

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Eighty-First Session
February 24, 2021**

The Committee on Health and Human Services was called to order by Chair Rochelle T. Nguyen at 1:33 p.m. on Wednesday, February 24, 2021, Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Rochelle T. Nguyen, Chair
Assemblywoman Sarah Peters, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Annie Black
Assemblyman Gregory T. Hafen II
Assemblywoman Lisa Krasner
Assemblyman Andy Matthews
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblywoman Clara Thomas
Assemblywoman Robin L. Titus

COMMITTEE MEMBERS ABSENT:

Assemblywoman Michelle Gorelow (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Susie Martinez, Assembly District No. 12

STAFF MEMBERS PRESENT:

Patrick Ashton, Committee Policy Analyst
Abigail Lee, Committee Manager
Terry Horgan, Committee Secretary
Trinity Thom, Committee Assistant



OTHERS PRESENT:

Shane Piccinini, Manager of Government Relations, Food Bank of Northern Nevada
Lisa Swearingen, Chief, Eligibility and Payments, Division of Welfare and Supportive Services, Department of Health and Human Services
Jodi Hocking, Founder, Return Strong: Families United for Justice for the Incarcerated
Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence
Nick Shepack, Program and Policy Associate, ACLU of Nevada
Denise Bolanos, Private Citizen, Las Vegas, Nevada
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Gillian Block, representing Nevada Coalition of Legal Service Providers
Ashanti Lewis, Advocacy Manager, Three Square Food Bank
Ayanna Oglesby, Private Citizen, Reno, Nevada
Ashley White, Private Citizen, Las Vegas, Nevada
Benjamin Challinor, Policy Director, Faith in Action Nevada
Edward Coleman, Chair, Nevada Democratic Black Caucus
Jim Hoffman, representing Nevada Attorneys for Criminal Justice
Nicole Williams, Private Citizen, Dayton, Nevada

Chair Nguyen:

[Roll was called. A statement reminding Committee members of Committee rules, protocol, and how to participate in the meeting was made.] We have one agenda item, a bill hearing, and it has been on the Nevada Electronic Legislative Information System (NELIS) for people to review. I have allocated equal time for testimony in support, opposition, and neutral after the bill introduction. I will now open the hearing for Assembly Bill 138. Assemblywoman Martinez is here to present this bill.

Assembly Bill 138: Revises provisions governing the eligibility of certain convicted persons for public assistance. (BDR 38-760)

Assemblywoman Susie Martinez, Assembly District No. 12:

I am introducing Assembly Bill 138 which revises provisions governing the eligibility of certain convicted persons for public assistance. With me today is Shane Piccinini from the Food Bank of Northern Nevada who will assist me with the presentation.

Chair Nguyen:

Assemblywoman Martinez, I am sorry to interrupt you, but we are having some sound issues.

Assemblywoman Martinez:

Assembly Bill 138 removes the requirement that a person who has been convicted of certain felony drug offenses complete a treatment program before becoming eligible for Temporary Assistance for Needy Families (TANF) and the Supplemental Nutrition Assistance Program (SNAP) benefits. Instead, the measure requires a person convicted of such an offense to

demonstrate that he or she is not currently possessing, using, or distributing controlled substances in a manner prohibited by law.

However, I am proposing an amendment, which should be available on NELIS, that takes this policy one step further by eliminating the requirement that a person demonstrate to the Division of Welfare and Supportive Services (DWSS) that he or she is not currently possessing, using, or distributing controlled substances [[Exhibit C](#)].

Finally, I would like to add primary and cosponsors to the bill from both the Senate and the Assembly. The primary sponsors are Assemblywoman Benitez-Thompson, Assemblyman Yeager, Senator Cannizzaro, and Senator Ratti. Cosponsors are Assemblywoman Anderson, Assemblywoman Gorelow, Senator Spearman, and Senator Harris.

I would now like to turn the presentation over to Shane Piccinini from the Food Bank of Northern Nevada. He will provide additional information and background and answer any technical questions you might have.

Shane Piccinini, Manager of Government Relations, Food Bank of Northern Nevada:

I have a quick presentation to walk through this [[Exhibit D](#)]. This prohibition on SNAP and TANF benefits dates back to 1996 [page 2, [Exhibit D](#)]. The law created a lifetime ban for individuals with these types of convictions, many of whom were in a period of active addiction when they attained their convictions [[Exhibit E](#)]. In 1996, what Congress did was put a blanket ban on this for all 50 states, but it gave the states an option to opt out. This bill would trigger the opt-out feature for Nevada. Currently in Nevada when a felon is looking to obtain benefits, that individual has to provide documentation. Some of us have a hard time keeping track of our library cards, so anyone with a conviction after August 22, 1996, would have to provide that certificate. As there has been time and history to evaluate the effectiveness of this bill, that has proven to be a really unreasonable prohibition on the program.

Let me give you an update on why it matters [page 3, [Exhibit D](#)]. In 2021, 30.8 percent of Nevadans are food-insecure. Some of that has to do with the fact that Nevada never fully recovered from the recession of 2008, and some of that has to do with the fact that we are in the middle of a public health crisis. Nevada's children suffer the highest negative impact under the disqualifications under this current law.

The number one food-insecure state in the Union also happens to be one of the states that implements the ban, and that is Mississippi. On line with Florida, Tennessee, and Alabama, these states in the last year have all moved over to implement a partial ban, but the states that have some sort of ban are definitely some of the states with the highest food insecurity rates. North Carolina is the only state left in the Union with a full ban. There are 25 states that have completely lifted the ban, which is what we are doing with this bill.

