

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

**Eighty-First Session
February 18, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:04 a.m. on Thursday, February 18, 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:

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:

None



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Ashlee Kalina, Assistant Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager
Traci Dory, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Elizabeth Neighbors, Statewide Forensic Program Director, Lakes Crossing Center,
Division of Public and Behavioral Health, Department of Health and Human
Services
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public
Defender's Office
Jim Hoffman, representing Nevada Attorneys for Criminal Justice
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's
Office
A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
Calli Wilsey, Senior Management Analyst, Intergovernmental Relations, City of
Reno
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County
District Attorney's Office; and representing Nevada District Attorneys
Association
Steven Cohen, Private Citizen, Las Vegas, Nevada
Annemarie Grant, Private Citizen, Quincy, Massachusetts
Daniel Purdy, Private Citizen

Chairman Yeager:

[Roll was called. Committee protocol was explained.] We have two bills on the agenda dealing with a continuation of the topic we discussed yesterday. I will open the hearing on Assembly Bill 25.

Assembly Bill 25: Revises provisions relating to the conditional release of certain persons found to be incompetent. (BDR 14-295)

**Elizabeth Neighbors, Statewide Forensic Program Director, Lakes Crossing Center,
Division of Public and Behavioral Health, Department of Health and Human
Services:**

Assembly Bill 25 changes two aspects of the procedures for returning a person back to a forensic facility who has violated the person's conditions of release as outlined in *Nevada Revised Statutes* (NRS) 178.461.

I would like to backtrack just a little bit to talk about how individuals get to conditional release. I think, as we discussed yesterday [Assembly Committee on Judiciary, February 17, 2021] during one of the other bills, there is a provision in NRS 178.461 for individuals who are unrestorable and dangerous to be committed to a forensic facility at the end of their time of restoration. These are individuals who have had very serious charges. At this point, of course, the charges—category A felonies and some category B felonies—would be dismissed without prejudice. The commitment may be up to ten years. There is a provision where the individuals may petition for a conditional release after they have been committed to the facility, if they have demonstrated that they have responded to treatment to the degree that the court and the treatment providers feel they would be safe in the community.

In this circumstance, the process includes a hearing on the petition for conditional release. If approved, there is an order for them to be placed on conditional release which includes a very carefully crafted treatment plan. The plan involves the forensic facility agency treatment team as well as the individual provider who is located where the person may be put in residence in the community. In that plan and order are very specific conditions of release that the individual must follow in order to continue in that program. These residences are highly structured settings with a very high level of supervision. Often residences are alarmed, the individuals have 24-hour supervision, and should they, for example, work in a sheltered setting in the community, they would have supervision and escort under those circumstances.

At the present time there are four individuals in the north and one in the south who are currently placed under those plans. There may be situations where, should there be decompensation or some circumstance where there may be an event, some type of mental health crisis, or behavior on the part of the individual that would require their return from that setting.

Assembly Bill 25 addresses the circumstance where the mental health crisis may occur in that placement setting, and the individuals are in a situation where there is probable cause to believe they are an imminent danger to themselves or others and they have violated their conditions of release. Our concern here is that the current statute is written in such a way that currently, in those circumstances, the facility has to contact the officers of the court and the judge to obtain a warrant to pick up the persons and bring them back under that court order. Since the supervision remains in the court of criminal venue where the charges were filed, we would notify the court of any violation. Additionally, it is part of the agreement and order that we contact the court. However, we are concerned about the delay, and so the language in the bill has been rewritten to allow that if we perceive there is probable cause, we may return the persons immediately to the forensic facility without getting a court order. Subsequently, there would be a hearing within ten days to determine whether the conditional release should be continued, modified, or terminated.

The second procedural change the bill is seeking is that the statute would allow us to request assistance from law enforcement in making that return if we conclude that that assistance is necessary to maintain safety and have a smooth transition back to the forensic facility.

