

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session  
March 29, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:18 a.m. on Friday, March 29, 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 and to Room 102, McMullen Hall, Great Basin College, 1500 College Parkway, Elko 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:**

Senator Pete Goicoechea, Senatorial District No. 19  
Assemblyman John C. Ellison, Assembly District No. 33

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Rex Steninger, Chair, Board of Commissioners, Elko County  
Dagny Stapleton, Nevada Association of Counties  
Mason E. Simons, Nevada Judges of Limited Jurisdiction

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Melissa A. Saragosa, Las Vegas Township Justice Court, Department 4,  
Clark County; Nevada Judges of Limited Jurisdiction  
David S. Gibson, Sr., Henderson Township Justice Court, Department 3,  
Clark County  
Keith Lee, Nevada Judges of Limited Jurisdiction

CHAIR CANNIZZARO:  
I will open the hearing on Senate Bill (S.B.) 480.

**SENATE BILL 480**: Revises provisions relating to the number of justices of the peace in each township. (BDR 1-978)

SENATOR PETE GOICOECHEA (Senatorial District No. 19):  
Senate Bill 480 pertains to justices of the peace (JP) across the State. There is a schedule set forth in statute by population and county, and when you hit that threshold, another JP is required. We are attempting to change that a bit. This bill still provides for justices, but it also provides some flexibility and increased legislative oversight.

I brought this bill forward for Elko County. An additional JP is needed because the population threshold has been met in that Township. As I understand, they do not feel they have the workload or the funding available to put another justice in place right now. In Elko, there are justice courts in the townships of Carlin and Wells, which are respectively 20 and 50 miles away, and Wendover, which is 110 miles away. You are in a jurisdiction of about 50,000 people with 5 justices.

The Elko Township has two justices on board. In the event that one retired or moved to another position, they want to have the ability to say, "We have two justices, we really do not have the workload, we do not have the funding available to support another position, can we look at not replacing that justice?" This would allow the Board of Commissioners, after consulting with the justices, to then determine there is not an adequate caseload. Whether they agree, they still have to come to the Legislature for approval. It is a good bill.

I represent a piece of rural Clark County; this would be the same scenario no matter the county. Some jurisdictions feel they do not have an adequate number of justices available; others feel they are paying for more than they need.

SENATOR DONDERO LOOP:

Did I understand you to say that Elko has two justices, but one is not sitting right now, or are both sitting right now?

REX STENINGER (Chair, Board of Commissioners, Elko County):

We have two justices.

We support S.B. 480 in the hopes that it protects other counties that are getting to that threshold from facing this. A letter of support has been submitted in this regard ([Exhibit C](#)).

We were ordered by our JP to add a second justice since we passed that 34,000 person mark. We now have 5 justices of the peace with 50,000 people—1 judge for every 10,000 people. Clark County has 1 justice of the peace for every 100,000 people.

SENATOR DONDERO LOOP:

You are scheduled for two justices because of the threshold, but you only have one sitting?

MR. STENINGER:

No, this happened a few years ago. I think the second JP was elected in 2016. We are here to fix this law so the next county that hits that threshold is not faced with this problem.

SENATOR DONDERO LOOP:

If this bill passes, is there any danger of not being able to add a justice if one is needed or the budget allows? I have traveled this State numerous times and watched, especially during the Great Recession, where we backed up on things in some of the rural counties and people then say, "Now you do not need or we cannot afford a justice or we just do not put it in." I am concerned if you say, "We do not want to add this," and then, at some point, you need a justice.

SENATOR GOICOECHEA:

The bill would allow you to do that. Although it would take some time, depending on March 15 of the year ahead of the Legislative Session, you would then do that survey. It would take a year to get there, but a lot of things take that long. At that point, the board, after consulting with the justice or justices depending on the county and jurisdiction, could determine, "We have the load

and we have the revenue." Even if you do not have the revenue, the bill states you must provide the service if you have the caseload. The board would be able to obtain approval from the Legislature during the next Session, so you would be a year out.

I want to provide legislative oversight. Right now, the tail is wagging the dog. Justices make the call, whether you can afford one or the workload is there, to put a JP in place when that threshold is met. This is Statewide, not just in Elko County, but Elko County was experiencing some fiscal shortfalls and did not need that many justices. There are 5 justices for 50,000 people, and it costs money to maintain courtrooms.

SENATOR DONDERO LOOP:

I watched this happen in the Assembly Education Committee many times where we backed up on things, then all of a sudden there was no money or it was not there.

According to your letter, Chief Justice James Hardesty of the Nevada Supreme Court is okay with this—is that correct?

MR. STENINGER:

A similar comparison to the request for a justice of the peace can be made with our district court judge. Chief Justice Hardesty came to us and said a third judge was needed. The judges in our district court made sacrifices such as sharing bailiffs so we could afford one.

