MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eightieth Session
May 2, 2019

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:28 a.m. on Thursday, May 2, 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:

Assemblywoman Lesley E. Cohen, Assembly District No. 29

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Nicolas Anthony, Committee Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

James W. Hardesty, The Honorable Justice, Nevada Supreme Court
Egan K. Walker, District Judge, Department 7, Second Judicial District
Homa S. Woodrum, Chief Advocacy Attorney, Division of Aging and Disability, Department of Health and Human Services
James P. Conway, Executive Director, Washoe Legal Services

Santa Perez
Jim Berchtold, Legal Aid Center of Southern Nevada
Kailin Bryant Kelderman
Eilish Kelderman
Mary Bryant
Nicole Schomberg
Byron Green, Chief Student Services Officer, Washoe County School District
Travis Mills
Ian Zehner
Marcia O'Malley
Michael Kovac, Chief Deputy Attorney General, Criminal Prosecution Unit, Office of the Attorney General
Kenneth Mead, Detective, Las Vegas Metropolitan Police Department
Tim Schultz, Forensic Legal Auditor, Criminal Division, Office of the District Attorney, Clark County
Jessica L. Adair, Chief of Staff, Office of the Attorney General
Kyle E. N. George, Special Assistant to the Attorney General, Counsel for Prosecuting Attorneys, Office of the Attorney General
John T. Jones, Jr., Nevada District Attorneys Association
Eric Spratley, Nevada Sheriffs' and Chiefs' Association
Melissa A. Saragosa, Judge, Las Vegas Township Justice Court, Department 4, Clark County
Liz Ortenburger, CEO, Safe Nest
Judy Stokey, NV Energy
Corey Solferino, Washoe County Sheriff's Office
Dwayne McClinton, Southwest Gas Corporation
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence

CHAIR CANNIZZARO:
We will open the hearing on Assembly Bill (A.B.) 480.

ASSEMBLY BILL 480: Enacts provisions governing supported decision-making agreements. (BDR 13-164)

JAMES W. HARDESTY (The Honorable Justice, Nevada Supreme Court):
Assembly Bill 480 had its genesis in work done by the Nevada Supreme Court's Permanent Guardianship Commission from 2015 to 2017. Presiding District Judge Frances M. Doherty of the Family Division of the Second Judicial District

Court was a member of the Commission. District Judge Doherty could not be here today, but you have her written testimony (Exhibit C).

In 2017, the Guardianship Act was reformed because of abuses witnessed between 2014 and 2016. In addition to improved monitoring and supervision capabilities and providing legal counsel for proposed protected persons, the overarching goal of those reforms was to explore the least-restrictive means for people of limited capacity to obtain the assistance of others to help guide their affairs.

In most instances, the guardianship process assumes someone is fully incapacitated; however, that is not always the case. Some people have limited capacities and the assistance they need should be tailored to their needs. Guardianship courts make decisions as to who will take over people's lives, finances and welfare. Part of the effort District Judge Doherty led was the concept of supported decision-making agreements (SDMAs), in which people select their own assistants without the intervention of the court process.

EGAN K. WALKER (District Judge, Department 7, Second Judicial District):
You have my written testimony (Exhibit D). I preside over Washoe County's 960-plus adult guardianship cases. Every Friday, I see a tableau of pathos and the best of human existence in my docket. There are at least 900 people in the County who need guardian services involving their person, estate or both.

Unquestionably, there are cases in which guardianships are appropriate; however, my team works to find the least-restrictive alternatives to guardianships. My criminal arraignment and sentencing dockets are on Wednesdays. Yesterday, I sent several people to prison. They will retain more constitutional rights than someone over whom I impose a guardianship. If you are sentenced to prison, you retain the right to marry, to contract for or on your own behalf and to sue in your own name. If I impose a broad guardianship over your person, you retain none of those rights. That is a profound statement about the infringement on constitutional rights that a guardianship represents.

Supported decision-making is a valuable alternative to guardianship. Most people I see retain extraordinary amounts of capacity, which can be enabled and literally given a voice through SDMAs. People who need assistance in some areas are allowed advocacy, interaction and a voice. This avoids the massive

infringement on constitutional rights that guardianships represent. Fundamentally, it is a human rights and interest issue.

The idea is simple. Families have undertaken supported decision-making for all of human existence. However, supported decision-making by way of statute is an acknowledgement that we recognize we must first understand people's individual capacities before we deny their constitutional rights by imposing guardianships. Under an SDMA, a person makes his or her own decisions. The supporter simply provides assistance, as requested by the person. It is people helping people and being recognized for doing so by third parties and public institutions. Nevada sometimes is knocked for being behind the curve or eight ball; however, the State is in the forefront of supported decision-making.

SENATOR PICKARD:
Do SDMAs terminate upon incapacity, and do they then convert to full guardianships?

DISTRICT JUDGE WALKER:
Because supported decision-making happens apart from the formal court process, it is neither an entrée to nor connected to guardianship. A supported decision-making agreement is just that: an agreement. In rare circumstances, it can also be a contract. It ends when either party wants it to end, without court action. It could be used as evidence in opposition to or support of a guardianship but is not legally connected to it and outside court action and intervention.

