

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

**Eighty-First Session
March 2, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:06 a.m. on Tuesday, March 2, 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 Elaine Marzola
Assemblyman C.H. Miller
Assemblyman P.K. O'Neill
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblywoman Lisa Krasner (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Selena Torres, Assembly District No. 3

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
Jordan Carlson, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Sarah K. Hawkins, Chief Deputy Public Defender, Clark County Public Defender's Office; and representing Nevada Attorneys for Criminal Justice
Ashley White, Private Citizen, Las Vegas, Nevada
Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson
Tonja Brown, Private Citizen, Carson City, Nevada
Annemarie Grant, Private Citizen, Quincy, Massachusetts
John J. Piro, Deputy Public Defender, Clark County Public Defender's Office
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Jodi Hocking, Private Citizen, Reno, Nevada
Jennifer P. Noble, Chief Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association
Shea Backus, Nevada Commissioner, Uniform Law Commission
Kaitlin Wolff, Legislative Counsel, Uniform Law Commission
Kirk D. Kaplan, representing Business Council of Canada and Nevada

Chairman Yeager:

[Roll was taken and Committee protocol was explained.] Good morning to Committee members and those in the public who might be watching on our YouTube channel. Welcome to Day 30 of the 81st Session of the Nevada Legislature. If you are keeping tally at home that means we are 25 percent of the way through the session already, which is quite stunning, to be honest. It seems like it has gone very quickly. Because we have the luxury of having two bills on the agenda today, so we can pivot, we are going to hear the bills in the reverse order that they appear on the agenda. At this time, I will open the hearing on Assembly Bill 160.

I will let members know in case you did not have a chance to see, there is an amendment that is up on the Nevada Electronic Legislation Information System (NELIS) that has been provided by the sponsor of the bill. I also believe there is a proposed amendment provided by someone in opposition to the bill. We will have an opportunity to review both of those. I want to welcome back to the Assembly Judiciary Committee Assemblywoman Torres, who served on this Committee last session. Assemblywoman Torres, it is nice to have you back in the Committee and I believe, if I am not mistaken, that Vice Chairwoman Nguyen might be assisting with the presentation of the bill. We will give you a chance to go through A.B. 160 and the proposed amendment and then I am sure we will have questions. Please proceed when you are ready.

Assembly Bill 160: Revises provisions governing credit awarded to reduce a sentence of imprisonment. (BDR 14-173)

Assemblywoman Selena Torres, Assembly District No. 3:

Today I am here to present Assembly Bill 160, which revises provisions governing credit awarded to reduce a sentence of imprisonment. First, I am going to start with some background information, and then I am going to do a quick breakdown of the bill.

During the second week of session, a former student called me as he prepared for his sentencing hearing the next day. For the last year, his sentencing date has been regularly pushed back because of COVID-19 and safety measures. And through it all, he has been on residential confinement. He has been in residential confinement for nearly 13 months. He also mentioned that he would not be getting any credit for the time he has served on residential confinement. It was a very challenging conversation to say the least. He did exactly what we want people to do. He moved to a different side of town from where the violence had started. He started working, and he recognized that he needed to get on the right path. He started making those life changes. That is exactly what we want of individuals who are serving time in any location.

Residential confinement is also known as house arrest; it is punishment. It is punishment that defendants undergo while they are awaiting trial. Their movements are restricted and electronically monitored. The only reason they can leave their house is to go to work, to go to court, to meet with their lawyer, or to go to a doctor's appointment. If a person is in a county jail or prison awaiting trial, the court can allow credit for the time spent to reduce the person's sentence. However, if a person is subject to house arrest while awaiting trial, credit is generally never given. People are given credit for time served on house arrest after their conviction, but not before their conviction. This bill is important because house arrest is a punishment. People like my former student who have spent a long time on house arrest and have abided by the rules of the court should be allowed credit towards their sentence. As we have this conversation, it is important to note the fiscal impact that this has on the hard-working Nevada families. To incarcerate someone, it costs Nevadans \$150 a day. This comes at a cost for our community.

Next, I am going to go ahead and go through the sections of the bill. I would like to remind Committee members that I will be working off of the mock-up today that you should all have a copy of and that is posted on the Nevada Electronic Legislative Information System (NELIS) as well. I did submit an amendment for this bill [[Exhibit C](#)], and it was based on my conversations with different parties and stakeholders of this bill. Section 1 would require, rather than authorize, credit for time spent in confinement before conviction. It also gives the court discretion to allow credit for time spent in residential confinement before conviction to reduce a sentence. That is cleanup language, if anything. I understand there is another proposed amendment and I have been working with our stakeholders so that we can find some middle ground. The conversation right now is whether misdemeanors should be off of the table completely, or whether there should be some type of partial credit for misdemeanors, the reason being that with a misdemeanor, we must recognize that their

sentencing time might be less. I have been working with the stakeholders, and I really do appreciate the time they have spent meeting with me so that we can find some middle ground. I am not sure if Vice Chairwoman Nguyen would like to add some additional remarks. If not, then we can go to questioning.

Assemblywoman Nguyen:

Just briefly, that is cleanup language in the amendment that was submitted by Assemblywoman Torres. I think that everyone generally understood that you should get credit if you are in jail. If you are awaiting your trial or you are awaiting your sentencing and you were physically in a jail, you should get credit for that jail time. Unfortunately, the language in our statutes said "may." There has been case law—and I know that this is getting very technical—that has already cleaned that up. This is some cleanup language that makes our statutes consistent with what the case law is that says that if you were incarcerated and were physically in a jail, you do get credit for that time towards your actual sentence.

The other section of that proposed language authorizes judges, and gives them the authority, to take into consideration whether or not people are doing the right thing when they are on house arrest or residential confinement. It allows them the authority that they may give credit towards that time if they are on house arrest or residential confinement. Some of that is cleanup language just to make it consistent with common sense and the case law out there, but it also authorizes judges to reward good accountability that people have done with credit.

I will confirm what Assemblywoman Torres said about misdemeanors. It is unique because, especially now, it is more relevant during a pandemic. If someone were to be placed on house arrest, the maximum penalty for a misdemeanor is six months in custody. And if you served six months waiting for your trial on house arrest, your sentence would be accomplished just by the nature of the house arrest. We are continuing to have ongoing conversations with them. This is a bill that was brought during the 2019 Session and I believe it passed out of this Committee unanimously with that amendment with the misdemeanors. We did have this conversation extensively last session, for the returning members. For the new members, if you would like to go back and see some of that testimony from 2019, I believe that is available on NELIS as well. With that, Assemblywoman Torres, do you have any further comments on that?

Assemblywoman Torres:

No, I just want to say that the bill number from last session was Assembly Bill 109 of the 80th Session in case there is anyone who does want to go through and reread those minutes.

Chairman Yeager:

Thank you to the both of you and thank you for highlighting the bill from last session. As indicated, that bill did pass out of the Assembly Judiciary Committee and it did get a vote on the Assembly floor. I believe it was unanimously supported on the Assembly floor. It did not, however, make it out of the Senate Judiciary Committee, so that was the fate of the bill last session. We are back again this session with the same concept. With the presentation behind us, are there questions for Assemblywoman Torres or Vice Chairwoman Nguyen from Committee members?

