers use various tactics to break their victims. Examples include rape and paying people to break a person down even more. At the age of 13, G.G. had created a space where he was this distorted person in my life. The payback for his kindness and teachings consisted of sayings like, "The constitution of marriage is crap; it is a legalized form of prostitution. You have to give something to get something." I believed these teachings. Even though they did not set well with my soul, my reality did not show anything else.

My willingness to please and be loved was so distorted that I allowed myself to be a sexual object, which is a whole other experience in itself. People who buy children are police officers, dentists and neighbors. They are clean-cut, pay taxes and have families, but they have a darker side and an ungodly desire. Children are often utilized in these spaces.

The thought of killing G.G. stays with me every day. As a restorative justice practitioner, I own spaces with both offenders and victims of violent crimes. I create a narrative that allows people to connect and have hard conversations and the opportunity to be heard, acknowledged and valued. It is life-changing.

My violence against G.G. was treated just that way in the system. It was not until I was incarcerated, had a college degree and began to advocate for change with policy in California that I realized I was a victim. No one asked me—not the judge or the district attorney—what happened. I was immediately labeled; no one cared about the baggage I showed up with. I had a two-and-one-half day trial, I was my own witness, and I had no understanding of the legal jargon being bounced around. I did not feel I had any rights or that any adult in my life felt I was worthy.

The California Youth Authority recognized I was never offered therapeutic opportunity and requested that I go through a therapeutic model as a juvenile. Regardless, the judge sentenced me to life without the possibility of parole plus four years. He said I lacked moral scruples, and I had to pay a $10,000 restitution fine to victim services.

I had 19 years and 7 months inside of one of the largest women's institutions to think about what leads up to a person committing a violent act, the responsibility of adults, and how it is easier to have children carry the burdens of what adults impose. My goal in life was to be a pediatric surgeon, not to be labeled as a murderer or sensationalized in the media as a young prostitute. While incarcerated at the Central California Women's Facility, some of my peers who had also been sentenced to life as youth either took their own lives, died from medical negligence or resorted to drugs. I have also seen people rise, become resilient, give hope and restore what was taken. Holding people accountable for acts of violence and going to the core of what implements that violence creates an overall wellness for us as a community instead of being just tolerant. We can no longer be tolerant of our negligence in how we handle a person's human right to exist.

Assembly Bill 158 is motivating, inspiring, and gives people hope. It gives those of us who have been subjected to carry the sins of others an opportunity to rise, be heard and be treated with compassion and love. It behooves us as people who represent the United States to give judges the opportunity to offer something outside of incarceration. I am a taxpayer, I work on advocacy, I

volunteer my time, I am a mother of a beautiful child, and I have amazing friends. If we take a more restorative and transformative approach, we can move forward and advance.

SENATOR OHRENSCHALL:
Mr. Dold, I have heard you speak before about the new brain science data legislators did not have 20 to 30 years ago when these laws were being put on the books. Could you speak about how children's brains develop and the understanding of their decisions?

MR. DOLD:
There has been a vast increase in our understanding of the juvenile brain and behavioral development over the last 20 years. Science has shown the part of the brain responsible for executive decision making—the prefrontal cortex—is not fully developed. As a result, children rely on a more primitive part of their brain—the amygdala—to process information and make decisions. It is one of the reasons why children are more impetuous, more susceptible to peer pressure and make irrational decisions.

The impact and the delay in brain development is significantly exacerbated by adverse childhood experiences or early childhood trauma. We need to focus on the fact that kids in these situations have underdeveloped brains that have been exacerbated by early childhood trauma. They are trying to understand how they got in these situations, how to get out, and are unable to make rational decisions the same way an adult would.

When a child commits a serious crime, all of a sudden the distinction between childhood and adulthood completely goes away. The criminal justice system was designed with adults in mind. Assembly Bill 158 is a reflection of the reality that children are not as fully developed as adults, and there is a need to have special protections in place for them.

SENATOR SCHEIBLE:
I do not question the philosophy or rationale behind this policy. In reading A.B. 158, it gives judges the discretion to either depart from mandatory minimums or suspend sentences. Is this supposed to apply at the sentencing phase, during an appeal or both?

MR. DOLD:
It would be at the time of sentencing. There are a number of laws in place that deal with children who have been convicted of crimes in adult court. For example, in 2017, the Legislature passed a bill allowing judges to depart from mandatory minimums for children up to a certain percentage after the judges considered how children are different from adults. Assembly Bill 158 would function the same way. The judge would take into account the information presented by the defense. If the judge finds by clear and convincing evidence the defense has met the burden, he or she would be authorized to depart from any mandatory minimum or suspend any portion of the otherwise applicable sentence.

SENATOR SCHEIBLE:
How would a judge suspend a portion of a sentence?

MR. DOLD:
We envision the entire sentence would be suspended in the event a judge thinks that is the appropriate sentence to impose. It gives judges more discretion and tools at their disposal. It is a completely discretionary matter, so a judge can still impose a mandatory minimum of life with the possibility of parole after 20 years. In that instance, the judge could also impose life but suspend all but five years.

SENATOR DONDERO LOOP:
As a person who understands children, I want to know what is going to happen to these young adults moving forward. If you just suspend the sentence and send them out into the streets, it is the same conversation we have been having for decades.

MR. DOLD:
If a child receives a five-year sentence, he or she could take advantage of whatever programming that is available through the Department of Corrections, but your point is well-taken. There needs to be an increase in services, particularly for child victims.

Assembly Bill 158 was amended in the Assembly Judiciary Committee; its first iteration would have given judges the ability to strike the conviction and send the child back to the juvenile justice system for treatment and services. This is the preferred model as any child who commits a crime against his or her

trafficker or sexual abuser should not spend time in prison. One of the issues flagged was that there is no service model available in the justice system for children to adequately address the needs you highlighted. What we are trying to do here is just say if a judge finds this was the case, let us not exacerbate the situation by having this person serve a life sentence; let us give him or her an opportunity to come home sooner.

SENATOR DONDERO LOOP:
I hear what you are saying, but there is a funding model to this. This is a policy committee. If we are going to help these children, we need to fund and we need to be proactive in how they receive services. I encourage those who have hung their hats on this bill to fund those services.

