

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-First Session  
May 27, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:06 a.m. on Thursday, May 27, 2021, Online and in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. 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](http://www.leg.state.nv.us/App/NELIS/REL/81st2021).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Steve Yeager, Chairman  
Assemblywoman Rochelle T. Nguyen, Vice Chairwoman  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblywoman Lesley E. Cohen  
Assemblywoman Cecelia González  
Assemblywoman Alexis Hansen  
Assemblywoman Melissa Hardy  
Assemblywoman Heidi Kasama  
Assemblywoman Lisa Krasner  
Assemblywoman Elaine Marzola  
Assemblyman C.H. Miller  
Assemblyman P.K. O'Neill  
Assemblyman David Orentlicher  
Assemblywoman Shondra Summers-Armstrong  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Dallas Harris, Senate District No. 11

**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Ashlee Kalina, Assistant Committee Policy Analyst  
Bradley A. Wilkinson, Committee Counsel

Minutes ID: 1348



Bonnie Borda Hoffecker, Committee Manager  
Traci Dory, Committee Secretary  
Melissa Loomis, Committee Assistant

**OTHERS PRESENT:**

Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department  
Corey A. Solferino, Lieutenant, Special Operations Bureau, Legislative Liaison, Washoe County Sheriff's Office  
Jennifer P. Noble, Chief Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association  
Liz Ortenburger, CEO, SafeNest, Las Vegas, Nevada  
Eric Sprattley, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office  
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office  
Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice  
Keith Lee, representing Nevada Judges of Limited Jurisdiction  
Serena Evans, Policy Coordinator, Nevada Coalition to End Domestic and Sexual Violence  
Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada  
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada  
Annemarie Grant, Private Citizen, Quincy, Massachusetts

**Chairman Yeager:**

[Roll was called. Committee protocol was explained.] We have two bills on the agenda this morning, and we will take them in order. I will open the hearing on Senate Bill 147 (2nd Reprint). Welcome back to the Assembly Committee on Judiciary, Senator Harris.

**Senate Bill 147 (2nd Reprint): Establishes provisions relating to conditions of release that prohibit the contact or attempted contact of certain persons. (BDR 14-377)**

**Senator Dallas Harris, Senate District No. 11:**

Senate Bill 147 (2nd Reprint) establishes provisions relating to non-monetary conditions of pretrial release prohibiting contact, commonly referred to as "no-contact" orders. I will endeavor to keep this short and will answer any questions you have.

This bill came out of the interim Committee to Conduct an Interim Study of Issues Relating to Pretrial Release of Defendants in Criminal Cases. It is one of five. The bill is fairly simple. It makes an important policy change to allow victims a statutory entry into the bail process, an idea that is supported by the *Nevada Constitution*. The concept for this bill was

originally brought to the interim committee from the Henderson City Attorney's Office. While existing bail processes under *Nevada Revised Statutes* (NRS) 178.484 and NRS 178.4851 allow a court to impose conditions of release that prohibit contact with certain persons on their own volition, this bill provides a statutory mechanism for the victim to request the court enter such an order.

Part of the problem that we have had in the past is when these orders are issued, generally they are issued in the minutes of the court order, and police officers do not traditionally have access to those minutes. If you call the police and someone who has a no-contact order is in fact violating that order, the best you can do is try to find the minutes and say, I promise, look, it says right here he or she is not allowed to be within a certain amount of space of me. Often officers are unable to do much with that. First of all, violating a no-contact order is a contempt of court and nothing more. There is no underlying criminal offense that officers can use to really assist victims.

What we have managed to do with this bill is find a way to get these no-contact orders into a centralized system that officers will be able to access much like they access restraining orders today. We have also been able to put in some type of enforcement mechanism where officers will feel emboldened to be able to arrest those who are, in fact, violating these no-contact orders and be able to bring these people back before the judge. Again, previously what would happen if you called the cops, they may or may not—likely may not—assist you in escorting the person off of your property, and you would have to literally call up the prosecuting attorney to let them know that the defendant has violated the no-contact order. Then that person would be brought back before the judge at some time after the prosecuting attorney puts it on a calendar, and then the judge will determine whether they have violated a no-contact order or not. That last piece and option will still remain. But really, we are adding another enforcement tool here that is very much needed.

I will end my remarks there and accept any questions.

**Chairman Yeager:**

Are there any questions from the Committee?

**Assemblyman Wheeler:**

Can you explain the difference between a judge issuing a temporary protection order and this?

**Senator Harris:**

A restraining order is traditionally a civil process, and it is not connected to the condition of pretrial release. When you have a criminal case, traditionally courts are not issuing restraining orders as a condition of release, they are issuing these no-contact orders. Separately, you would need to go through the civil process of getting a temporary restraining order. There are two separate mechanisms; one is tied to the criminal case and one is generally a civil matter.

**Assemblywoman González:**

This is when there is a victim in a case and a restraining order is not issued. I am just confused. Also, would this weigh in on the defendant's case in court? Is it used, and this person got this order against them, on top of everything that the defendant is already being charged with?

**Senator Harris:**

The best way to think about this is to separate the idea of bail or pretrial release conditions from a temporary restraining order. Anyone, any one of us, regardless of whether someone has a criminal case against them, can get a temporary restraining order against someone. That always exists. What we are talking about here is when you are a victim of a crime and the judge has said, I am going to release you, but as a condition of that release you may not contact the victim. In that instance, we will now provide officers the ability to see that the court has said you cannot contact the victim. There is always a criminal case pending in this instance where a no-contact order is issued because it is a condition of release.

**Assemblywoman González:**

This would be part of bail for a defendant. Would their bail be determinate upon this?

**Senator Harris:**

Bail is really the monetary condition. Bail can be a condition of release. You can meet bail and then be released, or the judge can let you out and say, I am going to let you out but you must be on house arrest; or I am going to let you out, but I am adding this additional condition. I am going to let you out, or you have to check in once a week for extended supervision. It ties to the condition of letting you out.

**Assemblywoman González:**

If a defendant were to violate this, would it now be criminal, or is it automatically criminal because it is tied to their bail process?

**Senator Harris:**

It is contempt of court and that will be up to the court to decide what they want to do. It is contempt of court; it is now a trespass. That is what is new in this, and then I intend to add that the court can also use any other remedies that are available to them under the law.

**Assemblywoman González:**

If you were to violate a temporary protection order, that would be a criminal charge even though it is filed in civil. Is my understanding correct? So if there is a case where there was a victim and it was egregious enough for them to issue this no-contact order to not contact the victim, why—in a temporary protection it would be a criminal charge whereas this is just trespassing—would we not issue a temporary protection order if it is egregious enough to say, Hey, you are not to contact this person.

**Senator Harris:**

I think that is a great question. You are actually hitting on the problem. Criminal judges cannot issue a temporary protection order. It is civil process and they are criminal judges. They do not have the ability to issue a restraining order in a criminal case. This is the equivalent in criminal cases. We, of course, will encourage any victims of crime to also seek a temporary restraining order and to not simply rely on the no-contact order. But we are giving that a bit more teeth.

**Chairman Yeager:**

We do still have a number of questions because, you know, we are the Assembly Committee on Judiciary and that is what we do.

**Senator Harris:**

Chairman Yeager, I promised I would be brief; I knew that was not reciprocal.

**Assemblywoman Nguyen:**

I want to clarify. I know I work in this area. For example, I think what we are probably looking at is protecting victims in the majority of the cases that are battery domestic violence cases. I know when our law enforcement officers come into contact and do these initial investigations, they have a blue card that they inform the victims about services that are available, support, housing, all of those kinds of non-judicial resources that are out there in the community with these organizations, including temporary protection orders. A lot of times you will see these temporary protection orders that people go through the application. One, I am not really sure why this is necessary. Two, I am a little concerned on the pretrial. I do not really understand why, as this seems to already exist. If you have someone who is charged with a crime and the judge orders them released and as a condition of their release they are put on house arrest, they are told to stay away from the victim, and they chose to violate that, the court can always bring them back in, and I believe contempt is a misdemeanor under NRS 22.100 and carries with it fines and jail time. I am wondering how this differentiates from what is already existing in our judicial system.