The goal of the bill is to eliminate any delays that compromise safety and to enhance our ability to respond to these crises in an appropriate way. I would add that we have been in discussions with law enforcement and other organizations that have an interest in the care of mentally ill individuals, and there were a couple of changes that they were asking for which we would be agreeable to. One would be to change the word "must" to "may" on line 14 of section 1, subsection 2. The other change would be to have the hearing within three days instead of ten days with the caveat that should all parties agree, it could be ten days. We are amenable to both of those changes should they be presented as an amendment.

Chairman Yeager:

At the beginning of the presentation you were talking about the individuals who are on conditional release currently. You indicated that there is a total of five: four in northern Nevada and one in southern Nevada. I wanted to confirm that, at the present time, we have five individuals on this type of conditional release.

Elizabeth Neighbors:

Yes.

Chairman Yeager:

Are there any questions from the Committee?

Assemblywoman Cohen:

In section 1, subsection 2, there is reference made to the forensic facility having probable cause of a violation. Does the forensic facility have access to a deputy attorney general? Is that making a legal determination to determine probable cause? I am just curious about asking a forensic facility to make a legal determination.

Elizabeth Neighbors:

I would say it is also a clinical determination. We do have access to a deputy attorney general who is regularly available to us to answer legal questions. I believe that the probable cause is predefined. If the person is a danger to self or others, we have a pool of treatment providers who are credentialed to make those types of determinations. Those providers regularly file civil petitions for commitment and make those determinations in their reports. They are licensed and on the list of individuals who make those types of decisions. In addition to that, the definition of a violation of the conditional release is already enumerated in the court order that is provided to the facility when the person is put on conditional release. There is a definitive list of the behaviors and situations that would constitute that violation as well as access to calling our deputy attorney general.

Assemblywoman Cohen:

We are taught as attorneys that the definition of practicing law is applying law to facts, which is a very simple way to get to violating the rules against practicing law without a license. I just do not want to set up our forensic facilities to be technically practicing law without a license if that is considered a legal determination, which is why I raised that concern. I will talk to legal later to make sure that it is all kosher.

Elizabeth Neighbors:

We can verify that with our deputy attorney general as well.

Chairman Yeager:

Are there any questions from the Committee? [There were none.] Is there anyone who would like to testify in support?

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

We are testifying in support. [Call was disconnected.]

Chairman Yeager:

We will go to the next caller while we wait for Mr. Piro to rejoin to conclude his remarks.

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:

We support this bill. We initially had some concerns with some of the language, but Dr. Neighbors explained the bill and its purpose and assuaged some of our concerns. The amendment [[Exhibit C](#)] we submitted addresses our concerns. We think this is a good change that will make the system work more efficiently while still protecting the rights of people who have been committed in this circumstance.

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

We support A.B. 25. We strongly believe that mental illness is a health issue, not a police issue. We appreciate our conversations with Dr. Neighbors and the sponsors to work towards ways that we are not just incarcerating away our state's mental health crisis.

Our current system would require individuals to qualify under the statute to go to jail rather than a forensic hospital, and we support those individuals being diverted straight to the forensic hospital rather than having the first and only option of going to jail. We strongly believe that we need to continue to work on ways to keep those with severe mental health concerns out of our detention centers when possible. As indicated in the Treatment Advocacy Center's December 2015 report, "Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters," individuals with severe mental health concerns account for one in four people killed in police encounters. We strongly believe this bill will help work to ensure that our mental health patients and clients get the services that they need rather than being warehoused in our jails.

Chairman Yeager:

Is there anyone who would like to testify in support?

John Piro:

Ditto to what Mr. Hoffman and Ms. Bertschy said. We are in support of A.B. 25.

Chairman Yeager:

Is there anyone who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition?

A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We are in opposition to the bill, but only because of the rules of the Committee. We have been very pleased with the conversations we have had with Dr. Neighbors and other persons related to this bill. We believe that we will come to an agreement that puts us in support of the bill. We appreciate her understanding and patience with us as well as her endeavors in this area.

Chairman Yeager:

I appreciate your willingness to work with Dr. Neighbors on a solution for your concerns. Is there anyone else who would like to testify in opposition?