Assemblyman Wheeler:

I like the concept of the bill, but I am wondering, as we get into more discussions on cashless bail, which I am sure is going to show up in this session, how is this going to affect that as far as if someone gets arrested for something and they are detained until trial; they cannot make their bail, et cetera, so they are put on house arrest until trial? If it is a cashless bail thing, would that reduce the time? I am trying to figure out how it all fits together; maybe I am not asking the question correctly.

Assemblywoman Nguyen:

The way it currently works in most of our jurisdictions is, let us say: a crime occurs, it is investigated, a suspect is arrested, and they are brought to a detention center. Like in Clark County, for example, you see a hearing master or a justice court judge almost immediately, usually within 48 hours, to address your custody status. In fact, recently most of these courts have lots of options now for pretrial release. Cash bail is an option, house arrest is an option, and even the house arrest programs are extensive. If you are on house arrest, not only are you confined to your home unless you have a legitimate job, you cannot be paid under the table because you have to provide your work hours and other verification. They also have random drug and alcohol testing. Sometimes there are conditions of release that include random drug and alcohol testing or other types of treatment. They are extensive. So that is what happens. A lot of time people may be released with no cash bail, but they do have these other conditions like house arrest.

Chairman Yeager:

Are there any other questions from Committee members?

Assemblywoman Hansen:

This is more of a comment. I was here for the last session when we went through this bill and I think it is interesting that we are revisiting this bill now. It might be in your favor that we are doing it in a pandemic, because I think all of us understand now a little bit about house arrest, having to have our activities curtailed over the last 11 months or so. That might work in your favor and I am glad to revisit this bill. I appreciate the work you are doing, and I hope you can work things out in the amending process.

Chairman Yeager:

Let us go next to Assemblyman Orentlicher.

Assemblyman Orentlicher:

My question is about section 2. I like this bill a lot but as I read section 2, it seems like it might not apply to your former student. I am curious about your thinking and about not making it retroactive.

Assemblywoman Torres:

This legislation is not going to apply to my former student. This is pretty common for it to take place after the fact. I think that if we were to put it retroactively, it would probably come with a fiscal note as those individuals would have to be resentenced. That would make it very costly for the state of Nevada. I believe this is going to be excellent for individuals who have not yet been sentenced by October 1, 2021. Unfortunately, I do not feel comfortable putting a fiscal note on this piece of legislation at this time.

Chairman Yeager:

Let us go next to Assemblywoman Cohen.

Assemblywoman Cohen:

On the "may," with the court having discretion, is the court going to have pretrial reports or anything similar that they can go from? Or what is the court going to have to make their determination?

Assemblywoman Nguyen:

Currently what happens with places that utilize house arrest programs is if you are successful, you get a report, and the report typically goes to the court and the judge. It also goes to the defense counsel as well as the prosecutor to let you know if you have had any violations while on house arrest. If you do have violations on house arrest, for example, if someone tests positive for drugs or alcohol, then they are brought back in. There, a report will be produced that will say that the defendant was on pretrial house arrest incarceration, they tested positive for alcohol, marijuana, or illegal drugs on this date, and they will be brought back into custody. That is typically how it works, so you can know how long someone is on house arrest in that report. I imagine it would be very seamless for the court to be provided with information on pretrial residential confinement.

Chairman Yeager:

Do we have any further questions from Committee members?

Assemblywoman Hansen:

Do we have any statistics to show the difference in recidivism between people who have been physically incarcerated and those who are under house arrest, and how this works in helping people stay with their jobs and provide for their families? I mean the positive aspects besides the financial benefits to the state.

Assemblywoman Nguyen:

I do not know offhand, but I do recall last session when Assemblyman Fumo was presenting the bill, I remember there being some testimony in that area. I do not know if

Assemblywoman Torres has anything, but I am sure there is plenty of information out there that can speak to it. I think your instincts are right on. If someone is on residential confinement, I think they have that punitive aspect where they have a physical reminder to stay out of trouble and to stay home, and if they are fortunate enough to be able to maintain their job, obviously, that is what we want to encourage.

Assemblywoman Torres:

I can get back to you with an answer. I am not sure if our policy analyst has any information on that, or testimony that might help to answer that as well.

Assemblywoman Hansen:

That is fine, we can continue the meeting. But if that is something we can get offline later, that would be good. We might be able to get it from former Assemblyman Fumo, or maybe there is some updated information that we will hear about in testimony.

Chairman Yeager:

Do we have any other questions from Committee members?

Assemblyman O'Neill:

I may have missed this, but can you explain to me the conflict between your amendment and what the City of Henderson is proposing?

Assemblywoman Torres:

The difference in the amendments is that the City of Henderson's amendment [[Exhibit D](#)] changes it so that misdemeanors would not get credit for time served under house arrest. At this time, we are still working with Henderson and some of our other key stakeholders. We continue to have a conversation about whether this should be applicable to misdemeanors or if this should be applicable to a partial credit or something like that. We are continuing to have a dialogue and we are open to the ideas of this Committee.

Assemblyman O'Neill:

And it is just in misdemeanors, correct? Is that the conflict they are having with you? And it is only in Henderson?

Assemblywoman Torres:

Henderson is the only municipality that brought forth the amendment to me, but we had a conversation with several of our stakeholders yesterday. To reiterate, the conversation really is that a misdemeanor might have a sentence of 120 days, so if you are under house arrest for 120 days, that would be the entire sentence. Your time served would have been the house arrest. And we understand there is a difference between incarceration and residential confinement. The dialogue continues to be whether there should be, for misdemeanors, some type of partial credit for the time served. We are working with Henderson among other municipalities to continue this dialogue.

Assemblywoman Nguyen:

For example, with a misdemeanor, the maximum penalty is 180 days in custody. If you were to be set for trial twice and have two continuances, that would put you at 180 days. And so, we want to encourage people to get treatment. We want to encourage people to do counseling if that is necessary. We want to encourage other aspects of rehabilitation, retraining, counseling, and therapy. Under a misdemeanor model, if you give full day-to-day credit, you might not be able to capture some of that therapy or help that you would want, because the sentence is so short.

Assemblyman O'Neill:

Maybe I have been out of the court system too long, but are most misdemeanors not given house arrest anyway, so they can keep their jobs?

Assemblywoman Nguyen:

Unfortunately, the opposite is true in my experience. I can tell you we do not have that system, and most of the municipal courts do not utilize house arrest as regularly as our felony and justice courts.

Chairman Yeager:

Do we have any further questions from the Committee? [There were none.] Before I go to testimony, I want to tell you that I was fact-checked. Technically, Assembly Bill 109 of the 80th Session did not pass the Assembly floor unanimously. Assemblyman Hambrick was absent/excused. It was 41 votes in favor and one absent/excused. So, technically that was not unanimous, although it was unanimous of those present and voting.

