

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

**Eighty-First Session
April 1, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:04 a.m. on Thursday, April 1, 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:

Assemblywoman Tracy Brown-May, Assembly District No. 42



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Michael K. Morton, Senior Research Specialist, Nevada Gaming Control Board
Jessica Adair, Chief of Staff, Office of the Attorney General
Hillary Bunker, Supervising Senior Deputy Attorney General, Tobacco Enforcement Unit, Office of the Attorney General
Aaron Ford, Attorney General
Heather Procter, Chief Deputy Attorney General, Office of the Attorney General
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Taylor Dixon, Policy Intern, American Civil Liberties Union of Nevada
Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
Chuck Callaway, Police Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Roger Pharr, Private Citizen, Las Vegas, Nevada
Jennifer Richards, Chief, Elder Rights, Aging and Disability Services Division, Department of Health and Human Services
Tammy Sever, Social Services Chief, Aging and Disability Services Division, Department of Health and Human Services
Karen Kelly, Public Guardian, Clark County Public Guardian's Office
Barry Gold, Director of Government Relations, AARP Nevada
Marlene Lockard, representing Retired Public Employees of Nevada
Matthew L. Sharp, representing Nevada Justice Association
Tracey A. Bowles, Public Guardian, Washoe County Public Guardian's Office
Gabriele McGregor, representing Nevada Resort Association
Annemarie Grant, Private Citizen, Quincy, Massachusetts
Lea Case, Private Citizen, Private Citizen, Reno, Nevada

Chairman Yeager:

[Roll was called. Committee protocol was explained.] We have three bills on the agenda this morning as well as a work session. We have pulled Assembly Bill 339 from today's work session. We will begin with Assembly Bill 7.

Assembly Bill 7: Revises provisions related to gaming. (BDR 41-279)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 7 was sponsored by the Assembly Committee on Judiciary on behalf of the Nevada Gaming Control Board and was heard in this Committee on February 23, 2021 [[Exhibit C](#)].

This bill revises the definition of "associated equipment" to include inter-casino linked systems, thereby making inter-casino linked systems subject to the same regulation and control as associated equipment. This bill repeals all other provisions with individual references to inter-casino linked systems. The measure revises several other definitions by removing certain electromechanical references. Persons who have a significant involvement in the manufacturing or distribution of associated equipment are required to register with the Nevada Gaming Control Board under certain circumstances. The live entertainment tax is revised by requiring the amount of the tax to be displayed on tickets for admission to live entertainment at certain licensed gaming establishments. Provisions that authorize business entities to place race book and sports pool wagers under certain circumstances are repealed. Lastly, this bill repeals provisions that regulate the personnel of labor organizations for gaming casino employees.

There is one amendment for this measure proposed by Michael Morton, Senior Research Specialist, Nevada Gaming Control Board. The amendment does the following:

- Adds a new section relating to the applications for and the regulation of approval of games or gambling games by the Nevada Gaming Commission;
- Removes certain offensive games or gambling games from statute;
- Deletes section 22, which relates to the live entertainment tax; and
- Deletes section 23, which relates to employee labor organizations.

Chairman Yeager:

The only change to the amendment that was different than when we heard the bill was the removal of section 22, which deals with the live entertainment tax. One of the reasons we did that is there were some implications for revenue and potentially for the State budget. I have committed to keep working on that issue, but I did not want to hold up the policy part of the bill due to the financial aspect of that. Are there any questions from the Committee on Assembly Bill 7 as detailed in the work session document?

Assemblyman Wheeler:

I do not believe that it does, but does this remove the cap on the fees? There used to be a \$1,000 cap on the fees. I do not think that had anything to do with the live entertainment tax, did it?

Chairman Yeager:

I think you are right, Assemblyman Wheeler. I do not think that had anything to do with the live entertainment tax section. It had to do with tickets and how tickets are listed. I think you are correct that it still does remove the cap on the fee.

Assemblyman Wheeler:

Thank you very much. I will need to vote no on that one.

Chairman Yeager:

Do we have Mr. Morton on the Zoom to answer this question? I would like to give you the chance to address that to make sure I got that question correct.

Michael K. Morton, Senior Research Specialist, Nevada Gaming Control Board:

You did. The provision that Assemblyman Wheeler is addressing is a change in the way that we register those that are manufacturing or distributing associated equipment—we are making their registration process the same as all other registration processes that come before the Board—and that those fees are set by the Commission. The fees and the renewal period are set by the Commission.

