

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

**Eighty-First Session
March 30, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:03 a.m. on Tuesday, March 30, 2021, Online. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Cathy Kaplan, Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services
Karen Cliffe, Chief Deputy District Attorney, Family Support Division, Clark County District Attorney's Office
Kimberly Smalley, Special Services Program Specialist, Division of Welfare and Supportive Services, Department of Health and Human Services
Kimberly Surratt, President, Nevada Justice Association
Kari Cordisco, Deputy District Attorney, Family Support Division, Washoe County District Attorney's Office
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
DaShun Jackson, Director of Children's Safety and Welfare Policy, Children's Advocacy Alliance
Misty Grimmer, representing the Nevada Resort Association
Victoria Gonzalez, Executive Director, Nevada Department of Sentencing Policy
Tom Lawson, Chief, Division of Parole and Probation, Department of Public Safety
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association; and Private Citizen, Reno, Nevada
Nicholas Shepack, Policy and Program Associate, American Civil Liberties Union of Nevada
Jim Hoffman, representing Nevada Attorneys for Criminal Justice
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Annemarie Grant, Private Citizen, Quincy, Massachusetts
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Tiara Moore, Housing Justice Organizer, Progressive Leadership Alliance of Nevada

Chairman Yeager:

[Roll was taken and Committee protocol was explained.] Committee, you can see we have four bills on the agenda today. I am going to take them slightly out of order. Just so everyone knows, we will take the last bill on the agenda first, because we have the largest number of presenters helping us with that bill. Then we will start from the top and take the other three in the order they are listed on the agenda. At this time, I am going to open the hearing on Assembly Bill 406. We have a number of folks on Zoom with us this morning. I will give you all a chance to make your presentation, and then I am sure we will have some questions.

**Assembly Bill 406: Revises provisions relating to the collection of child support.
(BDR 3-138)**

Cathy Kaplan, Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services:

I am here this morning to present Assembly Bill 406. The Nevada Child Support Enforcement Program has over 83,500 open child support cases. Of those cases, there are over 68,000 obligors who are in arrears with their child support obligations. Existing statute allows past due support to be withheld when an obligor wins a prize or lottery. However, there are no current processes for licensed gaming establishments to identify delinquent obligors and withhold from their gambling winnings. As a result, delinquent obligors are receiving gambling payouts directly, without winnings being contributed to the financial situations of their children.

The implementation of the process outlined in A.B. 406 will provide a secure, electronically accessible method for withholding the gambling winnings of obligors owing child support arrears. Additional collections from gambling that would be distributed to custodial parents would increase the self-sufficiency of children and families while reducing the burden on state resources in the form of public assistance. Although this bill proposes a new process for Nevada, withholding from gambling winnings is not a new concept. At least 19 other states across the nation have successfully implemented statutes requiring gaming establishments to withhold winnings. Implementation of A.B. 406 will provide a clear process for the withholding of gambling winnings using the same procedures as currently used for other one-time, lump-sum withholdings for support. Past concerns with legislation of this nature have included a reluctance to unreasonably burden gaming establishments, as well as reluctance for providing access to large amounts of personal data and financial records.

Section 1 of A.B. 406 places the vast majority of the burden on the Division of Welfare and Supportive Services (DWSS). It will be the responsibility of the Division to establish and maintain the registry that will be used for identifying delinquent obligors. Staff selected by each gaming establishment will be given restricted, electronic access to the registry. When a patron has a gambling winning in an amount which will require reporting to the Internal Revenue Service (IRS) on a form, W-2G, the staff member will log in to the registry and enter identifying information such as the social security number that is already provided

by the patron for the W-2G. If the patron is known to the registry and meets the delinquency criteria, the staff member will be able to download a one-time order, notice of lump-sum payment, on a federal income withholding form. The amount reflected on the form will be deducted from the winnings and be remitted to the Division. The administrative fee may be retained by the establishment and any remaining balance of the winnings will be paid to the patron. If the patron is not known to the registry, the winnings will be paid out in full. Once processed, the gaming establishment will not be required to maintain the income withholding order for future winnings. As with other enforcement tools utilized by the Division, procedural due process will be applied, and obligors will be provided with an opportunity to contest the withholding.

Child support is a performance-based program that meets certain performance measures. Collections is one of the performance measures. If Nevada increases collections, there is an opportunity to compete for additional incentive funds. These funds are 100 percent federally granted and must be used for program enhancement. The Child Support Program is currently in the process of replacing the automated system known as NVKids, and we are scheduled to go live in May of 2022. It will include an interactive portal that will be used for employers, so they can access income withholding and employment verifications. Our plan is to use federal incentive funds to make improvements to NVKids to add a secure, electronically accessible registry that is required by A.B. 406. To ensure sufficient time and development for implementation of this process, we propose an implementation date no sooner than July 1, 2023.

Karen Cliffe, Chief Deputy District Attorney, Family Support Division, Clark County District Attorney's Office:

This bill contains two primary sections. Section 1 requires the state's Department of Health and Human Services (DHHS) to establish and maintain a secure registry for the purpose of withholding gaming winnings. The "gaming winnings" are defined in the bill as winnings at a licensed gaming establishment that are required to be reported to the IRS on form W-2G. The registry would contain pertinent information, such as the name, address, and amount of arrears, and it does require the adoption of regulations by the Nevada Gaming Control Board (NGCB). It also requires the casino to review the registry prior to payout of the winnings. The gaming establishment is entitled to a \$25 administrative fee for carrying out these duties. If the obligor has arrears as identified by the registry, winnings up to the amount of the arrears are to be withheld. The gaming establishment has five business days to remit the funds to the state and provide notice to the state of the relevant information, such as the name, address, and other pertinent information that is noted in the registry. Upon receipt of the funds by the state, the state is to send notice to the obligor in the event that a hearing is requested. The obligor has 20 days to make this request and a good faith effort to resolve the matter is required, and that would be between the child support office and the obligor. The state cannot disperse these funds to the child support case until 23 days have lapsed, post-notice, or until the conclusion of the hearing. The gaming establishment is immune from criminal and civil liability arising from their compliance.

Section 2 of the bill is a bit more simplistic. It amends *Nevada Revised Statutes* (NRS) 31A.150 to include gaming winnings as funds that may be withheld for the support of a child. As Ms. Kaplan mentioned, there are 19 states that have successfully implemented gaming intercepts for the purpose of supporting their child support program. This practice has been in existence in some states since as early as 2008. Colorado is one of them. For five years, Colorado casinos fought off the legislation. They made their first collection the day it was implemented. That same year, they collected \$500,000. To date, well over \$4 million has been collected. The executive director of the Colorado Gaming Association initially opposed legislation for fear that the child support review that was conducted prior to payout would be troublesome. However, their experience has been the opposite. It has been a very smooth transition. Federal regulations permit a wide range of collection efforts. Nevada is on the forefront of engaging in numerous actions, to include license suspension, income tax withholdings, pension seizures, passport suspensions, but gaming intercepts is the huge piece that we are missing in Nevada.