Calli Wilsey, Senior Management Analyst, Intergovernmental Relations, City of Reno:

Like Mr. Delap, we are in opposition but only due to the rules of the Committee. We would like to thank Dr. Neighbors and the team at the Division of Public and Behavioral Health for spending time with us sharing their goals, explaining the process, and listening to our concerns. As written, the bill would require law enforcement officers to provide transportation upon request, and as Dr. Neighbors mentioned, we have been working with them to alleviate this concern. In the broader context, we believe that we should carefully consider how law enforcement should be involved in interactions dealing with mental health issues to ensure it is the best and safest approach for everyone. We support the amendment [\[Exhibit C\]](#) and look forward to continuing to work with the bill's sponsor to finalize those changes and are grateful for that collaboration.

Chairman Yeager:

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? [There was no one.]

I know we have five individuals out there right now. When they are conditionally released, are they released to a facility or family members? Could you give me a sense of what the options are for the division in terms of where those folks can be released into the community?

Elizabeth Neighbors:

The nature of the treatment plan and supervision that is constructed requires generally that they be released to a facility that allows for very structured oversight. The majority of these individuals are placed with Sierra Regional Center in one of their residences. We have worked with them specifically to create programming for these particular individuals who have fairly serious offenses, but of course, since they are with Sierra Regional Center, they are intellectually disabled. It is a very high level of supervision in what would be termed a "group home" that has alarmed windows and 24-hour supervision. We have also done

other agreements where we have placed individuals in a mental health setting, again in a group home with a fairly high level of supervision. The forensic facility staff would contact them weekly and we have ongoing contact with the staff that oversees the facility. We have also had a placement with the U.S. Department of Veterans Affairs in their new facility, again a highly structured unit in that facility, and again we have weekly contact with them. The individual retains a treatment team at the forensic facility and that team meets monthly with the treatment teams at the placement facilities. There is a high level of communication and oversight that goes on. The placements are very collaborative, and we know in great detail what the treatment delivered at each facility is.

Chairman Yeager:

Are there any concluding remarks you would like to make on A.B. 25?

Elizabeth Neighbors:

We certainly appreciate the collaboration and input we have had. We learned along with this process, and certainly that input is helpful for us in designing our programs. We are very appreciative of the community contact and input into what we do.

Chairman Yeager:

Please keep me informed as you work through some of the issues that were highlighted during opposition testimony. It sounds like you are on the path to reaching consensus if not already there. I will close the hearing on A.B. 25 and open the hearing on Assembly Bill 36.

Assembly Bill 36: Revises provisions relating to competency hearings for certain criminal defendants. (BDR 14-294)

Elizabeth Neighbors, Statewide Forensic Program Director, Lakes Crossing Center, Division of Public and Behavioral Health, Department of Health and Human Services:

I will preface my remarks about Assembly Bill 36 with a comment about the Sequential Intercept Model through the Substance Abuse and Mental Health Services Administration. Part of what we are trying to achieve here is to follow that model with our services. It is a national concept that has been around for some time that provides guidance toward intercepting and diverting mentally ill individuals out of the criminal justice system into treatment. This is the goal of A.B. 36. We see that one intercept along that sequence is when folks are incompetent and commit crimes perhaps largely due to their mental illness and are referred for competency assessment. We are looking at a different model than what is currently written into statute about managing misdemeanor offenders for whom there is a question of their competency to proceed.

Assembly Bill 36 changes the procedures for the assessment and restoration of misdemeanor offenders. We are seeking to allow for the misdemeanor offenders who are found to be incompetent after assessment by a certified evaluator appointed by the court to have their charges dismissed and to be considered for civil commitment and treatment. If a person who is charged with a misdemeanor is referred for a competency assessment to proceed and the

evaluator recommends that they are competent, the proposed language says that they would then simply proceed with their adjudication.

The purpose is to try to divert incompetent misdemeanants out of the system into treatment, which is essentially what has been happening anyway. We are really trying to make the law consistent with what the practice is in Nevada. The concept we were seeking to put forward is that the procedure would stay the same through the point that a person is designated or appointed by the court to evaluate someone for competency for a misdemeanor offense. If the person is determined to be incompetent, the evaluator would, in his/her recommendations, offer an opinion about whether the person meets the criteria for civil commitment. The procedure would then be to petition for civil commitment as the statute is written now.