**Senator Harris:**

I do not want to represent police response to these too much, especially since we have Mr. Callaway here who, I am sure, will be available to answer more detailed questions. But I think you hit on it in your description. If someone currently violates a no-contact order, the remedy is that they be brought back before the court. There is no relief in the meantime. When someone who is violating a no-contact order shows up at your door and you seek response from the police, it is my understanding that it has often been difficult to enforce those no-contact orders at that point with the assistance of an officer. Of course, again, you can call your prosecuting attorney, let them know, and have that person brought back before the court, but that is a back-end remedy.

**Assemblywoman Nguyen:**

I see Mr. Solferino and Mr. Callaway here, so they might be in a position to answer this question for the record when I am sure they will come up to the table. Is there anyone from

the court system here to describe how this would take place, because I am imagining various law enforcement agencies use different recordkeeping processes and how that information even gets into it. I know that there is potentially a delay in someone seeking a temporary protection order or any other type of protection order. So if we put this in place, who is entering this, where are they entering this, how are law enforcement officers able to see this in the background? If someone gets out today and they are told to stay away from "Joe" and they immediately go to Joe, even under these circumstances, is there that immediacy in entering that kind of information into a system for law enforcement to even see?

**Senator Harris:**

I do not think this bill fixes the technology issues of how long it is going to take someone to enter this into a system. I can tell you that I have worked with the Central Repository for Nevada Records of Criminal History (Central Repository), which handles the temporary restraining order system that officers have access to now, and that is part of the reason why this bill is coming to you at this point. We were able to get a small appropriation that would allow the Central Repository to also take in no-contact orders in a similar manner that they take in restraining orders today. Any officer who already has access to that restraining order system will also have access to the no-contacts moving forward.

**Assemblywoman Nguyen:**

Is there any particular reason why we chose the trespass charge? It does not really seem like a trespass, but did we choose that trespass charge because it is already existing?

**Senator Harris:**

It is my opinion that violating a no-contact order today could result in a trespass if you unlawfully enter someone's property with intent to vex. Now there may be other circumstances where you are bothering them at the grocery store and that is not their property, so it is a little less clear. What we intended to do is to make it very clear now in the law that this is a trespass by amending that trespass statute.

**Assemblyman O'Neill:**

Believe it or not, there will be a question in this statement. Senator Harris, I just want to summarize and make sure that I understand. Because I was in law enforcement, I know some of the issues you are discussing. Really what your bill is trying to do is protect the victim of a crime, make it more expeditious for them to attain that no-contact protection instead of having to go to another office, fill out the forms for a temporary protection order, go before the judge, get that signed, which all takes time. During that time period, the offender could be released on bail and start harassing or contacting them. Once the judge has ordered that no-contact as part of their bail, law enforcement will know about it, the court will transmit that to the Central Repository, it will be put in the computer. So if you call the police, they can run a background check on the individual, it will show up right away that there is a no-contact order condition of their bail, and they can be carted off back before the judge to answer that, and it is really just a very expeditious saving grace for victims. Here is my question: is that correct?

**Senator Harris:**

The latter part is correct. I wish the bill could make it quicker to get a temporary protection order or a no-contact order. It does not expedite the process by which these no-contact orders will be issued. It does, however, do the latter part of your statement. It makes it easier for officers to know if a no-contact order has been issued. By looking it up, they will be able to see it and they will be able to enforce it.

**Assemblyman O'Neill:**

But it does. If the offender gets out on bail, he or she knows right off the bat what their requirements are, and that is what I am talking about in the protection of the victim. And the victim is aware of that right off the bat. Here in Carson City, we have a pretrial probation office, for lack of a better term, and they do that quite often, and they will know and cart the person right off and bring them back into the jail and have them before the judge, sometimes within the same day if they violate that. That is what I was trying to drive home, that this is really a good bill for the victims.

**Senator Harris:**

Yes, this is about being able to protect victims. It also—which we have not hit on as much—gives the statutory right for a victim to request from the court themselves that no-contact be a condition of pretrial release.

**Assemblywoman Hardy:**

As Assemblyman O'Neill said, I think it is so important that we provide all the tools that we can to help these victims. I really appreciate that in addition to getting a temporary protection order, they can request the court issue this no-contact order. Section 1, subsection 3 states the order is not to exceed 120 calendar days. Could that be extended? Could the victim request it be extended or could the court extend it?

**Senator Harris:**

Yes, it can be extended. The court has the ability to extend it. The reason why we wanted to put in 120 days is because currently these no-contact orders often do not have a deadline on them at all, and that also makes them hard to enforce if officers have no idea if it is still good or not. We are saying, Put a deadline on it. And we wanted to walk a balance here where, of course, if you have not been convicted of a crime you are going to put a condition on, you have a right to have that condition reassessed every so often. We do not want to be doing these in perpetuity, and so, yes, the court has the ability to extend it beyond the 120 days if necessary.

**Assemblywoman Bilbray-Axelrod:**

I appreciate the problem you are trying to solve. I am a little concerned that this is a little bit of police overreach. I think what we have seen in the last year is that there is profiling. I am concerned that if we are giving police another level of information to size someone up and make determinations about them, that could be an unintended consequence. When I was reading that it was in the trespass statute, that worries me, too, because I just feel like that is so open to interpretation. Section 3, subsection 1, paragraph (c) was added to bring it back

into the section that the bill is really doing. I was just hoping you could explain that and if you could address some of my concerns as well.

**Senator Harris:**

Thank you for the lens upon which you are viewing this. I think that is extremely important. What I believe the problem we have now is that these no-contact orders are too difficult to enforce. I think of these types of things on a pendulum, and right now victims are feeling like they have no-contact orders but they have no teeth to them. If someone violated it, good luck getting the police to do anything about it as opposed to their being currently a bit overbearing on their enforcement of these. If that were the problem, I would not need to bring this bill. I think the cleanest way to do this is to just make it a trespass so that there is some underlying crime that officers can enforce. Previously, what I would be worried about without this bill is officers deciding they are going to enforce no-contacts on some people and not enforce them on others. This bill would eliminate that; they would be enforcing it against everybody. They would have the right tools to be able to do so as opposed to saying, I am going to believe this woman's word over this guy. But in another scenario, I am not going to believe one victim over the accused perpetrator. We get rid of that kind of discrepancy.

Frankly, I am not often on the side that I am on this bill, but officers need the information. They do not even know if a no-contact order exists. I do not know if you have looked at court minutes, but they are just typed out and maybe it will say that, but officers know that is contempt of court and that is not their bailiwick. That is not their job to enforce contempt of court. So we have to give them something to use to be able to enforce these no-contact orders. I have tried to make it as simple as possible where they can look it up and see there is a no-contact order or there is not. That way they do not have to go on anyone's word about whether the no-contact order exists. They do not have to get the victim to produce the minutes, which, frankly, today just is not happening. I am more than happy to have continued discussions about how it would work.

**Assemblywoman Summers-Armstrong:**

I understand the concerns here, but I am going to start off by saying that one of the things that has concerned me in this entire discussion is the terms of art that are being used, which make me very concerned about this. The terms that are being used are "offender" when people are innocent until they are accused; that makes them an accused, right? You are not an offender until you are convicted. We are already starting off the discussion from the wrong lens, as far as I am concerned. Why is this not in the bail section of law? Why is it here in trespass? We are looking at other legislation that if passed, allows folks to turn people in—that is the premise right now in one of the bills pending—and I would hate to see this be in trespass because now we have a premise to profile people and then arrest them on trespass, and this is a misdemeanor, then contempt of court, which, if they are violating a no-contact order, is a misdemeanor as well. So are you going to combine these and now this person has two charges against them? Are they concurrent? How does this work?