SENATOR PICKARD:
I was an early adopter of this policy, so I signed on to this bill. Mr. Dold, could you reiterate some of the things we talked about regarding how a judge can order, as a condition of probation, some of the therapeutic opportunities available so we are not just kicking these children out on the street to figure things out themselves.

MR. DOLD:
This goes again to giving judges greater discretion. When we fully restore a judge's ability to make the right decisions in these particular circumstances, he or she can come up with a more just outcome. One condition of a suspended sentence could be for the child to go through a services model. District Judge Willliam Voy, District A, Eighth Judicial District, for example, primarily deals with kids in the justice system, but his model is getting treatment and services to kids who have been victims of child sex trafficking. To fully rectify all the issues, we need to recognize these kids are victims, stop imposing terrible sentences on them, and make sure they go through treatment and services programs as a condition of their sentences.

SENATOR PICKARD:
I was disappointed we lost the diversion back to juvenile court because it is a therapeutic approach to getting these kids back on track so they can become good, productive members of society in spite of the difficulties from their youth. We need to create and fund these programs if they do not exist; I was under the impression they did. Certainly, we know a lot about what trauma in early childhood does to rewire the brain and create situations that do not occur in the

brain of a person who has grown up in an intact family or under more favorable circumstances. I would be happy to work with Senator Dondero Loop on a bill to make that possible.

CHAIR CANNIZZARO:
Mr. Dold, you mentioned the 2017 bill that mirrors this same structure. Why would that bill not apply to these situations?

MR. DOLD:
It potentially would, though it does not address the degrees of culpability when it comes to juvenile offenders. For example, a judge could take into consideration all of the factors in a child's life and say, "I am going to depart up to a certain percentage because the child has shown a capacity for rehabilitation and, given his or her childhood, he or she may not be as culpable as an adult otherwise would be." But these particular situations are more unique than even a child who commits a serious crime and has been transferred into the adult system. These are kids who have committed crimes against people who have raped, sexually assaulted or trafficked them. In these instances, judges need even greater discretion given the nature of the crime, the person they have committed the crime against and their victimization that led up to the crime. We are trying to create the recognition that children like Sara or Alexis would never have been incarcerated had their traffickers not raped, molested and trafficked them.

CHAIR CANNIZZARO:
I remember the 2017 bill, and I believe it had the same language as section 1, subsection 1, "Depart from any mandatory minimum sentence" and in section 1, subsection 2, "suspend any portion of an otherwise applicable sentence." What additional discretion is a judge given in a sentencing determination here versus the law passed last Session?

MR. DOLD:
The law from 2017 capped what judges can do. Judges can only depart from mandatory minimums up to 35 percent. If a 20-year mandatory minimum is given, a judge could depart downwards as low as 13 years. Under these circumstances, judges could depart with the entire sentence—suspend all of it—with A.B. 158.

CHAIR CANNIZZARO:
The language "and the court finds by clear and convincing evidence" in section 1 indicates to me there would be some sort of evidentiary hearing. In this bill, there does not seem to be any sort of notice of witnesses, a way in which that hearing would be conducted or any obligations to know what that looks like.

MR. DOLD:
We kept the language broad to give the court discretion in this area. Essentially, this bill allows, at the point of conviction and the sentencing hearing, a judge to take into account all of the evidence that would be presented which would otherwise be mitigating factors. Under the 2017 bill, judges are required to allow that sort of mitigating evidence into account. This bill requires a judge to find by clear and convincing evidence the person was a child sex crime victim before he or she could go this far.

CHAIR CANNIZZARO:
I understand. This language indicates there would be some sort of evidentiary hearing by clear and convincing evidence, but there does not seem to be any parameters for when that would happen, how that would take place, if it is going to be a full evidentiary hearing or just a submission to a judge in camera—those kinds of more procedural things. We can discuss this offline.

KRISTINA WILDEVELD (Nevada Attorneys for Criminal Justice):
We support A.B. 158. I have submitted written testimony (Exhibit D).

Mr. Dold mentioned the cases of Sara, Alexis and Cyntoia. I would call your attention to the case of Conan Pope. At 14 years old, on January 6, 2000, he killed his sexually abusive father in Las Vegas. The Las Vegas District Attorney's Office referred to him as the next Columbine killer and labeled him a juvenile super predator. They refused to treat him differently or see him as a victim. When he was molested at the Clark County Detention Center and placed in administrative segregation, the Las Vegas District Attorney's Office charged this 14-year-old child with voluntary sexual conduct with an inmate.

I have stood by Conan's side for the last 19 years. Despite all the unspeakable abuse he suffered by the hands of his father, the six years he spent in prison was the worst thing that ever happened to him. He was offered four years but did not get out of prison for six years. He was HIV tested throughout his prison

term and upon release because of the different facilities and roommates with whom he was placed.

My biggest career failure over the last 24 years was that I did not fight harder to keep Conan Pope out of prison; I allowed him to take a plea. It was his decision to make, but it is something I regret. The difference between Conan after serving that prison sentence and the 14-year-old after the crime when receiving therapy is night and day. He was succeeding in therapy, and he was doing okay after he killed his father. The prison sentence ruined him.

Senator Dondero Loop, you questioned whether there are resources for victims of sex trafficking and assistance for victims of sexual assault. Assembly Bill 157 addresses those services and helps to notify victims of sex trafficking of assistance and resources available to them under State and federal law.

ASSEMBLY BILL 157 (1st Reprint): Establishes provisions relating to certain services for and resources concerning victims of human trafficking. (BDR 18-141)

Assembly Bill 157 further ensures appropriate agencies are notified if law enforcement encounters members of particular vulnerable groups.

I urge your support of A.B. 158.

SENATOR DONDERO LOOP:
Is there an estimate on the cost of helping victims like Conan have a proactive piece?

MS. WILDEVELD:
Lisa Rasmussen will address the fiscal note placed on A.B. 157.

CHAIR CANNIZZARO:
Assembly Bill 157 is not before this Committee, so I would ask to take this discussion offline.

MARTA POLING SCHMITT (Nevadans for the Common Good):
We support A.B. 158. I have submitted written testimony (Exhibit E).

HOLLY WELBORN (American Civil Liberties Union of Nevada):
We support A.B. 158. Adolescents are more likely to be influenced by their peers, engage in risky and impulsive behaviors, experience mood swings or have reactions that are stronger or weaker than a situation warrants. These differences do not excuse behavior that is harmful to others, but it means lawmakers should use this knowledge to inform sound and just policies.

