

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session  
May 17, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 9:35 a.m. on Friday, May 17, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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

**STAFF MEMBERS PRESENT:**

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

CHAIR CANNIZZARO:

I will open the meeting by adding Assembly Bill (A.B.) 424 to the work session and address that bill at the end.

[\*\*ASSEMBLY BILL 424\*\*](#): Revises provisions relating to parole. (BDR 16-1116)

There are a number of bills on the agenda that do not have amendments, so I will take them in a consent calendar format.

SENATOR HAMMOND:

I would like to pull A.B. 139 from the consent calendar.

**ASSEMBLY BILL 139 (1st Reprint)**: Requires a person to be at least 18 years of age to marry. (BDR 11-1)

SENATOR PICKARD:

I would like to pull A.B. 183 and A.B. 431 from the consent calendar.

**ASSEMBLY BILL 183 (1st Reprint)**: Prohibits certain correctional services from being provided by private entities. (BDR 16-290)

**ASSEMBLY BILL 431 (1st Reprint)**: Revises provisions relating to the right to vote for a convicted person. (BDR 14-981)

CHAIR CANNIZZARO:

I will pull A.B. 139, A.B. 183, and A.B. 431 from the consent calendar. I will open the work session on A.B. 102, A.B. 107, A.B. 120, A.B. 142, A.B. 161, A.B. 192, and A.B. 336.

**ASSEMBLY BILL 102 (1st Reprint)**: Enhances the criminal penalty for certain crimes committed against certain family members of first responders. (BDR 15-48)

**ASSEMBLY BILL 107 (1st Reprint)**: Establishes provisions relating to the electronic recording of certain custodial interrogations. (BDR 14-588)

**ASSEMBLY BILL 120 (1st Reprint)**: Revises provisions relating to the crime of sex trafficking. (BDR 15-817)

**ASSEMBLY BILL 142 (1st Reprint)**: Eliminates the statute of limitations for the prosecution of sexual assault in certain circumstances. (BDR 14-175)

**ASSEMBLY BILL 161 (1st Reprint)**: Revises provisions governing common-interest communities. (BDR 10-705)

**ASSEMBLY BILL 192 (1st Reprint)**: Establishes a procedure when certain offenses are decriminalized. (BDR 14-319)

**ASSEMBLY BILL 336 (1st Reprint)**: Establishes provisions relating to certain victims of crime. (BDR 16-46)

PATRICK GUINAN (Committee Policy Analyst):

As was noted by the Chair, we are going to address the bills remaining on the consent calendar. I will read the summary lines of these bills.

Assembly Bill 102 is noted in the work session document ([Exhibit C](#)). It enhances the criminal penalty for certain crimes committed against certain family members of first responders.

Assembly Bill 107, referenced in the work session document ([Exhibit D](#)), establishes provisions relating to the electronic recording of certain custodial interrogations.

Assembly Bill 120 is described in the work session document ([Exhibit E](#)). It revises provisions relating to the crime of sex trafficking.

Assembly Bill 142, referenced in the work session document ([Exhibit F](#)), eliminates the statute of limitations for the prosecution of sexual assault in certain circumstances.

Assembly Bill 161 is outlined in the work session document ([Exhibit G](#)). It revises provisions governing common-interest communities.

Assembly Bill 192 is noted in the work session document ([Exhibit H](#)). It establishes a procedure when certain offenses are decriminalized.

Assembly Bill 336, described in the work session document ([Exhibit I](#)), establishes provisions relating to certain victims of crime.

SENATOR OHRENSCHALL:

For the record, I reached out to Chuck Callaway with the Las Vegas Metropolitan Police Department as to whether the provisions of A.B. 107 would also be applicable to a juvenile who is arrested for those numerated offenses. He was active in the working group with Assemblyman Steve Yeager, and everyone seems to agree they would apply.

SENATOR DONDERO LOOP MOVED TO DO PASS A.B. 102, A.B. 107, A.B. 120, A.B. 142, A.B. 161, A.B. 192 AND A.B. 336.

