

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

**Eighty-First Session
March 15, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 10:03 a.m. on Monday, March 15, 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 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:

Assemblywoman Alexis Hansen

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Ashlee Kalina, Assistant Committee Policy Analyst
Bonnie Borda Hoffecker, Committee Manager
Karyn Werner, Committee Secretary
Melissa Loomis, Committee Assistant



OTHERS PRESENT:

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
Jodi Hocking, Founder, Return Strong: Families United for Justice for the Incarcerated
Jan Salvay, Private Citizen, Tarzana, California
Valerie O'Neill, Private Citizen, Boulder City, Nevada
Ayanna Simmons-Oglesby, Private Citizen, Reno, Nevada
Denise Bolanos, Private Citizen, Carson City, Nevada
Lisa Rasmussen, representing Nevada Attorneys for Criminal Justice
Tami Irvine, Private Citizen, Henderson, Nevada
Ashley White, Private Citizen, Las Vegas, Nevada
Georgia Morales, Private Citizen, Las Vegas, Nevada
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office; and representing Washoe County Public Defender's Office
Tonja Brown, Private Citizen, Carson City, Nevada
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Amber Cannon, Private Citizen, Phoenix, Arizona
Nicole Tate, Private Citizen, Las Vegas, Nevada
Jenifer Henry, Private Citizen, Lovelock, Nevada
Tom Lawson, Chief, Division of Parole and Probation, Department of Public Safety
Annemarie Grant, Private Citizen, Quincy, Massachusetts

Chairman Yeager:

[Roll was taken. Committee rules and protocol were explained.] We will now move on to our agenda. We have only one bill on the agenda today. At this time, I will open the hearing on Assembly Bill 241. Assemblywoman González will present the bill, and she has two or three other presenters with her.

Assembly Bill 241: Establishes provisions governing credits on terms of imprisonment during certain declarations of emergency. (BDR 16-982)

Assemblywoman Cecelia González, Assembly District No. 16:

I am here today to present Assembly Bill 241. With me today is Holly Welborn, policy director for the American Civil Liberties Union of Nevada (ACLU), and Jodi Hocking, founder of Return Strong: Families United for Justice for the Incarcerated.

First, I will provide some general background information before I hand it over to Ms. Welborn to go through the specifics of the bill. As of March 13, 2021, statistics show that the Department of Corrections (NDOC) facilities reported 5,460 cases of COVID-19 and 56 deaths. For the Committee's reference, this information is from the Department of Health and Human Services and is posted on the Nevada Electronic Legislative Information System (NELIS) [[Exhibit C](#)]. Of those cases, nearly 1,000 involved NDOC employees. Fifty-three inmates and three NDOC employees have died due to COVID-19.

Behind correctional walls, social distancing is not an option. These conditions present grave dangers to both inmates and the staff who work in the facilities. Because of the severity of COVID-19 in our correctional facilities, programs, classes, and other valuable resources for offenders have been suspended. It is through these types of programs that offenders can earn "good time" credits to reduce their sentences.

Last year, the Brennan Center for Justice at New York University School of Law wrote a letter to the governors of all 50 states urging them to expand good time credits to reduce overall incarceration. Rather than holding people back from accruing good time credits during the pandemic, the Center stated that states should give out more of those credits, not just because it is the fair thing to do, but because doing so can save lives by reducing the inmate prison population.

Assembly Bill 241 does just that. It gives back the good time credits to offenders who have earned them through good behavior, educational attainment, or the successful completion of treatment programs, thereby reducing their sentences and the overall inmate population.

I would like to turn the presentation over to Ms. Holly Welborn to go over the specifics of the bill.

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

The families who will present today give color to the issue we are discussing. Once we go through this bill, you will understand that what we are asking for is quite simple. We are simply asking to give back the time these people have not been able to accrue due to programming being stalled because of the COVID-19 pandemic.

At the outset of the pandemic, the ACLU of Nevada and other advocates for incarcerated individuals warned about the susceptibility of outbreaks of COVID-19 and the other illnesses present in prison and jail facilities. Incarcerated people are housed in close quarters. Older adults and people of any age with serious chronic conditions, such as heart disease, lung disease, diabetes, or those otherwise immunocompromised, are at higher risk of becoming severely ill from COVID-19, and that risk substantially increases in the prison setting. We pushed very hard for decarceration at the outset of this, but unfortunately, those efforts were not fruitful.

Assemblywoman González described the death rate to you, but I want to add that there are only three other states—Michigan, New Mexico, and Kentucky—that have reported a higher per capita rate of prison deaths than Nevada. We must take pause and ask ourselves what we can do as a state to correct this. The state's decision to isolate rather than decarcerate ended all prison programming, and as a result, folks lost their sentence credits that families were depending on.

We will quickly go through the bill. Section 1, lines 1 through 6, is standard language requiring that incarcerated persons be in good standing without any serious infractions on their record for this credit to apply. Lines 7 through 9 provide incarcerated people may only

acquire the credits that this bill seeks to create during a public health crisis. Lines 10 through 11 describe the existing sentence statutes. I want to note that we are not currently looking at the top of the statutes—some of these are known as "A.B. 510 credits" or other statutorily mandated deductions for each year of incarceration. We are looking further down in the statutes at educational, vocational, and rehabilitative programming that individuals are currently missing. Currently in the NDOC, people are still accruing their time for each year of incarceration, but they are not accruing their time for the programming they would otherwise be engaging in. Lines 11 through 14 provide that, when such programming is unavailable, each incarcerated person who is eligible for programming under the statute will accrue 5 days of good time credit per month, not to exceed 60 days per year.

I want to explain how we arrived at this number. Under administrative regulation, anyone who is eligible for a program automatically accrues 5 days per month, up to 60 days per year. Then there are folks who are currently enrolled in programs who can earn up to 10 days per month. After conversations with families, we have scaled this back to create something reasonable that can provide some predictability in sentencing for families. Once you hear those presentations, you will understand why this is so important.