Are there any more questions on this bill? [There were none.] Thank you to the presenters. I will have you sit tight while we take some testimony, and then I will give you a chance to give your concluding remarks. I will now open it up for testimony in support of A.B. 160. I do not believe there is anyone on Zoom with us for support. Can we go to the phone lines to see if we have folks in support there? I am under the belief that we may have a few of them.

Sarah K. Hawkins, Chief Deputy Public Defender, Clark County Public Defender's Office; and representing Nevada Attorneys for Criminal Justice:

I am here testifying in support of the unamended version of A.B. 160. The crux of my testimony is that confinement, no matter what that looks like or where it takes place, is a restriction on liberty. Those who are subject to that confinement should get credit for those days in which they were confined. I think this makes perfect sense in light of the Nevada Supreme Court's recent *Valdez-Jimenez* decision [*Valdez-Jimenez v. Eighth Judicial District Court*, 136 Nev. Adv. Op. 20 (2020)], which makes clear that a pretrial condition while you are innocent and pending trial is a liberty restriction. Residential confinement is a liberty restriction. One of the other examples I can point to is that there are different levels of custody within a jail. You have maximum security, you have close security, you have medium security, you have lower security inmates, and every one of those folks receives credit towards his or her sentence. Just because confinement happens outside of the jail,

it does not mean you do not have an officer telling you what to do, where you can go, how you can do it, and who you can see. Because of those limitations, we are in support of A.B. 160, which would give those who are subject to confinement the time that they are entitled to.

Ashley White, Private Citizen, Las Vegas, Nevada:

I am here today to read a letter from a person who is personally impacted by A.B. 160 and home confinement. She asked me to read it on her behalf. [Ms. White read from a letter.]

It is very hard to understand that being on home confinement is not much different than actually being incarcerated. But from personal experience, it is not. When you are in jail, you will take any way out and are desperate to just be out. But being on house arrest is very difficult for anyone, that includes your family. I am currently on home confinement and am living with my elderly parents. They are on a fixed income. They pay for my personal expenses, they buy my food, and they have to run all of my errands during this pandemic. This is especially difficult. They have their own rent and bills to pay. I am very lucky to have them because many people do not have that same luxury. I do not get to go to any religious services. I have missed birthdays; I have missed many events. I get to watch everyone leave and hear my kids and family wish I was there; just like they did when I was in jail. It is very disheartening to me to know that this time is a waste for me when it comes to my time. This is a waste. All this time I am missing with my family and I can still miss even more when it comes to the resolution of my pending charges—charges that I have not been found guilty of and charges that I may never do time on. I did not kill someone. I do not even need jail or prison. I need treatment for my struggle with drugs. I am in support of unamended A.B. 160 because time served should be time served and we should get credit regardless of where we serve it. This is not freedom, and the loss of it is my punishment. If, or when, I am convicted, in a country that says we are innocent until proven guilty, it definitely does not seem that way. Thank you for bringing this bill.

In addition, I would also like to say that I am in support of unamended A.B. 160, and Assemblyman Watts, I live in your district and look forward to meeting with you during the session.

Chairman Yeager:

Could we go to the phone line for the next caller please? Due to technical difficulties, I am going to suspend our support testimony. We will come back to that in a moment, when we get the technical issues figured out. At this time, I am going to open it up for opposition testimony. We do have Mr. Cathcart from the City of Henderson with us on Zoom, so he is not subject to the ongoing technical difficulties at the moment. We will give him a chance to provide his opposition testimony.

Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:

I appreciate being able to present our amendment. I want to thank Assemblywoman Torres and Vice Chairwoman Nguyen for the very positive meeting we had yesterday on this bill. We did have stakeholders together. We had a good conversation about the amendment [\[Exhibit D\]](#) that we are bringing today and what we are going to need for further discussions. I do want to address Assemblyman O'Neill's question. I am happy to reach out to some of the other municipalities and find out where they are on this bill. It is not just a Henderson amendment. I will reach out to Las Vegas, North Las Vegas, and the City of Reno to see where they are as far as supporting our amendment.

As far as the mechanics of our amendment, it adds a subsection 2 to section 1 that would provide an exception for misdemeanors. I really think the merits of why the amendment was needed have already been discussed. It really has to do with the clock running on things like continuances and the ability to incarcerate someone for a misdemeanor, which has a limit of six months. One or two continuances and you have already run the clock on that sentence. That is why we would like to see the misdemeanors exempted. But we are also going to have further discussions with the bill's sponsor. We committed to that yesterday in the stakeholder meeting. With that, I would be happy to answer any questions.

Chairman Yeager:

I do have a question for you from Assemblywoman Cohen.

Assemblywoman Cohen:

Can you please tell us when Henderson decided to propose the amendment or oppose the bill? What was that based on as far as input? Is this just based on the city attorney's ideas, or was there communication with the union court judges in Henderson and the justice court judges in Henderson? Who is part of that decision-making? Or whose input was sought?

Mike Cathcart:

The input on the amendment that we are proposing today came from our city attorney's office. It is the exact same amendment that we proposed last session. That comes from the chief of our criminal division. I believe that our judges are supportive, but I will have to check on that for you. I will follow up with you today.

Chairman Yeager:

Let us go to Assemblyman Wheeler for another question.

Assemblyman Wheeler:

I am of two minds on this. Confinement is confinement, and I think we have all seen it during the pandemic, as Assemblywoman Hansen said. But on a misdemeanor charge, I understand what you are saying, that maybe the six months is already done with a six-month sentence, and if the original bill goes through, it would negate any type of punishment other than the original confinement. What I am wondering is, do you see any civil liability here? I do not think there can be, but I wanted to put this on the record.

Let us just say that someone was confined for a year and was found innocent of all charges. Do you see any civil liability if we put this through, making confinement, confinement—that we have confined someone for a year with a not guilty plea?

Mike Cathcart:

From a civil standpoint, I will have to talk with our civil attorneys on that. But I do not see that. It would be part of the pretrial release program. I do not believe we can be held civilly liable for preparing for the trial. But, again, I can follow up with you on that.

Chairman Yeager:

Any further questions before we let Mr. Cathcart go? [There were none.] Now I am going to suspend opposition and we are going to go back to testimony in support. I think we have our technical difficulties worked out. If that is the case, can we go to our next caller in support of A.B. 160?

Tonja Brown, Private Citizen, Carson City, Nevada:

We do not support the amendment from the Henderson City Attorney's Office. We do like the bill as written but would support Assemblywoman Torres' amendment.

Chairman Yeager:

Could we take the next caller in support please?

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I am in support of the bill. I would just like to echo the previous caller's sentiments. I do not support the amendment, but I do support the original bill as is.

Chairman Yeager:

Are there any more callers in support?

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

We support this bill and the amendment. We appreciate the opportunity to be able to argue for credit on a sentence for home confinement before a person is sentenced. Often delays in trial or a resolution of a case are out of the control of an individual defendant. Sometimes the state asks for continuances and sometimes our side asks for continuances to discover evidence. But what we have learned is that a lot of the times it is out of the defendant's control, especially with the COVID-19 pandemic. Providing a credit for a successful stay on house arrest is fair and comports with due process.