As Ms. Kaplan touched upon, child support collection significantly reduces the federal, state, and local cost of providing cash assistance to single-parent families. Every collection, large or small, benefits families. These funds help provide shelter, food, clothing, and school supplies for children. Passage of this bill will ensure that financial support is a reality.

Chairman Yeager:

There are a few questions already but let me just ask a couple first. This system that is envisioned in section 1, subsection 1, the "secure, electronically accessible registry," the testimony was that it was set to come online in May of 2022. I wonder if someone can give us an update on if that is already in the works, or does that need to go out for potential requests for information?

Karen Cliffe:

The system has already been built. But in terms of the gaming intercept portion, that can be built in. I will defer to Ms. Kaplan.

Cathy Kaplan:

Our NVKids system is a six-year project. We are in the implementation phase of that right now, which started in 2017. Our plan is to have our first pilot office in November of this year, and we are rolling out across the state in phases. Our final phase will be in May of 2022. Once it is out and implemented and we have worked through all of our bugs and issues, we would sit down with the gaming establishments and design what would work for them to make it the most noninvasive process for them. It would be an add-on to our NVKids system.

Chairman Yeager:

In section 1 of the bill, subsection 5 and subsection 6, there is a procedure where somebody can contest having the money remitted to the Division. This procedure in subsection 5 says there has to be a good faith effort to resolve the matter between the obligor and the Division, and that a meeting has to take place to try to do that. Then in subsection 6, it talks about the

hearing and says that the hearing happens within 20 calendar days of that meeting or attempt to negotiate. My question is what if that does not happen? What if the obligor contests what is going on, but does not meet and make a good faith effort with the Division to resolve it? Does it still go to a hearing within 20 calendar days, or what would we do in that circumstance, where that meeting never really happens?

Kimberly Smalley, Special Services Program Specialist, Division of Welfare and Supportive Services, Department of Health and Human Services:

The responsibility to reach out to the obligor is on the Division. If the obligor requests a hearing and fails to provide any reason for that, then we would not go to a hearing. That initial meeting is a requirement. If the obligor requested a hearing based on a mistake of fact, and that case was reviewed and it was found that it was an error, we would not need to go to the hearing and we would release the funds. But if the obligor requested the hearing and there was no basis for the hearing found, and the obligor failed to contact at the initial meeting, then after the allotted time frame of 23 days from notice, the funds would be released to the case.

Chairman Yeager:

I have a number of questions from Committee members.

Assemblywoman Krasner:

My question is more of a liability question. In the event that a team member of the gaming establishment fails to adhere to their requirements of the bill, would the casino be liable for the team member's mistake in providing those unconfiscated funds, or what would the procedure in a case like that be?

Cathy Kaplan:

I would anticipate that, as part of the bill requirement, we would work out details such as that with the Gaming Control Board. That is one of the steps that this bill does bring forward, that we will work out procedural processes with them prior to the implementation.

Assemblywoman Kasama:

At first, I thought this was a lot of work for the one-off that might win Megabucks, but hearing your presentation with the money that has been collected, it is very impressive, I think. I support this and I think this is a great way to collect. Is this the first time that gaming establishments have had to look to another source for withholdings? At this point, have they only been responsible for IRS withholdings? Would this include any establishment—like a little bar and grill that has 15 video games—would it also include them and require them to go to the registry and double-check?

Cathy Kaplan:

It would include all gaming establishments. We do not want to pick on one or the other; we want to make it fair across the board. As far as I know, this is the first time that they have had to withhold for other debts. I do not know the full answer to that.

Karen Cliffe:

Currently, casinos do wage withholdings for income to comply with the child support order. The casinos withhold for the current support, the arrears obligations.

Assemblyman Wheeler:

I am worried about the security issues of this and the information that is on the database. I have seen things in my own district where someone has paid up their child support and the state has not updated their records yet, and three months later they get dinged for another child support payment and it is a bear to get back through it. In the casino itself, who has access to this database? Will they have to hire a special employee, for instance, who has some kind of specialty security clearance so that this information does not get out to the public, or to a friend, or whatever? How is that handled, and what are the security procedures for this?

Karen Cliffe:

Currently all of the employees, whether it is at the District Attorney's (DA) office or at another state employer, that have access to this database have to complete confidentiality forms. Currently the information that we are asking the casino employees to review is information they would obtain when completing that W-2G form; that is the social security number, address, or any information necessary to inform the IRS.

Assemblyman Wheeler:

What you are saying is that, right now, it is accountants doing it with the same information, but they sign a confidentiality agreement. It seems to me that you will have someone in the casino itself, where they will have to hire a special employee that can somehow keep security.

Assemblywoman Cohen:

I appreciate the information about Colorado, but we know that people are not coming from other states to gamble in Colorado the way they do in Nevada. How does this interplay with the Uniform Interstate Family Support Act (UIFSA) and, if people are coming from other states and winning jackpots, and there is already a case here because of UIFSA, can you address that please?

Karen Cliffe:

We are only going to be noting on the database cases that are open within the state of Nevada. If a tourist, for example, comes in from Texas and there is no open child support case in Nevada, we would not be intercepting those gaming winnings. So, UIFSA aside, it would only be whether there is an open child support case being enforced by a local Nevada office.

Assemblywoman González:

In other states that have this, how much garnishing are they doing in terms of money that they get for their cases?

Karen Cliffe:

There are 19 states. We have been able to look at, historically, what they are collecting. Ohio collects quite a bit. To give you an example, in North Carolina from 2008 to 2017—and we are talking about states with very limited gaming—they collected over \$1,139,000. In Louisiana, which has 20 casinos statewide, from 2016 to 2017 you are looking at about \$4,455,000. During that time period, just within the year, you are looking at about 3,000 intercepts which netted over \$4 million. The numbers are staggering among these 19 states, and so we are certain that with the level of gaming in Nevada, it would be impressive for these families.

Assemblywoman Hansen:

I appreciate this bill. On its face, I am completely supportive as a child who did not get child support growing up. I support any legal means we can garnish for what should be rightfully due to a child of a single parent. There was a lot of logistics involved in originally setting up the garnishment process. As far as the logistical rollout, it seems to me that the foundation is already there within agencies, within the DA's office, and within the gaming establishments who already are having to work with the IRS for reporting gambling winners. To me, this does not seem like a huge lift, but I am sure in opposition we might hear differently. Is the foundation not already there to make this streamline okay?