Finally, section 2 states that the credits apply to eligibility for parole and must be deducted from the maximum term of imprisonment, which is standard. It also provides that this bill is retroactive and effective upon passage.

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

This bill is very important for incarcerated people and their families. I want to address some misconceptions about this bill and the things that it does not do. There seems to be a lot of those. This bill does not release incarcerated people any earlier than they could have been released. This bill does not adjust sentences or impact the sentences they were initially given by the courts. This bill does not give them additional credit for being incarcerated during the pandemic. It does not in any way address or compensate people who survived the COVID-19 outbreak within the NDOC or the significant trauma that was incurred by it.

This bill does two things. It provides people who were incarcerated during the pandemic some grace and justice for not being able to program or work due to the state of emergency and for the ensuing loss of opportunity to work or program. It also acknowledges that our world may never be the same. It gives future protections from public health emergencies should this ever happen again.

When Nevada applies sentences, it is assumed that people will have the opportunity to work a program. When they enter prison, they are given those days up front—like a best-case scenario—for when they can anticipate expiring their sentence. Then, if they have disciplinary issues or other negative behavior, those days are taken away. That means they expire their sentence later than they initially thought they would. It is a confusing process because people's dates can always be moving, either earlier or later. As Holly said, incarcerated people can normally earn up to 10 days of good time credits a month off their

sentence if they are working their programming. Since there are not enough opportunities for everyone eligible for programs or work, they normally give you five days a month even if you are not actually enrolled in a program or working at that time. During the pandemic, some people still worked, but most of the work and programming ended, and when it did, it immediately impacted people's sentences. Every month—and a lot of us do this—we could log onto offender management and watch the NDOC add five days a month on a loved one's sentence. It just kept getting further away from them.

Return Strong has been monitoring the depth of this issue by reviewing monthly parole eligibility reports and comparing the dates when people were originally eligible for parole prior to the pandemic to when they were being given parole hearings and when they were actually released. From October 2020 until February 2021, we were able to manually identify 817 people who should have received their mandatory parole boards and 71 who would have already expired if they had received the 60 credits they lost over the course of the year.

I want to share part of a document that a member sent us that was written by Gabriela Najera, associate warden at the Florence McClure Women's Correctional Center, regarding the loss of programming credits. This was written to incarcerated people and talks about sentence management. At the end, it says:

Inmates must EARN (in capital letters) their work credit, meaning they must actually work. Due to COVID-19 restrictions, many inmates have been unable to work at no fault of their own. The Nevada Department of Corrections cannot issue work credits when the inmate does not actually earn them. I understand that not earning work credits is affecting inmates' release dates, but at this time, Nevada Department of Corrections wants to do everything we can to keep inmates and staff safe. Once COVID-19 restrictions in the state of Nevada are lowered, we can resume normal operations.

The Nevada Department of Corrections and the Office of the Governor have been unwilling to do anything to correct this. Director Charles Daniels point-blank told us that we need to bring this issue to people who have the power and authority to make that decision, which is the Legislature, so here we are. We are not asking for anything extra. I am not going to lie, but if I could come in here and say that, due to the torture these people endure, they deserve much more than the five days they should have gotten, so let us give them all a year's credit, I would do it. However, all we are asking for is to give them what they were supposed to get in the first place. I am not asking for extra, but for the legislators to make incarcerated people whole, to give them what the state says they should get, to protect them from the harm that has been done during the pandemic in terms of their time, and in case of future emergencies, to make this a law so they are protected now and going forward.

Jan Salvay, Private Citizen, Tarzana, California:

Five days a month or 60 days a year may seem small to you, but in prison—especially during the COVID-19 outbreak—60 days can quickly turn into a death sentence, as it did for my nephew, Nicholas. I am here to explain how five added days to his sentence affected his mental and physical health. He was supposed to get out in October 2020. Because of COVID-19 and the lack of programming days, educational opportunities, and jobs, the NDOC started adding five days a month to his release date. In 11 months, this added an additional 55 days to his sentence. He was supposed to be out in time to vote, for his dad's birthday, for my birthday, and for his grandfather's birthday. Then he was supposed to be out for Christmas. He was denied medical treatment for hepatitis C in June 2020 because they said he would be out too soon to qualify. He told me that several other inmates were given the same bad news, that they would all be out too soon to qualify for medical treatment. He was despondent, outraged, and heartbroken, and not just for himself. By the time he was released, his disease had reached levels described by his physician as very, very bad.

The system failed my nephew. People in charge of his care let him down. Every attempt at communication was thwarted, and it was impossible to get any support or useful information, only excuses and the runaround. Despite his own efforts to advocate for himself, he was left to wither. Those in positions of power told me he did not make the list for compassionate release, that there are hundreds of people on dialysis, that cancer was deemed a worse medical condition, and that our only option was to wait and hope for the best because their hands were tied. By the time he was released, and we could get him medical care, he did not make it.

I am here with the hope that you will find a way to help others who are in the same situation. His friends, brothers, and sisters deserve to be treated as human beings. Their sentences are being lengthened through no fault of their own. It is time to correct the injustice that too many Nevadans have endured by a system where the punishment does not fit the crime. I am also here to remind you that Assembly Bill 241 is not about letting criminals out early. It is not about giving them the gift of time. It is about creating a piece of justice by giving them what they would have been able to earn if we were not in a pandemic. Every person in this country has had to face struggles, but we consume, get stimulus checks, and get an entire virtual system, while incarcerated people lose the opportunity to earn their programming days and now must stay past release dates. That cost our family dearly. I hope you will support the bill because it is the moral and just thing to do for incarcerated human beings. My nephew would agree for all the people he grew to love and care for.