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:

I will say ditto to the testimony from our colleagues at the Nevada Attorneys for Criminal Justice and the Clark County Public Defender's Office. We are very pleased to see this legislation before you again and hope we can get it through to the Office of the Governor. We are prepared to assist in any way we can.

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

We are in support of this bill and the amendment. We want to thank Assemblywoman Torres for bringing this important piece of legislation back for this Committee's consideration. In respect to Assemblywoman Hansen's question about how this impacts recidivism, there are several studies which indicate that it does significantly improve an offender's ability to be rehabilitated. The U.S. Department of Justice had a National Institute of Justice study done which indicated that there was a risk of a failure increase of 31 percent compared to offenders placed under other forms of community supervision. We appreciate all of the hard work that has gone into this bill, and for those who have had to pay for house arrest, which is an extremely costly device, we hope that this will allow people to receive the benefits from doing well while on supervision.

[[Exhibit E](#) was submitted but not discussed and will become part of the record.]

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

I also want to echo the sentiments of those who spoke before me and to add our support for this legislation to the record.

Jodi Hocking, Private Citizen, Reno, Nevada:

I am the founder of Return Strong: Families United for Justice for the Incarcerated. My husband is incarcerated at Southern Desert Correctional Center. I am actually in Assembly District 25. I am here today representing over 1,000 members composed of incarcerated people, previously incarcerated people, family members, friends, and supporters of them. I want to thank the sponsors and cosponsors of the bill who have the courage to step up at making Nevada a state that is working towards creating more just communities. The reality is that time served is time served, as my other comrades have said, no matter where you serve it. If you serve it in jail or in the community, giving people good time credit for home confinement is just one way to take a small step towards equity and justice, for all of the reasons that have been previously mentioned, and because it really is the right thing to do. Return Strong is in support of A.B. 160 and we implore you to continue to look at policy and legislation that offer justice in the criminal justice system.

Chairman Yeager:

Do we have other callers in support? [There was no one.] I will close testimony in support. Let us go back to testimony in opposition. Mr. Cathcart, I wanted to ask if you are still there on Zoom with us. Thank you for rejoining us. Assemblywoman Summers-Armstrong had a question she wanted to ask.

Assemblywoman Summers-Armstrong:

Mr. Cathcart, there has been a statement that I am trying to get some clarity on, and that is the cost of home confinement. If a person is on a misdemeanor charge and he or she is on home confinement, can you give me an idea of what the cost would be of that confinement, pretrial?

Mike Cathcart:

I will be happy to look into that and get you an answer. I believe there would be costs in the monitoring of that individual. We will need to take a look at that. I would be happy to get that answer and get it to the whole Committee.

Assemblywoman Summers-Armstrong:

If I am understanding this situation properly, there is a pretrial cost for monitoring, and the maximum that I have heard today is 18 months maximum for a misdemeanor. If a person is then convicted of the misdemeanor and given six months, not only would he or she have additional confinement but would also have to continue to pay that cost, if not in municipal jail, for the additional six months?

Mike Cathcart:

The maximum sentence that can be levied on a misdemeanor is six months. If it were 18 months, it would be a completely different conversation. The reason we are bringing the amendment is because of the six-month sentence limitation under misdemeanors. Following up on the last bit of your question about the cost, I am happy to get that information. I do not have that at my fingertips on what it costs to monitor someone on home confinement. I just want to clarify that we are limited to six months on a misdemeanor offense.

Assemblywoman Summers-Armstrong:

Can you explain why it is important for the City of Henderson to have the option to not be able to apply any credit for home confinement? I saw your amendment, but I just do not understand what the opposition is. Maybe I missed it in the conversation.

Mike Cathcart:

I believe what we are looking at is, if the time has run on the misdemeanor charge and we are not able to impose any sort of sentence, or a suspended sentence, then we do not have the ability to make sure the sentence is carried out. It could be anger management classes, it could be DUI classes, or it could be a lot of other things. We need a mechanism to make sure that those things happen after the trial. If the entire sentence has already run on the confinement option, we would not have a way to make sure that those post-trial sentence requirements are met.

Chairman Yeager:

Vice Chairwoman Nguyen, did you want to add something on that question, from your perspective in the field?

Assemblywoman Nguyen:

I can tell you that house arrest, just so people are aware, can cost anywhere between \$8 and \$20 a day. Certain jurisdictions have different requirements. For example, the Clark County Detention Center's pretrial division inmates or people who are incarcerated and put on pretrial house arrest do not have to pay for house arrest. It is included. For a lot of other jurisdictions, those costs do go on the defendant, pretrial, to pay for that. There are a lot of varying degrees on whether costs are incurred and who incurs those costs. I think some

jurisdictions realize that they are saving by putting people on house arrest and not incarcerating them in their detention facilities. And some people do not have the mechanisms yet to have that, so the costs do go on the particular defendant.

Chairman Yeager:

Assemblywoman Kasama, did you have a question for Mr. Cathcart?

Assemblywoman Kasama:

Mr. Cathcart, if the judge still had the ability to mandate, for example, anger management classes or drug help classes, would that alleviate the concern, so that the time spent on house arrest would still cover the sentence? But if the judge had leeway to impose additional counseling or treatment, would that make it work for you, allowing the house service for the misdemeanor?

Mike Cathcart:

I think the problem there is if the entire six months has run through a continuance to the trial, and they are given credit for the entire six months, there would be no mechanism to make sure that they go. Even if the anger management classes—or whatever mitigation classes are ordered by the judge—and the rest of the sentence is suspended, there is no hammer to make sure they go and take those anger management classes or do their DUI school. We have to make sure that there is some sort of punishment mechanism to make sure they go to those classes.

Assemblywoman Kasama:

I understand that. So, if you had a punishment mechanism, for example, if they had to return to jail, and if they did not follow those, would that be enough of a hammer and is that perhaps something we could look at?

Mike Cathcart:

I think we are on the same page. Under statute, we still have to have some time. We are limited under the *Nevada Revised Statutes* (NRS) to six months. If that six months has already run under residential confinement, we are unable to levy any other confinement after that. We are limited to the six months.

Assemblywoman Kasama:

Maybe this is an opportunity, since we are presenting the bill, to add in the hammer, as you say, that they could go back for incarceration if they do not fulfill classes that are ordered by the judge.

Assemblywoman Nguyen:

I think the bill actually does that. It is discretionary for the judge to give credit. If people want to be able to have some additional leverage for people to complete, like any requirements of their ultimate sentence, it would be up to the judge to determine if they wanted to give credit or partial credit for that time spent on residential confinement.

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

I am testifying in opposition on behalf of my office and the Nevada District Attorneys Association. We do appreciate the intent behind this bill, but we are in opposition today. A day on house arrest is simply not the equivalent of a day in a detention center. Credit for time served needs to reflect that. If you have two defendants who have similar backgrounds, who committed similar offenses, and one remains in the detention center for one reason or another and the other makes pretrial release with house arrest conditions—maybe because they can afford it in their jurisdiction—one person is going to be earning that credit in jail and the other is going to be earning that credit in their residence. If their sentences are similar, one of them is going to spend a lot more time confined behind bars. This is not equitable. People under house arrest are not just shut in their residence with no ability to leave. Yes, they are monitored and it is a restriction of their liberty, but I disagree with the representations of earlier callers that time served is time served.