Assemblyman Wheeler:

Thank you, Mr. Morton.

Chairman Yeager:

Are there any other questions from the Committee on A.B. 7? [There were none.] I will take a motion to amend and do pass.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 7.

ASSEMBLYMAN MILLER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, HARDY,
O'NEILL, AND WHEELER VOTED NO.)

I will assign the floor statement to Assemblywoman Cohen. We will take Assembly Bill 8 next.

Assembly Bill 8: Makes various changes relating to gaming. (BDR 41-278)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 8 was sponsored by the Assembly Committee on Judiciary on behalf of the Nevada Gaming Control Board and was heard in this Committee on February 23, 2021 [[Exhibit D](#)].

This bill revises the definition of a "credit instrument" to mean a record evidencing certain gaming debts. The definition of "slot machine wagering voucher" is renamed as a "wagering voucher," and this wagering voucher must be redeemed by an expiration date under certain circumstances. The bill expands who is required to register with the Nevada Gaming Control Board. The Nevada Gaming Commission is authorized to provide regulations that allow a licensee to accept an electronic signature from a patron on a credit instrument. The bill further revises the classification of certain employees employed by the Commission or Board. The definition of "gross revenue" is revised, and the monthly payment option for the fee required from a licensee who concludes a gaming operation is removed.

There is one amendment for this measure proposed by Michael Morton, Senior Research Specialist, Nevada Gaming Control Board. The amendment revises the definition of "gross revenue" in section 3 of the bill by deleting references to "contests and tournaments held in conjunction with interactive gaming."

Chairman Yeager:

Are there any questions from the Committee on A.B. 8 as detailed in the work session document? [There were none.] I will take a motion to amend and do pass.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 8.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Hansen. We will take Assembly Bill 42 next.

Assembly Bill 42: Makes various changes relating to criminal law and criminal procedure. (BDR 14-371)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 42 was sponsored by the Assembly Committee on Judiciary on behalf of the City of Henderson and was heard in this Committee on March 10, 2021 [[Exhibit E](#)].

This bill requires certain batteries which constitute domestic violence to be charged with certain felonies and gross misdemeanors. Such cases are required to be tried by a jury unless the defendant waives a jury trial in writing with the approval of the court and the consent of the prosecuting attorney. The measure expands the courts that are required to conduct a jury trial. Juries must consist of six jurors for the trial of a criminal action in a justice court or municipal court. The bill revises the persons required to perform certain duties to include any prosecuting attorney, which may include the city attorney for jury trials conducted in a

municipal court. Courts are authorized to record any proceeding before a jury by using sound recording equipment. The measure establishes a right to a jury trial under certain circumstances and prohibits a person convicted of a battery, which constitutes domestic violence or the same or similar conduct in another state, from owning or having any firearm in his or her possession or under his or her custody or control.

There is one amendment to the bill proposed by Nicole Rourke, Director of Government and Public Affairs, City of Henderson, and Marc Schifalacqua, Senior Assistant City Attorney, City of Henderson, which does the following:

- Provides the minimum number of jurors is 12, but the parties prior to juror selection may stipulate any number less than 12 but not less than 6 in section 3 of the bill;
- Adds the chief marshal to various sections regarding the jury deliberation room and jury summons process in sections 6 and 10;
- Revises the definition of domestic violence in section 13; and
- Authorizes a justice of the peace to direct jury summons countywide.

Chairman Yeager:

Are there any questions from the Committee on A.B. 42 as detailed in the work session document?

Assemblyman O'Neill:

I appreciate the work in the amendments given, but I will be voting no. I think there is still room to do the first half on jury selections, which I think is excellent, but I think we are creating confusion among the states and citizens as they travel by not staying with the federal regulations or the federal rules.

Chairman Yeager:

Are there any other questions from the Committee? [There were none.] I will take a motion to amend and do pass.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 42.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Krasner:

I have worked for years for domestic violence, human trafficking, and sexual assault victims as well as child victims of sexual abuse. So for me, to ever vote no against domestic violence victims, I just do not feel good about that. However, I still have a few concerns about this

bill. I hope the parties will continue to work together to maybe amend just the sections that are not quite right. I will be voting yes to get it out of Committee, reserving my right to change my vote on the floor.