Valerie O'Neill, Private Citizen, Boulder City, Nevada:

I am a voter in District 12, and my son is incarcerated by the Nevada Department of Corrections. I am here to stress how important it is for Assembly Bill 241 to be passed. I have heard that some legislators have the impression that this bill releases criminals before they have served their time. In reality, it does a few other things. It gives people incarcerated during the pandemic the credit toward their sentence that they should have earned but could not. Everything was shut down in there just as it was out here. The difference is that protections were put in place for people out here so they could adjust and

survive during the pandemic. Incarcerated people did not have that benefit. We do not have time to go into all the dehumanizing conditions that our loved ones were forced to endure during the pandemic, but trust me, losing programming days is only the tip of the iceberg.

I would like to paint you a picture of how the loss of those days is impacting my family. The loss of those days could turn into a death sentence for my son. My son has a blood platelet disorder called ITP [immune thrombocytopenia]. His autoimmune system attacks blood platelets, and his blood does not clot. He needs routine blood tests to check the blood platelet levels and medicine that costs \$6,500 to \$8,000 per month. The state has yet to provide it for him, and it is not in any position to manage the severe medical issues he has.

In the last 45 days, my son has been taken to the hospital twice due to low platelets. On January 30, 2021—nine days after a blood test was finally taken—my son was awakened by correctional officers at 2 a.m. informing him that an ambulance was on the way to take him to the hospital. The lab had called with his blood test results. His blood platelet level was at 14. A healthy person's blood platelets are usually over 140,000. When he got to the hospital, another blood test was taken, and his blood platelet level was at 10. My son was told by his doctor that, had he been brought in a day later, he could have died. He received blood platelet transfusions, as well as regular blood transfusions. He stayed in the hospital for several days. Upon discharge, his blood platelet level was 285, which is high for him. His doctor said that he must be given his medication daily, and in the event that he does not receive the medication, he is to be brought into the office weekly for an injection of the medication.

When he returned to High Desert State Prison, he saw the doctor there and was told that his medication would not be approved, but he would put in an authorization for it. My son spent one night in the infirmary, and the next morning, February 5, 2021, instead of going back to his unit, he was transferred to Southern Desert Correctional Center. My son never received the medication nor was he taken to his doctor's office.

On March 1, 2021, he was given a blood test to check his platelet level. On March 4, 2021, an ambulance was again called to take him to the hospital. The lab had called, and the results showed that his platelets were now down to 24. Once again, he was given blood platelet transfusions. On March 7, 2021, his platelet level was only at 100 when he was released from the hospital. He was told it was imperative that he take his medication daily. He was released from the hospital and returned to the infirmary at High Desert State Prison. To this date, he is still there and does not receive his medication. Last Friday, a nurse told me that his medication is a non-formulary medication and needs to be requested by the provider at High Desert State Prison, and that my son would be seen today by the provider there.

Why I am telling you all of this is simple. During all of this, his expiration date has continued to move away from him. Originally, he should have been going to the mandatory board in January 2021, but now it is scheduled for April 2021. If approved, he would be preparing to come home. The combination of factors, including the loss of programming days through no fault of his own, has extended his time in prison by at least two months.

The Nevada Department of Corrections says it does not have the power or authority to do anything about it, which I understand is true. We have applied to the Office of the Governor for an executive order giving him back the programming days credit, or in our case, a compassionate release. We have not gotten a response from them.

Director Daniels said once, "If you want something done, take it to the people who have the power to do something about it." So here we are asking the people with the authority to do something about it. Step up and vote "yes" on Assembly Bill 241.

Assemblyman O'Neill:

I think I understand the bill's intent. If I am correct, it deals with inmates who are already enrolled in programs. I am going to give you a hypothetical situation. If I am not enrolled in a program when the emergency is declared and the program is shut down, but now I want to join the program but cannot, do I get my five days?

Holly Welborn:

The answer is "yes." Under current administrative regulations, two things happen. First, if a person is eligible for a program, there is an assumption that the person will eventually make his way to the program. He starts accruing approximately five days per month under that regulation. Individuals who are actually enrolled in the program accrue approximately ten days per month through that same administrative regulation.

Assemblyman O'Neill:

I did not want the program before, but now that an emergency is declared, I get the credits.

Holly Welborn:

Jodi Hocking may be able to answer this question, but those individuals who decline still accrue that time.

Assemblyman O'Neill:

If they decline to join a program, they still get five days of service time?

Holly Welborn:

That is my understanding, but Ms. Hocking may be able to give more color to that, or we can get that specific question answered by the Department of Corrections.

Assemblyman O'Neill:

I would appreciate that because I have trouble with this concept. I can understand extending the five days for those who were already enrolled when the program shut down. I have difficulty giving it to those who had declined it until they did not have to do anything and then wanted to enroll. I appreciate it and will see if we can get clarification from NDOC or the Legal Division of the Legislative Counsel Bureau.

Chairman Yeager:

We do not have Legal with us today because he is busy drafting bills that we are waiting to introduce today. I do not know if we have anyone from NDOC joining us. We will go to Assemblywoman Nguyen to address that question because I think she knows the answer to it.

Assemblywoman Nguyen:

I was going to ask a question that might clarify Assemblyman O'Neill's concerns or clarify what his questions are. All inmates receive the credits up front. I believe Ms. Welborn or Assemblywoman González indicated that the inmates are given that credit up front. It is calculated, and if they are not participating in programming or not behaving appropriately, they lose that credit. The people who are incarcerated now already received that credit, but since there is no programming available, they should not receive the credit.

If you want to look at *Nevada Revised Statutes* (NRS) 209.443 through 209.4465, this is not addressed in this bill. This bill is modest and conservative in the way that it calculates the credit, and that is probably a fair assumption. If you look at that section, for example, and you were enrolled in a high school diploma program, in addition to the 5 days a month good time credit that you get for participating in that program, you get an additional 60 days of credit if you successfully complete the program. If that programming is not available, in addition to the 5 days a month that you are not receiving, now you are not eligible to receive the 60 days for your high school diploma. I believe it is 90 days for an associate degree if you complete that. Additionally, the prison system regulations give credit to those who give blood or plasma while incarcerated. For any of the programming—educational, work, giving blood, or any of those programs—they are not eligible for, they are still not eligible to get the five days a month good time credit off their sentence. This bill does not go that far. That is where I would start if you want to look at some additional information regarding how good time credit is calculated in the prisons.