SENATOR PICKARD:
To the extent that SDMAs are somewhat formalized, when the protected person becomes incapable of acting on his or her own, what happens if there is a conflict between the potential guardian and designated supported decision-maker? Does the transition require a court to dissolve the agreement?

DISTRICT JUDGE WALKER:
The supported decision-making agreement could continue when the guardianship is imposed or simply goes away. The agreement happens outside of the court process and can start or end at any time both parties agree upon. Twenty times last year, District Judge Doherty and I have done away with guardianships because of SDMAs. That is more common than someone going from an SDMA into guardianship.

JUSTICE HARDESTY:
The crux of the SDMA is that it allows competent persons to choose who will make decisions if they become incompetent or incapacitated. There is no reason for the SDMA to be terminated as a matter of law or subsequent incapacity. The more we can keep the government and courts out of the process the better.

SENATOR OHRENSCHALL:
Let us say a protected person enters into an SDMA, but a family member disagrees with that decision. Would the issue go to the court?

DISTRICT JUDGE WALKER:
The beauty of SDMAs is they often mirror agreements families have to help their members. It is hard or confusing to view them as something transparent to the legal process. If a person disagrees with his or her decision-maker, the legal effect of that is nothing. Guardianship has been an important tool but has been overused to a large degree. Imposing upon someone's constitutional rights should be a last resort.

JUSTICE HARDESTY:
If I choose one of my children to represent me through an SDMA, I will expect my other children to honor that choice. If someone challenges my decision, he or she can resort to the court. However, I would hope my lawyer would tell the judge that I had made the decision when I was satisfied with it. If the child I have chosen decides to abuse the SDMA process or misbehave, that is a different issue. The process is intended to preclude that.

CHAIR CANNIZZARO:
One of the struggles in the guardianship context is whether it is the least-restrictive means of providing assistance and when it should be imposed. Courts have seen borderline guardian abuse situations, so the SDMA would be a good middle ground.

ASSEMBLYWOMAN LESLEY E. COHEN (Assembly District No. 29):
I was chair of the 2017-2018 Interim Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs, where A.B. 480 originated. That Committee received a presentation about guardianship and what efforts are underway to reform it from Homa Woodrum of the Division of Aging and Disability, Department of Health and Human Services (DHHS).

The first ten sections of A.B. 480 provide definitions included in the proposed Supported Decision-Making Act. Section 11, subsection 1, paragraphs (a) to (c) outline the purpose of the Act. Section 11, subsection 2, paragraphs (a) to (d) outline its principles. Section 12 provides for the process by which an adult may enter into an SDMA. Sections 13 and 14 list the activities in which supporters are authorized to engage. Section 15 prohibits the existence of an SDMA from being used as evidence of a person's incapacities. Section 17 provides that an SDMA be recognized as an adult's decision and that anyone who is not party to and follows the direction of an SDMA is not subject to civil or criminal liability or discipline for unprofessional conduct.

HOMA S. WOODRUM (Chief Advocacy Attorney, Division of Aging and Disability, Department of Health and Human Services):
I am the attorney for the rights of older persons and persons with physical and intellectual disabilities or related conditions. I am almost daily presented with cases across the State in which people with disabilities are denied the right to make choices about their lives by reason of community assumptions. If you have never had your decision-making abilities questioned, it may be difficult to envision what it must be like to constantly be confronted with barriers to your daily activities.

Nevada Revised Statutes (NRS) presume capacity, but they also give liability protection to those who, in good faith, rely on power of attorney and guardianship orders. Yesterday I received this email (the names have been changed to protect privacy):

> Linda suggests that I contact you to let you know that Gail was denied treatment at her provider for a dental procedure. They didn't view her as a competent adult. She has some physical limitations due to a diagnosis of cerebral palsy, and they just couldn't look past that. I had asked that her mom sign the papers, as well as Gail, and they still refused to treat her. [signed] Her service coordinator, Bob. Thank you for your time.

When treatment is denied, the reason is almost always the desire of providers to have what they believe is informed consent. It is not rooted in malice; rather it is part of our culture and demonstrates how civil rights in the area of disability must be addressed. The Act will begin that process.

Our laws have created a circumstance in which we presume capacity until there is a judicial determination otherwise. Yet, there is every incentive for providers to rely on substituted decision-making. The Act will correct that imbalance. It builds on other efforts in the field such as S.B. No. 360 of the 79th Session, which created the Wards' Bill of Rights. The Act will cement Nevada's place as a leader in reforming the rights of the disabled.

JAMES P. CONWAY (Executive Director, Washoe Legal Services):
Washoe Legal Services supports A.B. 480. We represent hundreds of protected persons in adult guardianship cases; in 2018, that was almost 700 people. When we think of adult guardianship cases, we often assume they involve older adults with recent diagnoses of dementia or something similar. In fact, the majority of our cases involve young adults. Many cases involve a parent raising a child with disabilities who is approaching the age of 18. The parent is told by a counselor, social worker or school official, "You better go petition for guardianship ASAP because you need to be a guardian over your son once he reaches age 18." That is simply not true.