That is the kind of cooperation we would like to have when we need to add a JP, and that has not been the case. We performed extensive research. In 2000, the caseload on our justice court was 14,652. That dropped down to 9,836 cases in 2015. That is almost a 50 percent reduction, but the JPs demanded another judge.

SENATOR DONDERO LOOP:

That is correct. I just saw in [Exhibit C](#) where Chief Justice Hardesty stated Assembly Bill (A.B.) 43 would not proceed without the support of the board, and I would like to know where he is with this.

**ASSEMBLY BILL 43**: Increases the number of district judges in certain judicial districts. (BDR 1-498)

SENATOR GOICOECHEA:

Ben Graham, Administrative Office of the Courts, Nevada Supreme Court, told me yesterday that Chief Justice Hardesty thought it was a good bill and he supported it.

ASSEMBLYMAN JOHN C. ELLISON (Assembly District No. 33):

I had a long meeting with Chief Justice Hardesty regarding the third position for the district judge at that point in time. We were talking about the justice courts around the State. He said the threshold should have been at 75,000 people as well as being based on caseload and the ability to pay. That was when the judges in Elko County were looking at the new position for the third judge.

Elko County is unique because Carlin Justice Court is 20 miles away, so Carlin, Wells and Wendover JPs fill in when there is a heavy caseload.

SENATOR HANSEN:

If Clark County, for example, has 1 justice per 100,000 people and Elko County has 5 justices for 50,000 people, what is the current caseload?

MR. STENINGER:

The last figure I had was for 2015. Our court had 9,836 cases.

SENATOR HANSEN:

And that is split between five justices at the moment?

MR. STENINGER:

It is split between two justices at the moment. That is just Elko.

SENATOR HANSEN:

What is the normal caseload for a justice of the peace in Nevada, and what is the cost for a county such as Elko?

MR. STENINGER:

The cost is approximately \$300,000 for the judge and a bailiff.

SENATOR HANSEN:

That is substantial for a rural budget, especially in tight times. While you do not have the exact number, have you looked at those numbers and determined

caseloads are substantially below where a second full-time justice is needed in the City of Elko?

SENATOR GOICOECHEA:

Senate Bill 480 requires that all of this happens with consultation between the board of county commissioners and the justices of the peace. So justices do have input. In some cases, especially in southern Nevada, I will hear, "We do not need the second justice of the peace, but we could use a raise." Justices of the peace have an opportunity to add positions because they are set by numbers in statute. This bill provides legislative oversight while giving this flexibility.

SENATOR PICKARD:

What about situations where JPs have a high caseload, but the board decides that even though a justice is needed, funds are not available? Is there a way for the courts to ask the Legislature for an additional justice of the peace in spite of the board of county commissioners' position?

SENATOR GOICOECHEA:

Under statute, justices of the peace are the ones who come forward to the Legislative Body with a request. They bypass the board completely.

SENATOR PICKARD:

But we are striking that language. We are striking "in the opinion of a majority of" and replacing it with "the board of county commissioners."

SENATOR GOICOECHEA:

Correct, and that is the tradeoff I am looking for. As I read the statute, the JPs go to the Legislature with the request. Because they meet this statutory time frame—whether the caseload is there and/or the funding is available—the Legislature will typically say, "Okay, you are at the threshold." At least this bill brings the board and the justices together. Ultimately, they come to this Body where it would be the Legislature's call.

MR. STENINGER:

This bill clearly provides a means for justices to go around the board if there is disagreement with a decision. It can be taken up with the Legislative Counsel Bureau (LCB) and the LCB can then bring it to the Legislature.

DAGNY STAPLETON (Nevada Association of Counties):

Our Board of Directors discussed this, and we support S.B. 480. This would allow the board of county commissioners to have input in the say of a function they fund. That is the important piece for us.

MASON E. SIMONS (Nevada Judges of Limited Jurisdiction):

We oppose S.B. 480, and I will read from my written testimony ([Exhibit D](#)).

SENATOR PICKARD:

It sounds like you do not oppose the input of the board that has to fund these courts; your concern is its veto power and maybe an impermissible intrusion into the operation of the courts.

If we were to propose an amendment, is there language that would mollify your concerns?

JUDGE SIMONS:

I do not want to take a position that I am not authorized to take on behalf of the Nevada Judges of Limited Jurisdiction, but I would welcome a discussion regarding this bill.

SENATOR HANSEN:

Like anybody, I would like to reduce my workload by perhaps expanding the number of people I share it with. The way it is structured currently, it seems like JPs make that call almost exclusively. While I accept the argument—to a point—about coequal branches, it is true boards have to fund any additional courts, so there is a legitimate case here to have some oversight from the counties.