SENATOR PICKARD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

I will close the work session on A.B. 102, A.B. 107, A.B. 120, A.B. 142, A.B. 161, A.B. 192, and A.B. 336. I will open the work session on A.B. 139.

MR. GUINAN:

Assembly Bill 139, noted in the work session document ([Exhibit J](#)), is sponsored by Assemblywoman Shannon Bilbray-Axelrod and was heard in this Committee on May 1. This bill requires a person to be at least 18 years of age to marry and removes the ability of a minor to marry with the consent of a parent, a legal guardian or the authorization of a court.

SENATOR HAMMOND:

I have an issue with including 17-year-olds in this bill. At this point, I am going to vote no.

SENATOR HANSEN:

I will also be voting no on this bill. It does not make sense that someone can engage in sex at the age of 16 or 17 but cannot marry.

SENATOR PICKARD:

I agree with my colleagues' comments and note that, as written, A.B. 139 will increase the number of single teenage mothers. This is a policy mistake, so I will vote no.

SENATOR OHRENSCHALL MOVED TO DO PASS A.B. 139.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND, HANSEN AND PICKARD VOTED NO.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 139. I will open the work session on A.B. 183.

MR. GUINAN:

Assembly Bill 183 is sponsored by Assemblywoman Daniele Monroe-Moreno and others, and is outlined in the work session document ([Exhibit K](#)). It prohibits correctional services from being provided by private entities. It requires, with certain exceptions, State correctional facilities that house prisoners to be under the administrative and direct operational control of the State or a local government. It also states core correctional services must be performed by employees of the State or a local government and not by a private entity.

SENATOR PICKARD:

I was sympathetic to this issue when it came up last Session. However, after reading former Governor Brian Sandoval's veto statement, I was persuaded this effort would take away needed State flexibility. I will be voting no on this bill.

SENATOR OHRENSCHALL:

I supported a similar measure in the Assembly last Session and was disappointed when it was vetoed. Examples of problems with privately run facilities can be found across the Country. The Committee should support this bill.

SENATOR SCHEIBLE MOVED TO DO PASS A.B. 183.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND, HANSEN AND PICKARD VOTED NO.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 183. I will open the work session on A.B. 431.

MR. GUINAN:

Assembly Bill 431 is sponsored by Assemblyman Jason Frierson and noted in the work session document ([Exhibit L](#)). It was heard by this Committee on May 14 and revises provisions relating to the right to vote for a convicted person.

It maintains the right to vote of a person convicted of a crime who is not in prison and immediately restores the right to vote to a person who has been released from prison. It also provides for the restoration of the right to vote of certain State residents who have not had their right to vote restored and are not serving a sentence of imprisonment on July 1.

SENATOR PICKARD:

I cannot support this bill. Assembly Bill No. 181 of the 79th Session originally proposed the same things. The sponsor agreed the bill went too far and agreed to pull back, so I voted in favor of that bill.

Unfortunately, we are back in the same place with A.B. 431. I cannot support automatic restoration of rights for Category A and B felons, some of whom committed egregious crimes. When we say they paid their debt to society, one of those debts is the loss of the right to vote. To restore to someone what he or she permanently deprived another goes too far.

SENATOR HANSEN:

I share the feelings of Senator Pickard. Category C, D and E felony convictions are automatically restored upon completion of parole. The list of Category A and B felonies are murder, rape, child pornography and child abuse that results in severe bodily and mental harm to the child victims, lewdness with children under the age of 14, incest and acts of terrorism.

Statute allows individuals found guilty of these felonies to apply to a judge for the restoration of these rights; they should not automatically be allowed to vote upon the completion of their parole. Automatically including all Category A and B felons is a huge step in the wrong direction, so I will vote no on A.B. 431.