The U.S. Supreme Court recognizes the diminished culpability of youth and has relied on brain science to end the death penalty for persons under the age of 18 as well as limit life without parole sentences. If youth alone at the time of offense is a mitigating factor in a criminal case, a court should be able to consider how his or her youth influenced reactions to abuse and whether the child committed that crime against an abuser.

Nevada should continue to be a leader in protecting vulnerable youth and empower courts to depart from mandatory sentences or to suspend sentences.

Regarding Senator Dondero Loop's concerns, there is a bill this Committee may hear this Session on an Interim study that addresses our juvenile justice systems, systems that are in place for youth who are tried as adults and the costs to transfer children between systems. That is something the American Civil Liberties Union is invested in and fighting for in this State.

JOHN J. PIRO (Deputy Public Defender, Office of the Public Defender, Clark County):
I echo the comments made in support of A.B. 158. To address Chair Cannizzaro's question regarding how a hearing would proceed, I would see it in Clark County as something similar to doing a hearing for a plea withdrawal or a suppression hearing—things of that nature—that could happen before sentencing to determine a person's eligibility. We would then go forward with sentencing.

SENATOR PICKARD:
Are things like abuse going to come up in trial, or would it require a separate hearing?

MR. PIRO:
If the case went to trial, those issues would come out. Because of the different evidentiary standard—the clear and convincing evidence—a judge may want

another hearing prior to sentencing. If a plea deal results, we would need another hearing, but it would not be a burden on the courts.

TOBIN FUSS (Juvenile Department, Office of the Public Defender, Washoe County):
I have been working in juvenile justice since 1997; I took a 3-year move into the adult system. Assembly Bill 158 gives hope to somebody charged with a serious offense facing adult charges as a juvenile and discretion for the court to look at all the facts. If a presentence investigation report indicates all the delinquent or criminal history of an individual, it allows a defendant to present evidence that would mitigate in a mandatory sentence, it gives a judge the opportunity to impose some discretion, and it provides hope to the individual facing these kinds of offenses to try to turn his or her life around.

I agree with Mr. Piro that evidence would first be presented to the district attorney's office in an effort to avoid certification. If that did not work, I would present it as part of a defense and at sentencing. It is similar to a trafficking case where substantial assistance is presented.

LISA RASMUSSEN (Nevada Attorneys for Criminal Justice):
I want to address A.B. 157. It has the same sponsors and appears to be the companion bill to A.B. 158 because it provides resources for the victims of human trafficking. It has fiscal notes submitted by the Department of Education and the Department of Business and Industry. The Business and Industry fiscal note is substantial.

I agree with the prior comments in support of A.B. 158.

SERENA EVANS (Nevada Coalition to End Domestic and Sexual Violence):
We support A.B. 158. I am happy to provide the Committee with a comprehensive list of all the community resources available to help victims of human trafficking.

JENNIFER NOBLE (Nevada District Attorneys Association):
We oppose A.B. 158. We are not questioning the appropriateness of courts considering the effect of horrific abuse, particularly sexual abuse, and the nexus between that abuse and any crime committed by a child. These dynamics and the history of abuse are considered by district attorneys during the negotiation

process. Where the victim defends himself or herself from eminent abuse, the affirmative defense of self-defense is available.

Both in the Assembly and offline with other members of this Committee, there has been a point made that when a child is trapped in a situation with an abuser, even if the abuse is not imminent, he or she is in a state of perpetual fear and danger. As long as he or she is in the clutches of that person, that state of mind continues.

As written, A.B. 158 does not require a narrow enough nexus between the abuse and the violent acts subsequently committed by the juvenile, particularly with the one-year language. Say an older abused child somehow escapes the clutches of his or her abuser. This child is able to get away from that person to a place of safety for some time. This bill would allow the child to return to the abuser and potentially murder them; the court would have an unlimited departure.

While this would be an understandable and human decision for that child to make, we do not support the principle that once someone is in a place of safety, he or she can go back and murder somebody and whatever sentence the court deems fit should be handed down.

As drafted, there is also a lack of procedure in terms of an evidentiary hearing: how and when that clear and convincing evidence will be established and other vagaries of the procedure.

SENATOR PICKARD:
The one-year nexus has been a sticking point for several people with whom I spoke. Does the prosecutor have the ability to show the person's mental state changed when not under the effects of the abuse once that point of safety has been reached? Would it be considered a premeditated act as opposed to self-defense after this point? Do you not have that ability now?

MS. NOBLE:
We do have that ability. However, nothing in A.B. 158 requires the court to consider it. The judge could still make the departure prescribed or an unlimited departure from what would be the normal sentencing range.

CHAIR CANNIZZARO:
As I read it, this bill pertains to a postconviction situation, either after the trial or after someone has pleaded. Things that would be potentially a legal defense at trial are different than a mitigating circumstance with respect to sentencing. This bill deals with mitigating circumstances at sentencing, not with defenses present at trial. It does not provide a defense; it provides a way for a judge to consider sentencing and the mitigation of that sentence. Is that correct?

MS. NOBLE:
Yes.

MR. DOLD:
Assembly Bill 158 does not require judges to do anything, it just gives them discretion. A judge can still impose the mandatory minimum, but it is important to give all the available tools at his or her disposal when dealing with children in these circumstances.

ASSEMBLYMAN ROBERTS:
Please consider the other bills dealing with this issue when you consider supporting this bill. We are happy to make minor changes to address your concerns.

CHAIR CANNIZZARO:
I will close the hearing on A.B. 158. I will open the hearing on A.B. 260.

ASSEMBLY BILL 260: Revises provisions governing mental health. (BDR 4-1031)

ASSEMBLYMAN TOM ROBERTS (Assembly District No. 13):
Assembly Bill 260 revises provisions governing mental health. I came across this through a social media post I received from a colleague regarding other states that are passing bills to make peer counseling confidential. I assumed we had such laws. We passed something similar last Session, but there is still a caveat that allows access to those counseling records through a court order or subpoena.