Cathy Kaplan:

Our intention is to make a portal and make it as easy as possible for the gaming establishments. What we envision is that, once you gain that information for the W-2G form, you would log in to our NVKids portal and put in that information. At that time, we would instantly get a match or a no match to that record. If there is no match you can pay out the winnings to the patron with no harm, no foul, but if you get a match then you would get a download of an income withholding order so you would know exactly what needed to be garnished. The good part about this is that we have not built anything yet, so we are hoping to sit down at the table with each of the gaming establishments and try to streamline it, make it as easy as possible, and build something that is easy to work and no burden on the gaming establishment whatsoever.

Assemblywoman Hansen:

I own a business and I have to garnish wages for child support, so I am thinking, going back to the questions about who would handle this information, I am assuming that human resources would handle it, in the same way as with the garnishment of wages. So, would it not be the same human resources employees who have been entrusted with that employee information to now handle the information of winners who might be on the registry and have those winnings garnished?

Cathy Kaplan:

We would not dictate exactly who will have access to the system; we would want to leave it up to each gaming establishment, because maybe it is the cash cage people that would handle the W-2G form, and so it would just be a process flow and the next step would be to log in to our portal and check to see if there is an outstanding child support obligation.

Karen Cliffe:

I wanted to briefly touch upon Assemblyman Wheeler's comment about that data. It is something I overlooked, and I apologize. This is real-time data so we should never encounter an issue where a portion of the arrears were paid off and perhaps the computer was misreading. It will be real time, and that is something that is critical for this gaming intercept to work.

Assemblyman O'Neill:

Are you talking about real time in Clark County, or is it real time across the whole state?

Karen Cliffe:

It would be real time statewide. It is a statewide system.

Assemblyman O'Neill:

So, the system would all be automated? You would not need any phone calls at one o'clock in the morning from somebody?

Karen Cliffe:

No, thankfully no.

Assemblyman O'Neill:

What other income sources does the state access now for the garnishment of wages?

Karen Cliffe:

In terms of garnishment of wages, we have a lot of enforcement opportunities. We do garnish employment income, we take liens on real and personal property, we are involved in litigation in terms of judicial foreclosures, personal injury matters, but the gaming intercept provides an interesting opportunity to collect child support for families because, in the state of Nevada, we do have a segment of our population that is not employed through an employer. We have many individuals that, for lack of a better word, are working under the table, and we can only withhold where we have a valid employer. We have individuals who are self-payers or who do not use a bank. This gaming intercept provides an opportunity to collect funds on cases where we would never otherwise be able to collect unless the individual makes a voluntary payment.

Assemblyman O'Neill:

As I recall, the W-2G forms are filled out when the winnings are in excess of \$10,000, or is it \$12,000?

Karen Cliffe:

My understanding is that it changes depending on the type of gambling. For slots it would be \$1,200, but for a table game, I believe, it is \$10,000 or more. I know that the gaming regulations are intense, but I do believe that number fluctuates depending on the type of gambling.

Assemblyman O'Neill:

Do you have any projections at all on what we would have collected if we had, say, enacted this law two years ago?

Karen Cliffe:

I have to say that I do not have a number. I can only imagine that it is staggering given what we have seen in Ohio and some of the other states. I know it would be in the millions.

Kimberly Surratt, President, Nevada Justice Association:

As a family law attorney, I will tell you that a large majority of our cases have gambling addiction problems. Often when you have a nonpaying parent, there are other reasons such as drugs, alcohol, or gambling, but it is often one of those causes that is a problem. I know that just in my small practice we personally could have collected far more child support than we ever have with this bill. The concept is not foreign or new, because we do have a registry for the insurance companies. We talked about this last session and made some modifications to that law, where it required all the insurance companies to participate in it. The collections are going up, but access is the number one thing we need in order to collect child support. If you have access, you have a means, you know what they are doing, you know more about their behaviors, then you can go after it. Without any knowledge of gambling there are very few ways for us to figure out gambling problems. We can subpoena a casino for their records when they use a player's card or something like that, but it is extremely expensive in a family law case. This is a far cheaper, easier way of finding out about that money.

Assemblyman O'Neill:

Ms. Surratt, I understand the intent of this bill is to collect arrears that are owed for child support. If I understand what you are saying, you want data on how to go after people with arrears, and use it for other things; maybe child custody or to increase child support payment numbers, and not just the simple intent of this bill. Could you clarify that please?

Kimberly Surratt:

That is not what I meant by that. I just meant that these cases are complicated and arrears are the problem. When we are looking to support children and do what is in their best interest, child support arrears are very damaging to families. The DA's office is the only place where we have a lot of these tools. I, as a private attorney, do not have a tool to determine if there were gaming winnings. The DA's office has these tools. They can put a hold on someone's driver's license, their hunting licenses now, or a lien on their tax returns, which are all things that I cannot do as a private attorney. But these cases that they are collecting within the system are ones that are truly in arrears. It is not just that they missed a \$100 payment one month and now they are in the system with garnishments on gaming winnings. These are true systematic arrears, people who are not paying.

Chairman Yeager:

In the interest of time and given that we have three other bills on the agenda, I think I am going to stop there with questions. I will ask our presenters to sit tight while we take some

testimony on the bill, and we will come back for concluding remarks. I will now open testimony in support of A.B. 406.

Kimberly Surratt:

I am appearing on behalf of the Nevada Justice Association, and we are in support of this bill.

Chairman Yeager:

Can we go to the phone lines to see if there is anyone there who would like to testify in support this morning?

Kari Cordisco, Deputy District Attorney, Family Support Division, Washoe County District Attorney's Office:

I have been on the line for 26 years doing child support enforcement. We are testifying in support of this bill. There are many cases, or many obligors, in the 7,000 cases that will be enforced, and which are non-welfare cases, where the obligors do not pay their child support unless it is garnished. And many of these same obligors are self-employed or work at jobs that we cannot collect from and they gamble. They are certainly not going to make volunteer payments toward their child support arrears, no matter how much they win. This bill will allow us to automatically and immediately intercept those funds and get them directly to families in Nevada.

Chairman Yeager:

Could we go to the next caller in support please?

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

We are in strong support of A.B. 406. Assembly Bill 406 gives Nevada child support a tool that is missing from its arsenal to go after parents who are neglecting their obligations to children. That money, once collected from the obligor, goes directly to families and children. As highlighted by the presenters, the more money we collect, then the more money we get back from the federal government in the form of incentive grants. We are willing to work with anybody to make this bill work for Nevada.