What the bill accomplishes is pretty straightforward. It removes the requirement to provide any type of documentation for substance abuse treatment, and it removes one of the last

barriers that anyone in Nevada would need to get food assistance. People with substance abuse convictions are the only ones who are prohibited from accessing these benefits. No other class of criminal conduct is prohibited under U.S. law or Nevada law.

In 2017, one of the biggest reasons we decided to rethink this barrier is that it disproportionately discriminates against minorities. Black men are six times as likely to be incarcerated as white men and Hispanic men are, and Hispanic men are 2.7 times as likely to be convicted as white men are. For Black men in their thirties, about one in twelve is in prison or in jail on any given day. Women are now the fastest-growing segment of the U.S. population who are being convicted for substance abuse offenses. More than 61 percent of women who are doing time in federal prison right now are in for nonviolent drug offenses. Women, and particularly women of color, are disproportionately affected by the social stigma, by plea bargaining agreement systems that punish those who are unable or unwilling to inform on others and by regulations that bar people with substance abuse convictions from obtaining or that require a drug test to receive public assistance, and by a drug treatment system designed for men. Getting access to the drug counseling that is required in this law is incredibly complicated. Also, getting access to the appropriate drug test through the public defender system or through the criminal courts is incredibly complicated. Often, the defendant would have to pay for that, which can be prohibitively expensive, depending upon the jurisdiction. Black women are almost as likely, and Latinas are 20 percent more likely, to be incarcerated than white women. Native American women are incarcerated at six times the rate of their white counterparts, so this is incredibly discriminatory. People who have an upper middle class background have the opportunity to work with the criminal justice system to get a different plea arrangement or to get a different conviction that people of color or people who are living below the poverty line just do not have. There is absolutely no parity among the convictions across the 50 states and in different jurisdictions that handle this conviction, so that is a big motivator for us on why we want to rethink this.

Chair Nguyen:

Are there questions?

Assemblyman Matthews:

Concerning the amendment you discussed, if I understand you correctly, there would be nothing in place, no requirements in place, for an individual to demonstrate that they have ceased use, possession, or distribution in order to gain access to these programs. No requirements whatsoever. Is that correct?

Shane Piccinini:

There would be no requirements for them to get access to these benefits, correct.

Assemblyman Matthews:

Hypothetically, there could be someone who had been convicted and conceivably could still in an ongoing way not only be perhaps using himself or herself, but actively distributing to others, perhaps even to minors, and would still not be barred from participation and access to these programs. Am I correct about that as well?

Shane Piccinini:

That is correct, but what you are describing are matters that need to be addressed by the criminal justice system and not by the Nevada Department of Health and Human Services (DHHS).

Assemblyman Matthews:

Has any analysis been done on the extent to which this would increase eligibility for the program in terms of numbers? Do we have any data on how many people are currently unable to access these programs because of the requirements who would now access them under this bill? What might the fiscal impact of that be to the State?

Shane Piccinini:

There are two answers to your question. There is no impact to the State. There are roughly 400,000 people currently enrolled into the SNAP program, but I cannot tell you the number of people enrolled in TANF; however, it is a fairly low number. Less than 4,000 people between July 2019 through January of this year were denied because of their substance abuse convictions. The harder number to get at is the number of people who may have been eligible through all the other qualifications that are in SNAP and TANF who did not apply because they knew that they would be denied because of the ban. There is just no way to know that.

Assemblywoman Titus:

I want to thank you, Shane, and the Food Bank of Northern Nevada for all you are doing in this day of the pandemic and with food insecurity, and throughout the schools. I have seen the excellent work you and your volunteers do to help with food insecurity. This has been a tough time, so, thanks to you and all your workers for what you do.

In looking at section 1 of the bill, the proposal is to eliminate that a person has actually gone through a treatment program, and I certainly understand the need to eliminate that. In all the committees I have been on—mental health, behavioral health, public health—and as a public health officer, there are just not enough programs. To demand that someone has completed or entered a program, I absolutely support removing that, because I think that is a barrier. When you are asking them to do a program that they cannot possibly do, that is not a parity in any way, so I am good with that. I have not seen the amendment, but is there new wording being added under section 1, subsection 2, paragraph (a)? Currently, on the copy I have it reads, "Demonstrates to the satisfaction of the Division that he or she is not currently possessing, using or distributing controlled substances in a manner that is prohibited by law." Are you striking all of paragraph (a)? Is that what the intent of the amendment is?

Assemblywoman Martinez:

Yes, we are striking it all.

Assemblywoman Titus:

I think I heard that your argument to remove that language was because people could not get in for drug testing and that there is a cost to that. That is a true statement, but I do not see that the language on that line requires that you have drug testing. I am interpreting this, and maybe we could get our legal counsel to chime in here. That line just reads "Demonstrates to the satisfaction of the Division . . ." that they are not using. That would be up to that office, the TANF folks and others who are involved in this, food distribution, et cetera, that they are not using. Nowhere in this bill do I see that it required a drug test.

Shane Piccinini:

The drug testing piece of that, and perhaps I muddled the waters, but that is something other states have used with similar language. What we have done with the amendment is to remove the language that suggests that, "to the satisfaction of the Department," to say in the amendment that anybody with a substance abuse conviction could not be denied solely because of that conviction.