Through further conversations, I found out this was still a deterrent for people to come forward for peer counseling within the police department. I spent 34 years in law enforcement with almost 25 years at the Las Vegas

Metropolitan Police Department (LVMPD). During that time, a lot of folks committed suicide. A common denominator with every one of those individuals was not one of them sought peer counseling within the Department.

The issue with the court subpoena is still a barrier preventing people from coming forward. That is why we chose to create this bill.

I will read the Legislative Counsel's Digest for A.B. 260.

Sections 1 and 2 of this bill remove the language "a court of competent jurisdiction issues an order or subpoena requiring the disclosure of the communication." That is the genesis of this bill.

ANNETTE MULLIN (Las Vegas Metropolitan Police Department):
I support A.B. 260. I have submitted written testimony (Exhibit F).

CHAIR CANNIZZARO:
Do you have any thoughts on the proposed amendment from the Public Defender's Offices in Clark and Washoe Counties (Exhibit G)?

ASSEMBLYMAN ROBERTS:
We discussed that amendment on the Assembly side. The people who gave me the background and genesis for this bill said this made it worse as it would deter people even more from coming forward. We passed this bill in the Assembly as is.

KELLY BLACKMON (Deputy Fire Chief, Clark County Fire Department):
I oversee the employee assistance program for our Department. I also oversee, along with a colleague, our peer support team, and I serve as a member of this critical team for our Department.

We stand with our law enforcement partners, EMS personnel, coroners, investigators and personnel as well as a responders to emergency incidents. The ability for our personnel to speak with their peers with an expectation of confidentiality makes the difference.

If a responder feels comfortable and safe talking to a peer on a regular or daily basis, we see the need to the next step of counseling, therapy or greater lesson. It helps our responders address issues they see, feel or hear on a daily basis

rather than allowing them to create deeper issues that could ultimately build to the level of suicidal ideations, attempts or worse. Our goal is to retire our first responders as mentally and physically healthy as when we hired them. The ability for our firefighters to speak to a peer in a confidential and safe manner will help keep our responders healthy.

We support A.B. 260 along with our fellow responders.

TODD INGALSBEE (Professional Firefighters of Nevada):
We support A.B. 260. We have seen how helpful the peer support program is. It saves lives. Making it more confidential for our members so they feel more comfortable to talk to people is a must.

A.J. DELAP (Las Vegas Metropolitan Police Department):
We support A.B. 260.

RICK MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):
The Las Vegas Metropolitan Police Department was recently recognized as having one of the finest peer support programs in the Nation. Under the direction of Ms. Mullin and others, it is the model everyone should strive for.

We support A.B. 260.

MIKE RAMIREZ (Las Vegas Police Protective Association):
I have been in three shootings; once I was shot three times. This group works. Whenever there is an officer-involved shooting, I am on the scene with Ms. Mullin. I see firsthand what young officers go through. To be able to go out, tell officers what to expect and, if they are reluctant to speak to Ms. Mullin, guide them by saying, "You need to speak to them; it is a good process." This will only help get those officers the help and counseling they need to get through difficult situations.

We support A.B. 260.

JOHN FUDENBERG (Clark County):
I am the Coroner of Clark County. We support A.B. 260.

As someone who manages staff who are exposed to horrific, sudden and unexplained deaths on a daily basis, peer-to-peer counseling is one of the most effective mechanisms to appropriately deal with their mental health. Assembly Bill 260 will give them the confidence to know their conversations will be kept confidential.

MARLENE LOCKARD (Las Vegas Police Protective Association Civilian Employees):
We support A.B. 260.

MS. RASMUSSEN:
We support A.B. 260 and recognize the fragility of all human beings, including first responders.

KENDRA G. BERTSCHY (Deputy Public Defender, Office of the Public Defender, Washoe County; Office of the Public Defender, Clark County):
We oppose A.B. 260.

We would support this bill if the sponsor were to accept our amendment, Exhibit G. Our amendment strengthens statute to require a relevancy standard. We would obtain the information through a court subpoena only if it was relevant and if it was *Brady* material to the defense in a civil or criminal proceeding.

I spoke with the sponsor and Mr. Piro about their reasons for not accepting this amendment. We understand the importance of law enforcement and public safety personnel being able to communicate with peer support. However, if it is *Brady* material, we still need that information for defense. We would only have that information if it came to the attention of the prosecutor in a defense case or to the plaintiff's attorney and was exculpatory or impeachment information that should be provided. Those are the only instances I could foresee where this would come into play.

In statute, the opposing party would be required to disclose a communication if issued a subpoena. That should be strengthened to protect the communication, which is why there should be a relevancy standard as well.

ASSEMBLYMAN ROBERTS:
We did have extensive conversations about the amendment. A lot of people will either not seek peer support or they will go to their private insurance carrier.

When people go to private insurance carriers, the courts do not have access to that information anyway, and the department does not have visibility on pockets of issues or problems within the organization.

Peer counseling is structured at LVMPD and most other police departments so that peer counselors do not get into the specifics of a critical incident. When an officer-involved shooting takes place at LVMPD, the peer counselor is there as a standby person to go over the dynamics of the situation and to listen to what that employee is going through. Specific facts of an incident are not shared except in cases of isolated incidents or if something is particularly troubling. It is about mental well-being and not facts. This was another reason why we leaned away from the amendment.

CHAIR CANNIZZARO:
I will close the hearing on A.B. 260. I will open the hearing on A.B. 61.

ASSEMBLY BILL 61 (1st Reprint): Revises provisions governing the authority of the Director of the Department of Corrections to assign certain offenders to serve a term of residential confinement. (BDR 16-203)

Assembly Bill 61 gives the Director of the Department of Corrections (DOC) discretion in assigning offenders to residential confinement or forwarding on their applications for residential confinement to the Division of Parole and Probation (P&P), that then has its own review process in approving offenders.

Nevada Revised Statutes (NRS) 209.429 states "the Director shall assign an offender" to residential confinement under certain circumstances. Based on that language, several lawsuits have been brought against the DOC. The Director felt the offender may have presented a threat to the community and did not forward the application for residential confinement.

Another part of this bill transfers the responsibility for notifying victims from P&P to the DOC when the Director considers an offender for residential confinement. The Division of Parole and Probation has a victim pool separate from the DOC. The information the P&P receives from victims through presentence investigations cannot be handed over to the DOC once an offender has been committed to a facility. Victims have to sign up with the DOC because, apart from a victim number, we have no idea who the victim is when we get custody of an offender. If there are any issues and the victim does have

input, we want to make sure the Director has discretion with forwarding on an application.