A guardianship is not always necessary in such circumstances, and that is when we see an SDMA being used most frequently. When someone tells us he or she needs a guardianship, our first question is why? Guardianships should not be about a diagnosis or particular condition the protected person has. They should always be about practical considerations: What are you actually trying to accomplish? What do you need to accomplish in the future that you are not able to do now with your current authority? Supported decision-making gives us another tool to assist families seeking to help people with disabilities while maximizing their rights.

SANTA PEREZ:
I support A.B. 480 (Exhibit E). I am a member of the Governor's Council on Developmental Disabilities. Being in charge of your own self-directed services is not easy, but it is one of the most important steps a person with disabilities will ever take. People who support you will come and go, but after all, it is your life, and you are the only one who is living it.

People with disabilities need to come to the table not as voiceless tokens, rather as active, opinionated and confident participants. To take charge of their own lives, people need to know their disabilities and healthcare needs and not be afraid to ask questions.

It is important to learn about self-advocacy and self-determination at an early age so you can self-direct your own life as an adult. The idea is people need to have plans for themselves while always being willing to take others' advice. Providers and clients need to be a cohesive team, communicate with each other and seek help from others to create a person-centered structure.

For example, I need personal care assistants (PCAs). With self-directed supports, I can hire and fire my own PCAs. I am able to choose who I want and feel most comfortable with, which is important because my PCAs assist with my most delicate needs. Not everyone is compatible with each other. With self-directed supports, my PCA turnover rate is significantly lower and both parties are much happier. I have the flexibility to set a schedule that best fits my lifestyle.

When providers made decisions about my staff, I felt obligated to adhere to their rules. Even though they were kind, I did not feel like an equal partner in the care of my life. I am the expert on me; after all, I have been living with myself for 56 years. I am in the pilot's seat and have the ability to make the important decisions that relate to me.

JIM BERCHTOLD (Legal Aid Center of Southern Nevada):
I am a member of the Permanent Guardianship Commission. I direct the Legal Aid Center of Southern Nevada's Advocacy program, which provides legal representation to seniors and adults with disabilities who are facing or under guardianship. The Center represents more than 13,000 people under guardianship.

One of the things we always explore with clients is whether there is a way to avoid the need for or terminate an existing guardianship. Supported decision-making is a valuable mechanism to allow our clients to receive the assistance they need while maintaining their autonomy, independence and decision-making authority over their own lives.

KAILIN BRYANT KELDERMAN:
You have my written testimony (Exhibit F). Students do not need guardians. I do not need a guardian telling me what to do. Sometimes, they cannot make decisions for me. I am making a statement here. Sometimes my grandparents make decisions for me. My sister looks out for and inspires me. That is the only time I might need her. However, I do love her.

EILISH KELDERMAN:
You have my written testimony (Exhibit G). I am 22 years old, a University of Nevada, Reno (UNR), graduate and am working on a master's degree in social work. Kailin Kelderman—also known as KK—is not only my older sister but one of my biggest inspirations in my life. Supported decision-making can have a positive impact on my relationship with my sister as we do our best to maneuver through adulthood.

Siblings typically spend the most amount of family years with a person with a disability. I often think about what will happen when my parents are gone. With all of our extended family living out of State and as KK's only sibling, that weighs upon me heavily. Although I am protective of my older sister, I never want to be her guardian, and I doubt she wants her younger sister to be in control of most, if not all, of her rights. I want KK to be in control of her own life and strive for independence but also have help making decisions when needed.

Kailin is competent and able to make decisions for herself. Sometimes she asks for advice from family about medical or financial decisions that may arise, but do not all of us need that? I often have my mom come to doctors' appointments with me to provide another set of ears to help make important medical decisions. Most of us seek advice from friends and family about life decisions, so I believe Kailin should be able to do the same.

KK is my best friend, role model, carpool karaoke partner and favorite Buffalo Wild Wings date. She sees the goodness in every single human being and is kind to every person she meets. She defies the odds on a daily basis. She lives on her own and walks to work, arriving an hour early almost every day. She has become a pro guacamole maker. Nothing gives me more joy than walking into Laughing Planet and seeing my sister succeed at her job. She does everything with a smile and works her hardest to be the best at everything she does. We are leaving tomorrow for California to watch her compete in tennis at the Special Olympics for the first time. I have learned a lot from KK about life and how to be a good human being to the best of my ability.

What I hope for Kailin is that with an SDMA, she will have help making decisions, but more important, she will be able to live an independent and fulfilling life.

MARY BRYANT:
You have my written testimony (Exhibit H). I am the mother of Kailin and Eilish Kelderman. KK was our first child, when my husband and I knew little about Down syndrome or babies in general. We met other families who had children with Down syndrome. We soon realized that when children with Down syndrome are treated like typical kids and not babied, they tend to be more successful.

Kailin was soon joined by her sister, Eilish. We had high expectations for both girls and started a Nevada Prepaid Tuition Program fund for each early on. We made sure that KK was included in general education all through school. She did not work at grade level, but still learned academic concepts and, more important, social skills along with other students her age.

Once out of high school, KK attended the Path to Independence program at UNR. It is an inclusive two-year, nondegree certificate program for students with intellectual disabilities. She graduated after taking such courses as sociology, women's studies, community health science, karate, swimming and weightlifting.