Chairman Yeager:

Thank you for that expertise. It is very helpful to know how the calculations work, that you get it at the beginning, and it gets added back on if you do not do the programming. That is the conundrum that we find ourselves in when there is no programming to be had.

Assemblywoman Cohen:

These programs are good for the inmates to help them on their way to adjusting back into society. Can they participate in all these programs in the community once they have been released, like the GED program or drug treatment? If we were to pass this, is there anything they cannot possibly do once they have been released?

Jodi Hocking:

I am not sure who you are directing the question to, but these programming credits are general programming credits. As Assemblywoman Nguyen was saying, these are not specific to a program or training. Inmates can earn these credits for being a porter and cleaning tables in their unit. They can earn these credits for participating in the community in any way. They do not earn the credits; they get the credits because all porter jobs and

high school diploma programs were shut down. As Assemblywoman Nguyen said, we did not go into the other levels of credits, which you will hear about in letters from families that address that issue. These would not necessarily be job-specific skills they are learning. They would be more like the probation instruction [PI] level. Some of those things remain. Those were the ten credit things that Holly Welborn talked about. Some of those ten credits fell into those levels. This is just something they get at the beginning of their sentence, and as long as they are not in disciplinary segregation, not getting sanctions, not refusing to cooperate, or have those types of problems, they automatically keep them.

During the pandemic, however, for some reason, NDOC looked at it as if they were not being earned. If they were not being earned, they were not letting them have them and were deducting them from their sentence. The way they are calculated in Nevada is backwards.

Assemblywoman Cohen:

I am a little confused. If someone took a GED class, we are talking about those credits as well, right?

Jodi Hocking:

Yes. That would be educational programming. They would also be able to get additional credits on top of the GED program. This bill does not address those additional credits. It only addresses the five days.

Assemblywoman Cohen:

If there are programs they are not getting before release because of the pandemic—things like GED, Narcotics Anonymous, and things such as those—they can do those once they are released.

Jodi Hocking:

Correct.

Assemblywoman Bilbray-Axelrod:

Thank you for that explanation, but now I have a question that I did not have before. In section 1, subsection 2(b), it says, "Must be deducted from the maximum term or the maximum aggregate term imposed by the sentence" The way it was explained, it is taken off immediately. I am confused why this language must be here. Is it to ensure it conforms with the other statute that the Vice Chair mentioned?

Assemblywoman Cohen:

I can answer that if you want me to. If you look at this, it is consistent with how credit is applied at the prison. You are not given a sentence of 5 years under our sentencing structure. For example, you would be given a sentence of 2 to 5 years. When they talk about credits, credits are attributed to the front end of the sentence, and possibly the back end. It is my understanding that, if the credit earned pertains to part A, it is deducted from the minimum or maximum, depending on how it is applicable. Currently, if you committed a category B robbery with use of a deadly weapon, and you receive a 3- to 7-year sentence, you would not

be allowed good time credits off the front end of your sentence under any scenario. It would only be deducted from the back end of your sentence. A lot of times people think, "They were sentenced to 5 years," but we do not have that kind of sentencing structure. We have a range. Only for low, violent felonies will you see good time credits off the front and the back end of your sentence. This says that it must be deducted from the back end, which is how it currently exists in statute. It would only apply to the front end for those limited crimes where it exists in law that you receive that good time credit. This does not go beyond what our current structure is for giving the good time credit. It only makes an exception during this period of pandemic.

Assemblywoman Bilbray-Axelrod:

That clarifies it perfectly.

Assemblywoman Hardy:

This is only for declarations of emergencies such as we are in now. Let us say that these programs, at some point, are reinstated and inmates can access them. Would this then end? I do not see how this is ended once the declaration is over. Is it once the programs come back?

Holly Welborn:

This is meant to apply for each month that we are in the declaration of emergency. Right now, specific to the COVID-19 pandemic because it is limited to infectious diseases, it is for all of the previous credit that individuals have lost since March 2020 until today, and as long as individuals are not allowed to engage in programming. That is the intent of the bill.

Assemblywoman Hardy:

Does the bill address what happens when they are able to engage in programming again?

Holly Welborn:

Given that it is a five-day time period, I do not think there is a particular provision in the bill that says once programming resumes—even if we are still in an emergency declaration, and the person is engaging in programming again—they are not eligible for this five credits per month. This is something we can look at for clarification. We should lean on the side of allowing people to continue to accrue those five days because it may be a slow rollout of programming. We also need to understand from the Department of Corrections how long they intend to stall programming. We need to know if they are going to slowly increase programming as restrictions are lifted. Hopefully, someone from the Department of Corrections can provide an answer to that question.

Chairman Yeager:

We have a lot of folks who would like to testify on the bill, so I am going to take our final question before we get to testimony.

Assemblyman Wheeler:

I will have to speak to the legal division offline. I am not reading any of this in the plain language of the bill. I understand the intent is to replace credits that they cannot get during a state of emergency. I get that, but as I read the bill and NRS 209.443, I do not see it. From the plain language of this bill, it says to me that, no matter what, they are going to get 5 days credit per month for every month of the declared emergency for a pandemic, with a cap of 60 days, which is where we are right now since the bill is retroactive. I understand what the intent is, but I am not seeing it in the bill. The language in the bill says nothing about programs or replacements. It just says they are going to get the credit for 60 days.