We also want to make sure offenders participate in the evidence-based programs we offer. These programs show a 51 percent or greater success rate in rehabilitating an offender. Inmates, however, do not have to participate in these programs to be recommended for residential confinement or have their applications forwarded. The Department of Corrections wants to make sure inmates are getting an incentive to take part in programs that create more rehabilitation and reduce crime and the number of victims in Nevada.

SENATOR HARRIS:
The first portion of the bill changes "shall" to "may." Why not refine the terms of when the Director shall assign someone to P&P as opposed to removing "shall"? In the example you gave where the Director finds the offender still poses a risk to the community, it seems to me we could solve that by saying "The Director shall" and add language such as "and there is a finding they do not pose a danger to the community." We still leave it where these people, if we find these things, shall be put into residential confinement.

JENNIFER REY (Victim Services Officer, Department of Corrections):
We cannot predict all the issues we have, especially in a prison setting. We have inmates who create incidents with members of the public through mail or third-party phone calls. While the inmate may not have directly threatened that individual, he or she still feels threatened. That said, there is a mechanism for appeal in the process. This bill just gives the Director discretion based on what we have seen while an offender has been incarcerated.

SENATOR HARRIS:
I am not looking to define all situations. I am trying to define the one situation where we know this person definitely shall be able to be put into residential confinement. We would only need to define that scenario, and then all the rest would be discretionary. Is that task as difficult?

MS. REY:
There are many different circumstances to consider with regard to offenders. For example, if they are in protective custody, they may not be able to participate in certain programs because of that custody level, and that is something the Director wants to be able to consider. It goes both ways; it is not

strictly to limit the Director's ability to forward applications, it is also to increase the opportunities for those offenders who do merit residential confinement-type situations.

SENATOR HARRIS:
We have a situation where people are guaranteed an opportunity to go to residential confinement. By changing the language to "may," we remove that guarantee. I do not see this as expanding the universe of opportunities. I see it as limiting some people who were previously able to go. Is there some way to let people know when they have a right to residential confinement? To say, "You may go, under these circumstances," is not meaningful.

MS. REY:
I understand it would be good to know if an inmate does A, B and C, he or she can go to residential confinement. There are some instances where it is not beneficial to the community for a specific offender to be out on residential confinement. If that inmate has met all the statutory requirements, but he or she is still harassing and threatening to come after his or her victim, we do not want to be forced to forward that application to P&P. We want to push inmates toward doing those programs and things that keep them out of prison rather than releasing them without these provisions and bringing them back. It is not effective.

MS. WILDEVELD
We oppose A.B. 61. Based on my professional experience with the operation and effect of statute, the Director is mandatorily required to assign eligible offenders to residential confinement. This practice helps alleviate prison overcrowding and serves the goal of rehabilitation and reintegration into society. However, as an experienced criminal defense attorney, I have experienced considerable resistance from the DOC with regard to statute. I have worked with several clients who were refused release for arbitrary reasons despite the mandatory language. Amending the statute to allow the Director discretion in release decisions will only exacerbate this issue. Statute conflicts with prison regulations. Those regulations should be amended to set out guidelines with regard to when the Director can deny, but the mandatory language needs to remain in place.

Prior to being released on residential confinement, inmates are required to seek out and obtain suitable housing. These amendments will slow the process of

release for many inmates because they rely on the mandatory language of statute to secure housing ahead of their release dates. Allowing the Director discretion in these release decisions will stall that entire process.

Residential confinement is beneficial as it allows inmates to safely transition out of incarceration while remaining under the supervision of the State. It also saves taxpayers money.

Some of my clients who paid for and signed leases in anticipation of their mandatory release dates have then been denied release for arbitrary reasons despite being in full compliance with all the required programming.

Senate Joint Resolution No. 17 of the 78th Session covers the concerns of Legislators with regard to victim notification as they are required to be notified of any release conditions. This bill would simply remove the onus for the notification from P&P.

MS. REY:
This is a pretty hot topic as far as balancing victim's rights and the welfare of the community along with offender's rights. If we have a situation where we know an offender poses a threat to the community, we can prevent that person from going to residential confinement.

It has been statistically shown over time that reducing crime by requiring participation in these evidence-based programs will reduce recidivism and associated costs. This is why the DOC uses evidence-based programs.

Assembly Bill 61 is in the best interest of the offender, the community and the victim.

CHAIR CANNIZZARO:
I will close the hearing on A.B. 61. I will open the hearing on A.B. 424.

ASSEMBLY BILL 424: Revises provisions relating to parole. (BDR 16-1116)

ASSEMBLYMAN STEVE YEAGER (Assembly District No. 9):
Assembly Bill 424 is one of the few bills the Assembly passed without amendments. We cannot talk about A.B. 424 without first talking about A.B. No. 267 of the 78th Session. It passed both Houses by a tally of 63 in

favor, zero opposed. It provided hope to individuals who committed serious crimes as juveniles and received life sentences or the equivalent at the time they were sentenced. These individuals were functionally sentenced to die in prison for things they did when they were not yet adults in the eyes of the law.

Assembly Bill No. 267 of the 78th Session provided that a juvenile sentenced for a crime that did not result in the death of a victim would be eligible for parole after 15 years. It also provided parole eligibility for a juvenile after 20 years if 1 death occurred because of criminal activity. Parole would not be mandatory, but the offender would be eligible to go before the State Board of Parole Commissioners. That legislation did not provide the same opportunity to anyone convicted of a crime where more than one death resulted.

This resulted in some odd outcomes in our judicial system. There were cases that involved codefendants with virtually the same conduct. One codefendant was released because he or she pleaded to one death; the other will never be released because his or her charge carried two deaths. Ms. Wildeveld will tell you more about one such case that happened in the State.

Assembly Bill 424 makes anybody sentenced for a crime committed as a juvenile eligible for parole at 20 years, even if more than 1 death occurred. We are not talking about mandatory release; we are talking about eligibility. The Board would still go through its normal process of assessing risk and hearing input from the victim and his or her family before deciding whether release is appropriate.