I am sure that anyone on this Committee can imagine, whether he or she is a parent or not, that the ability to see and hug your child, to sleep in your own bed, wear your own clothes, choose what you eat for dinner, and to step into your yard when you want to are big differences in terms of what people on house arrest experience versus people who are confined behind bars in an institution. In many ways, it is arguably closer to the conditions we have all experienced over the last year than it is to somebody who is locked inside a detention facility with other people who might be dangerous. They are sharing rooms and toilets with people and not necessarily having a door when they go to the bathroom.

These are big differences between house arrest and incarceration. That has to be reflected in the credits awarded. It is not equitable. It does play a factor in sentencing. When people are sentenced to house arrest, their defense counsel can argue about their participation in house arrest as a mitigating factor. The judge might give them a lighter sentence on the back end because of the defendant having participated in house arrest and did so without any violations.

Additionally, this makes our already confusing prison credit scheme more confusing. I know many of you follow the Advisory Commission on the Administration of Justice. Justice Hardesty has come and told other members on numerous occasions about how confusing our credit scheme is. Victims do not get it; prosecutors often do not understand it. Just using house arrest credits to reduce somebody's time in prison, in our opinion, adds to a confusing scheme for victims.

It is for those reasons that we are in opposition here today. We remain committed to working with the sponsors to see if we can come to some sort of common ground on this bill.

Chairman Yeager:

Are there other callers in opposition? [There was no one.] I will close opposition testimony. Let us go to neutral testimony. This does not seem like a bill where we are going to have neutral testimony, but let us check anyway. Is there anyone on the phones who would like to

testify in neutral? [There was no one.] We will go ahead and close neutral testimony on the bill. I would like to turn it back over now to Assemblywoman Torres and Vice Chairwoman Nguyen to make any concluding remarks on A.B. 160.

Assemblywoman Torres:

Thank you, Chairman, and thank you, Committee, for indulging us for the presentation today. I just want to iterate that, currently, we do get credit for house arrest post-sentencing. It just makes sense that we do this for pretrial residential confinement as well. As Assemblyman Wheeler said, confinement is confinement. I think we recognize that in a new way. During the quarantine period in early 2020, many of us may have felt that we were just as confined, but the restrictions on individuals under house arrest are even more confined. They cannot go for a walk like I would indulge in very early on. They do not have the privileges and some of the very basic things that we appreciate in our everyday life. Confinement is confinement. I look forward to continuing to work with our stakeholders to pass a strong piece of legislation that will protect the liberties of our community.

Chairman Yeager:

Vice Chairwoman Nguyen, would you like to make any concluding remarks?

Assemblywoman Nguyen:

No, I will waive that, but I am available if anyone has any questions offline regarding how the process actually works in practice. I look forward to having those continued conversations with not only the Nevada District Attorneys Association, but the City of Henderson and these other municipal jurisdictions as well.

Chairman Yeager:

Thank you both for presenting the bill. Assemblywoman Torres, if you could just keep me updated on progress in terms of further amendments on the bill, I would appreciate it. Thank you for joining us here; it is good to see you again in the Assembly Judiciary Committee. I suppose you are now released to head back to the Assembly Government Affairs Committee.

I am going to close the hearing on Assembly Bill 160. We are now going to go to our first bill listed on the agenda. I will open the hearing on Assembly Bill 145. We are going to be shifting gears on this one.

Assembly Bill 145: Adopts the Uniform Registration of Canadian Money Judgments Act. (BDR 2-772)

So, we went from criminal law and incarceration to civil law and money judgment, which is going to make for a good discussion, I believe. We have our own Assemblywoman Cohen to present the bill. She has some presenters with her. I want to welcome back to the Committee our former colleague, former Assemblywoman Shea Backus. It is good to have you back in the Judiciary Committee and to see you if only virtually. I believe we also have Ms. Wolff

and Mr. Kaplan. Thank you all for your patience in sitting through that first bill hearing this morning. Assemblywoman Cohen, when you are ready to kick things off, please go ahead.

Assemblywoman Cohen, Assembly District No. 29:

I am honored to present A.B. 145, the Uniform Registration of Canadian Money Judgments Act. The Uniform Registration of Canadian Money Judgments Act was drafted by the Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, which is an organization composed of volunteer attorney commissioners appointed by the 50 states, the United States territories, and the District of Columbia. Since 1892, the ULC has drafted nonpartisan legislation in areas of state statutory law where uniformity is necessary and beneficial. Nevada has a long history of enacting uniform acts. In fact, Nevada has enacted over 100 uniform acts, such as the Uniform Commercial Code (UCC), the Uniform Child Custody and Jurisdiction and Enforcement Act, the Uniform Transfers to Minors Act, the Uniform Anatomical Gift Act, and the Uniform Deployed Parents Custody and Visitation Act. The Nevada Legislature passes these acts because they are good law for our citizenry. Uniform Law Commission members must be lawyers who are qualified to practice law, and ULC commissioners are practicing lawyers, judges, legislators, legislative staff, and law professors. Like several other current and former Nevada legislators and Legislative Counsel Bureau attorneys, I am a uniform law commissioner, having been appointed after my first term in the Legislature.

Before I introduce my fellow presenters and they get into the bill, I am going to give you a taste of what it is like to serve on a drafting committee with the ULC. I currently serve on the Uniform Parentage Law Redrafting Committee, which was started in 2017. Along with commissioners, top practitioners in the field, law professors, judges, and stakeholders, we all meet in person and telephonically several times to work to draft the best law possible. It is basically going line by line in the proposed law. The law is also vetted by a separate style committee and—along with the full commission consisting of commissioners from all 50 states, the District of Columbia, and the territories—has the opportunity to debate the act. Please note that ULC can only propose and advocate for acts. No uniform law is effective until it is adopted by state legislatures.

Presenting with me today is Nevada Uniform Law Commissioner Shea Backus; Kaitlin Wolff, Uniform Law Commission legislative counsel; and Kirk Kaplan, who is a Nevada attorney, a certified public accountant, and a member of the Business Council of Canada and Nevada. I will now turn the presentation over to Commissioner Backus. Chairman, I just want you to know, because you are often concerned about continuing legal education (CLE) credits and that we should get them, but we never do, Nevada does give CLE credit for attending the yearly Uniform Law Commission Conference and working on the drafting committees. With that, I will turn it over to Commissioner Backus.

Shea Backus, Nevada Commissioner, Uniform Law Commission:

Today, it is my pleasure to introduce A.B. 145 with Assemblywoman Cohen, who is also a ULC commissioner. I want to take a moment to thank Assemblywoman Cohen for sponsoring this uniform act. The Uniform Registration of Canadian Money Judgment Act

is designed to work alongside the Uniform Foreign-Country Money Judgments Recognition Act, which Nevada adopted in 2007. This Recognition Act is now codified in *Nevada Revised Statutes* (NRS) Chapter 17. With the enactment of the Uniform Registration of Canadian Money Judgment Act, a Canadian judgment, once registered pursuant to the act, may be enforced in the same way as a judgment rendered in the state. There are several advantages to enacting this registration act.