We have had a lot of discussions about this bill, and there are several significant issues about whether it would be a petition for civil commitment or a Legal 2000.

Within the process of misdemeanor competency, we have observed that misdemeanor offenders can only be held as long as they would have been incarcerated had they been convicted. That is a very limited time available once a person has started on this process. By the time they would actually arrive at a forensic facility for treatment, much of that time has already elapsed and once in the facility, then we have limited options available to us for treatment. Often we can provide behavioral treatment but, of course, the person is allowed to refuse treatment, and if it involves medication, it is unlikely that we would be able to force medication with a misdemeanor offense because it does not rise to the level that would allow us to have a hearing to obtain that order.

When this occurs, the outcome would be a recommendation that the individuals are incompetent without probability because we cannot treat them in the time frame, and without certain tools that we use to restore individuals, that is unlikely to occur. If there is a finding that they are recommended as incompetent without probability, then the option for the state is to file a petition, get an order to civilly commit or release, if we are still within that window that allows us to retain them for treatment. The likelihood would be that there would be a petition for civil commitment anyway. So the person then has been detained for an additional amount of time that the person would not have had to be in the forensic facility had we just simply diverted the person out to the civil system for treatment to begin with.

We are trying to accomplish a more efficient and reasonable system for these folks. We are recognizing that there are a number of questions in this process about how that legal procedure goes forward. I believe it is what is happening anyway in our system in Nevada. We have data about the fact that we have had very few referrals to the forensic hospitals within the last five or six years. Since about 2012, there has been a very significant decline in the admission of misdemeanor offenders to the forensic facilities for formal restoration.

We have been having a lively dialogue about A.B. 36. An issue of concern is the dismissal of the charges for the individuals and filing a petition. There were concerns about violent

misdemeanor offenders and how that process occurs and how it fits with the diversion process to help these individuals attain treatment through the civil system. We are open to continue this discussion; however, we do support the concept that we would like to have the statute consistent with what our practice is. It does propose to strike the restoration portion of *Nevada Revised Statutes* (NRS) 178.400 for misdemeanors, so essentially, we would be treating rather than attempting to restore for adjudication with the concept that this bill is proposing.

Chairman Yeager:

Committee members, I will let you know that I have received some communications on this bill as well. I do not think it is quite there yet in terms of where it needs to be, but I still wanted to have the opportunity for the Committee to hear the bill so we could at least frame what the issues are. I think there is still quite a bit of work that needs to be done to get this bill into a form where we would be comfortable passing it. I believe we will hear from some folks offering testimony as to exactly what those issues are.

I want to emphasize a couple of points that Dr. Neighbors made that misdemeanors are a little bit trickier in this competency setting because, of course, the maximum penalty for a misdemeanor would be six months incarceration, so you cannot really hold someone beyond that because it would be the expiration of the sentence. I think we have some regional differences in terms of how things are being applied now with misdemeanor defendants who are deemed incompetent.

Those are just a couple of the issues we are trying to work our way through on this piece of legislation. Are there any questions from the Committee?

Assemblywoman Kasama:

I need a better understanding of section 2, subsection 4, where it says the court shall dismiss the charges against the defendant and order the defendant released unless a petition for involuntary commitment is requested. My concern is that we are dismissing the charges, but it seems like it is optional to file a petition for involuntary commitment. If there is no request for an involuntary commitment, then are we letting somebody go who needs help?

Elizabeth Neighbors:

That is one of the concerns. I think the concern here is people who are incompetent but who do not meet the criteria for civil commitment. That is a bit of a dilemma. They can be referred for outpatient services. Obviously, the division is more than eager to offer them those services or to facilitate them getting the services in the private sector. In terms of their rights, they do have the option to not accept those services. I participate in the National Association of State Mental Health Program Directors, Forensic Division, and this conversation is prominent among that group from many states about how to get them the treatment they need in an appropriate way. That is one of the things that the group that has been discussing A.B. 36 is addressing.

Assemblywoman Kasama:

It seems like some tightening up around that needs to be developed.