Holly Welborn:

The bill is meant to read by adding NRS 209.443, et cetera. Those are the statutes that speak specifically to good time credits and the sentence credit structure. Within each of those statutes, it discusses the good time credit that is accrued for vocational programming, educational programming, et cetera. By adding those statutes in, it makes it clear that this is meant to exist within that same chapter and to have a carve-out for a state of emergency. The issue at hand is—and the Department of Corrections stated this in their letter—because a person is not able to "earn" by participating in the program, there has to be something else that exists in the law that accounts for the accrual during that time. By adding this additional time, we can show that individuals are still accruing for whatever programming time they are losing. It does encapsulate what we are trying to achieve. It is a barrier that provides for that additional time that people are losing that accounts for a variety of circumstances that could arise. Regarding what happens when we start slowly opening programming and how this accrues, the way it is written provides an easier way to add these credits during a state of emergency.

Assemblyman Wheeler:

I agree with the intent and would probably agree with the bill if the language said that, but it does not. I will talk to Legal offline.

Chairman Yeager:

I invite you to follow up with Legal to see what their analysis is of how those provisions would work together. We have the intent of the bill on the record, but if we need some clarification, we can make that happen.

There may be additional questions, but I ask that you take them offline. We have a dozen or so folks signed up who want to provide testimony, particularly in support of the bill. We also have at least one person in neutral, and we will see if there is any opposition. At this time, I will open testimony in support of A.B. 241. Before we go to the phonelines, I want those who are joining us on the phone to know that you will be limited to two minutes so we can get through everyone. Do not feel compelled to use the entire two minutes if you can provide your testimony in less than two minutes; that will ensure we have time for everyone.

Ayanna Simmons-Oglesby, Private Citizen, Reno, Nevada:

The systems that sentences are based on are already flawed by 120 days. Prerelease parole efforts are oftentimes delayed; however, with the pandemic and dangerous conditions and the overcrowding, it would help if the bylaws upon which these are based were enforced. They are already behind schedule. We understand there is a chain of command. Those who are not incarcerated have no excuse not to do their due diligence. Even if you have to initiate a task force just for this, it will help and be greatly appreciated. We clearly understand for every day an inmate sits in jail, someone else earns a dollar. Other people slacking and disregarding efforts affects all of us. The inmates have already lost their freedom and the touch of their spouses and children. We punish them on top of punishing them. They have lost wages because they work for free. It is a blatant disregard for the inmates. I will remind everyone that they are still human. We should help in any way we can. I understand those with life sentences are being punished for their crimes, but if we continuously take away from them, we continuously break them down even more. We are "Nevada Strong"; we are "Battle Born." These are our brothers and sisters, and we have a moral obligation to do what is right by them. If those who are in charge are slacking, they need to be accountable to help. It is just moving the mouse on the computer. It is something we can do together. I am in support of A.B. 241.

Denise Bolanos, Private Citizen, Carson City, Nevada:

I reside in Assembly District 40, and I would like to speak in support of A.B. 241, as well as urge you to support this bill. My husband is incarcerated here in Nevada. Although this bill would not change his release date, since we have a different fight altogether, it would benefit so many families in this state. I am with them today.

The following is a statement from a family member who is affected and cannot be here today to speak. She states, "My husband's original date was May 5, and now it is June 1 and counting. He was not able to work because he did not have a high school diploma. Then he was not able to keep programming to keep his days from moving because there were no programs due to COVID-19. His date keeps moving back, but not because of writeups or anything like that. He is keeping his head down and doing his time."

Two months, or even two weeks, may not seem like much, but it is huge for those who get a chance to reunite with their families that much sooner after years of being separated and over a year without seeing each other. COVID-19 has taken so much from everyone, and this Committee finds itself in the unique position of being able to do something about getting some of those losses back. Please support A.B. 241.

Lisa Rasmussen, representing Nevada Attorneys for Criminal Justice:

I am testifying in support of A.B. 241. I want to address a couple of things that have been floating around in the conversation this morning. This is a very conservative bill. That is the first thing I want to tell any of you who may have doubts about this bill. It restores opportunities that were available before the pandemic. For members of the Committee who are not already involved in the criminal justice system, what is important to understand is that since the pandemic broke out a year ago, we, the criminal defense bar, have been undertaking

all kinds of measures in attempts to get some relief for people who are sick and dying and people who are affected just as you have heard from Ms. Hocking and Ms. Salvay this morning. The fact that we have been unable to get anything from NDOC is a travesty. Also, the fact that they are continually punting to the Legislature and making people wait a year or more for a remedy is in and of itself a travesty. We do not have any system in place to get people who are sick or dying out. We are really alone. Other states have enacted compassionate release protocols. The federal system has also enacted a compassionate release protocol. We have nothing and are completely dependent on the Legislature. The "good time credits" program that would be restored under this bill is a conservative measure. It puts people back to where they were; it does not give people a windfall.

Now, about Assemblyman O'Neill's question, there are not a bunch of inmates sitting around who do not want a program and who are going to somehow be a beneficiary of a windfall. The reality is that everyone wants to program because it reduces their time. There are oftentimes not enough program opportunities for everyone even without the pandemic, but there is not a population of people who decide they do not want to program and who will get five credits a month to a maximum of 60. That should not be a concern. What should be concern is that people's release dates keep getting pushed back when they should be getting pushed forward because of the pandemic. To hear that people died because they stayed in longer than they should have is heartbreaking.

I would ask everyone on the Committee to pass this bill. The real question is, How quickly can it be passed? Waiting until June creates more damage and more danger. It is unfortunate that the Legislature has to save the director of the Department of Corrections from himself by passing commonsense bills, but that is where we are. I would ask everyone to support the bill, and thank you for your support of this bill.

Tami Irvine, Private Citizen, Henderson, Nevada:

I am from Assembly District 3. I will be reading a statement from a friend who could not be here today who is from Assembly District 13. Her name is Catherine Grecco, and she has a daughter who is incarcerated at Casa Grande Transitional Housing center. She states:

My name is Catherine Grecco, and I support A.B. 241. My daughter is currently housed at Casa Grande Traditional Housing for 20 months. She has not been able to accrue any good time credit over the last 12 months. Her facility shut down completely on March 6, 2020, and still remains closed. All programs were also shut down. If you had a job in the community, you were forced to quit immediately and put on lockdown. If my daughter had been given credit, she would have been very close to applying for house arrest and coming home to our family. She has never been in trouble before. She has made one mistake when she turned 25. I know she is not perfect; I don't think any of us are. I would like very much for my daughter to be able to have the same good time credits that individuals before her received. COVID-19 happened. It is not her fault.