CHAIR CANNIZZARO:

I can appreciate the egregious nature of Category A and B felonies. As someone who deals with this in my regular job, I do not take this issue lightly. What I see in this bill are individuals who have paid a debt to society, and I note that a

number of crimes listed are life sentences, life tail crimes which means those people will be in prison for most of that sentence, not out in society. Assembly Bill 431 provides for individuals who are back in society and have paid their debt because they served a prison sentence and have been discharged from probation or parole. That is the least we can do. A lot of the individuals mentioned by Senator Hansen who pose a danger to our communities are going to find themselves incarcerated. This Committee has talked all Session about giving hope to people and ensuring they become a part of society; that is what I see in A.B. 431. I am not lenient on individuals who commit heinous crimes, but this bill provides some sense of community to people who have paid their debt. I support this bill for those reasons.

SENATOR OHRENSCHALL:

I support A.B. 431. I know Senator Hansen does tremendous work in giving folks who have served time a new start by hiring them and getting them into a good-paying trade. I learned through Jon Ponder, founder of Hope for Prisoners, when these individuals get a chance from someone like Senator Hansen and can support their family, they are more invested and do better. The right to participate in our democracy helps make people more invested, gives them a better chance of becoming part of the community, and keeps them from making the same mistakes and bad choices that got them incarcerated in the first place.

SENATOR HAMMOND:

Your arguments are persuasive, and I tend to feel the same way. I am involved in Hope for Prisoners so I appreciate the work that goes into trying to get each person who goes through the prison system back in the community. I disagree with automatically restoring these rights without going through the type of metamorphosis you see in folks who participate in programs like Hope for Prisoners.

Statute allows them the chance to talk about why they want those rights restored and the changes they made since their release from the prison system. That shows they do want to change, and there is hope still out there for these folks. We are not taking that hope away; it is still there. I am going to vote no on A.B. 431 because I disagree with the automatic restoration language.

SENATOR HARRIS:

The more people who vote, the better our democracy. We have an issue with not enough people participating. If A.B. 431 provides the opportunity to involve more people, it is hard to see how this is a bad thing. I will vote yes on this bill.

SENATOR SCHEIBLE:

I will also vote yes on A.B. 431. When I was campaigning, I ran into people who thought they could not vote because they had been convicted of a felony. I knew the intricacies of our laws; if they were standing in front of me and were not on probation or parole, chances were they had a Category C or D felony so their voting rights had automatically been restored. I also knew how they could apply to have their rights restored. Unfortunately, most were too demoralized and embarrassed to pursue their right to vote.

I would like to tell every single one of my constituents, "If you are off parole or probation, you now have the right to vote." End of sentence.

SENATOR DONDERO LOOP:

I am not an attorney. I would say we have hope for prisoners for that reason—hope. When we strip hope from people at any level, we give them no reason to work and do better in society. That is why we have Hope for Prisoners, and I applaud my fellow Committee members who work for that organization but remember the word "hope."

SENATOR HARRIS MOVED TO DO PASS A.B. 431.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND, HANSEN AND PICKARD VOTED NO.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 431. I will open the work session on A.B. 112.

**ASSEMBLY BILL 112**: Revises provisions governing the Advisory Commission on the Administration of Justice. (BDR 14-589)



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MR. GUINAN:

Assembly Bill 112, referenced in the work session document ([Exhibit M](#)), is an Assembly Judiciary Committee bill which was presented by Assemblyman Yeager. This bill revises the duties of the Advisory Commission on the Administration of Justice by repealing some specifically enumerated duties, among other things.

The amendment proposed by Assemblyman Yeager amends section 1 to require the Chair of the Commission be a Legislator.

SENATOR OHRENSCHALL:

Because A.B. 112 deals with the Advisory Commission on the Administration of Justice and the Subcommittee on the Use of Medical Marijuana, I have been advised by the Legislative Counsel to disclose and make reference to the conflict I disclosed on the Floor on April 9. I will be abstaining on this bill.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 112 WITH THE PROPOSED AMENDMENT CHANGES TO SECTION 1 BY ASSEMBLYMAN YEAGER.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR OHRENSCHALL ABSTAINED FOR THE VOTE.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 112. I will open the work session on A.B. 166.