Elizabeth Neighbors:

Yes, I would agree. We do this dance about the clinical needs versus the legal rights all the time. That is a real challenge to resolve.

Assemblywoman Krasner:

Are you proposing that if somebody is charged or convicted of a misdemeanor and can only be held in a jail or prison for six months that you would be able to commit them for maybe life? That sounds a little bit scary. I understand there is a balance of legal rights and medical needs, but here at the Legislature we hold the *U.S. Constitution* pretty dear, and individual rights and liberties are number one on the list. Is that what you are trying to do?

Elizabeth Neighbors:

No. We are constrained in terms of what the civil commitment laws are. One of the things that is stated in the proposal is that the charges would be dismissed, in which case these individuals would fall under the civil statutes and a person can only be committed up to six months under that statute. Then regular reviews of that commitment must follow. The only circumstance under which somebody might be committed for life would be if they were found not guilty by reason of insanity and committed under that statute. It is an open-ended commitment at the discretion of the court as to how long that commitment continues. But these are misdemeanor cases so they would only qualify under the civil commitment statutes, and it is a very limited length of time.

Assemblywoman Krasner:

You said after six months they would go before a review board. Is it possible at that review they would be found that they are still a danger to themselves or others and they would have to be committed for another six months, which would be longer than their jail time?

Elizabeth Neighbors:

That is possible, but that could occur under the civil commitment laws. They actually have no charges at that point, so the determinations going forward would be based on their danger to themselves or others—which has to be an imminent danger—so it is possible that they could be recommitted, but it is unlikely. That is a very limiting definition, which means that in the moment, there has to be probable cause to believe that the person is going to injure themselves or others within the moment. It is possible they could be recommitted if they displayed behavior that warrants that. The panel of doctors and the family court determines if they meet the criteria for ongoing civil commitment. I would say those occasions are infrequent.

Chairman Yeager:

I would like to build on that for a moment because I think it is an important point and I do not want it to be lost on the Committee. What we are talking about here is individuals who are charged with a misdemeanor, and they come into the criminal justice system but, because

they are not competent to stand trial on the misdemeanor, those charges end up getting dismissed. Then what we have is a civil system in place where those persons could be held against their will if they are an imminent danger to themselves or others, but that question is completely separate from the criminal case. Sometimes the criminal charge leads someone to initiate that civil petition because that is how someone learns that the persons are perhaps an imminent danger to themselves or others. That process has its own requirements under the civil system but it is not a criminal justice issue—it is a civil justice issue—and there are safeguards put in there where a judge would do regular reviews. The truth is, in civil commitments, most folks ultimately decide to voluntarily stay committed, rather than fight the case, to get treatment. I think that is the goal, but certainly there are occasions where somebody just does not want treatment and refuses treatment and a judicial officer has to make a decision whether that release is safe. I did not want that to be lost on the Committee that sometimes the entryway into the civil system is a criminal misdemeanor. It is not always that way; there are a lot of civil commitment petitions filed on a daily basis, particularly in Clark County, but very few of them actually result in a judicial order holding the person. Sometimes individuals do not meet the criteria for civil commitment, and they are released. Sometimes by the time they get to see the judge, they are better already, and they are back on their medications and doing well.

If anyone has additional questions about how that process works, I have a little bit of familiarity with it and I know Assemblywoman Nguyen does as well. Please feel free to ask us or Dr. Neighbors when we are finished with the presentation.

Are there any additional questions from the Committee?

Assemblywoman Nguyen:

That is an open invitation to anyone on the Committee. I deal with these types of issues with misdemeanor cases in my professional world. If anyone has any further questions about the process, feel free to reach out to me and I can go over it.

Chairman Yeager:

Are there any questions from the Committee? [There were none.] Is there anyone who would like to testify in support?

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

We are in support of Assembly Bill 36; however, as Dr. Neighbors noted, we are in ongoing discussions. Last night we were in a long discussion, and I realized I needed to bring in people smarter than I to include Judge Bita Yeager, Judge Christy Craig, and Jessica Murphy from my office to discuss some of the issues to make sure we keep the successful misdemeanor diversion program that is working in the south without altering the program that is working for the north. We hope to have a solution put together by the time this bill comes up for work session.