Assemblyman Wheeler:

I am a ditto to Assemblyman O'Neill.

Assemblywoman Hardy:

I am a ditto to Assemblywoman Krasner.

Assemblywoman Kasama:

I am a ditto to Assemblywoman Krasner.

Chairman Yeager:

Is there any other discussion on the motion? [There was none.] Before I take the vote, I will say that I have encouraged the parties to continue to work on this legislation as well. I think it is time to move it out of the Assembly Committee on Judiciary, but of course, it still has a little way to go in the process. I do believe those discussions are ongoing, and we will cross our fingers that they can reach some kind of consensus before the end of session.

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, O'NEILL, AND
WHEELER VOTED NO.)

I will assign the floor statement to Assemblywoman Nguyen. We will go next to Assembly Bill 59.

Assembly Bill 59: Revises various provisions relating to tobacco. (BDR 15-420)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 59 was sponsored by the Assembly Committee on Judiciary on behalf of the Attorney General and was heard in this Committee on February 16, 2021 [[Exhibit F](#)].

This bill prohibits a person from selling, distributing, or offering to sell cigarettes, cigarette paper, or other tobacco products to a person under 21 years of age. Existing penalties for a person who knowingly distributes cigarettes, cigarette paper, or other tobacco products to a person under 21 years of age is deleted and replaced with certain administrative, civil, or criminal penalties as provided in Chapter 370 of *Nevada Revised Statutes* (NRS). Lastly, certain duplicative requirements concerning the sale of cigarettes are eliminated.

There is one amendment to the bill proposed by Hillary Bunker, Supervising Senior Deputy Attorney General, Tobacco Enforcement Unit, Office of the Attorney General, which does the following:

- Clarifies in section 2, subsection 2 that the product is being sold to an ultimate consumer in the state;

- Includes in section 2, subsection 2, paragraph (a) the term "vapor products";
- Clarifies in section 2, subsection 2, paragraph (b) the identification requirements the seller or distributor must obtain from an ultimate consumer;
- Adds in section 2, subsection 3 that every person making sales must certify annually to the Attorney General that it uses an independent, third-party age verification service;
- Establishes penalties in section 2, subsections 4 and 5, including monetary fines, license suspension or revocation, and consideration as a deceptive trade practice if requirements are not met;
- Clarifies in section 2, subsection 6 what constitutes a sale to an ultimate consumer;
- Provides for inspections to be performed on tobacco retailers at least once every three years in section 3, subsection 7; and lastly
- Repeals NRS 370.395, thereby also eliminating the category C felony for noncompliance.

Chairman Yeager:

Are there any questions from the Committee on A.B. 59 as detailed in the work session document?

Assemblywoman Kasama:

There are a lot of things about the bill that I like and think are good. One of the areas that I think we discussed earlier when we reviewed the bill was that they took the penalties out for employees. I think that is important to keep in because it is going to be hard to control a night clerk, even if you give company policies and if they disobey those, then I think that should still be kept in there and that is a concern that I have. I will be yes out of Committee, reserving my right on the floor.

Chairman Yeager:

Are there any other questions from the Committee?

Assemblyman Wheeler:

I know we discussed getting rid of the C felony and as you know, I am passionate about this bill. I really like it, but I just cannot do it with a C felony. I am looking at the amendment and I thought maybe that pulled it out, but I do not think it did. Could legal counsel let me know?

Chairman Yeager:

We do not have legal with us today, but representatives from the Office of the Attorney General are on Zoom to answer any questions.

Jessica Adair, Chief of Staff, Office of the Attorney General:

Ms. Bunker is here as well to correct me if I get it wrong. The removal of the C felony is at the very end of the amendment. We thought that was a great point that this Committee made, and we wanted to incorporate that. If I could just clarify, the removal of the penalties of store clerks was made in a previous bill. It was the removal of criminal penalties. There are still civil penalties for clerks who sell to underage. However, it is no longer a criminal penalty, so they will not be subject to incarceration.

Assemblyman Wheeler:

Thank you very much. I can vote yes on this then.

Chairman Yeager:

Are there any other questions from the Committee?

Assemblywoman Krasner:

Why is this a two-thirds majority vote?

Chairman Yeager:

I am not sure it is going to be when the amendment is processed. I think we are going to have to wait and see, but I am not sure. I think some of the things that were taken out might address that. We will have to see what it looks like when it is amended.