Chairman Yeager:

Are there any additional callers in support?

DaShun Jackson, Director of Children's Safety and Welfare Policy, Children's Advocacy Alliance:

We stand in support of A.B. 406. We want children to be taken care of in Nevada.

Chairman Yeager:

Is there anyone else in support? [There was no one.] I will close testimony in support. I will now open for testimony in opposition. Can we go to the phone lines for opposition testimony, please?

Misty Grimmer, representing the Nevada Resort Association:

We appreciate that the proponents of this bill reached out to us early on this bill, and we support their goal to maximize the amount of child support collection that can be tracked down. Unfortunately, at this time, we are in opposition to A.B. 406. While we understand that there are systems similar to this in other states that have gambling, the gaming industry in Nevada is much bigger and more complex than in most other states. The complexity of this system and the privacy concerns are a more prominent factor here. We are happy to keep working with the proponents on developing this system but are not comfortable participating in this system until it is fully developed and we are confident of its reliability, accuracy, and security.

Chairman Yeager:

Are there additional callers in opposition? [There were none.] I will close opposition testimony. I will now open neutral testimony. Can we go to the phone line to see if there is anyone there who would like to provide testimony in neutral? [There was no one.] I will close neutral testimony, and I will welcome our presenters back to make concluding remarks for Assembly Bill 406.

Cathy Kaplan:

I just want to thank you for the time for allowing us to present A.B. 406. I want to say to any opposition that our plan is to build a very secure and reliable database, so the gaming industry is not suffering any hardships in finding out if a patron owes child support arrears. We do want to work with anybody who has any questions or concerns.

Karen Cliffe:

This gaming intercept program is a key component for Nevada to continue to promote economic stability for families. In terms of the reliability and accuracy, under the guise of federal regulations, we are subject to data reliability audits and we have to comply with a host of regulatory measures. We do not have issues in Nevada with our accuracy, our reliability, and I am confident in our state programs and numbers. If there are any questions, we encourage a conversation offline. We thank you for your time today.

Chairman Yeager:

We appreciate your time. At this time, I will close the hearing on A.B. 406. We will go back to the top of our agenda. Assemblywoman Nguyen, I believe you are presenting both of those bills.

Assembly Bill 393: Makes various changes relating to criminal justice. (BDR 14-484)

Assemblywoman Rochelle T. Nguyen, Assembly District No. 10:

I am here today to present Assembly Bill 393 for your consideration. This will be a short presentation, and then I will open it up to any questions. I have Victoria Gonzalez here with me.

Victoria Gonzalez, Executive Director, Department of Sentencing Policy:

Good morning, we support the Nevada Sentencing Commission in making data-driven policy considerations.

Assemblywoman Nguyen:

This is essentially a cleanup bill. In the 2019 Session, this Assembly Judiciary Committee passed a bill that became law in July 2020: Assembly Bill 236 of the 80th Session. It was an omnibus criminal justice reinvestment and criminal justice reform bill. It was over 160 pages so, as you can imagine, we learned in the last nine months that there were things that needed to be cleaned up. As a part of the Advisory Commission on the Administration of Justice, as well as the Nevada Sentencing Commission, there were two interim commissions and committees that met, and the implications of A.B. 236 of the 80th Session were very evident there. You all received the annual reports in January from both of those commissions, and some of you who sat on this Committee last year were able to watch the three-and-a-half hour presentation from Justice Jim Hardesty and our own Chairman Yeager in presenting Assembly Bill 236 of the 80th Session.

This bill here today is just some cleanup language. The recommendations that were included here came out unanimously from both of those commissions and the interim committee work. I do not see there being too much opposition. Obviously, sometimes the language does not reflect what we hope, but I think we have a good understanding of what our intent was in cleaning up some of these statutes. Rather than go through all 68 pages of this, I will open this up for questions.

Chairman Yeager:

Thank you, Assemblywoman Nguyen and welcome back, Ms. Gonzalez. Ms. Gonzalez, for those who do not know, was heavily involved in the Advisory Commission on the Administration of Justice (ACAJ) for the 2017 to 2018 Interim, where Assembly Bill 236 of the 80th Session was developed and worked on, so she is very familiar with this legislation. Assemblywoman Nguyen, I do not know if you can answer this. I want to confirm that while it looks like there is a lot of new language in section 21 of the bill, our statutes for parole and probation are lumped together, and section 21 separates those so parole and probation each has its own section. Although it appears as a lot of new language in section 21, it is just the same language that already exists in a different section of law.

Assemblywoman Nguyen:

That is correct; this is not anything new. The Division of Parole and Probation contacted us during the commission hearings on the ACAJ about how this would add to the clarity and

implementation of A.B. 236 of the 80th Session. This adds clarity by including those in two separate sections. It is not new language; it just allows them to implement the law from A.B. 236 of the 80th Session more efficiently.

Assemblywoman Kasama:

Why do we have two separate sections for parole and for probation? What are the major differences, and why are they separate?

Assemblywoman Nguyen:

Generally, my understanding of having the two sections is that probation is if you are under a current sentence. So, if you have been sentenced and been granted a probationary period, you have probation officers who are dealing with you because it is a part of your sentence. Parole is after you have served your sentence. So, you have served your sentence and have been made eligible for parole.

Assemblywoman Kasama:

On page 17, section 8, subsection 4, it says, "The Division shall develop an individualized case plan for each probationer. The case plan must include . . .," and it goes on. I am just curious because we have already been doing case plans, right? Is this just codifying it again?

Assemblywoman Nguyen:

I believe the section you are referring to already exists in statute; we are just making it clear that it exists for probationers and parolees.

Chairman Yeager:

Do we have other questions for Assemblywoman Nguyen? [There were none.] I am not seeing additional questions at this time. I will ask Assemblywoman Nguyen to sit tight while we take testimony on the bill. At this time, I will open for testimony in support of A.B. 393.

Victoria Gonzalez:

I just want to thank the Committee for supporting the Nevada Sentencing Commission and our brand new, very small department. I want to echo what Assemblywoman Nguyen mentioned about what some of these changes are. Our department is testifying in support of A.B. 393. Back in 2019, the bill that moved the Nevada Sentencing Commission from the Legislature to the Executive Branch and made it a full-time commission also created our department. That bill happened independently of A.B. 236 of the 80th Session. However, A.B. 236 of the 80th Session and its sweeping criminal justice reform tasked the Sentencing Commission with tracking and assessing the outcomes of the bill, which included rigorous data collection and writing various reports. These changes make it clear that the Department of Sentencing Policy is the agency that is supporting the Commission in these efforts, specific to the writing of reports, administering of meetings, and collecting and aggregating that data. I wanted to clarify what the changes were and what Assemblywoman Nguyen said about how the Commission voted unanimously on these changes at our October 28 meeting and were presented to the ACAJ.