Assemblywoman Titus:

That is not how I interpreted this. That line would just require in good faith that they show up sober or not impaired. It is easy to demonstrate that, perhaps, just by showing up. We would be one of five states that do not have any requirements or anything, I use the term "a carrot," to help encourage these folks to continue not using, so there would be no restrictions whatsoever in their application.

Shane Piccinini:

There are currently 25 states that do not have a ban at all, that do not require any of this and have language very similar to what our amendment says.

Assemblywoman Titus:

Which is just eliminating any responsibility at all, correct?

Shane Piccinini:

It eliminates the requirement for a client applying for food stamps to address their prior criminal activity at all, correct.

Assemblywoman Titus:

Keeping in there and if I might follow through on this chain, Madame Chair, because already in the language is that a person could apply if that person were pregnant, regardless of any of the above language. Again, because of the expectant mom and unborn child, we want to make sure those folks are taken care of, so there was never a ban on those entities being either drug free or in a program. We had that part still in statute, but what this amendment would do is totally eliminate any obligation, any restriction, any accessibility for the person identified as a felon. Correct?

Shane Piccinini:

Right.

Chair Nguyen:

We do not have our legal counsel on this call. They are busy drafting our bill draft request now, but I believe Ms. Swearingen from DWSS and someone from DHHS are on the line to answer any other questions. I do not know if they have any input on Assemblywoman Titus's concerns regarding that interpretation.

Assemblywoman Titus:

I want clarity that there was never a mandatory drug test in that requirement. The language did not say you had to have a drug test; it just had to be satisfactorily demonstrated. That was all I wanted to clarify.

Shane Piccinini:

Yes, you are correct. There was never a mandatory drug test in there.

Assemblywoman Peters:

I am looking at our community today and wondering about folks who had a felony conviction from 1997, have been employed for the last 20-30 years, but were laid off because of the pandemic. They have to additionally prove that in 1997 they met the mandatory requirements—which in this are vague, so I imagine they are in regulations—to apply for SNAP benefits today, 20 years after their conviction. Is that correct?

Shane Piccinini:

Yes, that is correct, and in Nevada, the requirement, as I recall, was a 30-day treatment program accredited by the State. There was a process they would follow to make sure that the rehab program met the standard.

Assemblywoman Peters:

If they were unemployed and applied for SNAP benefits but could not prove they had previously gone through that program in 1997 because the records were lost—possibly in a flood, which happened in 1997—they would have to go through an additional 30-day treatment program 20 years after their conviction to be eligible for SNAP benefits.

Shane Piccinini:

That is correct, but the caveat to that would be that they may not be allowed into an additional program because they are no longer an active user. As Assemblywoman Titus pointed out, there are simply not enough programs in Nevada to meet the current need.

Assemblywoman Peters:

In that 20-year time period, say they had three or four children and they were the sole provider for their family. Would their children have access to that SNAP benefit until they were able to prove that?

Shane Piccinini:

The children would still get access to SNAP [[Exhibit F](#)]. Our concern there is that you would have three people trying to use the benefit that was only for two, if it were a single mom with two kids, which is generally the case.

Assemblywoman Peters:

With the original draft of this bill, in that scenario, what would they have to provide to demonstrate that they are not currently "possessing, using or distributing"? Would they have to open their house up for an inspection? Would they have to pee in a cup? What kind of process would they have to go through to demonstrate that 20 years after their conviction, after three kids, that they were not using drugs or currently in possession of drugs in order to establish SNAP benefits?

Shane Piccinini:

That is incredibly subjective, which is why the language is being removed from the bill. It could change from one director of the Department of Health and Human Services to another if it was done through the regulatory process. As you can tell in the bill, it does not describe what that looks like, so we are removing that language. Making it as clean as possible was the best option.

Assemblywoman Thomas:

I want to reiterate that the language in section 1, subsection 2, paragraph (a), "Demonstrates to the satisfaction of the Division," will be removed.

Shane Piccinini:

That is correct. In the amendment, that language is completely stricken from the bill.

Assemblywoman Summers-Armstrong:

Assemblywoman Peters asked my question and covered it in some detail. I am clear and understand, and I appreciate the feedback.

Assemblyman Hafen:

Assemblywoman Martinez, I apologize; this is the first time I have seen the amendment and I am trying to understand the clarification of it. In the bill that was presented to us, in addition to those who were using and possessing drugs, there was a requirement for drug dealers to demonstrate that they were no longer selling drugs. Is it your intent to remove that requirement and allow drug dealers now to get these benefits?

Assemblywoman Martinez:

This was the category we had, anyone who had a drug offense. To help them facilitate, they have already gone through the court system [unintelligible].

Chair Nguyen:

I think we have some sound issues with Assemblywoman Martinez. Is there someone else who could reiterate?

Shane Piccinini:

The reason we also wanted to include the distribution part of that was because somebody could have been a distributor in 1997, and, as Assemblywoman Peters pointed out, had a clean track record for a number of years. The person had done their time, was doing what they were supposed to be doing, so there was no reason to continue to hold this over their head. Also, what was considered to be a distribution or possession charge in 1996 was substantially different than it is today. There is no easy way for us to determine what is or is not an appropriate charge. All of this is taken care of through the criminal justice system. Again, it makes no sense for the Department of Health and Human Services to be in that part of the work.

Assemblyman Hafen:

For clarification, the section in the bill being stricken by the amendment that says, "Demonstrates to the satisfaction of the Division . . . ," you are saying that it is difficult to make those determinations. More government oversight, and you are trying to get rid of some of that. Am I understanding that correctly?