There was no logical basis to exclude the two-or-more deaths in legislation from 2015. Juvenile offenders are unique in their ability to be rehabilitated. The offenders to whom A.B. 424 would apply committed egregious crimes, but these crimes were committed when they were juveniles. This bill gives them a chance at parole; it does not guarantee parole. That would be at the discretion of the Board.

Hope is a powerful thing, and we have the power to give that hope with A.B. 424. An estimated eight individuals continue to be excluded from a chance at parole under the two-or-more-deaths exclusion in statute. These are eight adults who have been in prison for some time and where they will functionally spend the rest of their lives for crimes they committed as juveniles. They have

little hope of ever being released and are often ineligible for programming; it is first offered to individuals who may get out of prison.

MR. DOLD:
This is an important issue. A juvenile crime wave took place during the late 1980s and early 1990s. A group of criminologists theorized a new group of superpredator children were coming of age who were more violent and less remorseful than ever before. These children were characterized as being godless, jobless, fatherless monsters, and states were urged to pass laws to make it easier to transfer children into the adult criminal justice system. This opened those children up to extreme punishments such as the death penalty and life without parole sentences. At the same time, we see things like the advent of the Violent Crime Control and Law Enforcement Act of 1994 as well as the increase in mandatory minimum sentences across the Country. Children were exposed to lengthy prison sentences.

Approximately 15 years after this happened, the United States Supreme Court began to weigh in on the constitutionality of these decisions, relying in part on juvenile brain and behavioral development science. In 2005, Associate Justice Anthony Kennedy of the U.S. Supreme Court authored the opinion of *Roper v. Simmons,* 543 U.S. 551 (2005). Based on that brain science and the international consensus against the use of the death penalty on child offenders, the Court ruled that sentencing a child to death violated the Eighth Amendment of the United States Constitution: prohibition on cruel and unusual punishment.

This kicked off the beginning of the "Kids Are Different" jurisprudence doctrine, which carried over five years later to *Graham v. Florida,* 560 U.S. 48 (2010). In that case, again relying on the juvenile brain and behavioral development science and an opinion authored by Justice Kennedy, the Court found life without parole sentences violate the Eighth Amendment's prohibition on cruel and unusual punishment for children convicted of nonhomicide crimes. The Court likened life without parole to the death penalty for children because no matter how much children are rehabilitated over time or expressed remorse for what they did in their youth, they will never leave prison alive. They will only leave prison in coffins. In that case, the U.S. Supreme Court ruled states must provide child offenders with a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.

Two years later in the case *Miller v. Alabama*, 567 U.S. 460 (2012), the Court struck down the use of mandatory life without parole sentences even for juveniles convicted of homicide-related offenses. It is noteworthy that the Court specifically said before children can be sentenced to life without parole, sentencing courts must consider the mitigating factors of youth prior to imposing the Nation's harshest punishment possible. At the time *Miller v. Alabama* was decided, there was a split of authority on how broad that decision was meant to be.

More clarity was provided in 2016 when the Court came down with *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016). It ruled the *Miller v. Alabama* decision was retroactive and broadened the scope of that decision. The Court indicated courts and legislatures across the Country were misinterpreting what *Miller v. Alabama* stood for. Many thought it only applied to cases involving the use of mandatory life without parole, but the Court deemed that was wrong. I will read a couple of quotes from the decision because they are relevant to this conversation.

> Even if a court considers a child's age before sentencing him or her to a lifetime in prison, that sentence still violates the Eighth Amendment for a child whose crime reflects "unfortunate yet transient immaturity." *Miller* determined that sentencing a child to life without parole ... an unconstitutional penalty for "a class of defendants because of their status."

The Court went on to explain the *Miller v. Alabama* decision was much like the *Graham v. Florida* and *Roper v. Simmons* decisions before it. The one distinction being a small carveout window was left out where a child could potentially receive a life without parole sentence if a state could show a child was permanently incorrigible or beyond rehabilitation. That standard cannot be met because we do not know who a child will be 15 to 25 years down the line after he or she has time to mature while being incarcerated.

In my written testimony (Exhibit H), I go through some of the different state supreme courts that have taken up the interpretation of *Miller v. Alabama* and *Montgomery v. Louisiana* after the *Montgomery v. Louisiana* decision came down. Those supreme courts include the states of Georgia, Oklahoma and South Carolina. This is not a liberal bastion of jurisprudence by any stretch of the imagination. All three state supreme courts found, even though those states

had discretionary life without parole sentences just like in Nevada, these two cases were still applicable.

When we worked on A.B. No. 267 of the 78th Session, we did not have the guidance from *Montgomery v. Louisiana* to fully acknowledge and understand the import of that decision on the State. Because of the carveout exception in A.B. No. 267 of the 78th Session, four individuals are serving life without parole sentences that are in violation of the Eight Amendment's prohibition on cruel and unusual punishment. Assembly Bill 424 will alleviate the need for any unnecessary litigation in this area and put on par those four individuals with those impacted by A.B. No. 267 of the 78th Session.

States have grappled with how to interpret and implement these U.S. Supreme Court decisions. Through legislative enactments like A.B. No. 267 of the 78th Session and by state Supreme Court decisions, 21 states and the District of Columbia have banned the use of life without parole sentences, in many instances also giving individuals retroactive parole eligibility.

Across the Country, over 500 individuals sentenced to life without parole for crimes—homicide offenses—they committed as children have been released and given a second chance. We have a zero percent recidivism rate of all of those individuals. In the State, we have approximately a 50 percent parole release rate, so a number of individuals have been home for a number of years, have not recidivated, are tax-paying citizens and have been doing great things in the community. There are some individuals who should never come out of prison, and we need to acknowledge that, but A.B. 424 gives the Board the opportunity to review these cases and make a determination on whether these offenders have been sufficiently rehabilitated or pose a danger to the community. If they are not a danger, A.B. 424 gives them the opportunity for a second chance.

There are a lot of different ways to look at this issue. You can look at it through the legal lens of U.S. Supreme Court cases and why this is important to keep the specter of litigation outside the scope of what Nevada will have to deal with if nothing is done in this regard.