Chairman Yeager:

We know your department has been very short-staffed and you have been doing the job of three or four people, so I want to say thank you for those efforts; they do not go unnoticed. Chief Lawson has joined us from the Division of Parole and Probation. He is on Zoom so I would like to go there. I believe he is going to offer supportive testimony and perhaps be able to answer some of the questions that were asked.

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

We are in support of this bill and the language presented. I made some notes when the questions were coming in, so if I missed one of them please let me know and I will provide information. I first want to confirm Chairman Yeager's comment regarding the cleanup of the differences with the bill. I think this also will answer another one of the member's questions. *Nevada Revised Statutes* (NRS) Chapter 176A deals strictly with probation and probationers, as well as all the terms and conditions that have to do with probation. *Nevada Revised Statutes* Chapter 213 does the same, but for the parole side of the house.

The confusion we are seeking to clarify here is that under NRS Chapter 213 there were references to parole, so when our staff is looking for the rules for probationers, you had to go to NRS 176A, and if you did not find it there then you would also have to check the parole statute where it would not intuitively be for guidance for probationers. In the language you are seeing here, in sections 8 and 21 for example, there are a bunch of conforming changes to remove references of parole from the probation statute and vice versa. So it looks like a lot of information here, but the language on either of those chapters that was implemented with A.B. 236 of the 80th Session, where it was put in one chapter before, is just repeated in both chapters now. We have not sought to change any elements that were added last time; we are just clarifying that all the probation information is in the proper chapter and all the parole information is in the other chapter.

Chairman Yeager:

While we have Chief Lawson, I want to see if we have any other questions for him. [There were none.] Thank you for coming on Zoom; we appreciate your testimony in support.

Tom Lawson:

One more note is that Chairman Christopher DeRicco from the Parole Board is unavailable to attend this morning; he is getting his second COVID-19 shot, but he asked me to pass along that the Parole Board is also in support of this bill as written.

Chairman Yeager:

Can we go to the phone lines and see if there is anyone there who would like to offer supportive testimony for A.B. 393?

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

The Nevada District Attorneys Association just wanted to get its support for A.B. 393 on the record.

Chairman Yeager:

Is there anyone else in support?

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

We are here in support of A.B. 393. As a member of the Advisory Commission on the Administration of Justice, we appreciate Assemblywoman Nguyen for bringing this bill forward.

Chairman Yeager:

If there are additional callers in support, let us take the next one, please. [There were none.] I will close testimony in support, and I will now open for testimony in opposition. [There was none.] I will close testimony in opposition, and I will now open testimony in the neutral position. [There was none.] I will close neutral testimony and I will hand it back to Assemblywoman Nguyen for any concluding remarks on A.B. 393.

Assemblywoman Nguyen:

I want to thank Victoria Gonzalez. She is one of those superhero people who collects data and is there as a resource. I would encourage all of our members to reach out to her and her team. It is a small team; they are doing the work of an army, and they are collecting data so that we can make evidence-based decisions for our state. I wanted to get that out there, and I hope everyone will support A.B. 393.

Chairman Yeager:

Thank you, Assemblywoman Nguyen, I appreciate your presentation this morning. And thank you, Ms. Gonzalez, for all the work that you are doing. I will now close the hearing on A.B. 393. I will now open the hearing on Assembly Bill 401.

Assembly Bill 401: Directs the Advisory Commission on the Administration of Justice to appoint a subcommittee to study records of criminal history. (BDR S-1027)

Before I turn it over to Assemblywoman Nguyen, I will note that there is an amendment [Exhibit C] to this bill on the Nevada Electronic Legislative Information System from Assemblywoman Nguyen. I believe she will probably be working off that amendment.

Assemblywoman Rochelle T. Nguyen, Assembly District No. 10:

I am here to present Assembly Bill 401. You will see there is an amendment, and it is a substantial amendment [Exhibit C]. When I explained to the Legislative Counsel Bureau (LCB) what I intended, I was not clear. This is all on me. Year after year and session after session, we hear bills about sealing records, about giving people second chances, about

juvenile records, and about whether we can seal or expunge records. Even when we have declarations, proclamations, or policies in place that allow us to seal simple misdemeanor charges, actually implementing those policies that we have all agreed upon as a legislative body is very difficult. A lot of it has to do with what we have and what kind of processes we have in place. My intention with the proposed amendment [[Exhibit C](#)] is to have a legislative commission appoint a committee of six legislators, so this would be a proposed study, with five corresponding bill draft resolutions that come out of any of these proposed and voted upon studies, to be able to review the types of records that are sealed and to find out what is eligible for sealing, backlogs, current procedures, or waiting times.

We want to look at anything that can help us see what we can do to address our sealing, expungement, or uniformity. This is something that I think will see a lot of support to increase transparency, to help with our job market, and to look at how our sealing statutes interact with some of our social media or Internet websites that possess some of this criminal data. I think looking at this and addressing the process and making it more efficient is something that we really need to look at if we are going to move forward in enacting the policy that we want in these areas. That is the short of it, so I will open it up to any questions you might have.

Chairman Yeager:

We will go first to Assemblywoman Krasner.

Assemblywoman Krasner:

I am informed that currently, in Clark County, there is a mechanism where a juvenile's records are automatically sealed when they turn 21, and that is the law across the entire state of Nevada. But apparently, they are not doing it in Washoe County or the other counties. That is very concerning to me because it means that people who turn 21 and think their records are sealed, those records really are not sealed. I do not know if you can comment on this, but that is very concerning.

Assemblywoman Nguyen:

I am not familiar with what is happening across the state, but I am familiar enough to know that there are inconsistencies. There are implementation issues, uniformity issues, and so, as I said, I am hoping that an actual study will allow us to have an in-depth conversation about what is happening across the country, and what we can do in this state. We want to have the people who are actually doing this on the ground come in with real solutions about what would make their jobs easier and how we can accomplish our policy goals. To your point, this is why we need this study and why we need to take an in-depth look at what we currently have in place so when we, as legislators, are enacting laws and policies, we will know that they can be implemented.

Chairman Yeager:

Are there other questions from Committee members?

Assemblywoman Summers-Armstrong:

One of the things that has been a concern to me is the availability of data to be picked up on the Internet, and then businesses using organizations to do their background checks for employment. That old, outdated data may still be accessible. I know that there is a national database people can check to see if an employee has a valid social security number. Would you also consider, because I did not think I saw it in the proposed language, that employers, especially government, use an official database to check on people's records, so that we do not have this outmoded data interfering with people's ability to find employment, once their records have been expunged or sealed? Then those people can truly say that they do not have a conviction.