In Clark County for example, it is 1 justice of the peace for every 100,000 people, and you currently have 5 justices of the peace in a county with only 50,000 people. It does seem that there is a reasonable case to get the board involved and see if there is a need.

In regard to your comments on public interest, I do not know any entity that deals more with public interest and the public than a county commission in a rural county.

I can understand why you would want to keep the current system in place because it is all in your hands once you meet that threshold. I can also see why the board would want to have some oversight, especially when it comes to \$300,000 that can be used for a lot of other functions. In this Body, that seems like a fairly small amount, but it is a substantial portion of the budget for a rural county.

Why do you feel that justices should be the only ones making the call as to when that expansion would occur?

JUDGE SIMONS:

Let me make a couple of corrections to misstatements on the record. First, the additional judicial position in Elko costs the taxpayers of Elko County \$190,000. We only added one position to the court—a judicial position. Not a single other support position was added to the court. We converted a different clerk position to a bailiff; this was an existing position in our court. The only additional money was \$190,000 for salary and benefits for the judge. It was not \$300,000.

Going back to the discussion about 5 justices of the peace in a county of 50,000 people, we do not determine the number of justices of the peace by countywide population. There are judicial townships that exist in a county, and whether a township will have more than one judge is based on the population of the township. Nevada law requires any incorporated city to have its own justice of the peace, regardless of population. Wells, Carlin and Wendover are incorporated cities; though their populations are relatively small, they have their own justices of the peace.

The Elko Township is by far the largest township in Elko County. It has a population of approximately 42,000. We had been over the population threshold that requires the addition of a second justice of the peace for 20 years before we decided to add another position. Despite the insinuation that we did not consult or work with Elko County, we delayed and kicked this can down the road for about 20 years. We extensively used judges from other jurisdictions and were acting sort of as a de facto, two-judge court for decades in Elko County. There were times when a second justice of the peace served in the Elko Justice Court on an almost daily basis before we made the decision to add that full-time position.



We have an elected judiciary in our State. The person who passes judgment on someone should be a person elected by the voters of the particular township over which he or she presides. I have a fundamental, philosophical objection to a judge being brought in from another jurisdiction to serve on a continuous basis as the judge in a jurisdiction over which the voters did not have a say.

There is more conversation, philosophically, than just population threshold and caseload numbers. There is a question of separation of power what with the Judicial Branch having inherent authority to govern its own affairs and the board being in a position to understand the workings of the court to the same degree as the judges who serve every day. That is our fundamental objection.

MELISSA A. SARAGOSA (Las Vegas Township Justice Court, Department 4, Clark County; Nevada Judges of Limited Jurisdiction):  
We oppose S.B. 480.

I would like to point out some technical problem areas in the bill as drafted. There were comments made earlier about this somehow being a collaborative effort of when that population trigger the Legislature has set is met, the county and the judiciary would come together to make a decision. That is not the way the bill is written.

The way S.B. 480 is written, the board of county commissioners determines if the caseload and availability of funding warrant an additional justice of the peace. Fundamentally, our access to justice issues that we have been trying to address for years, our court systems improvements and the manner in which we handle our cases should not be fund-driven. If our constituents, clients and customers need access to the court, they should be given access aside from funding.

I agree that a caseload determination is appropriate. The judiciary is the only entity capable of making that decision because it is not just a matter of a number that appears in an annual report. It is much more than that, and I will address that in my presentation.

Even if the judiciary wanted input, it is not entitled the way the statute is written. The judiciary is completely cut out. Instead, it says, "the Director of the Legislative Counsel Bureau shall submit the opinion," meaning the opinion of the

board of county commissioners, "to the next regular session of the Legislature for its consideration."

It goes on to say, "If the justices of the peace transmit such a notice." However, the language about "such a notice" is stricken in S.B. 480, so the bill does not define what is being talked about. It is unclear. If it was intended to be "the justices of the peace may transmit a notice opposing the board's view," that might be clearer, but that is not what it states. This technical matter is confusing.

It is not until the next regular session of the Legislature that any opposition or dispute regarding an evaluation of a caseload by the judiciary would even be considered. And then, if considered, it would only resolve itself by resolution of the Legislature in the next regular session. That could be 18 months from the time that decision is made. There is a long period of time where the board and the judiciary would come together under this proposed language and make a decision on caseload. It is a longer, drawn-out process.

As for having oversight and the judiciary driving this train—that is not the way it is now, and that is not the way it ever has been. The Legislature has always determined what the numbers are and the population trigger. I would like to present a brief history of the language of *Nevada Revised Statutes* 4.020.