There is also the moral lens. When we talk about living through our values, I will highlight something said by U.S. Senator Alan Simpson who served in leadership under U.S. Senate Majority Leader Bob Dole in the 1990s. He has

written a number of op-eds across the Country in support of the opportunity for a second chance. In these op-eds, he cites examples of Moses, David and the Apostle Paul who were all guilty of killing, yet went on to serve God in significant and important ways. He always closes these op-eds by saying, "If our children are not deserving of our mercy, then who amongst us is?"

SENATOR HANSEN:
I was involved with this legislation in 2015. Five hundred people have been released since when? A zero recidivism rate is impressive.

MR. DOLD:
The numbers vary from state to state. The largest portion of individuals were from Pennsylvania, where upwards of 200 individuals were released starting in 2012 when the *Miller v. Alabama* decision first came out. That state also had the highest number of individuals serving these sentences prior to that decision. It was a trickle effect; some states implemented changes quickly and others needed the U.S. Supreme Court decision in *Montgomery v. Louisiana* before releases were made. I do not know the number of individuals released in Nevada, I just know there has been roughly a 50 percent parole rate of individuals who have been released.

I have been in touch with many of these individuals through Facebook, I talk to them over the holidays, and some have gotten married. One individual was 15 years old when he was sentenced to life without parole. He is now living in Illinois; he recently got married, and his wife is pregnant with his first child. These individuals are getting to experience all these things they never thought possible.

We need to treat children differently. There has been no recidivism by any individuals who have been released, so parole boards are fully equipped to make determinations of who should get out and who needs to stay in prison.

SENATOR HANSEN:
What has been the response by the victims' families—the people whose children were murdered by these children? These families believe these offenders will be considered incarcerated forever.

MR. DOLD:
Nationally, victims have a lot of different opinions and views. Sometimes, they are upset about having to go back to court or before a parole board because they thought there was going to be finality. In other instances, there is a process of restorative justice where victims' families forgive these individuals and ask the parole board for their release. I worked closely with a woman, Dorothy Holloway, in Arkansas whose son, James, was killed by a 16-year-old boy. She has been fighting for him to get a second chance. She has gone to the parole board and the governor of Arkansas trying to get a commutation for him. She writes letters. She considers this boy her adopted, spiritual son.

We are trying to come up with a semblance of justice through balance. We are sympathetic to the plight of victims in these cases. They are deserving and need to be provided with all the resources and services possible.

SENATOR HARRIS:
The only downside of this is victims' families are drug back into the system when they thought it was finalized.

What is the percentage of people who qualify for release but are left in because they are not the type of people we want to let out on the street?

MR. DOLD:
About 2,500 people are serving life without parole for homicide-related offenses nationally. Approximately 500 of those have been released. Many of them have either been resentenced or given parole eligibility through legislative enactments but have not yet been released.

MS. KRUZAN:
In regard to support of A.B. 424, I want to highlight the importance of nurture. When a person is not nurtured, his or her behavior may reflect one that can be demonized or come under the definition of a criminal. As a restorative justice practitioner who sits in various circles that include district attorneys, policy individuals and representatives from California, I have noticed an opportunity to have a dialogue and move past stereotypes or belief windows. However, there is still a separateness in who is a victim and who is not.

Moving forward, mental health services and treatment that honors one's personal experiences can identify those who suffer from chronic trauma such as

maltreatment, family violence and a destructive detachment to their primary caregiver. That can be a therapeutic opportunity for an individual as opposed to a continuous imposition of segregation and slavery that occurs within the prison industry complex. We can get to the core of why we, as a community, are not in our best space of wellness. It comes down to a lack of nurture as opposed to a genetic issue or where a person is not able to be redeemed.

Statistics show that people of color are mostly impacted by incarceration. As we evolve as a community and as human beings, it is time to think about the equality offered to everybody.

Having a life without parole sentence was difficult for me, but I found a space of hope. I felt the need to show a resilience and the need to overcome. Many people told me, "You are crazy; there is no way you are ever going to go home. Accept the fact you have life without parole." I answered, "No. We have to have this. We have to heal. We have to come together and sit down and have hard conversations."

In 2013, I was the second life-without-parole inmate in California to be released. The first individual was released due to a federal technicality, and I was released by Governor Arnold Schwarzenegger. I made a promise the day I left prison that I would come back. I fought so hard to get out of prison, now I fight to get back in because I know the nucleus of the social disease that infects people on so many levels. But if we come together and talk, we can make a change.

Regarding the eight individuals who committed more than one murder, we have to ask ourselves, "Why did this child do this? What happened in their lives that made them believe this was their only outlet?" Children suffer chronic trauma such as maltreatment, family violence and a destruction and detachment from their primary caregivers. When they show up in our criminal justice system as violent predators, they hear, "Oh, you are just a horrible person." It is time for us as a community to say, "We know better, we are going to do better, and we are going to offer what is needed to meet the needs of these individuals."

When the system strips away a person's dignity, it is a lifelong fight to get that back in order. I will continue to fight for policy and to have these difficult conversations. I was not offered an opportunity within the criminal justice and correctional systems to identify what actually brought me to the place to commit my crime. As a 41-year-old woman who has to show up for work, raise

a child and be responsible, I am also responsible for my overall mental health, and there are no resources.

Every child is born with a sense of right, the right to be safe, the right to pursuit of happiness and the ability to be who he or she wants to be. I will continue to fight for children, and I say to you, "Let's do this together. Unify. All of us." District attorneys, police officers, first responders, policymakers and lawyers are secondary to who we are. We are all here to be connected, to be better and to inspire life. So let us do it.

MS. WILDEVELD:
I support A.B. 424 and have provided written testimony (Exhibit I).

I have submitted letters from several of my clients who were all juveniles when they committed their crimes (Exhibit J contains copyrighted material. Original is available upon request of the Research Library.).

Kenshawn Maxey was a 16-year-old child in foster care when he committed his crime. His 14-year-old girlfriend was pregnant and his social worker had not checked on him in 4 weeks. He was homeless and went to his friend, Lashawn Levi, to come up with a plan to get money to get an apartment. Lashawn suggested they rob the O'Aces bar. They walked into the O'Aces bar in the middle of the morning on May 18, 1998, and held it up. When the bartender struggled with Lashawn over Lashawn's weapon, Lashawn screamed for Kenshawn to shoot the bartender. Kenshawn picked up the gun and fired. The bullets went through the bartender, Salvatore Zendano, and hit Lashawn in the back. Lashawn is the second victim in this case. I have been in contact with Lashawn Levi's family; they are not opposed to Kenshawn's ability to go before a parole board.