Shane Piccinini:

What we are trying to do is eliminate a subjective part of the bill. It may not be applied evenly in the State of Nevada, administration over administration. The cleaner this is, the less administrative burden there is for the Department to try to figure out what that means and to spend the time trying to track down 20-year old certificates. Additionally, we want to bring parity to the rest of this class of people to everybody else in the population. This class of people is the only one that is denied benefits under the regulations. In order for this to really be clean, and to allow the Department to do the work that it needs to do, removing this barrier is just common sense.

Assemblyman Matthews:

Questions from the Committee covered the extreme ends of the possibilities here. We talked about how this would allow those who are currently engaging in new use, distribution, or possession to access the program. Assemblywoman Peters brought up the other end of the spectrum that this would bar participation by those who perhaps had their conviction 20 years ago and perhaps lost the records showing they had gone through treatment. In crafting this bill, was any thought given to addressing that time frame? This is going to become an arbitrary suggestion; I am not saying this is the magic number but, for the sake of argument, a conviction more than five or six years into the past, perhaps the requirements in the pre-amended version might be waived. If the conviction were more recent, then some requirements might make sense. Was any thought given to that, and, if so, why was that approach rejected?

Shane Piccinini:

Yes, some thought has been given to that, and the research would also tell you that the people who are actively going through recovery are some of the most vulnerable populations there are. Ensuring that they have access to healthy food ensures a much greater success and completion in their recovery than if that were not available to them.

Assemblyman Matthews:

Assemblywoman Peters introduced a hypothetical scenario, but the bill was crafted in a way not necessarily to target those but really with an eye toward those who were more recently convicted as opposed to those convicted in the past. That was the focus of the bill—to really address not so much those whose convictions may have been decades in the past, but those for whom the conviction may have been more recent. Would that be fair?

Shane Piccinini:

Not necessarily. What we want to do is make it so the conviction, regardless of when it happened, was not relevant at all.

Assemblywoman Summers-Armstrong:

If a person is convicted of driving under the influence (DUI), or convicted of trafficking or convicted of murder, are they barred once they have served their time—whether they did the short end or the long end of conviction? No matter how long ago they got out, are they barred from participating in any of these programs? I think what I am hearing is that this is strictly about drugs and nothing else. Am I wrong?

Shane Piccinini:

You are exactly right. This only has to do with substance abuse. A murder, white collar crime, DUI, there are no other classifications in the criminal code that would bar somebody from these programs.

Assemblywoman Summers-Armstrong:

Those other convictions have no requirements for them to do any type of prove up which was part of this law. Prove up that they are not trafficking, that they are not drinking if they had a DUI, or not participating in other criminal activities. They are not required to prove up anything in order to get benefits, only those people who have drug convictions. Is that correct?

Shane Piccinini:

That is correct. Any requirements that the court may impose on those individuals would not prevent them from having access to SNAP or TANF.

Assemblywoman Black:

The language in this bill mentions being enrolled in or have completed a drug treatment program, and then verify or somehow prove that you are not using an illegal substance. I thought we said earlier that there was no required drug testing, but how do people verify that they are not on drugs?

Shane Piccinini:

I do not have any idea how that would work. The Department would have to write regulations and figure that out.

Assemblywoman Black:

That is what it says right now.

Shane Piccinini:

That language is being removed with our amendment.

Assemblywoman Black:

The bill as it was originally written says that you are required to either enroll in or have completed a drug treatment program and you are required to prove you are not using a controlled substance. Is that wrong?

Shane Piccinini:

That is how the original bill was written, and that is why we offered the amendment. It did not offer what we were trying to do, which was eliminate the need for the certificate at all. Actually, that is not true. What we were trying to do was make it so the conviction was not relevant at all toward being approved for benefits.

Assemblywoman Black:

I am not worried about the conviction part of this. Say someone comes in, they are actively in a treatment program, or they have a certificate that says they completed one. Then, they are required to prove that they are not on a controlled substance. How do they prove that?

Shane Piccinini:

In some states other than Nevada, that led to drug testing. Nevada has never had that, and it is our position that Nevada should never adopt that as a policy.

Chair Nguyen:

I believe Ms. Swearingen can answer your questions better. Can you respond to what the existing law is?

Lisa Swearingen, Chief, Eligibility and Payments, Division of Welfare and Supportive Services, Department of Health and Human Services:

Currently the only thing we do when we have been notified that an individual has a felony drug conviction is we request the information that they have gone through a SAPTA [Substance Abuse Prevention and Treatment Agency]-approved program for drug-related offenses. We have no mechanism to monitor, track, and assure that they are not currently using. This agency is not HIPAA [Health Insurance Portability and Accountability Act] compliant; I am not even sure we could request that information. We cannot know medical information or health information regarding individuals. That is done on the Medicaid side. That is a concern for us—how we would even monitor or implement that type of program.