[[Exhibit D](#)] was submitted in support of A.B. 36 but was not discussed. It will become a part of the record.

Chairman Yeager:

Thank you for continuing to work on this issue. I do understand that we are bringing additional interested persons in, and I think that is the correct approach on this bill. 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?

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:

We are here in opposition to A.B. 36 as it is currently written. We want to thank Administrator Lisa Sherych, Dr. Neighbors, and their entire team for meeting with us on several occasions about this bill. We understand the division's goal to clarify and standardize the competency statute with respect to misdemeanor cases. We support that goal. We have all agreed to continue discussions, and as Mr. Piro just mentioned, we are going to bring in judges and other interested parties from around the state to help find a solution that works for everybody.

Assemblywoman Kasama's question hits directly at the district attorneys' concerns. Currently, the Clark County District Attorney's Office works with the courts and the defense bar to both divert, stabilize, and supervise those alleged to have committed misdemeanors who have been deemed incompetent. We rarely use the restoration portion of the competency statute and instead try to focus on stabilizing the defendants in the hopes that they do not return to the criminal justice system. Once they are done with that process, their case would be dismissed.

Throughout this diversion program, we do utilize the services of the division but we also, through the criminal case, continue to supervise them to help ensure that they are following through with any treatment plan. We are worried that this bill would upend the efforts in Clark County to provide needed services and follow through with these defendants. That being said, we do and are continuing to work with the division and others on this bill, and we look forward to that process.

Chairman Yeager:

Thank you for reaching out to me yesterday to let me know where everyone was on this bill. I appreciate your willingness to contribute to this discussion to find a solution to what is most certainly a tricky issue. Is there anyone else who would like to testify in opposition?

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

I think this is the first time I am testifying this session in a different position than Mr. Piro and in the same position as Mr. Jones, but I just note that this is definitely a bill with which we are in ongoing discussions and appreciate all of the conversations that we have been able

to have with Dr. Neighbors. We support their intentions but oppose the bill as written because we do believe that it will inadvertently keep our misdemeanor clients whose criminal charges are to be dismissed in jail longer than is intended or in current practice. As Mr. Piro alluded to, in Clark County there is a specialty diversion court. We do not have that in Washoe County, and so our concern is specifically with section 2, subsection 4; as written it will require our clients to stay in custody longer.

To Assemblywoman Kasama's point, the petition that is referenced should be denied because our clients, when they are in custody, do not meet the criteria necessary for that petition. We are working with the division to modify that language to state instead that an application for emergency admission pursuant to NRS Chapter 433A is initiated. Unfortunately, at this point, that will not address all the concerns given the different ways that these cases are handled between Clark and Washoe Counties, so we appreciate Dr. Neighbors and the division's willingness to continue to work with us to ensure we are creating a law that will work for all clients regardless of the jurisdiction they are charged in.

Chairman Yeager:

We certainly appreciate and respect that there is a regional difference in how these cases are approached, which makes finding a solution a little more difficult. Thank you for being willing to participate and bring in others as appropriate.

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?

Steven Cohen, Private Citizen, Las Vegas, Nevada:

Picking up where I left off yesterday, I want to generally ditto the remarks from Assembly Bill 23 and Assembly Bill 24 and apply them both to this bill as well as the last one. It is the same lane. Unfortunately, the previous supervisor, for want of a better term, of one such diversionary court or wraparound court—however you want to look at it—in Clark County was recently rogued having won election. Resources are really constrained and backwards between Clark and Washoe Counties, and I think it kind of creates this kind of pigeonhole for folks that could truly benefit from therapies to stabilize. I will otherwise refer Committee members to the relevant portions of the exhibit I submitted for all four bills [[Exhibit E](#)].

Chairman Yeager:

Is there anyone else who would like to testify in the neutral position?

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:

We think this is a good bill and support the concept as Mr. Piro stated. However, as was stated by Ms. Bertschy, this would pose a specific problem as to how things are done in Washoe County. Our organization represents lawyers in both parts of the state as well as in the rurals, so we are testifying in the neutral position on the bill. But as everyone has said, discussions are ongoing, and we hope to get to a place where everybody can support it.