**Senator Harris:**

I will start with one point, sections 1 and 2 are in NRS Chapter 178, which is where all of the bail stuff is operating. This is about pretrial release conditions. Section 3 does touch on the trespass statute, and that is just a matter of legislative drafting. I could choose to put it in NRS Chapter 178 that violating a no-contact order is trespass. We could do that. But the cleaner way to legislatively draft that is to go into the trespass statute and say violating a no-contact order is trespass. That is where we have all of the things that could be trespass. I think that is just a question of where we put things in NRS and how the law works together.

As to your concern about profiling, in order for anyone to be arrested under this, a victim of a crime has to call the police and say the person who has a no-contact order is at my door. That is the scenario that we are in. We are at the point here now where someone has already been brought to court, the judge has said, again as you mentioned, pre-adjudication of guilt or innocence, but the judge has determined I want you to stay away from this person. Police do not get called until that person is now in front of you. No one can be stopped and officers are going to be looking up whether you have a no-contact order. You have not violated the no-contact order unless you are within several feet of whomever you are not supposed to be contacting. The issue of, let us say, someone who is just walking down the street and the officer is trying to find out if you have a no-contact order; they may see it, but unless you are on the property of someone you are not supposed to be in contact with, you have not violated any law. There is no ability to simply arrest you when you are minding your own business, frankly.

**Assemblywoman Summers-Armstrong:**

I wish that were the case. We already know that there are so many things. We just got rid of jaywalking. I am just trying to figure out why. It is not clear to me. I have heard a lot of statements already and I am just not clear of what is already available that cannot already solve this problem. There has not been any discussion yet about what happens if someone's no-contact order is removed before the 120 days. How efficient and effective is the administration of this going to be so that someone's no-contact order is removed in sufficient time, because we know—especially in domestic violence things—it is fluid. You have something on there and the relationship is fluid and a person changes their mind or they want to reconcile. How are we ensured that these things are removed? There is nothing in here that could control administration and that is really concerning, especially when we are talking about domestic violence stuff.

**Senator Harris:**

All I can promise is as efficient an administration as we have for temporary restraining orders. If something is expired or removed prior to the 120 days, by the way, which is just saying you cannot exceed 120 days, so you need to put a deadline on it. It could be 60 days. It does not have to be 120 days; it just cannot be any longer than 120 days. If the judge puts 60 days on it and decides that they want to terminate it after 45 days, then yes, they are going to have to alert the Central Repository, and the Central Repository will then reflect that.

As to your discussion about domestic violence victims, that is one of the hardest issues that we struggle with. There are a couple of options here. If you have decided to get back with your partner, they have a no-contact order, my presumption is you will not be calling the police on them because you have decided to reconcile. That is one piece. The second piece for me is if you have a no-contact order, even if the person you have a no-contact order for has decided to reconcile with you, it is incumbent upon you to comply with the court's directive and you would be leery of violating that no-contact order even if there is some agreement by the person who initially asked the court for it. Part of the problem is these no-contact orders are not being enforced. And so your question is what is the issue, and I will be more than happy to have further discussions with you. But this is a request brought to us by victims who are at a loss as to why they cannot get these things enforced when they are calling for assistance.

**Chairman Yeager:**

I have a couple of questions, Senator Harris. I apologize if you touched on some of these. There is a lot going on this morning, so I apologize if I ask a repetitive question. You may not be able to answer my first question, and I know we have law enforcement and the courts in the room. Section 1, subsection 5 indicates a court can do an order "imposing, modifying, suspending or canceling" a condition. I think I understand imposing, modifying, and suspending, but the "canceling" one I am interested in because now that it goes to the Central Repository, the Central Repository has to know that the order is being canceled. I read the rest of the bill, particularly on page 3, line 8 it defines "cancel." "Cancel" essentially can mean a dismissal of the action or if the person is convicted or an acquittal. I think an acquittal is an obvious one because you are in court and there is a proceeding. The question I would have is the dismissal of the action because sometimes what will happen is a district attorney can just dismiss a case just by letting the court know, and there is no court proceeding that happens. I wonder if in your discussions, is the court going to be able and willing to provide an order that goes to the Central Repository? My fear is if that miscommunication happens there, you could have a delay where the order really should not be effective because it has been canceled, but the Central Repository does not know that and so there is a potential in my mind that maybe somebody gets wrapped up in this when really there is a delay. If you can speak to that, and certainly when the courts and law enforcement come up, perhaps they could speak to that question as well.

**Senator Harris:**

You may have hit on a good point. If I need to put in here that they must issue an order when these are canceled, I am more than happy to do that. The intention here is that as soon as that happens, they need to send that over to the Central Repository. They have the ability to cancel it any time based upon acquittal or some of those other conditions, especially to address Assemblywoman Summers-Armstrong's concerns about how things are fluid and things may change. We do not—absolutely do not—want folks being trespassed or arrested when the no-contact order is, of course, no longer any good. I will say this: this is the quickest way to do it. It may not be immediate, but this is the quickest way for officers to know when a no-contact order is in place and to know when it is not. Often, no-contact orders, by the way, do not have a deadline on them right now. It just says generally for the

pendency of the case. So theoretically under this scenario, someone could call and show the minutes, but even though the case has been dismissed, it may still appear to the officer as though the no-contact order is still in place. It is not perfect, but it is a lot better.

**Chairman Yeager:**

Section 1, subsection 6 indicates what the penalty would be for violating one of these orders. We have paragraph (a), which makes it an unlawful trespass, and we have paragraph (b) dealt with as contempt of court. There is an "and" in between there, so I think it was brought out that obviously trespass is a criminal misdemeanor and contempt of court is also a misdemeanor. It is sort of a two-part question: one, with the "and" does that mean necessarily the person is going to be looking at potentially facing punishment for both of those, which again, I know it is unlikely for someone to get six months in jail on that kind of misdemeanor, but it would potentially bring the penalty range to a year. The other question I have, which might be for law enforcement: is the offender going to be arrested? Typically I think law enforcement tends to cite for misdemeanors, so I am just wondering if the intent is to remove a dangerous situation where an offender is violating a no-contact order. Is this a mandatory arrest situation? Is this a cite situation? That may be for law enforcement, but I wanted to get your thoughts while you are at the table.

**Senator Harris:**

My intent is that should be an "or" not an "and." I missed that. I do not want people charged for both, but I do want courts to have the ability to do an unlawful trespass; but I also do not want to take away their ability to do a contempt of court, which is what they do today. That will be up to the court's discretion. I also intend to add a third condition there of "any other remedy available by law."

As to your question about a mandatory arrest, I do not. What I do want is officers to be able to escort someone off the property. If they decide they want to cite them and they are sure that person will not return, then that is perfectly fine with me. If they need to arrest someone because they are being unruly and are telling them, insert rude things here indicating that they will come back even after a citation, then the officers are going to need to provide some remedy to the victim. But by no means would I encourage this to be a mandatory arrest if a citation and being able to escort someone off the property will suffice.

**Chairman Yeager:**

I am going to go to two very quick follow-up questions, and then we are going to have to move on in the interest of time.

**Assemblywoman González:**

I had another question listening to the testimony. So this is a remedy for victims. Would the victim have to appear at the bail hearing and ask for this? Would they have to go to the district attorney? Also, is it easier to get; what is the preponderance of the evidence here to say, Hey, I deserve or am in need of this? You said this was the fastest way for a victim to get protection, and then you would also ask them to seek a temporary protection order. As many folks know, I am survivor of domestic violence, and I am just thinking of how many

times I had to go to the court for a hearing, then I had to show up in court, then the court case got delayed. I am trying to think of how or what the burden on a victim would be to seek this order and then seek a protection order and then have to go to that hearing and then have to deal with it if this gets dissolved. I have a lot of questions of what the role of the victim is and how this is the quickest way for them to get protection.