**ASSEMBLY BILL 166 (1st Reprint)**: Revises provisions relating to prostitution.  
(BDR 15-861)

MR. GUINAN:

Assembly Bill 166 is noted in the work session document ([Exhibit N](#)). It is sponsored by Assemblywoman Jill Tolles and was heard by this Committee on May 13. This bill establishes the crime of advancing prostitution. It also sets forth when certain persons are deemed to have knowledge of such a crime and

when such a person is deemed to have taken responsible steps to abate prostitution.

A person who commits the crime of advancing prostitution is guilty of a Category C felony. In addition, the person who commits the crime of living from the earnings of a prostitute is guilty of a Category C felony where physical force or immediate threat of physical force is used and a Category D felony where those factors are not involved.

The amendment is from the Nevada District Attorneys Association. It is a friendly amendment that deletes references to sex trafficking throughout the bill and adds the language, "unless a greater penalty is provided by law" in order to ensure that the provisions of this bill do not unintentionally preclude the prosecution of other crimes.

Senators Pickard and Spearman asked for their names to be added to the bill as sponsors.

SENATOR PICKARD MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 166 WITH THE PROPOSED AMENDMENT FROM THE NEVADA  
DISTRICT ATTORNEYS ASSOCIATION AND ADDING SENATORS  
PICKARD AND SPEARMAN AS SPONSORS.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

I will close the work session on A.B. 166. I will open the work session on A.B. 222.

ASSEMBLY BILL 222 (1st Reprint): Revises provisions relating to specialty courts. (BDR 14-842)

MR. GUINAN:

Assembly Bill 222, outlined in the work session document ([Exhibit O](#)), revises provisions relating to specialty courts. This bill from the Assembly Judiciary Committee was heard by this Committee on April 29.

Assembly Bill 222 revises provisions relating to a defendant's eligibility for participation in certain specialty court programs. Defendants, including those with mental illness or intellectual disabilities, are not eligible for assignment to the program if the offense committed is a Category A felony.

The measure removes the language in statute—that was found unconstitutional by the Nevada Supreme Court—regarding the eligibility for assignment to the program of defendants who are veterans or members of the military.

And, lastly, it provides that a defendant who has been previously assigned to the program is eligible to be assigned to the program again.

The amendments are from the Nevada District Attorneys Association and are approved by the sponsor. They are friendly and add language allowing a court to enter a judgment of conviction and requiring the completion of a treatment program. They also add a Category B sex offense to those offenses that disqualify one from assignment to a program. Finally, they add language setting forth circumstances under which the court may dismiss the matter rather than being required to dismiss it.

SENATOR HAMMOND MOVED TO AMEND AND DO PASS AS AMENDED  
A.B. 222 WITH THE PROPOSED AMENDMENTS FROM THE NEVADA  
DISTRICT ATTORNEYS ASSOCIATION.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

I will close the work session on A.B. 222. I will open the work session on A.B. 376.

**ASSEMBLY BILL 376 (2nd Reprint)**: Revises provisions relating to persons in custody. (BDR 14-675)

MR. GUINAN:

Assembly Bill 376 is sponsored by Assemblywoman Selena Torres, Assemblyman Alex Assefa, Assemblywoman Dina Neal and others. It is referenced in the work session document ([Exhibit P](#)).

This bill requires certain designated entities to submit a report to the Legislature with information on the transfer of persons in their custody to the custody of federal agencies for the purpose of immigration enforcement.

Assemblywoman Torres proposed an amendment when she presented the bill which narrows the scope of the data to be collected under the provisions of the bill.

SENATOR HANSEN:

As I recall, the bill that passed out of the Assembly did not have the amendment that Assemblywoman Torres proposed. I can see passing A.B. 376 in the absence of the amendment as it limits what the police reports to strictly misdemeanors. The original bill included all crimes to avoid cherry picking specific data that could be used to make law enforcement look bad in the eyes of specific community groups. Is that correct?

CHAIR CANNIZZARO:

That is correct.

SENATOR HANSEN:

I will vote no on A.B. 376 if the amendment is included.

SENATOR PICKARD:

I share Senator Hansen's concerns. Even in the original bill, felonies are not counted. The study seeks to provide a report that provides a preordained hypothesis; it is inappropriate to use government resources to score political points in such a way that cherry-picks the data. If we want a study, we should report all the facts to obtain the full picture, not just the facts that prove a preordained result. I will vote no on this bill.