Chairman Yeager:

Is there anyone else who would like to testify in the neutral position? [There was no one.] I wanted to congratulate Dr. Neighbors as I do not think I have ever seen a split in the public defender lobbyists, so that might be a first in the Judiciary Committee. It does speak to how difficult this issue can be and certainly the regional differences and how things are applied right now. I would invite Dr. Neighbors back up for any concluding remarks.

Elizabeth Neighbors:

I would just like to thank everybody north and south. I think that this is an exciting dialogue to be able to look at this process and make it work better for all of us. I really appreciate everyone stepping in and helping us with that, and I look forward to coming up with solutions to these challenging problems.

Chairman Yeager:

Please keep us updated as to when the bill is ready. I will close the hearing on A.B. 36. I will open it up for public comment.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

My brother Thomas Purdy was killed by Reno Police, and the Washoe County Sheriff hogtied and asphyxiated him to death. According to fatalencounters.org, 395 people have died during interactions with law enforcement in Nevada: 284 in Clark County, 63 in Washoe County, and 48 in the other counties. When police kill your loved ones, you become a subject-matter expert on the shortcomings, corruption, and injustice that plague the county or state where your loved one was murdered by police. You learn and understand the way things work and, truth be told, it is the same *modus operandi* across the country: criminalize the victim, criminalize their family, and victimize the family over and over. Currently, there is no *Nevada Revised Statutes* mandating a time frame for release of a district attorney's investigative reports in officer-involved shootings. Some families have waited over two years for Washoe County District Attorney Christopher Hicks to release a report justifying their loved one's killing. It took a die-in at Mr. Hicks' office to have him release the bodycam footage and report of the shooting of 18-year-old Miciah Lee, who was in crisis and was shot and killed. Johnny Bonta was killed October 22, 2017, the report was not released until May 31, 2019, and tragically his wife Lisa Bonta never got to know the names of the officers who killed her husband as she died from cancer on January 12, 2019. There are plenty of laws to protect police. I urge you not to support any bills this session that weaken police accountability and transparency nor support any bills that provide them greater protections than they already have. Victims of police violence are your community members too. Who is protecting them?

Daniel Purdy, Private Citizen:

I am the brother of Thomas Purdy who was murdered at the Washoe County Jail. I was just listening to what is going on there today regarding mental illness and things like that and how people serve their time and then they want to have them be held on a commitment. If someone is sentenced to six months of jail, it should be six months of jail. It is not all of a sudden, we think that you are criminally insane or something, so we need to hold you in

a facility longer. I heard the doctor talking about chemical restraint. That has to be the most disgusting thing I have ever heard. Of course, some things like that are needed, but there should be a very high standard when it comes to using chemical restraints on people.

Chairman Yeager:

Is there anyone else wishing to make public comment? [There was no one.] Are there any comments from Committee members? [There were none.] Obviously, we heard a couple of bills this morning that have a little bit of work left to do. We will give interested persons an opportunity to get through that work before you will see these bills in a work session. Again, I invite members who have questions to reach out to myself, Assemblywoman Nguyen, or Dr. Neighbors to get more information about how this process works.

We are starting tomorrow at 8 a.m. with two of my bills. Vice Chairwoman Nguyen will be running most of the meeting. We are still working on the agendas for next week. As a preview, it is looking like we will not have a meeting on Monday. I will confirm that tomorrow. We will have meetings the rest of the week as we continue to get bills to the Committee. The times for each day have not been set, but I will let you know before the meetings are agendized.

This meeting is adjourned [at 10:19 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.

[Exhibit C](#) is a proposed amendment to Assembly Bill 25, submitted by the Nevada Attorneys for Criminal Justice, and presented by Jim Hoffman, representing the Nevada Attorneys for Criminal Justice.

[Exhibit D](#) is a letter to Chairman Yeager, dated February 16, 2021, submitted by Bill Hart, Deputy Alternate Public Defender, Washoe County, in support of Assembly Bill 36.

[Exhibit E](#) is a written statement from Steven Cohen, Private Citizen, Las Vegas, Nevada.