Assemblywoman Black:

Maybe it is just a statement that someone makes that says, "I certify that I am not actively using drugs." I do not think it is too much to ask someone to say, "I am not using drugs," to get welfare. As someone who has had someone in-house, someone with an opioid problem

in their life, I think this is everyone's problem. I want every possible step along the way for there to be, as Assemblywoman Titus said, a "carrot" that incentivizes these folks to get into some sort of treatment program. I can also understand the idea as Assemblyman Matthews said, if you were charged thirty years ago, we probably should not still be penalizing you, but I feel as though we are throwing the baby out with the bathwater. Millions of people every year are getting on opioids or other substances. What about those people? I feel as though that was the intent of this bill, not to penalize people from 30 years ago, but to help incentivize people who are getting on opioids today or selling drugs today. I understand that if we push them too hard and make it too hard to get support, that that almost pushes them farther down that rabbit hole, but we need some sort of middle ground. Basically, you are taking every single thing off the table here and just saying, do drugs, sell drugs, whatever you want, not our problem, here is your assistance. As someone with an opioid user in my life, that is a problem for me.

Assemblywoman Benitez-Thompson:

I appreciate what Assemblywoman Titus, Assemblywoman Black, and Assemblyman Matthews put on the record, but I think that in this bigger conversation we are having about how opioids affect our communities and about how we jail and sentence people, we are always trying to find the right dynamic. I sponsored this legislation two years ago, and I still think it is meaningful and important. I appreciate Assemblywoman Martinez bringing it forward, because allowing this group of people access to TANF programs is exactly what ought to happen. Within that program there are work requirements, there is a personal responsibility plan that you have to put together, there are programs to prevent and reduce out-of-wedlock pregnancies. There are lots of things happening within the TANF program that, if folks have access to it, they would be able to have more state services support and more of those kinds of "carrots" as you would say.

The same way we talk about "housing first" for our homeless population, we have to talk about "feeding first" for this population. First and foremost, we have to make sure you are fed, and then we are going to address your addiction. We are going to address your addiction by giving you access to programs like TANF, but first we are going to start you off with SNAP if you qualify. I think it is the right thing to do. I think it makes a lot of sense.

Chair Nguyen:

With that, I will open up the lines for testimony in support, opposition, and neutral on A.B. 138. I will remind people on the line to clearly state and spell your name for the record. We will be limiting testimony to two minutes to ensure that everyone is given a fair opportunity to speak. Please begin testimony in support.

Jodi Hocking, Founder, Return Strong: Families United for Justice for the Incarcerated:

We are an organization of over 1,000 members who are either incarcerated, on parole, probation, or have loved ones who are incarcerated. We want to recognize the value of this bill for Nevadans. This bill will help to reduce barriers to services for both men and women, but I want to make special note of women in my statement today. According to the

American Civil Liberties Union, between 2008 and 2018, the number of women in Nevada prisons grew by 24 percent, 60 percent of those women are serving time for nonviolent crimes, and one in six are in for drug felonies. Half of them also have documented mental health issues. The majority of these women are connected to families and children who have had to step up and survive without them. They have children and responsibilities, and the transition home is difficult enough without continuing to create barriers for success and increasing the chance that people with their backs against the wall will make a decision that leads them back to prison.

If one in six women has a drug felony offense, they cannot get food stamps if they need them. They are probably also struggling to get a job with a living wage and to find housing. We need to create communities that allow people a fighting chance to stay free, stay clean and sober, rebuild their lives, and stop chaining them to their past. Food is a basic human necessity, and no one should be barred from any system in place to meet that need regardless of their criminal history, especially in regard to people who are battling addiction. We are not only punishing them but their children who quickly become secondarily impacted. We are in support of A.B. 138. Just because in 1996 the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was widely implemented and attempted to legalize values, it also has been known to have been destructive to families and communities and, specifically, Black, Brown, and poor communities. It was directly tied to a system of mass incarceration. We support this bill and will continue to support this bill; but looking at 1996, and not accounting for the changes and the acknowledgement from the government that the war on drugs was a bad move, the Personal Responsibility Act was a bad move. We destroyed communities and it needs to stop. Nevada has to do better.

Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence:

Thank you for bringing this bill forward. We are in strong support of A.B. 138. We know that having access to social services such as SNAP and TANF have positive impacts for victim survivors of violence and can be the key for them being able to leave and end an abusive relationship. Without these social service programs that allow victim survivors to care for their children and provide stability, they are more likely to stay in an abusive relationship and endure the violence. We also know that having access to social services has been shown to be an effective tool in reducing risk factors for future violence. As with any community, victim survivors of violence can have convictions of drug violence, and they are just as deserving of social support. We are so appreciative of this measure to reduce barriers in accessing SNAP and TANF benefits. Everybody deserves access to food, and everybody deserves access to these truly lifesaving programs.

Nick Shepack, Program and Policy Associate, ACLU of Nevada:

This bill, with the proposed amendment, seeks to remedy failed War on Drugs policy. Withholding access to food from people who have behavioral health issues is as bad and ineffective at addressing the issue of substance abuse as it is morally bankrupt as a policy. This law was created during the "tough on crime" period of the 1990s that has led to the mass

incarceration we now struggle with. Let us be clear. These laws were an attempt to punish communities of color for experiencing behavioral health crises by taking away their food.

I want to touch on the difficulty of actually getting somebody into treatment. When I was a social work intern with the Washoe County Public Defender's Office, part of my responsibility was getting people into treatment programs. The facilities, more often than not, had no available beds. The ones that did have beds had all kinds of restrictions such as no violent criminal record, no sex-related criminal record, no category B felonies or above, et cetera. Or they were evangelical institutions which often did amazing work but do not always align with people's beliefs. Even with a dedicated team of social workers, working as hard as they could to get people into treatment, people would languish in jail for weeks or months while we searched for a placement. We attempted to try different technologies such as one called OpenBeds which would show us which facilities had space available. Due to the long wait list and lack of availability, it almost always read that nothing was available. Getting into treatment is not as easy as you may think. It is harder if you do not have any money or insurance; it is harder if you have a criminal record; it is harder if you live in rural areas; and it can feel impossible if you do not have somebody to help you, such as a social worker.