**Senator Harris:**

We are giving the victim the ability to request one. The victim is by no means the only person who can request one. As a matter of course, especially depending on what the crime is, a lot of prosecutors will ask for this as a condition of bail. The court can issue it *sua sponte*, on their own, as a condition of release if they find that to be appropriate. The victim does not have to move for it, but they now can.

The second part of your comments and questions is really, I think, a good example of why this bill is needed. It can be cumbersome to get a temporary restraining order. You do have to go to court multiple times. Maybe if there is a pending criminal case and you have a no-contact, that is good now for at least 120 days. You now have some way to have that no-contact enforced. However, I by no means, want victims to simply rely on no-contacts. I do want them to get the restraining order. It is a stronger mechanism than the no-contact, and so that is why I say yes, victims should be getting temporary restraining orders. However, if you have a no-contact order in your criminal case, the officers will now be able to look that up and know right away if someone shows up at your door. I am hoping this gives victims time to get the temporary restraining order, because again, you have to go to work and you have to get the days off, you have to go back, you can get the temporary for seven, but then maybe you need the extended. It is the stronger mechanism, and that is why there is a bit more due process built into it. What we are really trying to do is put more teeth in the no-contact so victims can feel safe in the meantime.

**Assemblywoman González:**

Is the issue that officers just are not seeing this in the Central Repository? Should we be allowing it to be seen versus being part of bail?

**Senator Harris:**

Officers not being able to see it is one of the reasons why they cannot enforce it. The other problem is there is no underlying crime that they are traditionally tasked with enforcing. That is why we do the trespass. As to your second part about why we do not just do it as bail, we do. Right now, people are issued no-contact orders as part of a pretrial release condition. That happens. We just now need a way for officers to be able to enforce it in an easy manner. I think the best way to do that is to put it into the same system we do with temporary protection orders so officers can look it up and put some teeth behind it.

**Assemblyman Wheeler:**

The bill gives the officer a chance to de-escalate a situation before it turns into something. The one thing I want to clear up and make sure we get on the record regarding the 120 days:

these are calendar days and not legislative days, right? Because that could be cruel and unusual punishment.

**Senator Harris:**

Yes, it is calendar days.

**Chairman Yeager:**

That reminds me, Assemblyman Wheeler, 120 days may be too long given our experience that we are all having during this session. We will leave it as is for now. Committee, I know there may be additional questions. Obviously, we are going to have testimony on the bill, but we will not work session this bill today because I want to give members an opportunity to ask any follow-up questions. In the interest of time, we have to move on from questions at this time and take some testimony. Is there anyone who would like to testify in support?

**Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:**

I was not going to testify on this bill, but due to all of the questions for law enforcement, I thought I would come to the table. I do support the concept behind the bill. First of all, this is not a bill that law enforcement asked for. I believe the Senator said it came from victims' groups. I think it is important because one of the biggest challenges we see is the communication factor. If someone is in a courtroom and a judge gives an order that they stay away from someone and that order is strictly in the records of that hearing, an officer in the field has no way of knowing that. And then what typically happens is a couple of days later the suspect shows up at the victim's house and is harassing them and causing them problems. They call 911 for police and say, This person is at my doorstep and they are trying to knock my door down, and the judge told him to stay away from me. When the officer shows up, the person says, Well, the judge never told me to stay away from them. How is the officer going to confirm that? And unless the person has gone through the process of getting a temporary protection order, an officer cannot verify in the field that they were, in fact, given an order to stay away. This would allow for that communication gap to be closed where this information could be given to our records section and put into SCOPE [Shared Computer Operations for Protection and Enforcement].

What typically happens on a temporary protection order, and I believe this would apply in this situation as well, when the officer responds, first of all we do not just take the word of someone, we have to confirm and verify. Through our dispatch center, we verify that we do have on record that there is an order from the court. If the person needs to be served, as in the case of a temporary protection order, and they have not been served, then we will give that person service and give them an opportunity to leave. Then if they were to return or to harass the victim after being served, an arrest could be made.

I will say this: there is no leeway or discretion when it comes to a court order. These orders say "shall," an officer "shall" make an arrest if the person violates the order. If an officer shows up and someone has violated a court order, the officer does not have the discretion to say, Well, for this guy, I will enforce, and for that guy, I will not enforce. I like your smile,

so I am going to let you go. You look mean, I am going to arrest you. It does not work that way. When we enforce court orders, and in particular temporary protection orders, these are orders from the court that say an officer "shall" make an arrest. If we confirm it and verify that they do exist, an arrest would be made.

I realize that in the case of this bill, this applies to the misdemeanor trespass statute. Typically for a trespass, someone has to be given a warning and given an opportunity to leave. I am not a lawyer, but it is my opinion that the judge giving the person the stay-away order would serve as the warning to that person. Then if they subsequently violate the order and show up, then an arrest would be warranted. I would be very leery about giving someone a warning or giving them a citation and sending them on their way when they are actively harassing a victim. We have had 48 murders this year in our jurisdiction of Clark County, and a significant portion of those are domestic violence-related. If someone is in a dangerous relationship and the suspect in that relationship is violating a court order and showing up at their doorstep, I do not see an officer giving that person a ticket and letting them go their merry way. I believe they would probably be arrested on that offense and then, of course, for most misdemeanor offenses the person is out very quickly anyway unless it is domestic violence and then there is the 12-hour hold.

I believe that pretty much covers it. It is our opinion that it is important, and this is one of the issues that we worked hard on in Assembly Bill 236 of the 80th Session. My opinion is that if a judge tells somebody to do something as a stipulation of the conditions of their case, they should listen to the judge regardless of what that is. If a judge says, Do not drink alcohol because you were involved in a DUI, and the person says, I do not care what the judge says, I am going to drink alcohol anyway; or the judge says, Do not go near this person because you have battered them in the past or you are accused of battering them, and the person says, I do not care what you say judge, I am going to go show up at this person's doorstep anyway, I think there needs to be some teeth in the law to address that.

**Chairman Yeager:**

Committee, if you have questions for Mr. Callaway, please ask them offline in the interest of time. I think the record that has been made from Mr. Callaway is pretty thorough.

**Corey A. Solferino, Lieutenant, Special Operations Bureau, Legislative Liaison, Washoe County Sheriff's Office:**

Director Callaway hit the nail right on the head. He explained it eloquently. We want to garner our support for S.B. 147 (R2). We want to thank the Senator for her work on this. It by no means is perfect legislation, but it is a step in the right direction. You have heard several bills this session and there are several bills in other committees regarding CJIS [Criminal Justice Information Services] modernization and communications and the ability to talk to criminal justice agencies across the state and share that real-time information. That is what this is trying to do. This is trying to assist victims. There is nothing more heart-wrenching than an officer on scene dealing with a victim not being able to do anything for that victim other than say, Call us next time they come because no crime has been

committed. We do believe that this gives us a short stopgap to be able to enforce those instances where we can, and we encourage your support.

**Jennifer P. Noble, Chief Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:**

We are in support of S.B. 147 (R2). I wanted to make a comment that this session, this Committee, the Senate Committee on Judiciary, and this body as a whole have prioritized the prompt release of persons accused of crimes. Part of being able to release people quickly is to fashion conditions that assure safety for the community and particularly the victim. I know you all are aware that we have a constitutional mandate, Marsy's Law, to consider the rights of victims and the safety of victims when we are fashioning these conditions of release. So while we have concerns perhaps about enforcement of this stopgap measure that Senator Harris has proposed, I ask you when you are thinking about it to consider that constitutional mandate and to consider that when you have measures like this, it can provide judges with more tools to assure safety of the victims and safety of the community, thus letting the person out of custody faster.

**Chairman Yeager:**

Is there anyone else who would like to testify in support?