First, it streamlines the recognition and enforcement process of a Canadian money judgment. Under the current Uniform Foreign-Country Money Judgments Recognition Act, a person who has received a judgment has to file a lawsuit in order to have their foreign judgment recognized. The Registration Act offers an expedited administrative process to accomplish the same goal. This ultimately reduces legal costs associated with enforcing the legal judgment. Second, the process established in the Registration Act was designed to reduce judicial workload and help decongest court dockets, because it does not require the court to hold a full judicial proceeding to recognize and enforce a Canadian money judgment. Third, this Registration Act establishes a registration procedure similar to the Canadian registration procedure regarding foreign judgments, including a judgment secured in Nevada. This similar registration procedure will benefit those registering judgments from Canada in Nevada under this act and those registering Nevada judgments in Canada under the Canadian statutes. Most importantly, the enactment of this act will facilitate commerce between Nevada and Canada.

Canada is one of the United States' most important trading partners. The Registration Act facilitates commerce between the two countries by offering a streamlined, less expensive procedure for the recognition and enforcement of money judgments, which are a result of commercial activity between the nations. According to the Business Council of Canada, a nonprofit, Canada is Nevada's third-largest export market; prior to COVID-19, 82,800 Nevada jobs depended on trade and investment with Canada. Thus, streamlining recognition and enforcement of Canadian money judgments in Nevada will continue to facilitate commerce between Canada and Nevada.

The timing of this hearing is quite interesting as it was about two years ago that there was Canada Day at the Legislature. I understand for those freshman Legislators now serving on the Judiciary Committee, with the building closed you will not get to see it, but Canada Day is where there were events throughout the day and a reception in the evening to exemplify the relationship between Nevada and Canada. At this time, I will turn this presentation of A.B. 145 over to Kaitlin Wolff, who is legislative counsel for the ULC, and she will walk you through the proposed sections of the bill.

Kaitlin Wolff, Legislative Counsel, Uniform Law Commission:

Assemblywoman Cohen has asked me to walk the Committee through the bill section by section to give you a sense of how it works. It is a rather short bill, so I do not expect this to take too long. Just to dive right in, sections 1 through 5 are the general introductory matters. They establish where this uniform act would be situated in the Nevada statutes, they establish the title of the act, and they set forth a couple of definitions you will see throughout the bill.

Section 6 of the bill is where the substance of the act starts to come into play. This section explains that this particular uniform act applies to a Canadian money judgment that falls within the scope of the Recognition Act. As Commissioner Backus already explained, the Recognition Act is a uniform act that Nevada has already had on the books for several years at this point. The uniform act you are considering today is a supplement to that act and is an alternative. Section 6 explains just how these two uniform acts work together.

Section 7 is really the meat of the act. Again, the whole purpose of A.B. 145 is that it establishes a simple, streamlined administrative procedure for how to register and get a Canadian money judgment enforced in Nevada. Section 7 explains what paperwork and documents need to be submitted to the clerk of a court in Nevada in order to jumpstart that process. Section 7, subsection 2, explains exactly the information that needs to be transmitted to the clerk of a court, and then subsection 3 explains what happens and what the clerk of a court does once he or she receives all of the documentation, information, and registration fees. At that point, the clerk needs to file the registration, assign a docket number, and enter the Canadian judgment on the court's docket.

Section 7, subsection 4, provides a sample form that could be used during this registration process. It contains all the information that is also listed in subsection 2 of the bill, just in a form format. And part 5, the last part of that sample form, also contains a handy checklist of attachments and documentation that would need to be transmitted to the court, along with the standard paperwork; for instance, a copy of that Canadian judgment and a translation of it if that happens to be in French or another language other than English. That is section 7. Section 7 is a huge portion of the bill here, laying out what documentation is needed.

Section 8 explains what comes next. Once the registration paperwork has been transmitted to the Nevada court and the clerk has entered the Canadian judgment on the court's docket, section 8 explains that that Canadian money judgment is enforceable in the same manner and to the same extent as a judgment that is rendered in Nevada. It is treated exactly the same. The enforcement procedure is just the same as a Nevada enforcement procedure would be. One important thing to note here in section 8 is that there is a grace period. You cannot just seek registration, have it put on the court's docket, and then go ahead and enforce or collect that money. There is a 30-day period of pause, because notice, of course, needs to be provided to the party against whom this judgment is entered.

And that is where the next section of the bill, section 9, comes into play. It is all about notice. The notice must be served on the person against whom the judgment has been registered. This section establishes what must be in the notice. This notice also makes it clear to the person that he or she has an opportunity to petition the court to vacate the registration. They have a 30-day period in which they can do that.

Section 10 establishes what grounds must exist in order to petition the court to vacate. If they want to get this registration thrown out, they may either argue that there is a ground for denial under the Recognition Act. So again, you already have existing uniform law in Nevada pertaining to these foreign-country judgments. There is a list of grounds under your

existing statutes. Or the person can argue to vacate the judgment because the registration procedure was not followed properly. Perhaps an attachment did not get to the court; perhaps the paperwork was missing or not filled out properly. That would also be a ground.

Section 11 then explains if an individual does choose to petition the court to vacate, he or she can also ask the court to stay enforcement of the judgment while they are waiting to hear back on the court's determination of that petition—stay meaning a pause where they do not try to collect on the judgment, they do not go after their assets, and do not try to collect—because they think there is a problem with the underlying Canadian judgment.

Section 12 of the act explains in more detail how this registration procedure integrates with the Recognition Act that we have mentioned a couple of times. Essentially, it lays out that if somebody wants to recognize and enforce a Canadian money judgment in Nevada, they have two options. They have either this new registration procedure under A.B. 145, or they are also welcome to use the existing procedure under current law, which would be filing a lawsuit and doing a little more of an extensive procedure. That is still an option. This section of the bill makes it clear that you cannot pursue both options at the same time. You are either going to seek registration through this act or go through the previous, existing law procedure.

Sections 13 and 14 are pretty standard. One is our uniformity language that is a part of all our uniform acts, in section 13. Section 14 contains the effective date of the bill. And that is a quick run-through of the bill. At this time, I will turn it over to Kirk Kaplan, who I believe will give a couple of comments next.

Kirk D. Kaplan, representing Business Council of Canada and Nevada:

I help Canadians with structuring their investments, including businesses in Nevada. I help them plan for positive tax results between Canada and the United States for income tax purposes. And I help them avoid and lessen court involvement in the event of their incapacity or after their death. Assembly Bill 145 is another one of those acts that will help Canadians reduce court involvement here in Nevada. And thus, it would improve our trade with Canada. Assembly Bill 145 is nothing new regarding uniform acts, as Assemblywoman Cohen and Commissioner Backus explained. Another statute uniform act regards international matters. Nevada already has international laws in NRS Chapter 133A, which is the International Wills Act, where we can domesticate Canadian last wills and testaments to be accepted in Nevada. We do not have a lot of litigation, whether they were properly executed in a province or territory.