Assemblywoman Nguyen:

I think that is a great question. I tried to encompass some of those issues. With these study bills, you want to make them vague enough so that you can allow the study committee to examine what they want. I tried to include that in section 7, where it references the applicability of current procedures by the state for sealing records of criminal history, which are posted on Internet websites or social media. I would be open to expanding that definition to make it broader so we can look at what kinds of records people are looking up, especially for state and government jobs. I think that is easier to require. I am not opposed to including having the interim committee study also focus on some of that issue. I think there is a lot of interplay between private industry and their ability to look up people's records. I would imagine that they would want a more uniform approach for being able to check the backgrounds of their potential employees, and I think that this would allow that as well.

Chairman Yeager:

Are there further questions from the Committee? [There were none.] We will now move on to testimony and then come back for concluding remarks. I will now open for testimony in support of A.B. 401. Could we check the phone lines to see if there is anyone there?

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

We are here in support of A.B. 401, which is a much-needed step. Record sealing is a confusing and complicated process. We seemingly cannot expunge records in the state and explaining why has been a convoluted mess. The Office of the Governor offered record sealing for marijuana offenses, but I believe at this time you can still count on your fingers and toes the number of people who have accessed that sealing process. A study that will allow us to better understand this process is very welcome. I do not think that anyone can argue with the fact that we can do better in this area. We look forward to this study, the clarity it will bring, and hopefully a streamlining of the process. It is the community that suffers from the complexity and confusing nature of this process, and that is not fault of their own.

Chairman Yeager:

Are there additional callers in support?

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:

The Nevada Attorneys for Criminal Justice supports A.B. 401. Nevada's current record sealing process is Kafkaesque. That is not a figure of speech, that is literally the plot of a novel by Franz Kafka. *The Trial* is about a man who gets charged with a crime and has to go around from agency to agency, trying to get the charges taken off his record. Each agency tells him that he has to go talk to someone else, and he spends his entire life fruitlessly trying to navigate the bureaucracy until the book ends with his death. While Nevada's record sealing process does not take a person's entire life, it still requires people to navigate a needlessly confusing set of bureaucracies in order to get any relief. This situation must change. Studying the issue is the first step to fixing it, and so the Nevada Attorneys for Criminal Justice supports A.B. 401.

Chairman Yeager:

Are there additional callers in support?

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

Record sealing has been a pet project of mine, as well as Judge Bitu Yeager's when she was a public defender at our office who worked on starting a program and figured out all of the difficulties that come with trying to seal a person's record for a fresh start. The Legislature has gone a long way towards correcting some of those difficulties in the last two sessions, but there is still a long way to go. I look forward to seeing what recommendations come out of this study.

Chairman Yeager:

If there are other callers in support, let us take the next one please.

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

I want to thank Assemblywoman Nguyen for bringing this incredibly important legislation forward. As we have discussed in several other hearings this session, record sealing is a significant issue to this state. It is extremely arduous, time consuming, confusing, costly, and no one seems to have the right answer as to how to fix it. We come back bill after bill, session after session, chipping away, and it is time that we finally study it and figure out how to overhaul this system. I would note that as a practitioner here in Nevada, as well as previously in California, I have assisted in record sealings in both states, and it is such a different system here in Nevada that is very hard on our citizens. We appreciate this bill in order to try to expedite the process when someone has deserved and earned a record sealing.

Chairman Yeager:

Are there any more callers in support? [There were none.] I will now open testimony in opposition. Can we go to the phone lines to see if there is anybody there? [There was no one.] I will now close testimony in opposition, and I will move on to testimony in neutral. Is there anyone on the phone lines to testify in neutral? [There was no one.] I will now close

testimony in neutral and I will hand it back to Assemblywoman Nguyen for concluding remarks on A.B. 401.

Assemblywoman Nguyen:

I am going to talk to the Legislative Counsel Bureau about a possible amendment to expand that, to look at work histories and to have the committee also look at that. I appreciate your support on A.B. 401.

Chairman Yeager:

I will now close the hearing on Assembly Bill 401. I will be presenting the next bill, so I will hand the Chair over to Assemblywoman Nguyen, and I will go to the presentation.

[Assemblywoman Nguyen assumed the Chair.]

Vice Chairwoman Nguyen:

Today I will open up the hearing on Assembly Bill 402. With that, I will turn it over to Assemblyman Yeager for the presentation.

Assembly Bill 402: Revises provisions relating to public safety. (BDR 14-1033)

Assemblyman Steve Yeager, Assembly District No. 9:

I am pleased to present Assembly Bill 402 this morning. Assembly Bill 402 makes some changes to language that was added to law by Assembly Bill 3 of the 32nd Special Session last summer. Those of you who were here then likely remember that was the so called "social reform, police reform, social justice" bill that was passed through the Legislature. As we have discussed in this Committee on occasion, the word "custody" can have different meanings when pertaining to law enforcement. There is physical custody when an officer has physical control over somebody. The most obvious example would be someone in handcuffs in a police car. They are in the control of the officer. But there is also legal custody, when law enforcement might not have physical control over somebody, but the person is not free to leave. In the eyes of the law, that person is in custody. The most obvious example would be when law enforcement is responding to a crime and interviewing folks at the scene about what happened. Although a person might not be in handcuffs, they might not be free to leave, meaning that they are in legal custody. One consequence of being in legal custody is that law enforcement is required to give *Miranda* warnings if they are going to interrogate the person in that circumstance. Those, of course, are the warnings that we hear on every TV legal drama all the time; "you have the right to remain silent . . .," et cetera.

Assembly Bill 3 of the 32nd Special Session referenced the word "custody" in three instances, but it did not specify legal versus physical custody. Why did it not do that, you may ask. The honest answer is that that special session moved very quickly, and we did the best we could, but in my estimation, we fell short of getting that language precise. Because it was a special session, we did not have the normal opportunity to vet legislation in the Judiciary Committee, like we are doing here. Instead, we heard the bill in the Assembly

chambers, sitting as a Committee of the Whole, and the Senate did the same. Since the 32nd Special Session, I have received feedback that this language could use some clarification. Assembly Bill 402 seeks to clarify that we are referring to physical custody in three instances, rather than legal custody.

Let me quickly take you through the bill before taking questions. Section 1 of the bill pertains to the right to record law enforcement activity. With the amended language, somebody under arrest or in physical custody would not be permitted to record police activity. This makes sense because, at that point, your actual movement is going to be restricted if you are under arrest or are in physical custody. In that instance, the officer does not need to accommodate your desire to record, and to be honest, the officer body cameras should be recording at that point anyway. I will note that I am still in discussion about some of this language, but that is the intent; that when someone is in handcuffs, obviously, they will not be able to record what is happening at that point.