**Liz Ortenburger, CEO, SafeNest, Las Vegas, Nevada:**

I will start by saying that of the 34 homicides that Mr. Callaway mentioned, 24 of those are domestic violence. In fact, seven domestic violence victims have been murdered in Clark County since your session began. SafeNest, as part of our suite of domestic violence services, includes advocates in Clark County Justice Court. Annually, SafeNest supports over 25,000 victims, batterers, and children affected by domestic violence. Within the justice court, we support more than 2,000 domestic violence survivors each year. The survivors are navigating the court case associated with the violence that was committed against them.

Clark County justice system is currently using no-contact orders. However, they lack the enforcement necessary to provide more than a piece of paper to survivors. While judges work to ensure a defendant understands the order, without enforcement, once they leave the courtroom it does not help a survivor feeling safe or supported. Here is what we see. Violation of a no-contact order is not a crime, just leverage for the district attorney's office to address in front of the presiding judge. Depending on the judge and the proof of the violation, the defendant may or may not be reprimanded. Law enforcement does not have a copy of the no-contact order as they do protection orders, so if it is violated, the survivor calls the police and says they have a no-contact order, they do not know what they are talking about. If the no-contact order is violated, the burden of notification and proof is on the survivor. The survivor has to call my staff at the district attorney's office or the district attorney advocate and then notify the district attorney that they will have to ask the courts to put it back on the calendar, which will take a few weeks. SafeNest supports this bill as it includes two critical elements that help our court systems. It makes survivors safer because it can be enforced, and it includes law enforcement as a critical element in combatting domestic violence and in its case in increased risk of domestic violence homicide. Remember, when

you provide a victim with something that cannot be enforced, the manipulation a batterer uses is effectively weaponizing that no-contact order.

**Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We are in support of S.B. 147 (R2).

**Chairman Yeager:**

Thank you, Mr. Spratley, I appreciate the brevity this morning. Is there anyone else who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition?

**Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office:**

First, I want to start by thanking Senator Harris for all her work in the pretrial release bills. She led the interim committee on pretrial release, and we are very grateful for all of the hard work that she has done to reform bail. I would just state that this is not bail reform legislation. As you heard her indicate, this was a request from the City of Henderson, and I think what is really important to note is the process for obtaining a temporary protection order. If someone wants to request an emergency temporary protection order, they have the ability to ask for one 24-7. Courts are open at any hour of any day in order to ensure that someone has access to it. I know that I have had the privilege of working with the after-hours temporary protection order program, where what happens is police officers will give the victim our cell phone number to be able to reach us, and I would go through the application, fill it out, call the judge, and work on everything to ensure the victim had that temporary protection order before someone would be released.

I have concerns regarding section 1, subsection 7. I appreciate that it indicates that the victim does not have to provide the information to the court before the condition of release could be enforced. My concern with that is the victim may not even be requesting this and then it automatically gets imposed. I believe what I am hearing from the testimony from the sponsor as well as from some of the support is this should not be considered as a way to find good cause to continue that bail hearing. What we are currently seeing is that if someone is unable to contact a complaining witness or the victim prior to the bail hearing, it gets continued. Because this could be done *sua sponte*, I do not think that should be a basis of it. I would also note the stay-away orders are not just placed for victims, it is on places. For example, if there was a store that was involved in a crime, then the person would be told to stay away from that property. I do appreciate that we are discussing this in terms of temporary protection orders, but I would just note that for the extended protection orders and temporary protection orders, those are very important procedures that also come with, sometimes, child support can be attached. My concern is that if we are using this as a tool, then people are not obtaining those temporary protection orders and extended protection orders that are needed. They are not getting the help, it is confusing the process, it is confusing the victims to know how to change the orders, modify the orders because they are now having potentially two different orders and two different judges to go to. That is our main concern—the confusion that will be caused if this is put into effect and that it could



have a chilling effect on the victim actually obtaining that temporary protection order and extended protection order, which will provide them with services, access to grants, access to funding. That is our biggest concern.

**John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:**

We are in opposition to S.B. 147 (R2). I would like to thank Senator Harris for trying to walk what I think is a tightrope with this bill. We do have some concerns though. One of the concerns is if you are charged with a crime, you are innocent until proven guilty. So what if the underlying charge is dismissed but then this charge sticks, so then you still have a crime on your record. We are also counting on the Central Repository, and I have dealt with them extensively when it comes to record sealing. We still have people there who put information into an Excel sheet by hand because the state has not funded the agency. That is what we are doing at the Central Repository. It is not the best place to get your information and keep things current. So there is a concern that if this gets removed at a certain point, will the Central Repository actually have the resources to get it out of there, or will somebody be arrested after the fact even if their case is dismissed on this and then have to be placed in jail while they wait for the court to verify the information that has been dealt with because the courts move faster.

Another thing of concern: I do agree with Senator Harris, both of the police agencies, and Ms. Noble, that the court minutes are not really helpful to police officers, so this would provide more help. But then the court is going to have to give a more stringent order in that sense, because right now the courts are just verbalizing it to people. The court is definitely going to have to give an order in the form of a temporary protection order as people are given because when you are given the temporary protection order, you have that order on you, you are able to show it to the police, so both parties will need to have this order on them. Sometimes victims are not present at the bail hearings. Hopefully they will be if we pass that 48 hours out and then people will know within 48 hours we will have a bail hearing and they can be present to make their case also to the court as Marsy's Law requires.

The last thing I want to say is we have continued to criminalize things, and it really has not helped the systemic domestic violence issues we have in this state. That is very concerning. We continue not to fund resources, but we continue to criminalize, and we are still one of the worst states in the nation. At some point, I would like to see us fund resources for Ms. Ortenburger's organization and other organizations around the state so that we can actually provide services and take us out of those top tiers of domestic violence crimes.

**Chairman Yeager:**

I realize there may be questions, so Committee members, I ask you to take those offline in the interest of time since we have another bill that is quite interesting as well. Is there anyone else who would like to testify in opposition?

**Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice:**

In the interest of time, I will just echo what Ms. Bertschy and Mr. Piro said.

**Chairman Yeager:**

Thank you, I appreciate the brevity this morning. Is there anyone else who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position?

**Keith Lee, representing Nevada Judges of Limited Jurisdiction:**

We are the justices of the peace and municipal court judges, and I think there were some questions out there, Chairman Yeager, so I am here to try to answer them on behalf of the court if there are any questions pending with respect to this process as suggested in this bill.

**Chairman Yeager:**

The only question I had was, is the court going to be equipped to provide this information quickly to the Central Repository whether they are issuing, modifying, extending, or canceling them? In your discussions with the courts, do you think that will be an issue at all?

**Keith Lee:**

I do not believe it is going to be any problem at all. I might just add, again, what we are talking about here is a pretrial detention hearing. We believe and they do in fact have, the inherent authority to impose a no-contact order as part of a condition of release as well. I think this puts in statute what we believe the inherent authority of the justice courts is right now.

**Chairman Yeager:**

Thank you, Mr. Lee. Committee, if you do have questions for Mr. Lee after this morning's hearing, please find him in the building. Is there anyone else who would like to testify in the neutral position?

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

We are thankful for Senator Harris in her comments in recognizing that these stay-away orders should not replace protection orders, and we just want to go on record and emphasize those comments that this process should absolutely not replace the temporary protection orders that victim survivors of domestic and sexual violence can access. Emergency protection orders can be processed for victim survivors 24-7, and temporary protection orders have a proven track record of being enforceable, and they allow for victim survivors to then apply for an extended protection order, which offers long-term protection and safety. Protection orders also offer more robust protections aside from just stay-away orders. Because of the high risks associated with leaving an abusive relationship and having the perpetrator arrested, we still encourage victim survivors to access the traditional temporary and then extended protection orders rather than these stay-away orders. However, we appreciate the steps being made to ensure that if and when stay-away orders are issued, there is a way for law enforcement to enforce them and keep victim survivors safe. While these stay-away orders may be a good option for some victim survivors as an intermediate step, we still want to make sure that for long-term safety planning, victim survivors of domestic and sexual violence are encouraged to and still seek traditional protection orders.