As such, A.B. 145 is just one of many natural progressions that Nevada should recognize as we broaden our trade with Canada. I am sure you know that Canada is one of the United States' most important trading partners in the world. Just to quote James George, a professor of law at Texas A&M University, in his *Hastings Law Review* article in November of 2020 discussing the uniform law that A.B. 145 now is, he wrote, "Vibrant economies benefit from predictable and consistent judgment enforcement regimes." Canada has many shared western values with the United States, including similar due process

requirements and other legal and judicial matters. I know this. I have been involved in a few litigation matters, not personally, but I helped other people in Canada. While I am not licensed there, I have been involved in some litigation matters, and I know that their judicial process is similar to ours. It is a bit different, but similar. Allowing Canadian judgments to be entered into Nevada does not strain Nevada's concepts of due process. And as such, it is wise to allow A.B. 145 to be entered into the laws of Nevada.

Chairman Yeager:

Before I ask a couple of questions, I did want to note that Senator Ohrenschall is a joint sponsor of this bill and he, for those of you who do not know, was a member of this Committee for six sessions and is now serving his second session on the Senate Judiciary Committee. I just mention that because he is a big fan of uniform law bills. I remember when I was a freshman, he probably tried to shop 20 of them to me, to get me to sponsor them. I think I did one. But, as he liked to say, and Assemblywoman Cohen reminded me of this, he would sometimes say that these bills may not be the most exciting bills you have ever seen, but he liked to reminisce about the time a fistfight broke out between uniform law commissioners during a conference as they fought over language in proposed acts. I think by the time the bill gets to us it is pretty well ironed out, but there is some debate and arguing that happens at the convention level. Thank you to the four of you for your service in making this happen.

I am sure I am going to have questions from others, but I just wanted to ask a couple. Assemblywoman Cohen, you may have mentioned this in your introduction, but I wondered where we are in terms of other states adopting this uniform law—if you could give me a sense of how many states have adopted it, or might be planning on doing so, in the very near future.

Assemblywoman Cohen:

I did look it up. It is relatively new, so it has not gone through many states yet. I believe there are two states that have adopted it so far. I should also note that the thing with the uniform law is there are some things, like the Uniform Commercial Code (UCC), where every state basically adopts it. And then there are other things that just make their way through the different states and do not get adopted and are not as universal as the UCC or the Universal Child Custody Jurisdiction and Enforcement Act, having to do with jurisdiction and child custody matters. Ms. Wolff, if I am incorrect about the two states, would you correct me on that?

Kaitlin Wolff:

You are right that it has been adopted in Colorado so far and is pending in a couple of other jurisdictions this legislative session. In addition to your Nevada bill, it is also pending in Nebraska and Rhode Island. The bill was finalized at the end of 2019 so, unfortunately with COVID-19 and everything occurring over the last year, it has a slower start. But what is nice about your situation in Nevada is that you have that underlying supplemental bill, the Recognition Act, on the books already. I am working with several states to get that on the books now, including New York and a few others, before they can adopt this piece.

You guys are one step ahead. It was a slower start for this bill, but we have a couple of other jurisdictions considering it now.

Chairman Yeager:

I think I know the answer to this question, but I want to ask it just for edification of the Committee because I suspect that some of you may be on the Judiciary Committee for several sessions to come, and this certainly will not be the last uniform law bill that we hear. My question is that sometimes we get these bills and then people on the Committee want to amend them in some fashion. But my recollection was that there is some need for uniformity among the states for these to be effective. Could you just speak to that, not that anyone is trying to propose an amendment to this one, but could you speak globally about that issue and the need for uniformity among the states?

Assemblywoman Cohen:

The idea is that there are certain things that should be uniform between the states because it makes it easier to do business and to know what you are going to deal with state to state. As far as changes that can be made, there is a line that states can make changes up to a point and if they cross the line, then it is no longer considered uniform law. It just depends. I know there is another uniform law piece that I am bringing soon, and there is a whole section that I want to remove because I do not like it. I know that when similar things had been before this Committee in different sessions, the Committee did not like it. Frankly, the Speaker does not like it. But I know that even if that section is removed, the ULC has determined that it would still be uniform law.

Chairman Yeager:

Just a word of advice for Committee members. If you see these kinds of bills in the future and are interested in amending them in some fashion, please check with the sponsor because they have to go back to the ULC to make sure that those amendments are not going to invalidate the uniform law being adopted in some sense. They are a little more complicated than some of the bills we consider in that regard. Hopefully, that will help any of you in your legislative service in this session and beyond.

Do we have Committee members who have questions on Assembly Bill 145?

Assemblywoman Kasama:

Mine is a simple question. In sections 10 and 11 you talked about how there is a 30-day notice so that the person who has had the judgment served against them can respond, and in section 11, it gives them an opportunity to contest it. My question is, if a person here in the U.S., after they have been served this judgment, says that they do not think the judgment is right, would it go back to the Canadian court for resolution? I am curious how it works.

Shea Backus:

Basically, what would happen is that there is a procedure where they would petition the court here, where the judgment had been registered, to challenge it. Under the act before you, there are limited provisions on what could be challenged. If there was a substantive

challenge, you could look also under the Recognition Act, which details numerous reasons. That would be fleshed through here in our courts. One of the things that could happen is that, let us say the Canadian judgment was subject to appeal and it was not a final judgment. In that situation the court here would petition and explain that it is pending an appeal and the appeal would finish out. If there were other substantive challenges to the underlying matter that obviously had to be brought in that court, but just with respect to whether it could be enforced, then that would be subject to our district courts here.

Chairman Yeager:

Do we have other questions from Committee members?

Assemblyman O'Neill:

Does Canada have reciprocity or a similar recognition for Nevada? If we are doing it for them, are they doing it for us?

Shea Backus:

I looked this up because I like the terminology "reciprocity." And usually with reciprocity it is as if it is good for one state, then it comes back to another; it is an even balance. In this situation, Canada already has statutes on their books in certain provinces and territories. We are before Nevada seeking to get this uniform law passed. Different territories in Canada would likewise have that statute. It is not necessarily reciprocity, but there are already laws on the books that contemplate recognition and registration of judgments from the U.S., including a state like Nevada.

Assemblyman O'Neill:

Just for clarification, are you saying they are considering it? Do they not have the law now, if I understood you correctly?

Shea Backus:

That is not what I am saying. There are already statutes in place in Canada, depending on the territory or province, like we have in the U.S. considering various laws. They already have statutes; I just do not want to say every territory and province in Canada has it on the books. But some do. There is also a Uniform Law Commission of Canada where individuals also sat on that commission who were participants in the Uniform Law Commission in the United States in implementing uniform law.

Chairman Yeager:

Any other questions from Committee members?

Assemblyman Orentlicher:

It would be helpful to hear a typical example—with one or two illustrative examples—of a judgment that would benefit from this and how this act would change from where we are with one or two illustrative examples.