Section 2 of the bill comes with a conceptual amendment [[Exhibit D](#)] that you will find on the Nevada Electronic Legislative Information System. It is a one sentence conceptual amendment. I am asking that the first instance of the newly added word "physical" be deleted. If you are looking at the bill, that is on page 3, line 8. That reference to "physical" should not be in the bill because the intent of Assembly Bill 3 of the 32nd Special Session was to ban the use of chokeholds. The addition of the word "physical" in this line suggests that chokeholds are okay until a person is in physical custody, but that is not the intent of Assembly Bill 3 of the 32nd Special Session. Chokeholds would only be permissible if used in a self-defense situation. That is the one amendment that I am requesting. Staying in section 2 of the bill, the addition of the word "physical" is very important in line 10, because the obligation to place somebody in the rescue position should only apply when the officer actually has the person in physical custody, not just legal custody. Because again, legal custody does not necessarily mean physical custody. The most common instance of this happening would be when somebody is already in handcuffs and is on the ground or in the back of a police car, if they indicate that they cannot breathe or appear to be in distress, then existing law and this bill would require that law enforcement place them in a rescue position so that people do not suffer unnecessary harm.

Section 3, likewise, clarifies that an officer has an obligation to intervene when another officer is using unjustifiable physical force to take someone into physical custody. In this instance, legal custody and physical custody are likely going to be the same thing, because an officer generally would not be using force to put someone into legal custody apart from putting them in actual physical custody. I think it makes sense to add that clarification here just for the consistency of the language in the statute. That is the bill in front of you, and I will note that things are moving very fast in the building. I did not have an opportunity to reach out to all interested parties on this legislation before this morning's hearing. Because of that, I am very unsure about who we are going to hear from in the testimony of this bill and what concerns may be out there. I am, of course, willing to work with anybody who has concerns and who believes we can make this legislation better.

Vice Chairwoman Nguyen:

I am looking around to see if we have any questions. [There were none.] Can we please begin testimony in support of A.B. 402?

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I am the sister of Thomas Purdy, who was asphyxiated to death by Reno police and Washoe County sheriff's deputies. First, I would like to thank the Committee for sponsoring this bill. I realize that the bulk of the bill has been in action since the special session. When your loved one is killed by police, police policies do not save their lives, but perhaps legislative mandates will encourage common sense be used by officers. My brother was never put into the recovery position by Reno police after being hog-tied. Instead, he was kept face down, hog-tied in between two police cruisers with an officer's knee on his neck and back area for the entire time Reno police were at the scene of the Peppermill, filling out their paperwork.

I have seen too many videos of men pleading to officers that they cannot breathe, only to be told that if they are talking, then they are breathing, only for that person, somebody's loved one, to die moments later from the pressure being applied to their body while prone or restrained. Putting someone in the recovery position will keep their airway clear and open. It also ensures that any vomit or fluid will not cause them to choke. Recording the actions of police by bystanders is often the only way that truth is shed on a particular event. Perhaps if a bystander was filming the police who hog-tied my brother, who was nonaggressive, they would not have kept their knees on his neck and back the entire time. Maybe they would have called an ambulance. There should have been video of him being hog-tied, but Peppermill security were fully aware that the surveillance cameras do not cover the area he was in, so the footage is from a camera across the parking lot, making it grainy.

Those who oppose police being filmed will say that we already have *Nevada Revised Statutes* 289.830 regarding body cameras. But as someone who has put in multiple officer-involved shooting bodycam footage requests for victims' families only to be denied, I can attest that access to witness-recorded footage is much easier for a victim of police to obtain. Private citizens recording police during their interactions with the public ensures a level of accountability of the police that is nonexistent when cameras are not rolling. For most people who film police, the intent is not to antagonize, provoke, or interfere with the police. Rather, they strive to help end police misconduct, brutality, and abuse of power through the direct observation of their actions.

Vice Chairwoman Nguyen:

Can we please go to the next caller? [There was no one.] I will now close testimony in support, and I will move on to testimony in opposition. Is there anyone to testify in opposition of A.B. 402?

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

We are here in opposition to A.B. 402 as presented by Assemblyman Yeager. We signed in as neutral, but we truly do have concerns about section 1, as this makes it apply to bystanders

at an incident who may truly be suspects once we sort out what is in front of us. The scenes we go to are not always super clean and easy to take people into separate areas to get testimony on something. We might have a sexual assault victim who might be hesitant to speak with us because they are being recorded by the suspect or a friend nearby, and maybe it does not rise to interfering or obstructing at the time, but no one is free to leave at that moment even though we might not have anyone in physical custody. While we are trying to sort it out, maybe some people have their phones out recording the cops and recording who is saying what to who, and maybe we cannot get a true story from a victim of something that happened. That is just one scenario.

You can throw a hundred different what-ifs at it, but the word "physical custody" would prohibit us so that we could not tell the other people nearby to stop recording. We do not really care if people record law enforcement. We are out in the public and are public servants; that is what we do. But we do care about getting truthful information, and we do care about victims. Section 1 with the phrase "physical custody" is something that we really tried to fight off in A.B. 3 of the 32nd Special Session, and we would request that you do not add the word "physical" to section 1 of this bill. We are in opposition for that reason.

Vice Chairwoman Nguyen:

We can go to our next caller.

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

We are strongly opposed to A.B. 402 and the changes being made. We certainly support people's ability to film law enforcement activity. There are cameras everywhere in our society, and as was mentioned, our police officers currently wear body cameras so that is not a concern. But our concern is about removing the word "physical." The courts have established that a person is in custody when they reasonably believe that they do not have the right to leave. Officers often have to detain suspects at crime scenes, and they have to take people into custody without necessarily putting them into handcuffs. Just this weekend I had a fight break out in front of my home involving about 20 people. I called 911, and the officers who showed up were in a situation where they did not have enough handcuffs to physically put everyone involved into physical custody.

I believe that if we have situations where an officer has to put handcuffs on you before they can request that you put a camera down, situations are going to escalate and it is much more likely that officers and citizens will be harmed. I believe that, in many of these cases, when we are dealing with a potential suspect of a crime and they are not actually in handcuffs yet, but the officer is trying to take control of the situation, a reasonable person would believe that they are not free to leave. But having an object in their hands, which could be a phone or could be a weapon, that they are sticking in the face of an officer, as many of you may have seen in the video footage of some of the protests, there were protestors literally putting a camera in front of the face of an officer; and having to physically put someone in handcuffs in order to ask them to stop filming during a detention or custody of that person is only going to escalate situations. Also, this was discussed in detail during the special session where

I talked with lawmakers about how the intent was to codify case law involving the right to film officers. I actually participated in the testimony on the floor to the Committee of the Whole and answered numerous questions regarding this statute, so I do believe there was an opportunity to discuss it in detail in the special session.