SENATOR SCHEIBLE MOVED TO AMEND AND DO PASS AS AMENDED A.B. 376 WITH THE PROPOSED AMENDMENT FROM ASSEMBLYWOMAN TORRES.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND, HANSEN AND PICKARD VOTED NO.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 376. I will open the work session on A.B. 416.

**ASSEMBLY BILL 416 (1st Reprint)**: Revises provisions relating to the collection of delinquent fines, administrative assessments, fees or restitution. (BDR 14-429)

MR. GUINAN:

Assembly Bill 416 is an Assembly Judiciary Committee bill that was brought on behalf of the Committee to Study the Advisability and Feasibility of Treating Certain Traffic and Related Violations as Civil Infractions. This bill was presented by Assemblyman Yeager and noted in the work session document ([Exhibit O](#)). It was heard by the Committee on May 10.

The lead line of the bill summarizes what it does, and the Committee is familiar with it.

There is an amendment proposed by Senator Cannizzaro to amend the bill to explicitly allow courts to order community service in lieu of fines and fees. I need to add that the amendment should allow courts to order service in lieu of administrative assessment. So the amendment is to allow courts to order community service in lieu of fines, fees and administrative assessments.

SENATOR HAMMOND:

I spoke with the sponsor of A.B. 416 and with folks who work in this field regarding two issues—or hammers—they use. One deals with the criminality

and potential to put somebody in jail for this offense. It was the intent of the bill's sponsor to remove that threat, and I agree with him.

The other is the suspension or revocation of one's license. Those who work in that area said the threat of taking away someone's license aids in getting folks to pay, especially for those who incur some sort of moving or parking violation when visiting our State. Visitors come here, violate these rules and, without that threat of license revocation, do not pay their fines. The sponsor said he would work with me to find middle ground on this issue. I will vote no until we have a chance to work that out. Hopefully, by the time this bill gets to the Floor, I will vote yes.

CHAIR CANNIZZARO:

In what section of A.B. 416 are you referring? I understand the bill to include an order for the suspension of one's driver's license insofar as it applies to traffic tickets.

SENATOR HAMMOND:

I am unable to find that language, but the sponsor does not want someone's license taken away and has agreed to work on language in this regard.

CHAIR CANNIZZARO:

Section 2, subsection 3, paragraph (b) states,

If the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, or if the defendant was given the opportunity to perform community service to satisfy the amount due because the defendant is indigent and the defendant has failed to perform such community service,

the court can "order the suspension of the driver's license of the defendant," or prohibit them from applying for a driver's license.

SENATOR HAMMOND:

It may not say specifically, which is one of the reasons I am trying to work with the sponsor to ensure the hammer that goes after out-of-state violators or those who have the ability to pay is available.

Determining who can and cannot pay is an additional challenge. We do not have a cheat sheet or State tax information, so we cannot determine how much someone makes.

I am going to wait until we get those concerns taken care of on the Floor.

CHAIR CANNIZZARO:

The language on page 4 and what constitutes an indigent person in section 1.3 takes care of your issues.

With respect to my request, often courts do not think they have the authorization to order community service in lieu of fines or fees, especially in traffic situations. If, in this bill, we are going to say if they do not complete community service, we can add language to clarify the court would have the ability to do so if someone were unable to pay a fine, fee or assessment.

SENATOR PICKARD:

I like your amendment as it does exactly what you just said. I have dealt with situations where the referee has often felt limited, so this would make that clear.

In section 2 where it states, "If the court determines that the defendant has the ability to pay," there is often no evidence given in these cases so there is no way to determine his or her ability to pay. As I understand it, this would require the taking of evidence with respect to someone's ability to pay. This mirrors a contempt statute. An evidentiary hearing would be required to determine whether someone has the ability but is willfully avoiding payment; this is not provided in the process unless it goes forward to trial.