In 1965, the Legislature determined that every township in our State was entitled one JP. Legislators started with the concept that this was an access-to-justice issue. You should not have to drive to a county seat or a long distance to have access to justice.

That changed in 1967 because of population. This was the first time in history that population triggered the addition of another JP. The triggering point for 1 justice of the peace was under 100 people and 2 JPs over 100 people. This was automatic; there was no judicial input at all. This was a 100 percent legislative-driven process. The Legislature determined when a new JP would be added.

In 1975, the schedule for determining the number of JPs was still based on township population. And in that case, it was broken out a little more. One justice of the peace was required for 60,000 people, the number of JPs

increased to 2 for 60,000 to 150,000 people, and 150,000 people or more were required to have 4 JPs.

In 1977, that 150,000 or more township population was now increased to 5 JPs. The trend at that time was to increase the number of JPs based on population.

In 1979, still based on township population, those brackets changed. Less than 80,000 people were required to have 1 JP, the second bracket of 80,000 to 100,000 people required 2 JPs and 150,000 or more people stayed the same at 5 JPs.

In 1983, still based on township population, it changed a little. Now we went to 1 JP for less than 90,000 people, 3 JPs for 90,000 to 150,000 people, 5 JPs for 150,000 to 400,000 people and 6 JPs if the township population exceeded 400,000 people.

This stayed the same until about early 1991, when the Las Vegas Township—and I will speak to my Court specifically—population was confirmed at over 400,000, and the sixth justice of the peace was added.

Following the addition of that sixth JP, S.B. No. 62 of the 66th Session was passed in 1991. That was the first time county population was taken into consideration. It was determined that counties with less than 400,000 people would only have 1 JP for each 50,000 population of the township or fraction thereof. Counties with a population of 400,000 or more were required to have 1 JP for each 100,000 in population or fraction thereof. The distinction was made for those townships that included a city where there was a consolidated municipal government.

That stayed the same from 1991 on. Las Vegas Justice Court was the busiest court in the State of Nevada and arguably one of the busiest in the Nation.

In 1992, our population was certified at over 600,000. We would have been entitled to a seventh justice of the peace, but we voted our caseload did not warrant one.

In 1994, our population was over 688,000. We voted our caseload did not warrant a seventh JP.

In 1996, our Township certified at 791,000 people. Again, we voted our caseload did not warrant a seventh or eighth justice of the peace.

In 1997, there was a slight modification in the statutory language, but nothing substantive in terms in the number of JPs authorized by the Legislature for population and triggering.

One thing I want to note about the legislative change that took place in 1991 that first brought in the county population consideration: a secondary prong was added into that bill. While the number of JPs used to be a 100 percent legislative-determined factor, some Judicial Branch input was added. The Legislature is driving the train, the Legislature determines by population when a new JP is authorized, and then they turn to the judiciary and say, "You have a responsibility. We need you to evaluate your caseload and then determine whether a JP is warranted." That language was added in 1991.

Proceeding through 1998, 2000 and 2002, our caseloads and population grew, but we continued to defer. In 2002, our population was over 1 million in our Township, not Clark County. Our caseload did not warrant the ninth, tenth or eleventh JP. We had 8 JPs at that time.

In 2003, we had over 1.1 million people. We added the ninth but not the tenth, eleventh or twelfth justice of the peace.

In 2005, we added a tenth, but not the eleventh, twelfth or now thirteenth justice of the peace that the population triggered for consideration.

In 2007, we reached 1.3 million people. Our continuous population growth, caseloads and what was going on in the economy at that time required us to fill the eleventh and twelfth positions, but we still deferred the thirteenth and fourteenth JPs.

Senator Hansen, you asked some questions about average caseloads. I do have the data for each of our townships for probably the last ten years in front of me if you have further questions.

The Las Vegas Township, in 2008, swelled to its largest caseload ever. This was due, in part, to the postforeclosure situation. We had an average of

14,641 cases per justice of the peace. We had ten JPs, but the need for the eleventh and twelfth JP required us to fill those positions at that time.

In 2009, our population reached 1.3 million people. We were close to the population trigger for a fifteenth department, yet we only had 12 JPs.

Finally, the population started to become stagnant with minor growth. However, due to the growth in our postforeclosure litigation, our caseload grew enormously in between 2008 and 2010. We struggled to meet the demand and finally requested the thirteenth and fourteenth departments, but they did not begin until January 2011. At that point, the swell in caseload finally reached a peak, and it started to decrease a little.

In 2011, although the statutory scheme remained unchanged for 13 years, as the busiest court in the State, we worked together with Clark County. Clark County was concerned. Senate Bill No. 25 of the 76th Session proposed a measure to change the population trigger for a new judge. There was a review, and the County's position at that time was not to take over an evaluation of caseload—which is, in my opinion, a judicial function—but instead to change the population trigger.