Jessica Adair:

Ms. Hillary Bunker from our office is available to answer that question if it is a concern to the Committee, otherwise we can wait for legal counsel's official opinion.

Hillary Bunker, Supervising Senior Deputy Attorney General, Tobacco Enforcement Unit, Office of the Attorney General:

Section 5 changes the definition of other tobacco products and there is language added in to encompass products that are derived from tobacco. The two-thirds vote is triggered because that is going to change—those products will then be taxed the same way that the other tobacco products are. There was a small subset of products that are derived from tobacco that are not currently captured, and by making the change in section 5, they will be. Those will be taxed similar to all other tobacco products.

Chairman Yeager:

Thank you. Are there any other questions from the Committee? [There were none.] I will take a motion to amend and do pass Assembly Bill 59.

ASSEMBLYWOMAN BILBRAY-AXELROD MOVED TO AMEND AND
DO PASS ASSEMBLY BILL 59.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Krasner:

I still have questions about the amendment so I will reach out to the sponsor of the bill. I will vote yes out of Committee, reserving my right on the floor.

Assemblyman O'Neill:

I will be a yes out of Committee, reserving my right on the floor. I want to take some time to review the amendment in depth.

Chairman Yeager:

Is there any other discussion on the motion?

Assemblywoman Hardy:

I will be a yes out of Committee as well, to further review the amendment, reserving my right on the floor.

Assemblyman Wheeler:

Ditto.

Assemblywoman Kasama:

Ditto.

Assemblywoman Hansen:

I am the rogue no.

Chairman Yeager:

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN HANSEN VOTED NO.)

I will assign the floor statement to Assemblyman Wheeler because I know how much he cares about this bill.

Assemblyman Wheeler:

Do not do that if I have to vote no on the floor.

Chairman Yeager:

If you change your mind and want to vote no, just let me know and I will reassign the floor statement. We will go next to Assembly Bill 125.

Assembly Bill 125: Revises provisions relating to credits against sentences of offenders. (BDR 16-233)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 125 was sponsored by Assemblywoman Duran and heard in this Committee on February 24, 2021 [[Exhibit G](#)].

This bill deletes the restriction for an offender who has been convicted of a category B felony to earn credits to reduce his or her sentence of imprisonment, which must be deducted from the maximum term or the maximum aggregate term imposed by a sentence. These changes are retroactive for offenders who committed offenses before October 1, 2021.

There is one amendment to the bill proposed by Assemblywoman Duran, which does the following:

1. Provides that the bill applies to offenders who committed an offense after July 1, 2007, and have not been convicted of:
 - An attempt of a sexual offense;
 - Vehicular homicide;
 - Residential burglary; or
 - A habitual criminal adjudication; and
2. Deletes references to driving under the influence statutes, *Nevada Revised Statutes* (NRS) 484C.110 and NRS 484C.120.

Chairman Yeager:

Are there any questions from the Committee on A.B. 125 as detailed in the work session document? [There were none.] I will take a motion to amend and do pass A.B. 125.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 125.

ASSEMBLYMAN MILLER SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Hansen:

I support the intent and the concept but am not quite there yet. I am going to be a no and hoping to change to yes. I appreciate the intent and the work that has been done, and I am hoping we can do more before it goes to the floor.

Chairman Yeager:

Is there further discussion from Committee members?

Assemblywoman Summers-Armstrong:

In reading the proposed amendment, am I missing something about the amendment regarding offenses after July 1, 2007, but on Assemblywoman Duran's letter it indicates 1997?

Assemblywoman Nguyen:

Part of that amendment came into play when we met with representatives from the Department of Corrections and the Office of the Attorney General. Our intent was to just include language that had occurred in 2007 to allow this same type of credit on nonviolent C, D, and E felonies. We thought we would put category B in there. It turns out there was never clarity with the law as to when the applicable date happened. The Attorney General's Office deals with hundreds of postconviction writ of habeas corpus petitions, which are like a pseudo-civil-criminal type of filing, and putting clarity on that date clarified in law something that should have been done in 2007. It had never been brought up, so we were able to make it in there so it is very clear that if you are in custody on a nonviolent B felony, you qualify for that good time credit from that date forward. The people before that date are actually on a different structure where they actually get more credits. They did not want to go back and take away credit from people pre-1997.