If the goal of the state is to get people into treatment programs, then you must increase access. You must make the system easier to navigate. What you should not do is continue to starve people whose behavioral health issues the state has decided to criminalize. A felony drug record makes getting housing harder, it makes getting a job harder, and it currently makes getting a meal harder. You can change this. It is the right thing to do; it is the moral thing to do; it is good, smart policy.

Denise Bolanos, Private Citizen, Las Vegas, Nevada:

I would like to offer my testimony in support of A.B. 138. I do not speak here today as the wife of an incarcerated person but as an eligibility worker for public assistance benefits in the state of California and a resident of Nevada. I have seen firsthand the difference this makes in the lives of individuals and families. When California lifted this restriction, families were suddenly able to receive the amount allotted for their household size and income levels without having to exclude the person with a previous conviction. Five people still need to eat in that home that is only being aided for four people. People who have just finished serving their sentence should not have to face food insecurity on top of the other hurdles that people face post-release.

It seems like a small thing; however, it makes an already hard situation even harder by sanctioning the person with the conviction. These individuals currently excluded from receiving benefits have already served a sentence for their crimes, so why do they continue to pay for it along with their children and spouses? And why is it my place as an eligibility worker to deny them these benefits based on a drug conviction? It seems to me that if individuals reoffend, it is up to the criminal justice system to hold them accountable. Successful reentry is the best way to reduce recidivism, and eliminating this restriction is a huge step in making reentry successful. If people are put in a position where they have no

choice but to fall back to a life of crime to feed themselves and their families, then we cannot be surprised when that happens.

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

We are here in support of A.B. 138 as amended. Ultimately, the current modified ban creates three specific challenges that negatively impact public health in our community. It promotes food insecurity and malnutrition for a person with a felony drug conviction and their family. It poses a barrier to reintegration into the community and has a disproportionate impact on people of color who were unjustly targeted in the war on drugs. According to the Drug Policy Alliance, nearly 80 percent of the people in federal prison and almost 60 percent of people in state prison who are there for drug offenses are Black or Latino.

Limiting access to food for someone and their family is a cruel way to encourage treatment. A recent study by Clemson University found that food insecurity instead actually leads to an increase in crime rates. By removing this antiquated and punitive restriction, we allow more Nevadans access to food assistance while working toward increasing equity and ending food insecurity in our state. We urge you to support this bill.

Gillian Block, representing Nevada Coalition of Legal Service Providers:

I am speaking in support of A.B. 138. The SNAP and TANF programs provide a critical safety net to low-income individuals. Individuals with felony convictions already face significant barriers to their reentrance into society. These barriers are particularly steep for people of color who are convicted of drug offenses at much higher rates than white people, although studies have shown that actual drug usage is roughly the same. The current law is a roadblock for people leaving the criminal justice system. It promotes food insecurity and negatively affects the health and economic security of people with a drug-related felony conviction and their families. The ability to apply for nutrition and safety net benefits helps people get back on their feet. By helping individuals to lead more stable lives, the SNAP and TANF programs improve reentry outcomes and have a positive effect on the lives of people with a drug-related felony conviction in their family. For these reasons, the Nevada Coalition of Legal Service Providers supports A.B. 138.

Ashanti Lewis, Advocacy Manager, Three Square Food Bank, Las Vegas, Nevada:

Our service area encompasses Clark, Lincoln, Nye, and Esmeralda Counties where we distribute food to agency partners, commonly known as food pantries. We have had the opportunity to work alongside the Food Bank of Northern Nevada, our counterpart in the Feeding America network, on A.B. 138 as amended and greatly support this bill.

As a food bank, we see firsthand the effects of food insecurity, which has been highlighted during the COVID-19 pandemic. Food banks are well aware of the strength of SNAP benefits and how they provide a boost to the economy while freeing up much-needed money for families and individuals in need. Statistically, one in five adults in Nevada and one in three children are facing food insecurity. This is a tremendous mountain to overcome as a food bank, as it is Three Square's mission to feed hungry people. The Supplemental Nutrition Assistance Program helps to alleviate some of the need and dependency on our

food banks, ultimately allowing us to serve more people. From a public health perspective, Three Square is concerned about any and all barriers to access to food. We are well aware that individuals and families experiencing food insecurity face many issues such as securing affordable housing and employment. Food should not be one of these barriers as adequate nutrition is vital in order to lead and sustain a healthy and productive life.

Federal nutrition programs such as SNAP are the first line of defense against ending hunger. We strongly believe Nevada must have every option available to improve food security and bring tools to the state that ensure all Nevadans have equal access to federal nutrition programs to help them become food secure in a sustainable way.

Ayanna Oglesby, Private Citizen, Reno, Nevada:

I am calling in support of A.B. 138. I agree with some of the previous callers. The food insecurity rate is astronomical, along with the education and incarceration in the state of Nevada. However, we are here about felony drug offenses and their eligibilities.