She has done so much to try to give back to her community since she has been incarcerated. My daughter has spoken to high school students. She has completed her associate degree and was on the dean's list trying to complete her bachelor's degree at University of Nevada, Las Vegas. Eventually, she will be living and working in our community. Are we going to be remembered as a community that would not work with them, only keep them locked down? All we are asking is to grant these individuals the same five days a month that was given to previous inmates before the COVID-19 pandemic. This was not their fault. They did not ask for any of this. There were several inmates that were working their NDOC jobs like my daughter and still have not received credit. The COVID-19 pandemic is a once-in-a-lifetime occurrence. I know the correctional facilities did not intend for this to happen. There is not a clear-cut path for any of this.

My daughter cleaned at Casa Grande during the pandemic. She would receive her five days credits as soon as possible. She was responsible for cleaning the facility and cleaning out rooms of discharged inmates who tested positive for COVID. Unfortunately, later she tested positive for COVID-19 in January 2021. This is not a request for a gift. This is a request for fairness and justice. Thank you. I support A.B. 241.

Ashley White, Private Citizen, Las Vegas, Nevada:

I am here in support of A.B. 241. I live in Assembly District 15. This issue has deeply impacted my family and me. My fiancé is currently incarcerated at Southern Desert Correctional Center, and I am home raising two young children alone, one of whom is severely autistic. My fiancé was attending classes and working on rehabilitation before everything was shut down in Nevada due to COVID-19. In Nevada, your expiration date is based on the best-case scenario, so they give you days and your potential expiration date before you earn them, and then, if you do not earn the days, your expiration date gradually moves further back as they take the days away from you—from our point of view—extending your sentence. From the prison's point of view, they say you did not earn the days, but how do you earn days during a pandemic when jobs and programming days do not exist?

The crazy part is that it was not his fault. He has been programming successfully for years. He would have already been out and expired if it were not for his losing programming days. This loss has increased his depression severely, along with his anxiety. He is older and at high risk for a bad outcome from COVID-19. Thank God he survived it when he caught it. I am struggling with COVID-19 right now and home with the kids alone. I am trying to deal with remote schooling and financial stress since I lost my job during the pandemic. We are very close to facing homelessness without his help, which I would have if those days had not been taken away from him. He feels all his work was a waste of time. He thinks the facility got what they wanted from him, but now will not hold up to their end of the bargain and give him the credit. It seems for him and many other individuals that it is a never winning battle with no end in sight. It is not fair to take something away that was already completed and

worked on. He was very happy and proud of himself for all he had learned and for the work he had done, and now it seems to him like a slap in the face.

I support A.B. 241. All incarcerated people deserve credit for programming when the programs could not offer opportunities. You cannot make them bear the brunt of the pandemic on their backs. As others have said, this is not about giving criminals early release. It is about giving people the five days a month credit they could have earned if earning opportunities were available. As Jan Salvay said, we gave free people unemployment checks and did not think about it, but we cannot give incarcerated people the five days a month they could have earned. I feel that it is the same premise. Please vote "yes" on A.B. 241 and give us five days of hope.

Georgia Morales, Private Citizen, Las Vegas, Nevada:

I am here in support of Assembly Bill 241. I believe this bill is very important and is due to individuals who are incarcerated. It is not their fault COVID-19 hit and the pandemic shut down their whole routine. These individuals were working on themselves during incarceration to be better individuals when they get out and not become repeat offenders. Now that the pandemic has hit and they have not been programming, they have had mental issues and many letdowns and failures. If the inmates held up their commitments for themselves and the facilities, why can they not get what they deserve and worked for? Many individuals would have been released already and would have been starting a new life. Many individuals would have had a slimmer chance of catching COVID-19 and would not be dealing with fear and anxiety.

Everyone on the outside has been able to adjust to social distancing and to carry on with their lives and classes. Inmates were not able to adjust to having classes virtually and social distancing. They were punished and had good time credits taken away from them for doing something good and positive with their time. Individuals had plans of things they would do based on the provided dates. Now that the dates have been moved, everything must be readjusted and replanned. It is only right to give back what individuals deserve and have earned. Would you like what you have worked for and earned taken away from you? Many of us have had to adjust to a new life due to the impact of COVID-19, but we have not lost anything like our loved ones have. Can we please pass this so we can go back to more normal and fair lives? This will give our loved ones some security that, if in the future another state emergency or pandemic happens, they will not have to worry about another loss and to feel wasted, used, and abused.

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

We ask this Committee to support the passage of this bill. When the pandemic first started, Director Daniels stated in a meeting that there were zero people infected with COVID-19. Then, when he was asked how many people were tested, he said, "Zero." Quickly thereafter, during the course of this pandemic, over 40 percent of the inmates have been infected and over 36 percent of the staff have been infected. Those staff have taken the COVID-19 virus into the community. The rates inside the prison are triple the general population.

Rural communities, where some of these prisons are housed, do not have the capacity to treat people. The lack of action on this subject by Director Daniels at the prison has caused an untenable situation for Nevadans. People who were sentenced to prison—not on a death sentence—should not have been sitting around waiting to die from a possible COVID-19 death sentence. When asked for depopulation, this bill would help depopulate the prisons and help keep our community safe. I urge the passage of this bill. It is a way to depopulate the prisons and help keep our communities from this COVID-19 virus from raging.

Tonja Brown, Private Citizen, Carson City, Nevada:

I am an advocate for inmates and the innocent. We would like to echo the comments made by all the previous callers in support of this bill.