Assemblywoman Summers-Armstrong:

So is the 1997 date going to stay to capture those folks? Then there is a specification that this particular change and the enumeration of the number of hours that people can accumulate to go against their sentence only apply to people post-July 1, 2007. Is that what you are saying?

Assemblywoman Nguyen:

If you were sentenced before that date in 1997, then you are under a completely different credit structure. In fact, they get way more credit. They are under a completely different credit structure. This is moving forward from that date. We did that just to give clarity to the Attorney General's Office. They apparently have been under this horrible gray area and this gives them and the courts a lot of clarity. Unfortunately, it sounds like it has never been brought up until we opened it up with this potential bill.

Chairman Yeager:

Is there any further discussion from the Committee?

Assemblywoman Kasama:

Now I am confused. The amendment says after July 1, 2007, so I think that is what Assemblywoman Summers-Armstrong is talking about.

Assemblywoman Nguyen:

Is there anyone from the Attorney General's Office on the line who could answer?

Assemblywoman Kasama:

It sounds like we have two dates. Are we using both dates or just one date, because the amendment says July 1, 2007?

Assemblywoman Nguyen:

There are two dates. There are dates from this time to this time that are under a previous sentence structure. And then there are people after that 2007 date forward.

Assemblywoman Kasama:

So, we want both dates in there?

Assemblywoman Nguyen:

Yes. It is a very technical thing that I did not realize was a problem. The Attorney General's Office has three people who are dedicated and receive probably hundreds if not thousands of petitions a year from people who are incarcerated for various things, a lot of them having to do with their sentences and credit determinations. The Department of Corrections has one person who does all of the credit determinations, and so this was really meant to clarify in law to hopefully be able to make it a lot easier for them to respond to these petitions. Unfortunately, I think people are going to continue to file these petitions, but this does make it so much easier for them to address and concretely say, This does not apply to you or, This does apply to you.

Aaron Ford, Attorney General:

I cannot answer the question directly but will have Heather Procter provide additional answers.

Assemblywoman Nguyen:

I know Assemblywoman Duran is continuing to have conversations about A.B. 125 to see if we can tighten it up even further. The amendment was meant to aid the Attorney General's Office in what are at times frivolous petitions that are being filed on a pro per basis by people who are incarcerated. It is because it is unclear in the law and so it does take up a lot of their time. It is up to Chairman Yeager whether or not that answered the members' questions.

Chairman Yeager:

Are members comfortable voting on the bill with the record we have made, or would people like to hear from Ms. Procter first? Ms. Procter, I do not know if you have been following the discussions, but there were some questions from Committee members about the amendment on A.B. 125 and the reference to the date of July 1, 2007. We are hoping you can give us some clarity in what the issue was there.

Heather Procter, Chief Deputy Attorney General, Office of the Attorney General:

Section 1, subsection 8, was adopted pursuant to Assembly Bill 510 of the 74th Session, and therefore the restrictions that apply through subsection 8 only apply to inmates who committed their crimes on or after July 1, 2007. Unfortunately, there has been some confusion on that because that enactment date only appears in the actual bill, not the statute itself. So, whom it applies to has been extremely confusing for the courts, for the inmates, and for counsel alike. That is why we have added that date. The amendment and the changes to that would only apply retroactive to 2007 rather than 1997 regarding category B felonies.

Chairman Yeager:

To make sure I understand, there was a prior bill passed in the Legislature and it only applied to offenders who were sentenced after July 1, 2007, but it seems that reference to the date

was not included in statute so there has been a lot of litigation. This amendment clearly puts that in statute so hopefully you will not have to respond to all of this litigation about whether or not people get credit relating to a prior bill that the Legislature passed.

Heather Procter:

Yes. One small change: it is for inmates who committed their crimes on or after July 1, 2007, rather than when they were sentenced.

Assemblywoman Krasner:

I appreciate the intent of the bill, but I am wondering why we are expanding these credits to persons who committed B felonies, which are very serious?

Chairman Yeager:

That was discussed during the hearing on the bill. The amendment just limits who gets the credits. I would have to ask you to rely on your memory of the actual presentation of the bill, because that is what the original bill did—expanded it to certain nonviolent category B felonies. I do not want to relitigate the merits of the policy discussion during the work session. I would just ask you to vote accordingly, however you would like, but I think we did discuss that quite a bit during the hearing on A.B. 125. Is there any other discussion on the motion?