I am in agreement because housing and employment are already hard enough challenges for these people. Getting food should not be. The more restrictions implicated, it elevates people's desperation. It is insensitive to be categorizing convicted persons with drug offenses. I am a witness to police activity. When the PRWORA was implicated in the 1990s, if you were within five feet of someone who had drugs, you went to jail. Before, possession was nine-tenths of the law. If someone threw their drugs while running, all ten people went to jail. How to validate someone who was charged and had to go through the court system and is not aware or educated about how to seal their record or have the charges removed, to have to carry that stigma of being arrested but yet later on in the court system it was dismissed. There are more people corrupt that are not convicted persons who easily, without question, take advantage and abuse these same benefits. To target one specific group, when everyone's stomach growls, it is unethical and inhumane. When other countries withhold food, America goes right in and challenges and rises up against it, yet we are, in the state of Nevada, withholding food. There are people who do things for drugs and have never been arrested and yet they qualify. There is no way of knowing who is abusing, but the percentage of abusers are higher of non-convicted people than those who are convicted. What is the rate of food being stolen out of Walmart and Smith's and Albertsons? People steal food because they are hungry, and they have to provide.

Chair Nguyen:

Will you wrap up your comments? We are at two minutes.

Ayanna Oglesby:

With that, I will say, we are Nevada strong, we are battle born, and we have a moral obligation to help our brothers and sisters.

Ashley White, Private Citizen, Las Vegas, Nevada:

I am here in support of A.B. 138. I believe that this would be a good bill to pass because it would help many families in numerous ways. One of the biggest struggles in this state and

worldwide is the lack of food and access to it. Some people make bad decisions, but they should not have to suffer and keep struggling. Parents come home or are getting their children back and are working on restarting their homes. They are trying to keep a stable and safe home for their children that still would allow them to help feed their families. Many individuals are struggling especially in times like what we are dealing with currently with COVID-19 and getting a job. With no job or other income to purchase food to feed their families, they starve and struggle. This can possibly cause mental issues to restart and send them back down the same path they are working to correct. Instead of continuing this vicious cycle, let us make the change to support them and help one less stress and worry and keep them from starving.

I know personally, if I did not have the benefit monthly of SNAP, my family would be starving, so I understand the importance of those benefits. I have seen this happen with numerous people that were incarcerated and had this problem. If they had this help and security, success would have been much easier for them and their families. My uncle ran into this problem after his drug conviction. He was rehabilitated during his incarceration, but they did not have records, so he was denied SNAP and did not have access to food. He ended up in the hospital as a diabetic almost in a coma. We almost lost him. If he had that access available, that would never have happened. I do support A.B. 138.

Benjamin Challinor, Policy Director, Faith in Action Nevada:

We are a statewide, nonpartisan, multifaith organization that organizes and advocates for racial, social, and economic justice as well as inclusive democracy. We are 100 percent in support of A.B. 138 with the proposed amendment. We want to thank Assemblywoman Martinez for bringing this bill to the Committee. We echo the sentiments of the previous speakers. We must always strive to help those who are needy. Nevada has never fully recovered from the 2008 recession due to the continued high number of Nevadans who are experiencing food insecurity. As we are currently in another economic crisis due to COVID-19, we are seeing more and more Nevadans needing public assistance. The bill removes unneeded barriers, barriers that are disproportionately affecting communities of color. This bill works towards helping those who are most in need.

Edward Coleman, Chair, Nevada Democratic Black Caucus:

I am speaking in support of A.B. 138. The process of reentry is a significant issue facing our correctional system. According to research, LaCrosse, et.al. noted in the U.S., approximately 600,000 individuals are released from prison each year. Within three years of their release approximately two-thirds are rearrested, and three-fourths are rearrested within five years. This research indicated that the first year after release is critical, for 50 percent are rearrested due to lack of support. They noted barriers these individuals faced after being released impact their success at reintegrating back into society. Barriers to reentry such as not receiving proper social, economic, and mental health and substance abuse support negatively impacted individuals' ability to reenter society, and these stresses were particularly acute in the first year after being released.

Our prison system is punitive and focuses on containment and control of individuals instead of providing routes to rehabilitation. In her research, Niela Esperanza Flores noted there are socioeconomic factors which affect recidivism. Specifically, she linked a lack of socioeconomic support and access to opportunities to improve their lives outside of prison as factors affecting recidivism.

Flores stated many are released only to find that they do not have the necessary support, resources, or financial means to be able to survive out in the real world. Lack of access to ways to support themselves after prison makes an individual more likely to resort to crime to have their needs met. Our prison system is punitive and lacks the socioeconomic support for certain convicted persons outside of prison. This increases the chances they will reoffend to feed and shelter themselves. Some may argue that prison itself is enough to deter recidivism. Jennifer E. Copp explored it in her research and stated that the deterrence effect of a prison-only system does not account for the socioeconomic realities that people face on release. Put another way, prison alone cannot reduce recidivism rates, and to be effective, there must be strong socioeconomic support for individuals who are released. While some may argue that an individual's behavior or characteristic dictates recidivism, the Prison Policy Institute has noted that the strongest predictor for recidivism is poverty—a lack of access to resources.

According to the Nevada Department of Corrections, the three-year recidivism rate in Nevada is 28.63 percent. Due to injustices in the justice and social systems of the state, Black people are approximately 8 percent of the state's population but account for 29 percent of those incarcerated.

Chair Nguyen:

Excuse me, can I get you to wrap up your comments.

Edward Coleman:

Life, liberty, and the pursuit of happiness: In 2019, the voting rights of approximately 77,000 felons were restored. These individuals have been given liberty and in a small way [allotted time was exceeded].