While I agree with the intent of the bill and I like the amendment, there are processes we use to quash warrants and appear and handle these issues. By undoing that, we significantly curtail our ability to reach those out-of-state individuals who do not show up. This bill takes away the best hammer to ensure they respond. I will vote no on A.B. 416. Hopefully, we can resolve these issues and make this a better bill.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 416 WITH THE PROPOSED AMENDMENT TO ALLOW

COURTS TO ORDER COMMUNITY SERVICE IN LIEU OF FINES, FEES  
AND ADMINISTRATIVE ASSESSMENTS.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND, HANSEN AND  
PICKARD VOTED NO.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 416. I will open the work session on  
A.B. 421.

**ASSEMBLY BILL 421 (1st Reprint)**: Revises provisions relating to construction.  
(BDR 3-841)

MR. GUINAN:

Assembly Bill 421 is an Assembly Judiciary Committee bill heard by this  
Committee on May 15, which revises provisions relating to constructional  
defects and the definition of a constructional defect. It is referenced in the work  
session document ([Exhibit R](#)).

An amendment presented during the hearing from the Nevada Justice  
Association revises upward to ten years the length of time within which an  
action may be commenced regarding a construction defect, replaces "intentional  
act" with "act of fraud," deletes language regarding fraudulent concealment of a  
defect and clarifies that these provisions do not apply to a lower-tiered  
contractor or subcontractor who inadvertently covers the deficient work of  
another.

In the amendment provided to us, some language reads, "deleted by  
amendment." I want to make clear that language refers to sections of the bill,  
not to *Nevada Revised Statutes*. There is no change to statute, just to the bill.

SENATOR PICKARD:

I am struggling with A.B. 421. Having worked on both sides of this issue, I  
understand the arguments and concerns of both sides. I talked to both  
representatives today, who are committed to continue working on the bill. I will



vote to pass this out of Committee, but there is work to be done on both sides and I am happy to participate.

SENATOR HANSEN:

The original bill was almost a complete repeal of A.B. No. 125 of the 78th Session. I am in the industry and can assure everyone that bill has worked remarkably well for both homeowners and people who have these issues.

I give credit to those involved in this process; they have narrowed it down to a few critical issues. However, the most critical issue is still included in A.B. 421. We heard about a case that deals with this issue from Michael Elliott, a former FBI Special Agent. Though we were not able to hear his complete testimony in the hearing, he outlined the most critical component to ensure such horrible schemes do not repeat.

As I have detailed, the HOA/CD [homeowners' association/construction defect] litigation scheme was a sophisticated, far-reaching, mob-inspired criminal scheme motivated by millions of dollars in potential illicit gain at the expense of hardworking Nevada homeowners. The lynchpin of the scheme was the ability to easily corrupt HOA boards and then use the authority of the board to unilaterally file CD lawsuits without individual homeowner's specific consent.

This is the critical portion of his testimony:

If this Body decides to pass A.B. 421 in its current form, it will reinstate the ability of board members to file such lawsuits. Based on my extensive experience investigating HOA boards, CAMs [community association managers], industry lawyers, and sophisticated public corruption and organized crime schemes, I can tell you with virtual certainty that if this body approves the HOA standing provision of section 8 of A.B. 421, there is no question as to whether this scheme will happen again in Nevada. Rather, the only honest question is when it will happen.

That is testimony from a professional investigator who was involved with this case for ten years. I understand there are still negotiations going on, and I hope we can amend out section 8 either before it reaches the Floor or is on the Floor.

In the meantime, we are dangerously close to going back to a horrible precedent where people can misuse that HOA provision of the law, which is a critical component we removed in 2015 to prevent this sort of behavior.

Michael Elliott is not a conspiracy guy; he was on the front lines during the entire investigation. We would be foolish to ignore his counsel. I am going to vote no, I urge the Committee to do the same and I pray section 8 of this bill is amended out.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 421 WITH THE PROPOSED AMENDMENT FROM THE NEVADA JUSTICE ASSOCIATION.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HAMMOND AND HANSEN VOTED NO.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 421. I will open the work session on A.B. 422.