During her time at UNR, KK lived in a house with two other students who also had intellectual disabilities. It was frightening to me as her mom to let go a little. As with most college students, there were good and bad decisions made, and she learned a lot about safety and getting along with others. She was good about asking for help when she needed it. KK really matured and decided she wanted to live on her own after graduation.

KK found an apartment and job through the Path to Independence program. She is a prep cook at Laughing Planet. She likes living on her own and uses her phone alarm to get to work and other places on time.

Kailin has an intellectual disability, so some things are harder for her to learn and understand. She seeks our advice when she needs help, and we work with her to develop those skills. She is learning every day. I used to report her wages to the Social Security Administration, but now she has figured out how to use its reporting app and is close to being able to do that on her own. She pays her rent every month through the Venmo app, using her phone alarm to remind her to pay on time.

When it comes to medical issues or more complex financial decisions, KK looks to us to explain things differently to her so she can understand them. We have become good at rewording complex concepts in simpler terms so that she can understand and make an informed decision.

We have been fortunate that KK's health has been good and she has not needed any significant medical treatment as an adult. My fear is that if she requires medical procedures in the future, her physicians will not allow her to make a decision, even after we have explained her options. Many of our friends have had physicians insist on guardianships in order to perform routine medical procedures.

Having Kailin in our lives has enriched our family more than I can tell you. When she was born, I was a gaming executive. Her birth really changed our outlook and priorities. Shortly after she was born, I left gaming and began working in the disability field. I have served as chair of the Governor's Council on Developmental Disabilities and am a member of the Permanent Guardianship Commission. My husband also works for a nonprofit, and Eilish is about to start on her master's degree in social work at UNR so she can have an impact on the lives of people with disabilities.

Having an SDMA is probably not appropriate for every person with an intellectual disability, but it could make a significant and positive impact on many. Continuing to learn and being encouraged to make her own decisions with assistance will help KK continue to live a meaningful, independent life.

NICOLE SCHOMBERG:
You have my written testimony (Exhibit I). My 30-year-old daughter Heather has Down syndrome. She graduated in 2008 from Earl Wooster High School, where she was homecoming queen and modeled in the senior fashion show.

Heather lives alone in Reno. She is an independent contractor with the Paul Mitchell School cosmetology facility. She loves all aspects of the fashion and beauty world. She collects handbags and regularly has her nails manicured. As a dancer with The Notables, she met her partner and boyfriend, Mike, in 2011.

Heather enjoys a full life and is her own legal guardian. She regularly communicates her wants and preferences about her home, career, community

involvement, health and social life to her family and siblings. Sometimes, she requests our support. The Supported Decision-Making Act proposed in A.B. 480 will give Heather the ability and right to make her own decisions while requesting assistance.

In 2013, Heather had an abscessed tooth, and her dentist recommended that it be extracted during outpatient surgery under general anesthesia. Heather agreed because she did not want to be awake for a procedure that was causing her a lot of anxiety. The dental staff told us the first possible appointment would be five months away. Because Heather is her own guardian, only one dental facility in Reno honors that, and only one anesthesiologist will work with someone with intellectual or developmental disabilities who is his or her own guardian.

We were devastated that we would have to wait that long for extraction of a painful tooth. As a result, I testified in favor of A.B. No. 128 of the 78th Session, which created a simplified durable power of attorney for healthcare decisions for developmentally disabled adults that is more widely accepted in our community. Every day, I think about how sometimes Heather's decisions will not be honored. Assembly Bill 480 will allow her to get help from a trusted family member to make some decisions without depriving her of her legal right to choose for herself.

BYRON GREEN (Chief Student Services Officer, Washoe County School District):
I ensure that students with disabilities receive a proper education. For three years, I have worked with District Judge Doherty to incorporate supported decision-making for students and families, Exhibit C.

The Washoe County School District has the responsibility to ensure that all students are prepared for the world. This takes perseverance and self-advocacy to become productive community members. Supported decision-making allows students over the age of 18 to have designated assistants. We see low expectations for students with disabilities, who deserve the right to function in a least-restrictive environment and be prepared to do whatever they want in their lives.

TRAVIS MILLS:
You have my testimony in support of A.B. 480 (Exhibit J). I have an intellectual disability. I am able to drive on my own, have a job, take my own medicine, live independently and make my own decisions. My mother, father and brother are

supportive of me. I depend on my family members and some friends to give me advice. This bill will help me by giving my family members access to my bank account, State agency services, medical records and doctors' appointment scheduling.

IAN ZEHNER:
You have my written testimony (Exhibit K). I live in Reno and attend UNR. I have Down syndrome and receive services from the Sierra Regional Center; Division of Mental Health and Developmental Services, DHHS; Bureau of Vocational Rehabilitation; and the Path to Independence program.

My mom helps me with my money and to make decisions about my health. Sometimes I need help with the big decisions in my life. The Supportive Decision-Making Act would help me choose people I trust to help me with my life and still live independently. I want to move out on my own and have already taken steps to help me achieve that goal by looking at apartments in Reno. I have some big decisions to make, and A.B. 480 would really help me be sure that I have the help I need to make them.