And we did. The County and the courts came together. Jeff Wells, Assistant County Manager, Clark County, and I, particularly, negotiated on behalf of both of our entities, and we came to a resolution. Never was there a discussion or a consideration of removing either the Legislature's triggering authority that was put in statute or the oversight of the judiciary in terms of evaluating caseload. We had a unique carveout for the Las Vegas Township. Now the triggering point for Las Vegas Township is 125,000 people. The threshold for the remaining Clark County townships remained at 100,000 people.

In 2016, our population triggered the requirement for a fifteenth department, but we deferred that JP in negotiations with our County over our caseload and what was needed. We worked with the County to instead add a hearing master to solely preside over our summary eviction caseload. That much-needed relief meant that our caseload did not warrant an additional JP at that time.

You may wonder, in all of these years, why the judiciary would defer all of these positions and not demand them or require them as the Legislature has put forth in statute. It is because we have been good shepherds. We have evaluated

our caseloads over and over again because that is our role, our function. We owe a duty to our clients, our customers and our constituents who come in and need access to justice. We have done a great job in that regard.

Additionally, while some negotiation is ongoing, there are constant needs placed on the court. When we improved our processes in evaluating pretrial factors for bail considerations and things like that, we increased our pretrial unit. We understand those budgeting needs are staff positions for our court. We frequently have negotiations and discussions with the County and say, "We might need another JP right now, but what is going to help our caseload even more is having better-prepared documentation to make bail hearings." It might be better for us to use what budgetary funds we have to beef up a pretrial unit instead of hiring a JP, so those negotiations are ongoing.

At the end of the day, only the judiciary can determine our caseload. I want to speak to that point in terms of what caseload means. Is it just a number? Is it just a filing? That is not all what a caseload is.

We have specialty courts across the State, including drug courts, veterans treatment courts, two DUI courts in Las Vegas Justice Court, a Las Vegas Township Community Impact Center and an initial appearance court. None of these specialty courts are counted. They are not in a caseload number that appears in an annual report. While we do have statistics on those programs, they are not considered a case filing because they are already a case filing where one judge has heard that case, and then that defendant is moved over or transferred to a specialty court for supervision. And those specialty courts are long—they go on for nearly a year. Those cases take a lot more judicial resources, whereas when our court gets bigger, we have a chief judge who handles all of the administrative aspects.

We also have issues like increases in jurisdictional limit. In 2015, the Legislature passed a bill that increased our jurisdictional limit to \$15,000. This had an incredible impact on our Court, not just in caseloads but in the types of cases we were seeing. Our civil jury trials have increased dramatically, because the cases within that \$10,000 to \$15,000 increased range are mostly personal injury car accident cases.

We have lengthened sentencing hearings because of S.J.R No. 17 of the 78th Session, also known as Marsy's Law for Nevada. I am not saying it is a bad thing, I am just saying it is a practical consideration of caseload.

New case types are created all the time. In fact, one just created for the squatter situation, which is rampant in our valley, increased our caseload.

Search warrants are another aspect of our caseload not considered by numbers. In the case of *Byars v. State*, 130 Nev. 848, 336 P.3d 939 (2014), the Nevada Supreme Court ruled that all blood draws in which a DUI suspect does not consent must be done with a search warrant. That increased our search warrant caseload by at least 50 percent. It is an enormous drain on our resources.

Not all judge work is done in the courtroom either. I want to dispel the idea that a judge only works when court is in session and he or she is sitting on the bench. There are many things the courts do in chambers, such as prepare for calendars, read briefs and motions, discuss cases and write opinions. Especially for a civil judge, there is a Supreme Court ruling that indicates an oral pronouncement of ruling from the bench is not a final ruling on a case. A ruling must be in writing from the judge. Sometimes, counsels are tasked with preparing that. Because we have many pro per litigants in our courts, judges try to alleviate attorneys' fees and take the burden off attorneys by drafting those themselves. That is a cost-saving matter for many of our indigent clients who find themselves in litigation.

Finally, each one of those situations must contain the judge's factual findings and legal conclusions that led to the decision because an appellate decision cannot be made on abuse of discretion or error if they cannot see what the judge actually ruled upon. Sometimes these decisions can take weeks to write.

I would like to answer a question posed with respect to the average caseload across the State. In 2018, it was about 2,000 cases across the State if you take away the Las Vegas Justice Court outlier. Our caseload average is 9,000. This is down from approximately 14,600 cases in 2008, but we are still at 9,000 cases per judge. Regarding the rest of the State, we have 9 townships that have below 2,000 cases. There are 6 townships that fall between 2,000 and 3,800 cases currently. That averages out to approximately 2,000 cases per justice of the peace in our townships. I have those numbers spanning some period of time. Interestingly enough, Elko was just under

2,982 cases with one justice of the peace in 2014 and 2015. With the onset of the second justice of the peace, that particular court is now down to about the average at 1,743 cases in the last annual report of the Supreme Court. They are on par with the rest of the State in average numbers.