I would like to address some of the concerns made by Assemblyman O'Neill regarding inmates and receiving credits when they are not programming. I will give you a couple of examples of how this could be effective. When inmates are transferred from one institution to the Regional Medical Facility (RMF) at Northern Nevada Correctional Center they lose credits that they would have received for programming. This has been an ongoing issue for decades. Inmates have come into the institution with medical problems and have never left the RMF. They have lost years of good time credits and programming credits because they are unable to program. The other issue is that they may decline programming because they have an enemy who is doing some programming.

Concerns of lack of medical care made by some of the previous callers is an ongoing issue as well. I assume this bill would also include MERSA [methicillin-resistant staphylococcus aureus], which is a highly infectious disease, particularly when there is an outbreak in the community, and it goes into the prison system.

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

We know that the government has failed to protect incarcerated individuals from the pandemic. I want to echo the sentiments of those who spoke before me. Assembly Bill 241 is a simple piece of legislation to make up for the time expected, and we urge your support.

Amber Cannon, Private Citizen, Phoenix, Arizona:

I have an incarcerated loved one at Warm Springs Correctional Center, which is located in Carson City in Assembly District 40. Today, I am here to read a letter from one of our families who could not be here due to work. We want to let you know about their story. They said:

As of today, my fiancé's mandatory parole release date is June 16, 2021, and his expiration date is December 18, 2021. Why are these dates important? one might ask. They are important for many reasons. One reason is that those dates are when our family would be given a chance to be whole again. Yes, it's a seemingly distant dream as we see his dates continuously moving to a later and later date each month.

My fiancé has worked his hardest at improving himself, not only for him but also for our family during his incarceration, yet every month we feel our time together keeps evading us. Prior to COVID-19, we knew if he worked hard in programs, he'd have the opportunity to get home sooner, so that is what he did. However, this quickly changed when COVID-19 affected the program. My fiancé had just gotten good news from his caseworker. He had completed a level in the program, done all his required paperwork with the required signatures, and was told he would receive three meritorious credit days. That meant his release date would move up by 30 days. The next step was for him to wait for the next level to start, complete that level, and he would have received another 30 days completed. But programs began to shut down and the next level never began. Two months later, he was told that he would not be receiving the 30 days. How could this be if he completed his level and was given the paperwork showing completion? He is still waiting for an answer. On top of that, since he was not able to continue the program, every month he sees his parole and expiration date moved back by five days. Before the program was shut down, we did not have to worry about his date moving back those five days every month. Now, it is a constant feeling of loss and disappointment. If my fiancé had been able to continue programming, he would have potentially been released on parole in April, one month from now. If he had received the 30 days owed to him from programming, he could be home today.

Not only are our loved ones faced with figuring out how to mentally, emotionally, and physically cope with all the changes that COVID-19 has brought on, they have also been made to feel like there is no means to an end. My fiancé feels like he is chasing his own tail. He has done everything he can in an effort to be proactive knowing it will get him nowhere. He has submitted grievances asking for programs despite knowing what the response will be, but he felt like he should do something. He is further disappointed with the responses he received saying that programming has been placed on hold. My fiancé did not choose to stop his programming, yet he is being subjected to the repercussions of it. If our loved ones received the credit days they would have otherwise been entitled to, it does not mean they would be released early. It means they would be released in a fair and timely manner. We support A.B. 241 and pray that you will see that this is not a gift to them. It is what is considered fair and humane.

As for me personally, I am also in support of A.B. 241.

Nicole Tate, Private Citizen, Las Vegas, Nevada:

I am a registered voter in Assembly District 2 supporting A.B. 241. It goes without saying that this pandemic has affected everyone worldwide. There are thousands of forgotten people who are incarcerated whom this pandemic has not forgotten. Thousands of incarcerated persons were infected with COVID-19 and many have lost their lives. Due to

the struggle of handling a disease such as this, programming for many incarcerated persons was stopped in its tracks for safety. This is the unfortunate side effect of having the loss of programming days because they were unable to do them. This means that people like my husband, who could be home two months sooner since he was programming, but that stopped almost a year ago.

Anything can happen while in prison. During my husband's incarceration, he has not only suffered direct and indirect effects from COVID-19, but he also suffered a broken neck during a sports-related injury a few years ago. Just as out in the public, every day is not promised. Granting people the time lost due to no fault of their own is the right thing to do. Please help those who are affected now, as well as those who could be affected in the future. I urge you to pass Assembly Bill 241.

Jenifer Henry, Private Citizen, Lovelock, Nevada:

I am speaking on behalf of Caroline Glover, who could not be here today [[Exhibit D](#)].

My message brings a lot of frustration with urgency to understand why families are chasing their Love Ones expiration dates that are due for releases this year! It is ridiculous for OMD [Offender Management Division] to continually calculate more time for programs and jobs that are simply not there for Inmates during COVID-19.

The majority of the Inmates have been maintaining their expiration dates until the hit of COVID-19, having Case Managers expressing the lack of jobs in their facilities with "it isn't the Case Managers priority to keep Inmates working to seize their time." With this being said Families would like to know if jobs are not available then why are their Love One's release time restarting for longer sentencing? Why is COVID-19 penalizing Families Love Ones and forcing Inmates to conduct more time during a National emergency—that isn't to the fault of their own nor control?

The Families are sick! What's fair for the Nation should be fair Inmates that were coming home and conducted their structure sentencing. We are pleading for the five (5) days per month to be returned and not penalize the Inmates due to COVID-19.

Chairman Yeager:

I will note for Committee members that the statement from Ms. Glover is uploaded on NELIS, so you can read that there.

We will close testimony in support and now open testimony in opposition. [There was no one.] I will close testimony in opposition and open neutral testimony.

Tom Lawson, Chief, Division of Parole and Probation, Department of Public Safety:

I am testifying in neutral on this bill. I want to thank Ms. Welborn for her clarification on the bill because when I first read it, I had a similar interpretation as Assemblyman Wheeler. The clarification of the intent of this bill was much appreciated.