MARCIA O'MALLEY:
You have my written testimony (Exhibit L). I have worked and advocated for our disability community for more than 20 years. My son, Ian Zehner, age 21, is my reason for existence and inspiration. He is finishing up his last semester at UNR.

Since Ian was quite young, we have encouraged him to speak up about anything that is important to him. When he was about ten years old, he presented a slideshow about and has set the agenda for all of his individual education plan special education meetings and decided who he wanted to invite to them.

In college, his Path to Independence program is about person-centered planning. He has been surrounded with that process for his whole life. Now that he is heading out into the world away from the security of this support system, like all mothers, I worry about his future.

Ian is his own guardian. My husband and I raised him to be fiercely independent, and, as any of you who are parents know, that comes with unexpected consequences. Our vision for Ian has always been to support his dreams. Now that he is an adult, we are grateful that he still asks for our advice. That has not

always been a smooth transition. With limited legal options, we have put some protections in place to ensure Ian's health and safety.

About 18 months ago, Ian became a victim of internet fraud. Because he agreed to have me as a cosigner on his checking account and we are friends with our local bank manager, we discovered the fraudulent activity before his account was wiped out. It was a very close call. If Ian and I had not agreed to this level of support, I hate to imagine what could have happened.

Now that Ian is an adult, he is responsible for his own health care. Most of the time he renews his prescription in a timely manner and lets us know he needs to pick it up from the pharmacy. However, on occasion, he has forgotten and has gone for more than a week without his daily dose of medication.

One frustration I have discovered is that Ian now needs to make his own doctor appointments. Until he gives permission for me to access his medical records, I cannot help him with anything. He has some important health issues to address now, so I recently assisted him to make appointments with three different doctors. He gave them verbal agreements for me to access his medical information and asked me to come to each appointment.

My husband and I have formalized our relationship with Ian so we can provide the support he needs to make informed choices about his life. It would be so much better to have a law that encompasses all aspects of supported decision-making for independent living. As a parent, I would feel more confident that Ian would get the advice and help he needed at every pivot and turn of his life. As Ian recently reminded me, his father and I will not always be here, so he needs to be able to make it on his own with support from others.

He is poised to move out on his own this year, and I have all the typical fears that a mother has in this situation. However, my fears run deeper because I know my son needs more support than his typical 21-year-old peers.

CHAIR CANNIZZARO:
We will close the hearing on A.B. 480 and open the hearing on A.B. 15.

ASSEMBLY BILL 15 (1st Reprint): Revises provisions governing crimes. (BDR 15-409)

MICHAEL KOVAC (Chief Deputy Attorney General, Criminal Prosecution Unit, Office of the Attorney General):
Assembly Bill 15 will strengthen Nevada's money laundering laws and addresses the activities of so-called sovereign citizens antigovernment individuals. According to the United Nations Office on Drugs and Crime, approximately $800 billion to $2 trillion—or 2 percent to 5 percent of the global gross domestic product—are laundered annually. The U.S. Treasury's 2018 National Money Laundering Risk Assessment identifies casinos as one of five vulnerabilities relating to the threat of money laundering.

In cases my Unit processes, we see clear efforts by criminals to conceal illegal sources of money they earn, specifically concealment by drug dealers, gunrunners, pimps and illegal bookmakers. National and international media sources have published stories about criminals taking advantage of Nevada's corporate secrecy laws to launder money from notorious crimes committed worldwide.

Nevada Revised Statutes 207 concerning money laundering is outdated, with penalties that do not reflect the seriousness of the crime. The combination of Nevada's corporate secrecy laws and weak, outdated antimoney laundering laws and myriad cash-based businesses is an invitation to criminals to launder money throughout the State. While I understand that privacy and financial considerations arguably may be used to justify the corporate secrecy NRS, there is no justification of our weak money laundering laws.

Assembly Bill 15 will update and expand the conduct covered by the money laundering NRS and increase penalties for the crime. Under NRS 207.195, subsection 2, it is a crime to conduct a financial transaction with the intent to evade reporting requirements enacted by the Nevada Gaming Commission. Until 2007, the Commission's Regulation 6 included reporting requirements exempting casinos from federal reporting requirements related to the Bank Secrecy Act of 1970. In 2007, Regulation 6 was repealed, rendering the antimoney laundering regulation meaningless.

The proposed changes to NRS 207.195 will make it a crime to conduct a financial transaction with the intent to evade any federal or State reporting requirements. This gives it the teeth intended when the NRS was enacted. Section 1.5, subsection 2 states:

> It is unlawful for any person to conduct or attempt to conduct a financial transaction concerning any monetary instrument or property that has a value of $5,000 or more with the knowledge that the monetary instrument or other property is directly or indirectly derived from any unlawful activity.

In section 1.5, subsection 7, paragraph (b), we added cryptocurrency to the definition of "monetary instrument." The changes are modeled after Title 18 USC section 1957. The federal threshold for that provision is $10,000; we proposed $5,000 to ensure similar criminal activity does not fall through the cracks as a result of the higher threshold.

We increased the penalty for money laundering. It is now a Category D felony—a slap on the wrist that treats dangerous criminals as lightly as someone who lies on an insurance application. We would increase the penalty to a Category C felony. Members of the Secret Service and IRS who see a lot of money laundering have told me they support Nevada's efforts to strengthen its laws.