**Chairman Yeager:**

Is there anyone else who would like to testify in the neutral position? [There was no one.] I would invite Senator Harris back for any concluding remarks on S.B. 147 (R2).

**Senator Harris:**

I want to turn the Committee's attention to section 4 of the bill where we have appropriated \$44,522 for computer programming. If they use that to put stuff in an Excel sheet, we are going to have some problems. And I mean that. I went through the process to get this appropriation in order to make sure that this was a digital process that can be shot out as soon as the information is entered to every police department in the state. I might have been able to keep a fiscal note off of it if I were going to allow them to just put it in an Excel sheet. That is not the intention of how this will be enforced.

Lastly, Mr. Piro brought up the idea of whether the underlying crime is dismissed but they violate the no-contact order, whether they have committed a new crime. We have philosophical differences. In my estimation, yes, you have. The judge told you not to contact someone and you showed up anyway and harassed them. Just because the underlying offense has gone away, now we are saying they should be free of all consequence. I think that is not the right answer in order to keep victims safe.

**Chairman Yeager:**

Thank you, Senator Harris. I will close the hearing on S.B. 147 (R2). I will open the hearing on Senate Bill 236 (2nd Reprint). Just to give everyone the lay of the land, both the Assembly and the Senate have a floor session at 11 a.m., and I have been told that we need to be there on time. What we are going to do with this bill is take about 20 minutes to present the bill and questions. That should give us ample time for testimony and public comment, so we do not draw the ire of the Speaker and the Senate Majority Leader. With that being said, Senator Harris, please go ahead with your presentation, and we will take as many questions as we can.

**Senate Bill 236 (2nd Reprint): Makes various changes relating to public safety.  
(BDR 23-217)**

**Senator Dallas Harris, Senate District No. 11:**

Senate Bill 236 (2nd Reprint) does a couple of great things. It requires police departments to establish an early warning system so they can keep an eye on whether some of their officers are displaying bias. If they find their officers may be displaying some bias in the field, then there are some curative measures that can be put into place, such as additional supervision, additional training, or whatever the police department feels is necessary. If the officer is repeatedly identified by the early warning system, then there are other consequences that may follow which will, of course, be implemented through the current existing collective bargaining agreements and existing human resources procedures for when any type of punishment for an officer is put into place. Simply put, I want police departments to be keeping an eye out for officers who may be displaying bias in the field and try to get them some assistance before it results in some negative consequences.

The next piece of this bill is traffic enforcement data. We are going to collect some data on how traffic stops are happening in our state to determine whether there is any bias in those traffic stops. The only way to figure that out is to start taking a look at it. We did this once. I do not know if you are familiar, but we had a bill in the late 1990s that did some traffic stop data collection and officers were filling out these handwritten cards. We got the data and then we did nothing with it. That data is now well outdated. This bill will again put into an electronic system that officers are already using, allow them to collect a little bit of additional data. We are going to make that data public. We are going to do it statewide and then we as a legislative body will have additional information needed to decide if there is something that we need to do to address that bias if it exists.

Lastly, there is a Legislative Commission interim study in the bill. One thing I would like to do is take a really good look, and I think we need to have a very long discussion about what police respond to. We have taken some great steps this session with setting up 9-8-8 [Senate Bill 390]. We are looking at the mental health issues, which is great, but if you think about it for a second, there are lots of different types of crises. If your house is on fire, we call the fire department. If you are having a medical emergency, we call an ambulance. If there is a gas leak in your home, you should probably call your gas company to respond to that particular crisis. We expect police to respond to every other type of crisis under the sun aside from those three. I think it is time we take a look at whether that is the best way to do it to handle policing. That is what the goal of the interim study would be—to take a look at creating a call center that would divert some of those police interactions that really do not need to be happening. We know that is one of the best ways to keep the community safe, both officers and the people in the community whom they police.

With that, I will take any questions. It is a big bill, and I find this to be a piece that goes along with a lot of the other things that we are doing this session. It is my intention to take a really good look at some of these things and see whether we need to address anything further.

**Chairman Yeager:**

I appreciate the study portion of this bill. I think it is important that we try to maximize law enforcement resources to respond to appropriate calls. I think we have always done a very poor job in this state, frankly, of responding to mental health issues, and we have expected our officers to try to handle some of those very complex issues that are really more social work-type issues. I thank you for that study.

The one question I had before questions from the Committee deals with section 1, subsection 1, paragraph (a), which talks about displaying bias indicators. When I first read the bill, I thought bias must mean racial bias. I just thought that in my head. I do not think that bias is defined in the bill, but in looking at the examples listed of the bias indicators, certainly I was reading that too narrowly because a lot of these things listed—having a large number of citizen complaints—may or may not be a racial issue or incidents for use of force. I wanted to get on the record since there is not a definition there, what your intent was with respect to using the word "bias." What did you envision that to mean in the context of S.B. 236 (R2)?

**Senator Harris:**

I think the key here is not bias, but bias indicators. I think a lot of people have read this as determining if you have any one of these, you must be biased. That is by no means the goal of this bill. The reason why we have things like having a large number of citizen complaints or a large number of incidents involving the use of force is it is meant to be a flag that says, Hey, let us take a deeper look at this. Of course, maybe you are using force excessively against people indiscriminately. That is a whole other issue the officer may need to address. This is also not designed to say any one of these things is an indicator of bias. But if a couple of these things happen, if you meet two or three of these prongs, or four or five, whatever the police departments add on or whatever indicators they think would be sufficient, then it is clear we need to take a look. It really is just a flag to say, Let us look a little bit deeper; let us look into the data. If you have a large number of incidents of citizen complaints, let us take a look at who those complainants are. It may or may not be bias. That will be up to the police departments to determine.

Your question was defining bias, and I think that is a fairly general term. We all have implicit bias, and we all do not know it. But the goal here is to give a little flag and say, Maybe we need to look a little bit deeper into this because for some reason you have more resisting arrests than anyone else, or you have more use-of-force complaints than others. Let us take a deep dive. You may or may not need additional training, and that will be up to the police departments that are well-suited to do those types of things.

**Chairman Yeager:**

Are there any questions from the Committee?

**Assemblywoman Kasama:**

My question is just so I can understand better. I do not know if you can answer this question or if it is law enforcement that can. What is currently being done? If there is behavior that is erratic from a current police officer, I would imagine there is probably something currently in place. I am just wondering what is currently in place that is not working or is working that brings this about; for an overview of why this is here because what is currently being done.

**Senator Harris:**

I do not want to speak on behalf of law enforcement, as they are here in the back. I do know that Las Vegas Metropolitan Police Department has an early warning system. They are looking for these indicators. I can imagine that there are, of course, policies and procedures about how officers are to comport themselves, and so if they are acting in an erratic manner, that will be dealt with as such. What I am looking to do here is to ensure that every police department in the state is keeping a lookout for officers and trying to see if we have any officers who are displaying bias and setting up some type of system to be able to do that.

[Assemblywoman Nguyen assumed the Chair.]

**Vice Chairwoman Nguyen:**

Did you have a follow-up question?

**Assemblywoman Kasama:**

This could currently be being done, but we are putting it in statute. Is that the goal?

**Senator Harris:**

Yes, that is the goal.

**Vice Chairwoman Nguyen:**

Are there any additional questions from the Committee?

**Assemblywoman Hansen:**

On the bias indicators, I am trying to understand. To me there would almost be indicators sometimes that have nothing to do with bias per se. I have never done a ride-along but have watched a lot of footage from body cams. I can say just as a layperson the tremendous amount of stress and adrenaline that I see in these interactions lead me to wonder sometimes if reactions are not necessarily based on bias but just the tremendous amount of stress and life and death that an officer is in in the moment. Do we already track that kind of stress, and are we conflating or mixing those with bias?

[Assemblyman Yeager reassumed the Chair.]