Vice Chairwoman Nguyen:

Can we go to our next caller in opposition of A.B. 402? [There was no one.] Do we have any callers in neutral?

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

We are in neutral on this bill. We were waiting to hear some of the comments before we weighed in. When I heard concerning comments from Director Callaway and Mr. Spratley, we decided to come in as neutral. It is concerning because the Las Vegas Metropolitan Police Department has a history of trying to take phones away from people who are trying to record them, so the right to record officers is not as freely given as Director Callaway and Mr. Spratley would make it seem. It is concerning that they would even further try to limit that right. I wanted to put those concerns on the record for this bill.

Vice Chairwoman Nguyen:

Do we have any other callers in neutral?

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

Like the Clark County Public Defender's Office, we were not planning necessarily on testifying today. We just need to put some statements on the record. We appreciate all the work that this Committee has done regarding this bill, and in particular in the special session with listening to the voices of the community who were demanding that there should be some changes enacted because the community members were afraid of being unable to videotape interactions with law enforcement. We appreciate the hard work that this Committee did to ensure that individuals feel safe to protect each other while interacting with law enforcement on the street. Unfortunately, this bill is necessary, and this legislation is needed since not all law enforcement wear body cameras when interacting with the public. There is a law indicating that they should, however we have seen that there are individuals who are not part of the requirement who are able to interact and be involved with the community, and there is no body camera footage capturing those interactions. Unfortunately, this bill and this legislation is necessary in terms of what was passed in the last session.

Vice Chairwoman Nguyen:

Do we have any other callers in neutral? [There were none.] I will turn this back over to Assemblyman Yeager for any closing remarks.

Assemblyman Yeager:

I thought it would be helpful to add some legal clarity to what we mean when we talk about custody in A.B. 402. After hearing the testimony, perhaps there is not a desire to do that.

I heard a lot of testimony about section 1, but nobody really addressed sections 2 or 3, so I am left wondering about what the position is on those sections. I will do my work and find out, and if we get there on this, I will ask the Committee to consider it in work session.

Vice Chairwoman Nguyen:

I will close the hearing on A.B. 402 and turn the Chair back over to Assemblyman Yeager.

[Assemblyman Yeager assumed the Chair.]

Chairman Yeager:

That will take us to our last item on the agenda, which is public comment. [Public comment protocol was explained.] Can we go to the phone lines to see if there is anybody there for public comment this morning?

Tiara Moore, Housing Justice Organizer, Progressive Leadership Alliance of Nevada:

While the Centers for Disease Control and Prevention (CDC) extended its eviction moratorium yesterday, there are still thousands of Nevadans who are at risk of homelessness and being displaced during this time. Without increasing tenant protection, this looming crisis will hurt the most vulnerable population, which is renters. These communities have already been disproportionately impacted due to COVID-19 and it is no fault of their own. It has been a year since Nevada has officially recognized the CDC eviction moratorium and the COVID-19 pandemic. Although our recovery seems closer than ever, we urge you to take steps so that Nevadans do not fall through the cracks and get left behind. You have the opportunity to do so by implementing protections in Assembly Bill 141 and Assembly Bill 161.

Chairman Yeager:

Let us take the next caller for public comment.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

My brother Thomas Purdy was asphyxiated by Reno police officers Christopher Good, David Tallman, Robert Maxwell, and Jorge Aparicio. He was put in a hog-tie for 40 minutes and then asphyxiated at the jail by four deputies. My brother weighed 140 pounds. As he begged for his life, I would like to urge you all to watch the video of my brother being asphyxiated to death at the jail. The *Reno Gazette Journal* did an exposé two years after my brother died, and after 14 other people died at the Washoe County Jail, when the local paper decided to do an exposé. I would like to read a couple of comments from people who were in custody at the Washoe County Jail.

I had a seizure. I was standing there and I felt it coming so I started walking toward the group desk and one of the officers made me stop. When I said that I felt I was going to seize up, she told me to sit my [blank] back down and wait for medical. I did and when they called me over a minute later, I sat down and was leaning on the counter for support. They asked me questions, then I had a long, horrible seizure. I woke up to an officer telling me that

I was fine and that I should knock it off. They gave me a Dixie Cup of watered-down Gatorade and sent me back to my seat where I sat for another 12 hours waiting to get released. Then, a few hours before I was released, they were making fun of inmates' pictures and calling them names. It was horrible. One comment I will never forget was, The [blank] that monkey slapped her [blank] boyfriend. It was a horrible place and I hope to never go back. I have a million things I can say about the two times I have spent there but it would take the whole night to write about it. It is just horrible, and the officers do not care about anyone or anything. I am still traumatized to this day about the things I witnessed.

I met a man who cried and had tears pouring down his face because he survived what my brother did not; being piled on by grown men. I want to say that if law enforcement is opposing a bill, chances are that it promotes accountability and transparency. Law enforcement can basically kill without consequence. Please support bills that promote transparency and accountability.

Eric Spratley, Private Citizen, Reno, Nevada:

I am here now as a private citizen. I am just taken aback that we have experienced lobbyists taking advantage of a less-than-optimal system that we have for providing testimony, to refute comments made by other presenters. They came up in the neutral position to provide supportive testimony and to refute what others were stating because they were in opposition. They should know better than that, and yet, they were allowed to continue to do it. We are hoping that this does not happen in the future, where this can just turn into a battle of testimonies in different positions and it is not stopped.

Chairman Yeager:

Are there any additional callers for public comment? [There were none.] I will now close public comment. Is there anything else from Committee members this morning? [There was nothing.]

In terms of the rest of the week, we have 8 a.m. starts every day. We have an agenda for tomorrow, March 31, 2021, and one for Thursday, April 1, 2021. Thursday is going to have a work session as well and we are probably going to try to do that first. There are some bills listed on the agenda. There may be some others that we will add to work session and we are still working on Friday's agenda. I anticipate next week that we will probably have Committee every day at 8 a.m. as we march toward the April 9 first committee passage deadline. This meeting is adjourned [at 9:58 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 401, dated March 27, 2021 submitted and presented by Assemblywoman Rochelle T. Nguyen, Assembly District No. 10.

[Exhibit D](#) is a proposed amendment to Assembly Bill 402, dated March 29, 2021 submitted and presented by Assemblyman Steve Yeager, Assembly District No. 9.