The Nevada Attorneys for Criminal Justice (NACJ) sent me a letter of opposition to A.B. 15 (Exhibit M) with an example of an elderly woman whose house was paid for by illegal profits from her drug-dealing grandson. She knows he is a dealer, and she cannot sell the house and move into an assisted-living facility without being guilty of a Category C felony and facing one to five years in prison.

This opposition argument has many obvious shortcomings. The grandmother example is designed to provoke sympathy. I can tell you about grandmothers I see engaging in white-collar crime. Recently, I prosecuted a 71-year-old woman who was the ringleader and mastermind behind a $3 million investment fraud scheme. She ruined the retirements of numerous people. When she learned she was under investigation, she went on the lam and was found holed up in a California hotel room. She ultimately pleaded guilty to multiple transactions involving securities fraud. Between the time of her plea and sentencing hearing, she began another fraudulent scheme.

If we used justifications like that of the NACJ for not criminalizing behavior, it could go too far. When petty larceny was criminalized, Legislators did not say, "Well, maybe they'll catch a grandma who doesn't have enough money who's

just stealing for her basic needs." You do not avoid criminalizing conduct just because there might be a sympathetic defendant.

This argument avoids typical crimes the bill seeks to punish; we simply are not going to run into this hapless grandma situation. Let us say a doctor is running a pill mill, making millions ruining peoples' lives by overprescribing unnecessary opioids. Evidence shows his spouse is living the high life knowing full well what her husband is doing. Without A.B. 15, she will get away scot free. As for the NACJ example of the grandma who wants to use ill-gotten gains to enter assisted living, the solution is not avoiding criminalizing conduct. It includes making sure, through another Committee, that elderly people are properly cared for.

Sovereign citizens live outside the law and create their own court systems. Section 1 seeks to prevent these people from being enabled to run bogus courts that issue judgments and indict people. Their frauds clog the legitimate courts system with phony documents. When we charge them with false filings, they issue phony court orders against investigators and prosecutors. Once they have been emboldened by evading punishment for that kind of conduct, it increases.

KENNETH MEAD (Detective, Las Vegas Metropolitan Police Department):
I am assigned to the Southern Nevada Counter Terrorism Center, administered by the Las Vegas Metropolitan Police Department (LVMPD). I have investigated domestic terrorism for eight years, focusing on sovereign citizens espousing antigovernment ideologies. We are extremely cognizant of the First Amendment issues related to their activities and phony court filings. We are not out to cast a wide net over these individuals.

Previous testimony has provided a contextual scope of the problem. The bulk of my experience is restricted to Clark County. At any one time, LVMPD probably sees about 500 individuals engaged in some form of sovereign citizen ideology.

A few years ago, we encountered a sovereign citizen engaged in activities and rhetoric that targeted law enforcers and government officials. He and his wife targeted elderly people who could not pay their mortgages, telling them they could pay him to file fake documents in a simulated court process. The nonsensical filings caused the seniors to go into foreclosure. With the help of the Office of the Attorney General, the LVMPD prosecuted that couple for several felony crimes and obtained convictions.

Once LVMPD began to prosecute the case, phony filings began arriving from the nonexistent "Superior Court of the Continental U.S. Marshals." Sovereign citizens targeted those of us involved in the arrest and the prosecuting attorneys general in Las Vegas. The filings stated we were in contempt of court and did not respect the court's jurisdiction, NRS or city and county ordinances. They believed they were out of the reach of the State or federal governments. The filings became increasingly threatening and were directed at LVMPD and the Offices of the Attorney General and the Secretary of State. We were directed to pay a $500 fine.

Obviously, no one responded to the documents. The $500 fine became a $1,000 court order sent to agencies. The perpetrators began conducting online and teleconference calls that were essentially grand jury indictments and issuing arrest warrants. The indictments accused us of treason, the penalty for which is death.

I began receiving documents and packages at my home after they engaged in open-source research and obtained my address, date of birth, social security number, and income and family information. The documents looked official with stamps and raised seals from the "Superior Court of the Continental U.S. Marshals," based in Nevada. It escalated to the point that when I came home, terrorists were conducting surveillance outside. I had to take alternative measures for myself and family to ensure my personal and professional safety.

With A.B. 15, we could curtail this type of slippery slope activity that empowers sovereign citizens when they file documents that go unanswered or get no response from law enforcers based on a lack of NRS to address it. We could have prevented the escalation of personal—not just professional—attacks and harassment at our homes.

TIM SCHULTZ (Forensic Legal Auditor, Criminal Division, Office of the District Attorney, Clark County):
I have done money laundering investigations for more than 30 years with the IRS, Gaming Control Board and the Clark County Office of the District Attorney in Las Vegas. Section 1.5, subsection 2 of A.B. 15 includes "monetary instruments and other property." "Other property" could be a lot of things, but in Nevada, that primarily could be casino chips used as pseudo currency. We have many illegal bookmaking operations called wire rooms. Bookies contact

wire rooms and go to Las Vegas casinos to make bets for bookies elsewhere in the Country using runners.