Overall, for the Division of Parole and Probation, Department of Public Safety, I see very little impact to the application of this bill to our releasing inmates. All it will do is accelerate the release timing of those inmates who qualify for these additional credits. As a result, we may see a surge in our past parole eligibility dates as those credits are applied, and we process individuals for release. As we have testified before on other bills in our budget hearings, the limitations due to a pandemic, such as this bill, would apply to limit our opportunities for placement of releasing inmates and dries up the well of places that are willing to accept inmates who are releasing. Because of the additional credits being applied and the expectation of limited resources of placements of offenders on the outside, we expect to see a little bit of a backlog in our release planning and a spike in our past parole eligibility date list. Other than that, the caseload will be absorbed, and we do not see the necessity to submit a fiscal note for additional positions due to the change in the flow out of the prison and not an increase to the overall numbers that are expecting release.

If there are any questions that I can answer on this, I will. Unfortunately, I cannot answer questions about NDOC's calculation of good time credits. I would have to take my shoes off to count that. I am not well versed in that. For anything else, I am at your disposal.

Chairman Yeager:

While we have Chief Lawson here, are there any questions regarding the potential impact on the Division of Parole and Probation? I do not see any questions. Is there anyone else who wants to testify in the neutral position? [There was no one.] I will close neutral testimony. I will turn it back over to Assemblywoman González and anyone with her for concluding remarks.

Assemblywoman González:

In closing, I would like to thank you for the opportunity to present A.B. 241. I would also like to thank those who called in with their personal stories, since I am also personally impacted by having a family member incarcerated at this time during the pandemic. People in our prisons and jails are, unfortunately, also disproportionately likely to have many other chronic health issues. Nevertheless, as you have heard on the record, correctional health care is low quality and very difficult to access. This bill seeks to address the public health crisis that is in our incarcerated population due to this highly infectious disease that we know as COVID-19. Hopefully, we will never have to go through this again; however, that is also the purpose of this bill. The purpose is to have in our statutes that, if we were to endure another public pandemic, we would have something in place to address that for our incarcerated population. I urge your support for this important legislation.

Chairman Yeager:

I will close the hearing on Assembly Bill 241. Members, we have one more item on our agenda this morning and that is public comment. Public comment is a time to raise matters of a general nature that fall within the jurisdiction of the Assembly Judiciary Committee. Is there anyone who would like to give public comment this morning?

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I am the sister of Thomas Purdy who was hog-tied during a mental health crisis by Reno Police for over 40 minutes and was asphyxiated to death at Washoe County jail by the deputies. I would like to mention that Reno Police have been killing people by hog-tying them for a long time. Ronald Wayne Bunch [Wayne Ronald Bunch according to the *Elko Daily Free Press*, September 26, 1994] was asphyxiated while hog-tied by Reno Police Department on September 23, 1994.

Today, I would like to talk to you about 50-year-old Byron Lee Williams, known as "Ronnie" to his family. Ronnie was senselessly murdered by the Las Vegas Metropolitan Police Department (Metro) on September 5, 2019, for allegedly not having a safety light on his bicycle. He was pulled over early in the morning by Martin Luther King Blvd and West Bonanza Road in Las Vegas. Likely due to having had bad experiences with police before, he decided to run. When Metro caught up with him, he complied and got on the ground, surrendering. Two police officers jumped on his back, holding him in a prone restraint. At this point, Ronnie began stating over and over again, "I can't breathe." His plea for help was only answered with total callousness. The video shows officers laughing at him, mocking him, and giving each other props for catching him. Around seven officers were on scene and all of them turned off their body cameras before Ronnie was transported in the ambulance. Ronnie died shortly thereafter. No officers have been indicted.

In typical police modus operandi, they immediately tried to criminalize Ronnie for past mistakes in his life. Per Ronnie's niece, Teena Acree, "He was loved, he was a changed man, and it needs to be known that he changed his lifestyle." Twenty-one times he told the police officers who were arresting him, "I can't breathe, I can't breathe, I can't breathe." The last words Ronnie heard were from a Metro police officer telling him that no one was coming to help him. I truly do not understand how people can become so compassionless and lose their moral compass.

When my brother was asphyxiated to death by Reno police, the Washoe County District Attorney's Office did not review his case, nor do they review any deaths at the hands of law enforcement in Washoe County if the method of killing is asphyxiation by officers. Per the Washoe County medical examiner, my brother would not have died were it not for the physical force used on him. My brother weighed 140 pounds soaking wet. He died uncombative, not having assaulted anybody, but for simply asking for help.

Please do not support bills that provide further protections for law enforcement. Please support bills that provide accountability and transparency from law enforcement and bills that protect community members from police who choose to abuse their authority.

Chairman Yeager:

Is there anyone else who wishes to provide public comment? [There was no one.] I will close public comment. Is there anything from our Committee members? I do not see anything else.

For the rest of the week, the plan is to start at 8 o'clock each morning. While we were in this meeting, we had a revised agenda posted for tomorrow. We have added a second bill to the agenda. We will be hearing a bill from the Office of the Attorney General, and then Assemblywoman Krasner will present a bill as well. I am hoping we will have the agendas for the rest of the week later today or tomorrow as we move things around. As a reminder, we have a floor session today, so please make your way to the floor. I will see you back here tomorrow morning. This meeting is adjourned [at 11:31 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
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 copy of a document from the Department of Health and Human Services titled "Facilities with Reported COVID-19 Cases," submitted by Assemblywoman Cecelia González, Assembly District No. 16, regarding Assembly Bill 241.

[Exhibit D](#) is a copy of an email dated March 14, 2021, to Assembly Judiciary Exhibits, signed by C. Glover, Founder, Caroline's Cancer with Family Community, read by Jenifer Henry, Private Citizen, Lovelock, Nevada.