We oppose S.B. 480. The consideration on caseloads should come from the judiciary. The Legislature has maintained, since 1965, the necessary oversight and has the ability to change that population threshold or trigger at any time as it has done for years. Adding in an Executive Branch to evaluate the caseload of the Judiciary Branch is not appropriate.

SENATOR HANSEN:

My question is for Legal Counsel. What is the current process? Do justices of the peace in a county determine if an additional position is needed? For example, if there were four justices of the peace in Elko County originally when they met that population threshold, would those four people then determine whether an additional justice is needed?

NICOLAS ANTHONY (Committee Counsel):

Justices of the peace are actually set by township, and the numbers are determined by the Legislature. In statute, justices of the peace make a recommendation to the Legislature, and that number is set by the Legislature.

SENATOR HANSEN:

Judge Saragosa mentioned her township in Clark County voted against adding a justice of the peace. Who makes this determination? Is it the sitting justices of the peace and the district court judges? How is that currently done?

MR. ANTHONY:

It is set out in statute that it is a recommendation to the Legislature, and that number is set by the Legislature as to the total number allowed per population. As to the funding, the day-to-day dealings involve communication between the justices of the peace and the board.

SENATOR HANSEN:

Regarding the overall concept, I can understand concerns if the threshold on caseloads are similar, and I do understand there are dramatic differences between cases. However, I do not understand the process and who makes the



call in determining when an additional person is needed in small rural counties. I will have to do a little more research.

SENATOR PICKARD:

Judge Saragosa, I want to confirm part of your testimony where you said that you had worked with the Clark County Board of Commissioners in the past, and in those negotiations, tried to look at budgetary constraints and the practical realities. That would not change and is normal in your process, is it not?

JUDGE SARAGOSA:

Yes, that is normal in our process. Along with the cost of a justice of the peace comes staffing and space. You have to have a courtroom to have a court in. We could not add another justice of the peace now even if we needed one because we do not have the space.

And that is a budgetary concern for the County. It requires staff. In Clark County, when a justice of the peace who hears criminal matters is added, the way the offices of the Public Defender and District Attorney are arranged, additional district attorneys and public defenders are needed to hear those cases and appear in that extra court. There are only so many bodies, and they can only appear in so many courtrooms at one time. We recognize, when we look at caseload, it is a much broader picture than the count and the numbers that might appear.

One year we added on Departments 11 and 12. We knew there was going to be a large dollar figure associated with staff, district attorneys and public defenders if we added those courts on and conducted business as usual. Every justice of the peace in Las Vegas at that time heard a split caseload of criminal and civil cases. After considerations and negotiations with the County, we restructured our courts to have all civil cases heard in 2 of our now 12 departments, and the rest remained criminal. That way, no new district attorneys or public defenders were needed because we maintained those civil caseloads in two departments. We worked with the County to evaluate the budget.

In subsequent years, we worked with making isolated caseloads for a variety of reasons. One reason was that the District Attorney's Office already had designated teams of attorneys hearing DUI and domestic violence cases. It seemed like a good idea to consolidate those cases in a courtroom and to cut

staffing and budgetary costs for the County when we added a new justice of the peace. Those kinds of things happen all of the time.

I would like to respond to the previous question. Statute reads, "in the opinion of a majority of the justices of the peace in that township." Those are the evaluators of that caseload. It is a township determination. When the Henderson Justice Court evaluates whether it needs a new justice of the peace, neither Las Vegas Justice Court nor the Eighth Judicial District Court weighs in. The same applies to North Las Vegas Justice Court. It is a township-specific determination.

DAVID S. GIBSON, SR. (Henderson Township Justice Court, Department 3, Clark County):

I want to respond to the notion of the tail wagging the dog I heard in the opening portion. If you look at the court system, the tail does wag the dog, but it is the county that wags the dog. Trying to obtain funding for our positions is a difficult situation. If we place the veto power with the county as to whether we add a justice of the peace, it is going to be just as difficult to get that position as it is a clerk or a window person.

We have experienced problems since the jurisdictional amount was raised because it changed the nature of the cases we deal with. When the dollar amount is raised, many more attorneys appear. In the people's court, people who have not been to law school are there to explain what has happened in a test of wills. All of a sudden you have a lawyer there, objecting to everything they say. It gets frustrating.