There are safe deposit boxes at large casinos, and when you win, the house issues chips. Casinos have no knowledge of what is in the boxes. It is a way for runners to skirt currency transaction laws by making wagers with chips or revetting tickets. Because there is no cash on one side of the transaction, no currency transaction reports are sent to the IRS via the Financial Crimes Enforcement Network.

JESSICA L. ADAIR (Chief of Staff, Office of the Attorney General):
When Attorney General Aaron Ford gave an agency overview presentation to this Committee, he specifically mentioned that sovereign citizens posed the largest domestic terrorism threat to the State. About 500 individuals are active in Clark County alone. Even though that seem like a small number, the threats we see against law enforcement, elected officials and public employees is significant. Prior to violent behavior, we usually see fake court documents and tax liens filed against law enforcement, elected officials and seniors.

SENATOR PICKARD:
The sovereign citizen movement is rarely covered by the media, outside of the Bundy family incidents. What is the reason NRS covering fraud, posing as a government authority and money laundering are so insufficient that we need A.B. 15?

MS. ADAIR:
The new NRS language will be extremely helpful in our prosecutions. The fake court documents fall into a legal gray area. People who are not posing as, say, a LVMPD officer and just send a court summons are not quite committing financial fraud. The bill will better identify the fake court documents we see. We took the language from legislation in Texas, which implemented it to deal with their sovereign citizen problem and better prosecute cases.

We frequently hear from sovereign citizens in my Office but do not typically publicize that in order not to encourage their behavior. Yes, it is under the radar but still the most significant domestic terrorism threat in Nevada.

SENATOR PICKARD:
When I worked for a federal magistrate, we would see fake documents and summons with some regularity. I am surprised that a summons representing an illegitimate court would not fall under the imposter aspect of fraud. When chips are used as a money laundering mechanism, they have value. As we expand into electronic currency, how do chips intersect with new currency that is legitimate?

MS. ADAIR:
We have talked to representatives of the block chain and cryptocurrency industries. We are open to changing the language in section 1.5, subsection 7, paragraph (b) from "cryptocurrency" to "virtual currency." We want to capture new technologies being used to launder money for illegitimate purposes. Often when using cryptocurrency, you do not reveal your identity. However, if you are just using virtual currency, a transaction would not fall under NRS 207.195 unless you had knowledge that the money was derived from an illegal activity. In March, I attended a presentation by the U.S. Drug Enforcement Agency, which is seeing a huge rise in cryptocurrency being used for drug trafficking.

SENATOR HARRIS:
I am concerned about the rebuttable presumption we are setting up and defense we are removing with section 1, subsections 2 and 3 of A.B. 15 in regard to creating fake documents. Subsection 3 eliminates the defense if the document actually states it is not legal process. Traditional consumer protection law says, "You can kinda do whatever you want. Just put a disclaimer on it." It worries me that we are setting up a rebuttable presumption while taking away the one likely defense some people would use in rebutting that presumption: stating the document is not a legal process. That information could be in 14 point, not 8 point, type and constitute a reasonable disclosure. Why should we not allow that defense to rebut the presumption?

KYLE E. N. GEORGE (Special Assistant to the Attorney General, Counsel for Prosecuting Attorneys, Office of the Attorney General):
To the layperson, it is not obvious that "a person or entity does not have lawful authority to issue or authorize the document." For example, many of us homeowners have gotten mail stating, "You can register your home as a homestead." It looks official and like it is from a county agency; however, the small print says it is not lawful.

The problem is when things like that come from phony courts like the "Continental Magistrate Court of Nevada." The layperson is not aware documents are coming from fictitious courts because the text does not include a disclaimer and the sender is not representing it as legitimate. Under that scenario, if we arrested someone and tried to prosecute him or her, the defense would be, "Well, that's not a legal court anyway. It's not my fault they believed it was. I just sent it from my little association."

By removing that as a defense, we are saying that just because someone acts in reliance in what is purported to be a lawful court, the victim is not the one at fault. We want to ensure that organizations do not use the "It's not my fault they believed it was real; it's not my fault" defense; otherwise, that could become the standard we have to defend in every case, even though defendants know people are acting in reliance on it.

MS. ADAIR:
Section 1, subsections 2 and 3 will protect consumers. If there is a tiny boilerplate at the bottom stating the document is not legal, our hope is people, especially seniors, will not be duped by it. Those documents will not be presumed to fall under those sections.

SENATOR HARRIS:
I somewhat understand your intent—that you want everyone who attempts to do this to be caught—however, there might be a tipping point at which someone does provide relevant disclosure in a meaningful way. I am unsure that we should remove the ability of the court to determine the line between what proper consumer protection NRS allow and when someone is truly perpetrating fraud. To entirely remove the defense most likely to be used makes me nervous.

JOHN T. JONES, JR. (Nevada District Attorneys Association):
The Nevada District Attorneys Association supports A.B. 15.

ERIC SPRATLEY (Nevada Sheriffs' and Chiefs' Association):
The Nevada Sheriffs' and Chiefs' Association supports A.B. 15.

CHAIR CANNIZZARO:
We will close the hearing on A.B. 15 and open the hearing on A.B. 17.