**Senator Harris:**

I think you are right; officers are in stressful situations all the time. A lot of times that drives their actions in the moment, which is why we are taking a look at a large number of complaints or a large number of resisting arrests. The way that we could figure that out is I am sure police departments have an idea of what the average is. I am sure there is a normal curve based upon your years of expertise. Let us just say that across the state, officers in their first year or two have an average of three complaints. But if you have an officer who has ten in his first year, you may want to take a look at that. Again, this is not to say if you hit one of these flags you are indicating bias, that you are biased against folks. It is a warning system saying, Let us take a look.

**Assemblywoman Hansen:**

Thank you for clarifying that. Yes, I love the idea of the study, and I would be interested to learn more as we go a little bit more into the hearing about what we are doing right now when we see warning signs with officers, whether it is related to some sort of bias or it is stress-induced and has nothing to do with a bias of some sort.

**Senator Harris:**

Thank you. I am not entirely sure every police department right now is on the lookout for bias indicators, and that is the goal of section 1.

**Chairman Yeager:**

Are there any other questions from the Committee?

**Assemblywoman González:**

I do not know if I missed it in your presentation, but in this early warning system, are officers reviewing the data? Are we creating a system or does this system already exist?

**Senator Harris:**

I think that is going to vary by police department. I do know Las Vegas Metro has one. I intentionally was not overly prescriptive on this. I want to allow police departments to set up the system in a way that works for them without putting some overly burdensome directive from us here at the Legislature on how it must be done or what software they must use, if any. The key to me is that they are on the lookout.

**Assemblywoman González:**

With that, would we know or not know how they are reviewing this data, if the data is reviewed the same? I just want to make sure the intent is that we are capturing that for each department.

**Senator Harris:**

I did not put a reporting provision in that they must come to us and tell us how they have established this early warning system. Initially, I had in the bill that Nevada Peace Officers' Standards and Training Commission would provide some rules and regulations on how this would be done, but they put a fiscal note on it so they will now not be providing those rules and regulations. Each law enforcement agency will be able to set this up as it works for them. I think there are legitimately times when each department probably needs to do something a bit differently. Each department has officers who are working different beats and so maybe that large number of complaints will change based upon whether you are a traffic cop or whether you are operating in some other division. I want law enforcement agencies to have the flexibility to establish a system in a way that works best for them.

**Assemblywoman González:**

Let us say that this system does identify an officer. Section 1, subsection 3, states if the peace officer is repeatedly identified by this early warning system and other problematic behavior, then the agency that employs the peace officer shall consider the consequences. Would these be internal reports? How would the public know that this system identified an officer? Would we know if they were sanctioned? Would we know if they were still on the force? I am just wondering more about the transparency part of the intent of the bill.

**Senator Harris:**

This will be subject to what I believe is the same provisions today. Some things you can put in a Freedom of Information Act request for; some things are private. I do want to make it clear on the record that it is not my intention that people will be able to look up any particular officer and be able to harass them. This really is meant to be a preventive, curative measure where officers should not feel afraid to be flagged by this system. I want them to be able to be like, Oh, really, I had no idea, yeah, I will take some additional training. I do not want this to be something that they are afraid to be possibly identified by, and ideally, I hope that it is something officers will embrace and be willing to go, Oh my goodness, really, I had no

idea that I am arresting a certain group of folks more than another; yeah, I am more than willing to get a little bit more training so I can be more fair and better at my job. I do not want to disincentivize that at all.

**Assemblyman O'Neill:**

Unfortunately, I have several issues with the bill, Senator Harris. I can say I appreciate what you are trying to do. I will start off saying, reading the bill and looking at this, particularly the first part, we are inserting government into the daily practices and telling a sheriff or police chief of a community how to operate. Law enforcement in Mineral County, Nye County, or White Pine County is totally different, I think you would agree, than in Clark County or even Reno. But with that, you said that Clark County or Las Vegas Metro is already doing these procedures, and really you implied that they would not need this bill because they are already doing it. Have you surveyed the other law enforcement agencies throughout the state to see who is and who is not having some kind of tracking or proactive measurement on this?

**Senator Harris:**

I very much respect that every police department is different, and that is why the bill is crafted in the way it is where it says you just have to set up a system. I am not directing them on what that system needs to look like or how they do it or what the numbers or even the factors are. I am just giving some examples of what good factors might be. As to your second question, I have not surveyed every police department to see if they already have some early warning system. I would suggest that it is our job here in the Legislature to tell police departments to keep an eye out for this. That is the lightest touch that we can give. If police departments are not currently looking to see if their officers are displaying bias, I find that to be problematic, and now I am asking them to do so.

**Assemblyman O'Neill:**

I would submit that from my experience with the Nevada Sheriffs' and Chiefs' Association, I do not know of an agency that is not doing this already. And once again, I get back to we are inserting government into the daily operations.

I also want to get to your definition of bias. To me, it is really quite subjective, particularly in section 1, subsection 1, paragraph (b), subparagraph (3), "showing any other behavioral signs that are indicative of a decline in performance." I just read that and can think of about 10, 20, or 30 things that have nothing to do, that you are implying from this proposed bill, would be indicative of a bias. The whole thing to me is rather subjective. But I really would like to look at section 1, subsection 3. I almost read that as somewhat threatening to a law enforcement agency that they should "consider the consequences that should be imposed, including, without limitation, whether the police officer should be transferred from any high-profile assignments or subject to any discipline." You are telling law enforcement basically how to conduct their business very stringently, and once again I hate to pick on Mineral County, but any of our rural counties, where they will have a total of two officers working on a shift on a good day; at times, maybe one. I am not sure how they define what the difference is between a high-profile assignment to any other assignment when they are



like that. We already—the courts, civilians, agencies—can take action against an officer and/or an agency that fails to train and goes beyond their scope of practice as displayed multiple times with some unbelievably high payouts from various agencies on their failure to control, to discipline, to manage their personnel properly. To me it is already being done, and I just have a problem. I am trying to get to where I can make this a yes or no, so I have a question instead of a statement and suffer the ire of Chairman Yeager. With that, would you accept my statement?

**Senator Harris:**

I would, Assemblyman O'Neill, as a difference of opinion. You bring up "shall" consider. I find that to be the lightest touch possible. If you think about the things we put into legislation, this by no means says you must fire someone after their fourth flag on an early warning system. It says you shall consider some consequences. Whether you enforce those consequences or not is up to the police department. What a high-profile assignment is, is up to the department. But what I can say is, if someone is repeatedly flagged by an early warning system, I want police departments to take a look at some further consequences. That is about as light as legislation gets.

**Assemblyman O'Neill:**

We will have to agree to disagree.

**Chairman Yeager:**

We have time for one more question from the Committee. Who is going to ask that question?

**Assemblyman O'Neill:**

I could do more.

**Chairman Yeager:**

No more questions from Assemblyman O'Neill, because it will be a statement and then it will be, Do you agree with me? But I give you credit for working the question in there. I appreciate the creativity on day 116. Is there anyone who would like to testify in support? We have Director Callaway and Mr. Shepack from the American Civil Liberties Union of Nevada at the table together. Please note that, Committee members. Assemblyman O'Neill, please note that as well in your analysis of the bill.

**Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:**

We are in support of S.B. 236 (R2). We have worked literally for months on this bill with Senator Harris. She has been a great legislator to work with this session. We at Las Vegas Metro have had an early warning system. It is known as the Early Identification and Intervention Program. We have had that in place for at least 20 years. When I worked the street, it was in place. It has evolved over the years. The system we use is considered a best practice by the U.S. Department of Justice. Basically, it is intended to identify trends in behavior and to give a supervisor a warning when an officer's behavior reaches a certain

threshold. Much of what is in this bill is in our system. For example, traffic accidents. If an officer has a certain number of traffic accidents in a short time frame, that is a red flag that the supervisor wants to look into and find out why. Are there problems with his or her driving practices? Do they need to go to additional training, because obviously traffic accidents are very serious, they can cause injury to citizens, injury to the officer, and cost the taxpayers a lot of money. Then there are various other elements of the system that also are tracked, such as use of force.