Also, there are mandated expansions of our jurisdiction happening all the time with the Supreme Court ruling of a pretrial assessment regarding bail. We are not funded to have a group of people do that, which means the justices of the peace are performing that function.

In addition to pretrial assessments and expanded jurisdiction, bills come before the Legislature every Session regarding justices of the peace not doing sentencings in gross misdemeanors. There are domestic violence trial situations. We are already doing more trials now. We have had a couple jury trials where we never had them before—now we are getting them lined up. While it may not be getting that much larger, the makeup of our caseload is changing its complexion and is getting much more complicated.

In Henderson, for instance, we have several thousand homes under construction. Our population is going to increase. We just deferred adding another justice of the peace or requesting that the Legislature approve another justice of the peace for Henderson. We intend to defer it again. We understand the budget constraints. As Judge Saragosa mentioned, when we make a change in our criminal calendars, we affect many offices and involve many personnel. It is a huge decision, but it is one that we need to be at the table for.

Based on our knowledge of what is going on in our courtrooms, we should be the people requesting that consideration, not the county. Township lines are determined by the board of the county commissioners, so they have that responsibility.

If you do not like the population triggers, that can be raised rather than taking away our ability to make that request. That is why Las Vegas carved out that special 125,000 population number. In Henderson, it is 100,000 people. We are now over 307,000 people in Henderson.

Another consideration is the fraction thereof. I do not want to ruin that, but if you make it until the population is met, that is another type of consideration. I do not want to concede that, but it could be considered before you take away our ability to do the recommending.

I am here on behalf of Chief Judge Sam Bateman of Henderson Township Justice Court, Department 1, Clark County. We oppose S.B. 480.

KEITH LEE (Nevada Judges of Limited Jurisdiction):

Since we are talking about caseload as a piece of this equation, I want to alert you that at least three different bills in the other House, if passed the way they are, would have substantial effects on caseloads. They include eviction reform time for hearing that requires a jury trial in either municipal or justice court for misdemeanor domestic violence cases, as well as the substantial bail reform bill that would require one, if not two, evidentiary hearings to set bail and a number of other requirements that would be placed on the court and its staff.

SENATOR GOICOECHEA:

In response to Senator Hansen, in those small jurisdictions where there is one justice of the peace, he or she gets to send the message to the Legislature that the 34,000 cap has been met and another justice is needed whether funding is

available. He or she does not have to go to the county to consult. Maybe there is some way we can meld this bill together to allow for joint jurisdiction.

I appreciate the testimony out of southern Nevada. It does become a burden on a township with a population of 150 people and a justice is required, and then you get into Clark County where you have 12 justices serving well over a million people—it is a problem. We are trying to make one size fit all, but it does not. We have an opportunity to put some language together in this bill where each board and the Judicial Branch can, in fact, work together and say, "We probably need a justice or no, we do not."

ASSEMBLYMAN ELLISON:

I agree with Senator Goicoechea. This is not an Elko issue, it is a rural issue. I also agree that the population cap may need to be looked at in the future, but we need to do something. These counties are strapped, and there is not enough money to go around.

CHAIR CANNIZZARO:

I will close the hearing on S.B. 480 and open the work session on S.B. 7.

**SENATE BILL 7**: Revises provisions relating to the prohibition against soliciting a child for prostitution. (BDR 15-406)

PATRICK GUINAN (Committee Policy Analyst):

Senate Bill 7, referenced in the work session document ([Exhibit E](#)), was brought on behalf of the Attorney General by this Committee. It provides that a person who knowingly solicits a child under 14 years of age for prostitution commits sex trafficking and is guilty of a Category A felony. The bill also creates several collateral consequences related to sex trafficking.

When the bill was heard by Committee on March 18, Attorney General Aaron Ford proposed an amendment to replace the contents of S.B. 7 with several provisions that were discussed. Those are listed as sections 1 through 6 in the work session document.

We received an additional amendment late yesterday that was proposed by Attorney General Ford. It is intended to resolve conflicts between this bill and statute regarding sentences for crimes of pandering and sex trafficking and to

ensure that sting operations conducted by officers posing as children can be prosecuted under the provisions of this bill.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 7.

SENATOR DONDERO LOOP SECONDED THE MOTION.

SENATOR OHRENSCHALL:

I applaud the efforts of the Attorney General and his staff and the goal they have with S.B. 7; however, I do not believe it is going to have the deterrent effect we hope for. I will be voting no.

SENATOR PICKARD:

I am hesitant on this bill. Because I have not had the opportunity to review the new amendment, I will vote in favor but reserve the right after I review the details.

THE MOTION CARRIED. (SENATOR OHRENSCHALL VOTED NO.)

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CHAIR CANNIZZARO:

I will open the work session on S.B. 97.