**ASSEMBLY BILL 422 (1st Reprint)**: Revises provisions governing criminal procedure. (BDR 14-1096)

MR. GUINAN:

Assembly Bill 422 deals with criminal procedure and is noted in the work session document ([Exhibit S](#)). It is an Assembly Judiciary Committee bill that was heard by this Committee on May 15.

It revises provisions that govern the failure of a material witness or a witness to appear at a legal proceeding. When bail is required for a material witness, the judge or magistrate must appoint an attorney and require the attorney to participate in the proceedings to the extent practicable.

An amendment, proposed by Senator Cannizzaro, amends section 3, subsection 2 to provide that an attorney will be appointed for a material witness after an arrest has been made rather than when a warrant is issued.

SENATOR PICKARD:

As I went back into my notes, I noticed there were no discussions about alternate means that could accomplish the same effect without possibly adding more trauma to victims of domestic violence. I am going to vote yes with a reservation. I want to consider all methods of obtaining that testimony, not just the one addressed in A.B. 422.

CHAIR CANNIZZARO:

This bill pertains to material witness warrants, which are not issued until and unless there are several attempts to subpoena someone by lawful order of the court and attempts to locate them, and in order to show cause issued by the judge wherein they are given opportunities to appear. So one has to give good cause to show due diligence has been made to contact and find that witness, to serve him or her and that service is being willfully ignored; that person is failing to come to court because he or she is purposefully attempting not to come to court.

There are a number of steps to secure someone's presence in court that we do not see in the bill but are reflected in the way in which material witness warrants work, including multiple opportunities to show up for court. I would also note, this bill directs a judge to consider the least-restrictive means once somebody has been issued a material witness warrant.

I am comfortable with this bill for those reasons, understanding that sometimes it will pertain to sensitive victims as well as situations involving gang members who do not want to participate.

SENATOR PICKARD:

Are less-restrictive means such as cross-examination by deposition or a video tape automatically considered? I am concerned if we only say, "You gotta come to court and testify against your abuser, or we are going to pick you up and detain you until that trial happens." Testimony by alternate means is frequently given in civil matters; is there a balance we can strike to avoid further traumatizing a victim?

CHAIR CANNIZZARO:

You have hit on the salient point; A.B. 422 refers to criminal matters. Criminal matters differ from civil matters in that defendants have a constitutional right to confront their accusers.

We need to understand what a material witness warrant is when looking at this legislation. It is sometimes difficult, so I wanted to clarify that issue.

SENATOR HARRIS:

How long does it takes for an attorney to be appointed once someone is arrested? I want to understand what the significant difference might be if an attorney is appointed once a warrant is issued.

CHAIR CANNIZZARO:

Statute provides for an individual to be brought before a magistrate once he or she is arrested. This bill changes it to "as soon as practicable, but not later than 72 hours," which would be the ordinary course of someone being present before a court once he or she has been arrested. As soon as someone is in front of the court, a judge would appoint an attorney and have the conversation about his or her custody status.

SENATOR HARRIS:

To clarify, once someone is arrested, he or she would come before a judge within 72 hours and the judge would appoint an attorney. Is that correct?

CHAIR CANNIZZARO:

Correct.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 422 WITH THE PROPOSED AMENDMENT FROM SENATOR CANNIZZARO.

SENATOR SCHEIBLE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

I will close the work session on A.B. 422. I will open the work session on A.B. 424.

Assembly Bill 424 revises provisions relating to the eligibility of parole of a prisoner who was sentenced as an adult for certain offenses that were committed when he or she was less than 18 years of age that resulted in the death of at least one person. It is referenced in the work session document ([Exhibit T](#)) and makes such a prisoner eligible for parole after 20 years, regardless of the number of victims. We heard testimony on this bill a couple of weeks ago.

There are no amendments on the bill.

SENATOR HANSEN:

I have concerns about this bill, but I will vote yes out of Committee.

CHAIR CANNIZZARO:

I am going to be a no today. I have concerns in cases involving multiple victims, especially in homicides.

SENATOR DONDERO LOOP:

I have concerns about parts of this legislation as well, so I will be voting no out of Committee.