I want to make it clear that the early warning system is an internal tool for supervisors to track and correct behavior. It is not intended to replace internal affairs investigations. It is not intended to replace labor relations practices or in some cases criminal investigations. If an officer has a complaint against them that is of a criminal nature, that will be investigated by our criminal Internal Affairs Bureau and potential charges will be submitted to the district attorney's office if it is found that did in fact happen. If a complaint is against the officer for a policy violation, such as discourtesy, that will be investigated by our standard internal affairs process. In some cases, the Citizen Review Board will look at issues that involve an officer, and then, of course, if an officer's actions warrant a sustainment, our labor relations unit uses a matrix to determine the appropriate discipline—everything from a contact warning from a supervisor all the way up to and including termination of that officer in some cases. The early warning system is one piece of that overall puzzle. It is not intended in and of itself to be a disciplinary tool, but rather a tool to identify problems. As the Senator said, prevent them and nip them in the bud before they proceed further.

**Nicholas Shepack, Program and Policy Associate, American Civil Liberties Union of Nevada:**

It is a pleasure to be up here with Mr. Callaway. I will start off by saying that if our version of this bill had reached the Committee, we would probably be on the lookout for Assemblyman O'Neill's bowie knife. We are here in support of this piece of legislation. The bias in policing part of this legislation we do think is important. We do not believe that every department will necessarily get it right; however, by giving this tool to many departments, we believe that many will implement this correctly and it can be beneficial throughout the state.

When it comes to the traffic stop data, we believe that is the best part of this bill. We think that data brought to the Legislature and data brought to the public can always be useful. We can never have too much data. We really think that is the best part of the bill. As far as the study goes, I think we all know that we are moving in a direction where we want to find ways to allow police to do police work and have mental health professionals do mental health work. If we do this study, it may lead us next session to making some real change in that area that is well informed and allows police to really focus on what they are best at and what we need them for. For those reasons, we support the bill.

**Corey A. Solferino, Lieutenant, Special Operations Bureau, Legislative Liaison, Washoe County Sheriff's Office:**

We are in support of S.B. 236 (R2). I want to thank Senator Harris for our long conversations, not only during this session for the last 116 days but also during the interim.

We had some very candid and courageous conversations during the interim, post- and pre-incidents that changed the national scope of policing. We are very receptive to her take on some of the things and just appreciate her willingness to work with us and become an industry expert on some of our best practices.

Like the Las Vegas Metropolitan Police Department, we also utilize an early warning detection system. We actually have a couple of different layers of protection. Just briefly, through our blue team, there are no less than five sets of command-level eyes looking at these incidents, everything from a traffic accident to a use of force to a pursuit. They are first looked at by the first-line supervisor. They are found within or outside the scope of the policy. It goes to the watch commander at the lieutenant level. It goes to the division captain, and then the chiefs and the undersheriff take a look at them before they go to our internal affairs investigation. Like Director Callaway said, there are several different layers of this, whether it is a criminal side, whether it is the investigatory side through the Office of Professional Integrity, or whether it is a documented use of force or what we would call a "critical incident" that the Senator outlined as early warning detection and/or bias indicators.

I did work with our other law enforcement agencies in northern Nevada, and they all use the same or similar system, so we do find this to be a good management tool for early detection-type systems and just a good supervisory supplement to identify what is happening outside the scope of maybe your days off, your days on, and understanding what your people are doing in the community. We do believe in transparency. We do believe in the ability for our constituents to bring their concerns to the sheriff's office's attention through the use of community surveys, through open dialogues, and we believe that we are doing that.

Earlier this session I had the opportunity to present to this Committee, albeit via Zoom in our conference center, but I would encourage you to look at our end-of-year sheriff's office report to look at [washoesheriff.com](http://washoesheriff.com). We do promote most of that data in dashboards on there. For any questions you may have, I am always available.

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

We are in support of S.B. 236 (R2). First, we want to thank Senator Harris for bringing forward this bill and for taking the time to tackle tough issues with all of the stakeholders this session. Better data and increased transparency are needed to ensure that everyone is treated fairly by law enforcement, and an early warning system to detect bias and problematic behaviors amongst law enforcement can prevent an officer from engaging in unlawful use of force or profiling in the first place. We urge your support.

**Chairman Yeager:**

Is there anyone else who would like to testify in support?

**Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We are in support of S.B. 236 (R2). We are here in support because this bill came a long way from the original version, and we appreciate Senator Harris's working with all of the stakeholders in such a thoughtful and considerate manner. We also submit to this Committee

that all of your law enforcement agencies currently have a way to handle all of the items identified in this bill as the early warning system. It is known as the chain of command supervisory structure, in that every person is accountable to someone all the way up the chain to include agency leadership, the sheriff and the chief—who are ultimately accountable to their boss, the citizens of their jurisdiction. We did recently oppose the bill in the money committee because this may be a burden to agencies that cannot afford to purchase a system but do have the supervisory command structure handling this. But we said we would support it with the prior amendment and wrote a letter as such on Nevada Electronic Legislative Information System, and we are here in support.

**Chairman Yeager:**

Is there anyone else who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position? [There was no one.] I would invite Senator Harris back for any concluding remarks on S.B. 236 (R2).

**Senator Harris:**

Thank you, Chairman Yeager and Committee members, for hearing both of these bills today. I will keep my closing comments short. I know a lot of you have questions. We are on day 116, so I will be finding each and every one of you in hopes to make a serious endeavor to address any and all concerns that you have. I appreciate your time today.

**Chairman Yeager:**

I will close the hearing on S.B. 236 (R2). I will open it up for public comment.

**Annemarie Grant, Private Citizen, Quincy, Massachusetts:**

I am the sister of Thomas Purdy, murdered by Reno police and Washoe County Sheriff's Office during a mental health crisis. I really appreciated the ability to have my voice heard this session, and I know it is due to a horrible pandemic, but it has given me the ability to be heard, and for so long I have not been heard being that I live so far away from Nevada. But I did just book my tickets. I come out there every summer to hold an event to help support other families who have lost their loved ones to law enforcement in Washoe County. So I will be there from September 4 through 15, standing outside the jail with my banner. Hopefully we will not be surrounded this time by six deputies with a man keeping his hand on his gun the entire time.

I also wanted to mention that I knew the day would come when my voice would be silenced, and that day was Tuesday. The Washoe Board of County Commissioners and Chair Bob Lucey announced that they will no longer be conducting meetings by Zoom. I knew he was waiting for that day because I really believe that he does not like to hear what I have to say. I appreciate all of your hard work. Thank you.

**Chairman Yeager:**

Is there anyone else who would like to provide public comment? [There was no one.] Are there any questions or comments from the Committee? [There were none.] We have heard

all the bills that are in our possession. We currently have three bills—the two we heard today and the one we had in joint hearing on Saturday. We are not going to work session any of those bills right now. What you are likely going to see is an agenda being posted for each of the next four days that says simply, "work session, call of the Chair." I do anticipate at some time we will be getting back together for a work session. I just do not know when yet, but I would encourage everyone—particularly for the bills that were on today—if you have questions for Senator Harris to reach out to her or those who testified today. Stay tuned; I do believe we will be getting back together at least one more time this session. Again, we have floor at 11 a.m. so make sure you get down there, and I am sure we will see you all soon. I just want to say to those who are in the room before you leave that it is nice to have you back in the room. It sure is nice to see people face to face and hear your testimony live and in person. We will see everyone soon.

The meeting is adjourned [at 10:53 a.m.].

RESPECTFULLY SUBMITTED:

---

Traci Dory  
Committee Secretary

APPROVED BY:

---

Assemblyman Steve Yeager, Chairman

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

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

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