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:

We are here in support of this bill because it is positive for our clients for all the reasons you have already heard. Rather than repeat what they said, I will share a personal anecdote. When I was a kid, my family was on food stamps. It is very difficult being hungry—on a physiological level. If you do not get enough to eat, that is all you can think about. You can only concentrate on getting enough to eat, and it is hard to concentrate on other things. For people who have gotten out of prison, who have gotten off of drugs, who are trying to put their lives back together and maintain their stability, it is really hard when you cannot concentrate. That makes it harder for them to stay on the straight and narrow path, and that is something we want as a society. In order to support that policy, I think it makes the most sense to let these people have food stamps.

Nicole Williams, Private Citizen, Dayton, Nevada:

I am in full support of A.B. 138. All humans, all Nevadans, with or without felony convictions, should have access to food. It is basic human decency to ensure nobody goes hungry. Convicted felons already struggle with reentry to society, and not having to worry about food is one less obstacle.

Chair Nguyen:

Are there more callers in support? [There were none.] We are at 27 minutes of testimony in total support, so I will open the lines for 28 minutes of testimony in opposition. [There was no one to speak in opposition.] With that, we will go to testimony in neutral, and I will allow the same amount of time for neutral testimony as well.

Lisa Swearingen:

The Division would like to thank Assemblywoman Martinez and Shane Piccinini for bringing this bill with the amended language forward. We look forward to working with the bill's sponsors in addressing any additional questions or concerns that might arise.

Chair Nguyen:

Do you have any closing remarks, Assemblywoman Martinez?

Assemblywoman Martinez:

I want to reiterate that A.B. 138 will allow people, regardless of past drug convictions, to apply for these critical public assistance programs. We are currently living in unprecedented times with COVID-19. This bill will help so many Nevadans, and that is what we are here for—to help families. I urge you to support A.B. 138, and I thank the Committee, Shane Piccinini, and all the callers who called in support.

Chair Nguyen:

I will close the hearing on A.B. 138.

[[Exhibit G](#), [Exhibit H](#), [Exhibit I](#), [Exhibit J](#), and [Exhibit K](#) were submitted but not discussed and will become part of the record.]

I will now begin with public comment. [The Chair reiterated Committee rules regarding public comment.] Is there anyone on the line for public comment?

Jodi Hocking:

I want to let you know that someone who registered has been trying to give testimony on the support side. The last three digits of her number are 099. She is in the waiting room, but she has not been called, and she keeps trying to get in.

Chair Nguyen:

Is there anyone in the waiting room with those last three digits of her phone number? [Someone was in the room who had not raised her hand and was unable to unmute.]

I suggest that the person who was on the call put their comments in writing. Support testimony can be submitted within 48 hours after the close of the meeting. Additionally, I know there are some tutorials. I worked through the tutorial, as a lot of Assembly members did, to see how it worked to get on those calls. If there are additional questions, I would encourage that caller to reach out to my office directly, and maybe we can troubleshoot some of the problems concerning why the individual could not be heard today over the phone. Is anyone else on the line for public comment? [There was no one.]

That concludes our meeting for today. Are there any comments from Committee members? [There was no response.] Our next meeting will be on Monday, March 1. Keep in mind that we will likely be having a work session on several bills we have heard over the last couple of weeks. We are adjourned [at 2:54 p.m.].

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Rochelle T. Nguyen, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed conceptual amendment titled "Proposed Conceptual Amendment for A.B. 138," submitted by Assemblywoman Susie Martinez, Assembly District No. 12.

[Exhibit D](#) is a copy of a PowerPoint presentation titled, "AB 138, Supplemental Nutrition Assistance Program Drug Felon Ban," submitted by Shane Piccinini, Manager of Government Relations, Food Bank of Northern Nevada, in support of [Assembly Bill 138](#).

[Exhibit E](#) is a document titled "AB 138: Removing the Substance Abuse Felony Ban for People Seeking Nutrition Assistance," presented and submitted by Shane Piccinini, Manager of Government Relations, Food Bank of Northern Nevada, in support of [Assembly Bill 138](#).

[Exhibit F](#) is a document titled "Nevada Supplemental Nutrition Assistance Program, January 15th, 2021," presented and submitted by Shane Piccinini, Manager of Government Relations, Food Bank of Northern Nevada, in support of [Assembly Bill 138](#).

[Exhibit G](#) is a letter to the Nevada Assembly, dated February 22, 2021, submitted by Marie Baxter, Chief Executive Officer, Catholic Charities of Northern Nevada, in support of [Assembly Bill 138](#).

[Exhibit H](#) is written testimony submitted by Zachary Kenney-Santiwan, Las Vegas, Nevada, in support of [Assembly Bill 138](#).

[Exhibit I](#) is a letter to the Nevada Assembly, dated February 24, 2021, submitted by Shane Piccinini, Manager of Government Relations, Food Bank of Northern Nevada, in support of [Assembly Bill 138](#).

[Exhibit J](#) is a copy of an email to the Assembly Health and Human Services Exhibits, dated February 23, 2021, submitted by Alex Pontillas, Co-Chair/Social Justice Chair, Slow Food Vegas, in support of [Assembly Bill 138](#).

[Exhibit K](#) is a letter to The Honorable Rochelle T. Nguyen, Chair, Assembly Health and Human Services Committee, dated February 22, 2021, submitted by Quentin M. Savwoir, Make It Work Nevada, in support of [Assembly Bill 138](#).