SENATOR SCHEIBLE:

I will vote no. While I appreciate the intent of the bill, I am not sure we have the data to back up the change in the law. I want to learn more and continue the discussion, but today I will vote no.

SENATOR OHRENSCHALL:

I support the measure. I have served on the Interim Legislative Committee on Child Welfare and Juvenile Justice and have seen many presentations about how brain science shows a juvenile brain does not fully develop until the age of 25. Children who have been exposed to such things as drug abuse and untreated mental health issues on top of having underdeveloped brains do not have the decision-making power we expect an adult to have when confronted with crisis. Assembly Bill 424 reflects that and I support it.

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CHAIR CANNIZZARO:

I am going to pull A.B. 424. I will open the work session on A.B. 307.

**ASSEMBLY BILL 307 (1st Reprint)**: Establishes provisions governing the use of a gang database by a local law enforcement agency. (BDR 14-897)

MR. GUINAN:

Assembly Bill 307, as noted in the work session document ([Exhibit U](#)), is sponsored by Assemblyman Edgar Flores and others. This bill establishes provisions governing the use of a gang database by a local law enforcement agency. If a local law enforcement agency uses a gang database, it must be the one used by the largest local law enforcement agency in Nevada.

The measure provides that written notice must be provided to any person registered as a suspected member or an affiliate of a criminal gang in the database, and that person must be given an opportunity to contest the registration.

Finally, any file relating to a person in the gang database must be deleted from the database not later than five years from the final contact date the person had with a local law enforcement agency.

When he presented the bill to the Committee, Assemblyman Flores proposed a seven-part amendment which is included in the [Exhibit U](#) work session document.

CHAIR CANNIZZARO:

I believe this amendment was also part of the testimony we received in Committee.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED A.B. 307 WITH THE PROPOSED AMENDMENT FROM ASSEMBLYMAN FLORES.

SENATOR PICKARD SECONDED THE MOTION.

CHAIR CANNIZZARO:

I am concerned with some of the provisions in this bill, so I will vote no.

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SENATOR DONDERO LOOP:

I concur with Chair Cannizzaro. There are a couple of things I need to have clarified, so I will vote no.

SENATOR SCHEIBLE:

I posed a question during the hearing about how this bill would apply to inmates. This issue has not been addressed or answered, so I will also vote no.

THE MOTION CARRIED. (SENATORS CANNIZZARO, DONDERO LOOP  
AND SCHEIBLE VOTED NO.)

\* \* \* \* \*

Remainder of page intentionally left blank; signature page to follow.

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I will close the work session on A.B. 307. The meeting is now adjourned at 3:22 p.m.

RESPECTFULLY SUBMITTED:

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Jenny Harbor,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

DATE: \_\_\_\_\_



EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	5		Attendance Roster
A.B. 102	C	1	Patrick Guinan	Work Session Document
A.B. 107	D	1	Patrick Guinan	Work Session Document
A.B. 120	E	1	Patrick Guinan	Work Session Document
A.B. 142	F	1	Patrick Guinan	Work Session Document
A.B. 161	G	1	Patrick Guinan	Work Session Document
A.B. 192	H	1	Patrick Guinan	Work Session Document
A.B. 336	I	1	Patrick Guinan	Work Session Document
A.B. 139	J	1	Patrick Guinan	Work Session Document
A.B. 183	K	1	Patrick Guinan	Work Session Document
A.B. 431	L	1	Patrick Guinan	Work Session Document
A.B. 112	M	1	Patrick Guinan	Work Session Document
A.B. 166	N	4	Patrick Guinan	Work Session Document
A.B. 222	O	3	Patrick Guinan	Work Session Document
A.B. 376	P	3	Patrick Guinan	Work Session Document
A.B. 416	Q	1	Patrick Guinan	Work Session Document
A.B. 421	R	9	Patrick Guinan	Work Session Document
A.B. 422	S	1	Patrick Guinan	Work Session Document
A.B. 424	T	1	Patrick Guinan	Work Session Document
A.B. 307	U	3	Patrick Guinan	Work Session Document