Shea Backus:

What could happen is that someone files a lawsuit in Canada. Let us just say there is a breach of contract and the Canadian courts—say Toronto or another city—where someone files a lawsuit over a breach of contract where there is proper personal and subject-matter jurisdiction in Toronto between the two parties. The plaintiff becomes the prevailing party to that breach of contract action, where the key is that there has to be a money judgment of sorts. It could not be anything else like where you are mandating performance under the contract. It would have to be a money judgment. So, say they recover \$100,000, but the plaintiff realizes that the defendant has limited assets to satisfy that judgment in Canada. The time for appeal is exhausted and that judgment in Canada becomes a final judgment in favor of the plaintiff for \$100,000. The plaintiff realizes that the defendant has assets or a business in Nevada.

They would take that \$100,000 judgment and they would register it here in our district courts, maybe in Clark County, where the defendant's business is, if they were going to do a writ of attachment of sorts. They would come to Nevada; they would file with the form that is provided. They can hire counsel, or they can do it themselves if they are an individual and not a corporation. They would register that judgment here in the Eighth Judicial District Court. Once it is registered, they then give notice pursuant to the Act to the defendant. Then they wait the allotted time. If there is no challenge, then that is now a registered judgment here, and they could simply take that registered judgment and seek a writ of attachment of the assets here in Clark County.

Assemblyman Orentlicher:

Does this happen very often?

Shea Backus:

I was in a hearing before the Honorable Jim Crockett. We do not have the Registration Act, but under the Recognition Act—where someone has to actually petition and have a hearing—I sat through one and I thought that it was interesting. I had never seen it before. That is the only time I have seen it. It is not common in my practice, but I do not do too much international practice, although I do civil litigation.

Chairman Yeager:

Now I really think we should be getting continuing legal education (CLE) for the attorneys on this Committee or for anybody watching. This is some pretty good stuff in terms of how the civil justice system works. Are there any other questions from Committee members before we move on to testimony? [There were none.]

I want to thank the four of you for presenting. I will ask you to sit tight for the moment. We will see if there is any testimony on the bill and then we will come back for any wrap-up testimony that any of you may have. At this time, I will go to testimony in support of A.B. 145. We do not have anyone on the Zoom with us in support. Could we check the phone line? [There was no one.] I will close testimony in support. I will now open it up for testimony in opposition. We do not have anyone with us on the Zoom in opposition.

Could we check the phone line? [There was no one.] I will close opposition testimony. I will now open neutral testimony. We do not have anyone with us on the Zoom in neutral. Could you please check the phone line? [There was no one.] I will close neutral testimony. We did not have any testimony on the bill. Assemblywoman Cohen and everyone else, we want to give you a chance to make concluding remarks. Assemblywoman Cohen, please go ahead.

Assemblywoman Cohen:

I will just say that I am available if anyone has any more questions about the Uniform Law Commission or this legislation. I invite the other presenters to make any final comments that they would like.

Shea Backus:

I just want to say thank you to the Judiciary Committee for considering this bill to move Nevada forward with respect to commerce and other good aspects, especially coming off of the COVID-19 pandemic.

Kaitlin Wolff:

I would like to echo my thank you to the Committee. Thank you for your time, and I do hope that we will earn your support for this bill. As Commissioner Backus just mentioned, I think coming after this pandemic, as it comes to a close, as courts are looking at overburdened dockets, this is a good time to think about this bill and how we can lighten the load and streamline the process while still providing due process to all parties involved in these sorts of judgments. Thank you very much for your time.

Kirk Kaplan:

I have no final remarks but thank you for allowing me to speak on behalf of this bill. I think it will be a great benefit to Nevada and its trade with Canada.

Chairman Yeager:

Thank you to the four of you for presenting this bill this morning. We appreciate it and we hope you have a great rest of the day and a great rest of the week. With that behind us, I will close the hearing on Assembly Bill 145.

That takes us to our last item on the agenda this morning, which is public comment. By way of reminder, we will reserve up to 30 minutes for public comment. It will be at the end of each meeting and callers in the public comment line will have up to two minutes to provide public comment. I think we may have a few public commenters today. Could we ask the first public commenter to provide testimony?

Tonja Brown, Private Citizen, Carson City, Nevada:

I would like to say thank you to Assemblywoman Torres for bringing Assembly Bill 160 forward. And I would also like to thank the Committee for Friday's work session. I was right in the middle of something that got my attention and I am sorry I could not respond.

But thank you very much for passing the legislation out of committee on Friday. Thank you and have a good day.

Chairman Yeager:

Is there anybody else for public comment?

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I am the sister of Thomas Purdy who was 38 years old when he was hog-tied by Reno police during a mental health crisis and was asphyxiated to death by Washoe County deputies while still hog-tied. Today I want to talk about 36-year-old Nicholas Farah who died at the Clark County Detention Center on March 31, 2019. Nick's story reminds me a lot of my brother Thomas' story. Nick was passing through Las Vegas; he was on his way home from a vacation in California at Disneyland with his family and two daughters. He had a layover in Las Vegas and he ended up getting robbed. His backpack was stolen, and he just wanted to report it. Las Vegas Metropolitan Police Department showed up and arrested him for trespassing, which was the charge my brother was killed over as well.

When they got Nick to the Clark County Detention Center, they put him in a restraint chair. I bring this up because I want the members of the Committee to realize that these devices are being passed off as safe; they are not safe. All you have to do is research it. Many, many, many people die in these types of devices. They put Nick in the chair. It is all on video. Nick was not even combative with them and he did not try to assault anybody. They put Nick in the restraint chair with his arms over his head and pushed his head down in between his legs and asphyxiated him to death. The medical examiner ruled his death a homicide, just like my brother Thomas Purdy. Please do not support bills that promote and protect bad police officers. Support bills that promote transparency and accountability. My family and so many other families are counting on you. Thank you.

Chairman Yeager:

Could we go to the next caller? [There was no one.] I will close public comment. Before we talk about the rest of the week, is there anything else from Committee members this morning? I do not see anything. I want to say that I missed you all yesterday; it felt very strange to not have a Judiciary Committee meeting in the morning. I am glad that we are back together this morning, and I want to thank all of you for your attention and good questions this morning. In terms of the rest of the week, we do have Judiciary Committee meetings scheduled every day for the rest of the week. We will be starting at 8 a.m. I am excited about what we are going to be hearing. Tomorrow we have cannabis, alcohol, and civil actions on tap. On Thursday we are going to hear an evictions bill, so I am sure that one will generate some interest. On Friday we are going to hear bills relating to paternity and prostitution to put those two together on the same day.

That is what we have so far. We are still looking at building next week's agenda, but that is where we are for now. With nothing else in front of the Committee this morning, I will see you all at 8 a.m. tomorrow. I will also remind members that we do have floor today at 11:30 a.m., so please try to be down there promptly. With that being said, I will see you tomorrow morning at 8 a.m. This meeting is adjourned [at 9:50 a.m.].

RESPECTFULLY SUBMITTED:

Jordan Carlson
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 160, dated March 1, 2021, presented by Assemblywoman Selena Torres, Assembly District No. 3.

[Exhibit D](#) is a proposed amendment to Assembly Bill 160, presented by Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson.

[Exhibit E](#) is a document titled "Intercept: Offender Monitoring Program," submitted by Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office.