**SENATE BILL 97**: Prohibits use in a criminal case of certain defenses based on the sexual orientation or gender identity or expression of the victim.  
(BDR 15-559)

MR. GUINAN:

Senate Bill 97 was brought to the Committee on behalf of the Nevada Youth Legislature as noted in the work session document ([Exhibit F](#)) and was heard by the Committee on March 19.

We have one amendment that was discussed in the initial hearing on the bill which was brought by the Nevada District Attorneys Association. The sponsors have indicated it is a friendly amendment to strike section 2, which addresses the diminished capacity question.

SENATOR HANSEN:

I am uncomfortable with this bill. I agree with the public defenders. I do not like this defense, but I am concerned about limiting what they can do. The amendment was good, but I do not see it in here.

We are going to be hearing from a guy who was convicted of murder and served 23 years. I met with him—it was one of the most moving things I have heard the entire time I have been in the Legislature.

It seems to me, in Nevada law, the district attorneys have so much leverage and so much advantage in so many of these cases that I have grown highly sympathetic to the public defender's side of things. While I do not like this defense at all, the idea that we are willing to limit what public defenders can do in these cases concerns me. I will be voting no on S.B. 97.

SENATOR SCHEIBLE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 97.

SENATOR HARRIS SECONDED THE MOTION.

SENATOR OHRENSCHALL:

I will be voting yes on this bill, but I reserve the right to change my vote.

THE MOTION CARRIED. (SENATOR HANSEN VOTED NO.)

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CHAIR CANNIZZARO:

I will open the work session on S.B. 117.

**SENATE BILL 117**: Revises certain provisions relating to real property. (BDR 10-642)

MR. GUINAN:

Senate Bill 117, referred in the work session document ([Exhibit G](#)), was sponsored by Senators Julia Ratti and Harris and was heard before the Committee on March 12.

This bill attempts to figure out a way to change language dealing with real property that contains any restriction or prohibition based on ancestry, color, disability, familial status, gender identity or expression, national origin, race, sex or sexual orientation and to make those kinds of declarations void.

An amendment was brought forward by Senator Harris.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 117.

SENATOR DONDERO LOOP SECONDED THE MOTION.

SENATOR PICKARD:

Senator Harris convinced me to vote this out of Committee. I do have reservations as to the fact that these provisions are already void—there is lots of decisional law that says that.

My other concern is with the potential clouding of title, but Senator Harris has suggested that the title associations are on board. I want to reach out to them and have that conversation to make sure we are not adding unnecessary clouds to title and thus difficulties in purchases.

I will be voting yes on this bill, but I reserve the right to change my vote.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:

I will open the work session on S.B. 286 and S.B. 383.

**SENATE BILL 286**: Revises provisions relating to aggregated sentences and eligibility for parole. (BDR 14-293)

**SENATE BILL 383**: Revises provisions relating to sexual conduct between a law enforcement officer and a person in his or her custody. (BDR 3-113)

MR. GUINAN:

The remaining bills on the agenda have no amendments, so the Chair has opted to take them in Consent Calendar format. There will be one vote for both bills.

Senate Bill 286 was heard in this Committee on March 26 and noted in the work session document ([Exhibit H](#)). This bill was heard last Session. It essentially revises the way the Department of Corrections aggregates sentences and assists with eligibility times for parole and probation and things like that.

Senate Bill 383 was heard in this Committee on March 27. This bill is sponsored by Senators Scheible and Ratti as summarized in the work session document ([Exhibit I](#)). The bill establishes a rebuttable presumption in a civil matter concerning sexual conduct, including sexual harassment, between a law enforcement officer and a person in the officer's custody that the officer's conduct was unwelcome or nonconsensual. The bill also clarifies that "lawful custody or confinement" does not apply to a person who is technically in the custody of the Division of Parole and Probation of the Department of Public Safety.

SENATOR OHRENSCHALL MOVED TO DO PASS S.B. 286 AND S.B. 383.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CANNIZZARO:  
The meeting is now adjourned at 9:36 a.m.

RESPECTFULLY SUBMITTED:

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Jenny Harbor,  
Committee Secretary

APPROVED BY:

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Senator Nicole J. Cannizzaro, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	3		Attendance Roster
S.B. 480	C	2	Elko County Board of Commissioners	Letter of Support
S.B. 480	D	2	Nevada Judges of Limited Jurisdiction	Letter of Opposition
S.B. 7	E	19	Patrick Guinan	Work Session Document
S.B. 97	F	3	Patrick Guinan	Work Session Document
S.B. 117	G	9	Patrick Guinan	Work Session Document
S.B. 286	H	1	Patrick Guinan	Work Session Document
S.B. 383	I	1	Patrick Guinan	Work Session Document