Tim Webb was paroled a few weeks ago, but he will not be released until June 1; otherwise, he would be here to testify. In this case, although there were two deaths, he was the only one with this harsh sentence. The adult driver was found not guilty of driving the boys who threw Molotov cocktail bombs into a home in which two victims died. The codefendant in Tim's case received a much more lenient sentence.

Exhibit J includes the testimony of Michelle Carro from the 2003 Session. She spoke about her interactions with Kenshawn Maxey and her work surrounding youthful offenders.

Colby Becker is another client who was recently released. His codefendant was Kyle Ray. Colby was paroled a couple of weeks ago and is soaring and living a life no one ever dreamed he could. He cannot be here today because he is working and is unable to take time off work.

His codefendant, also 15 years old at the time the crime was committed, is excluded from A.B. No. 267 of the 78th Session. He will never be eligible to be released, although they both participated in the same crime and are equally culpable and responsible under the law. While the district attorney's office offered Colby the opportunity to plead to one of the murders, it did not give that same offer to Kyle Ray. He had to plead to two of the murders; there were three victims in that case; all victims were Kyle Ray's family. Because of the offer, Kyle Ray was never allowed to go before a parole board, yet he was only 15 years old when the crime was committed.

I hope you take the time to read some of their words in Exhibit J when considering A.B. 424. This is an important bill and a step in the direction toward positive criminal justice.

I also want to mention de facto life sentencing and inmates such as Jason Taylor, who is serving a de facto life without the possibility of parole. Out of three participants in the murder of two people, Jason is the only one left in prison. He was 16 years old when it happened. His adult codefendant died shortly after entering prison, and the third participant in the crime was given an opportunity to testify against the other two and never served a day in prison.

MS. RASMUSSEN:
We support A.B. 424. We supported similar efforts during the 2015 Session that left out about 8 people. As Ms. Wildeveld mentioned, all eight of those offenders were involved in single incidents where more than one person died. These are not kids who went on some kind of killing spree. The reason A.B. No. 267 of the 78th Session passed is because we recognized the limitations on the juvenile brain as well as the capacity for change. The eight defendants who were left out of that legislation are not different; they still

have the same capacity for change and brain growth that the other kids who now have an opportunity for parole have.

I urge you to support this bill, but I want to address a couple of Senator Hansen's questions. When A.B. No. 267 of the 78th Session passed, a group of us agreed—pro bono—to help the juveniles who were then eligible for parole get ready for parole hearings. One of my clients has yet to be released. He has had two parole hearings, and the Board believes additional work needs to be done. It is important to emphasize this bill does not grant automatic release. The Board has discretion, and the victims have varying positions.

In one of my cases, the victims were upset. In other cases, the victims have been supportive and have found it cathartic to their own mental health and seek a more restorative justice position.

The circumstances vary, the factors the Board considers vary, and the Board is in the best position to make those decisions. There was no rational basis to exclude these eight defendants, so it is important we remember the work we do is to represent the least of us. Those children are the least of us. They have the least resources and the lowest ability to advocate for themselves. It is our job as adults to recognize that and to give them hope and a path forward in an appropriate manner. This bill accomplishes that.

MS. WELBORN:
My colleagues from southern Nevada made several points I wanted to make, so I will just say I had the pleasure of being a part of the work group for A.B. No. 267 of the 78th Session that represented some of these individuals. I am working with Johnny Ray Luckett, one of the eight individuals to whom A.B. No. 267 of the 78th Session did not apply. Since that law went into effect, Connie Bisbee, former Chair of the State Board of Parole Commissoners, indicated at the February meeting of the Advisory Commission on the Administration of Justice that 52 percent of individuals under A.B. No. 267 of the 78th Session were granted parole. Forty-six individuals were denied because they were not able to participate in programing since they were not on a track for release.

The American Civil Liberties Union of Nevada supports A.B. 424. This bill is consistent with the U.S. Supreme Court precedent. We look forward to sharing this information with Mr. Luckett as it will provide him with hope.

MR. FUSS:
The Juvenile Department of the Washoe County Public Defender's Office supports A.B. 424. This gives juveniles a chance at rehabilitation and a chance to go before the Board, though there is not a guarantee they will get out. Even if released, they are still going to be held to high standards of parole and probation in order to maintain in the community.

MR. PIRO:
The Clark County Public Defender's Office supports A.B. 424. Hope is one of the biggest drivers for all of us as human beings, and this bill provides hope. It is not a guarantee, but it is a hope.

JOE RODRIGUEZ:
I support A.B. 424. I have provided written testimony (Exhibit K).

ASSEMBLYMAN YEAGER:
We call our prisons the Department of Corrections. We do that because the idea is, if we do it right, behaviors will be corrected and an inmate can come back into society. In this case, corrections applies when we are talking about individuals who have committed crimes as juveniles, individuals who are going to spend at least 20 years there and perhaps a lot more. We want to give every incentive to those individuals to correct what led them there. Assembly Bill 424 does that. When you have two different outlooks, one being "I might have a chance to get out someday," and the other "I am going to die in this facility," we give hope to those who may be able to someday get out and make a life for themselves.

CHAIR CANNIZZARO:
I will close the hearing on A.B. 424. I will adjourn the meeting at 10:47 a.m.

RESPECTFULLY SUBMITTED:

Jenny Harbor,
Committee Secretary

APPROVED BY:

Senator Nicole J. Cannizzaro, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	1		Agenda
	B	6		Attendance Roster
A.B. 158	C	9	James Dold	Testimony in Support
A.B. 158	D	1	Kristina Wildeveld	Testimony
A.B. 158	E	1	Marta Poling Schmidt	Testimony
A.B. 260	F	2	Annette Mullin / Las Vegas Metropolitan Police Department	Testimony in Support
A.B. 260	G	2	Clark County and Washoe County Public Defenders Offices	Proposed Amendment
A.B. 424	H	5	James Dold / Human Rights for Kids	Testimony
A.B. 424	I	2	Kristina Wildeveld	Testimony
A.B. 424	J	11	Kristina Wildeveld	Testimony in Support
A.B. 424	K	1	Joe Rodriguez	Testimony in Support