ASSEMBLY BILL 17 (1st Reprint): Revises provisions governing bail in criminal cases. (BDR 14-495)

MELISSA A. SARAGOSA (Judge, Las Vegas Township Justice Court, Department 4, Clark County):
Assembly Bill 17 addresses a minor procedural aspect of how courts handle bail. When someone is arrested for a criminal allegation, the court reviews information about the case and defendant and makes a decision about his or her custody status. At that point, the court can either release the defendant without bail on his or her own recognizance without conditions or set a bail amount. The person is released from custody upon the payment of a monetary bail posted by a bail agency bond or paid in cash.

Often, a criminal charge will be reviewed and then denied by the district attorney's office, which notifies the court. Other times, the defendant is charged and then the charges are dismissed. If a case is denied by the district attorney after a person has posted bail or bond or if the matter is dismissed, NRS stipulate the court must retain the cash undertaking or bond for 30 days. The court must not exonerate or release the bond before then unless requested to do so by an individual.

The Las Vegas Justice Court annually handles thousands of criminal cases, many of which are dismissed or denied with posted bail or bonds. Our clerks must process the court's decision, update the records and then sit on the bond or bail for the rest of the 30 days. Then clerks must reopen the files and our case management system to exonerate the bond or bail. This is a procedural nightmare and unnecessary burden on our clerks' time.

Assembly Bill 17 splits the decision. Instead of mandating the 30-day waiting period and by exception request releasing it early, clerks would be able to update records just once. The court will immediately release bonds and bail upon its decision on a dismissal or the district attorney's denial. The person not yet criminally charged may request that the court retain the bond or bail. In a few cases, a person may be notified by a law enforcement agency or district attorney's office that an indictment may be sought or that attorneys may refile a dismissed case involving the same or similar conduct. If the bond is exonerated, people lose their 15 percent interest paid upfront to the bond agency; reposting results in the loss of another 15 percent.

CHAIR CANNIZZARO:
We will close the hearing on A.B. 17 and open the hearing on A.B. 41.

ASSEMBLY BILL 41 (1st Reprint): Revises provisions governing the fictitious address program for victims of certain crimes. (BDR 16-418)

MS. ADAIR:
You have my written testimony on A.B. 41 (Exhibit N). Assembly Bill 41 will strengthen NRS 217.462 as it relates to the Confidential Address Program (CAP) and shielding of victims. The Division of Child and Family Services Division, DHHS, administers CAP. Participants who apply to CAP must have sufficient evidence that he or she is a victim of domestic violence, human trafficking, sexual assault or stalking. Participants receive fictitious mailing and physical addresses to protect them from offenders. Nevada is one of 37 states with CAPs.

Section 1, subsection 2 allows CAP participants to use fictitious addresses for State, local or county governments or for public utilities requiring an address. Section 1, subsection 3 restricts those entities from making telephone numbers or images of participants available for inspection or copying. There are exceptions to information release: if a request is made by law enforcement or if directed by court order, but only to the individual identified in the order.

LIZ ORTENBURGER (CEO, SafeNest):
SafeNest is a domestic violence agency serving more than 25,000 victims annually in Clark County. In 2018, more than 200 victims participated in CAP. Strengthening CAP does more to curb Nevada's high rate of domestic violence homicide; we are second in the Nation for that crime. The bill will increase protection for victims.

JUDY STOKEY (NV Energy):
NV Energy supports A.B. 41.

MR. SPRATLEY:
The Nevada Sheriffs' and Chiefs' Association supports A.B. 41.

COREY SOLFERINO (Washoe County Sheriff's Office):
The Washoe County Sheriff's Office supports A.B. 41.

DWAYNE MCCLINTON (Southwest Gas Corporation):
Southwest Gas Corporation supports A.B. 41.

MR. JONES:
The Nevada District Attorneys Association supports A.B. 41.

SERENA EVANS (Nevada Coalition to End Domestic and Sexual Violence):
The Nevada Coalition to End Domestic and Sexual Violence strongly supports A.B. 41. It will make necessary changes to CAP to ensure survivors' information remains private and there is no inadvertent release of their information.

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CHAIR CANNIZZARO:
We will close the hearing on A.B. 41. Seeing no more business before the Senate Committee on Judiciary, we are adjourned at 10:10 a.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
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. 480	C	20	James M. Hardesty	District Judge Frances M. Doherty / Testimony in Support
A.B. 480	D	3	Egan Walker / Second Judicial District Court	Testimony in Support
A.B. 480	E	2	Santa Perez	Testimony in Support
A.B. 480	F	1	Kailin Bryant Kelderman	Testimony in Support
A.B. 480	G	2	Eilish Kelderman	Testimony in Support
A.B. 480	H	2	Mary Bryant	Testimony in Support
A.B. 480	I	2	Nicole Schomberg	Testimony in Support
A.B. 480	J	1	Travis Mills	Testimony in Support
A.B. 480	K	3	Ian Zehner	Testimony in Support
A.B. 480	L	2	Marcia O'Malley	Testimony in Support
A.B. 15	M	2	Michael Kovac / Office of the Attorney General	Letter in Opposition from Nevada Attorneys for Criminal Justice
A.B. 41	N	2	Jessica M. Adair / Office of the Attorney General	Testimony in Support