Assemblyman O'Neill:

I like the intent of the bill. I do not think we are there yet. I think there still needs to be a little more adjustment to it. I think I will go along with Assemblywoman Hansen's comment and will be voting no and work toward getting to yes.

Chairman Yeager:

Is there any other discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN HANSEN, HARDY,
KRASNER, O'NEILL, AND WHEELER VOTED NO.)

I will assign the floor statement to Assemblywoman Duran, with Assemblywoman Nguyen as a backup. We will move next to Assembly Bill 219.

**Assembly Bill 219: Revises provisions governing the sealing of criminal records.
(BDR 14-137)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 219 was sponsored by Assemblyman Yeager and was heard in this Committee on March 12, 2021 [[Exhibit H](#)].

This bill requires a court and the Central Repository for Nevada Records of Criminal History to seal the criminal records of a person upon receipt of a certified copy of the unconditional pardon of the person from the State Board of Pardons Commissioners. A court must grant

the sealing of criminal records without a hearing if all statutory requirements are met and the prosecuting attorney does not file an objection to the sealing of records. The bill provides a procedure if the prosecuting attorney does file an objection. A person may appeal the denial of a petition to seal a record after two rehearings on the petition. Lastly, a person may appeal the denial of a petition to seal records relating to a crime that has been decriminalized.

Two amendments were proposed by Assemblyman Yeager, which do the following:

1. Amend the bill to clarify that nothing in the bill prohibits prosecuting attorneys from stipulating to the sealing of records by doing the following:
 - a. Revise section 3, subsection 4; section 4, subsection 6; and section 5, subsection 6 to clarify that:
 - i. If the prosecuting agency does not stipulate to the sealing of records or does not file an objection within 30 days and the court makes a finding, the court is required to seal the records.
 - ii. A hearing must be conducted if an objection is filed; and
 - iii. If no objecting party attends the hearing, the court must seal the records; and
 - b. Revise section 6 to provide that a person whose petition is denied may file an appeal.
2. Add the following Assemblymen as primary sponsors of the bill: Rochelle T. Nguyen, Cameron (C.H.) Miller, Lisa Krasner, and Philip (P.K.) O'Neill. Add the following Assemblymen as cosponsors of the bill: Shannon Bilbray-Axelrod, Lesley E. Cohen, Cecilia González, Melissa Hardy, Elaine Marzola, and David Orentlicher.

Chairman Yeager:

I would like to thank Bailey Bortolin for all of her hard work on the bill and getting everyone to a good place on this bill. Are there any questions from the Committee on A.B. 219 as detailed in the work session document? [There were none.] I will take a motion to amend and do pass Assembly Bill 219.

ASSEMBLYMAN O'NEILL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 219.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTON.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to myself. We will move next to Assembly Bill 230.

Assembly Bill 230: Revises provisions relating to juvenile justice. (BDR 5-791)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 230 was sponsored by Assemblyman Miller and heard in this Committee on March 18, 2021 [[Exhibit I](#)].

This bill provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a delinquent by removing certain exclusions from the jurisdiction of the juvenile courts. The exclusions that are removed include: (1) murder and attempted murder; (2) sexual assault and attempted sexual assault involving the use or threatened use of force or violence against the victim; (3) an offense or attempted offense involving the use or threatened use of a firearm; (4) certain felonies resulting in death or substantial bodily harm committed on the property of a school, at an activity sponsored by a school, or on a school bus; (5) other category A and B felonies; and (6) any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense. Lastly, this bill eliminates the mandatory certification of a child as an adult for these offenses and provides instead for the discretionary certification of a child for criminal proceedings as an adult for all offenses over which the juvenile court has exclusive jurisdiction.

Assemblyman Miller proposed two amendments to this bill. The first amendment does the following:

- Retains language in the bill regarding a person who is excluded from the jurisdiction of the juvenile court pursuant to *Nevada Revised Statutes* 62B.330;
- Retains the language in section 2 regarding certain acts that the juvenile court does not have jurisdiction over, including murder or attempted murder, a felony resulting in death or substantial bodily harm to the victim under certain circumstances, and a category A or B felony if the person was at least 16, but less than 18 years of age; and
- Requires the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study during the 2021–2022 Interim concerning the infrastructure needs and costs associated with housing youth awaiting a juvenile certification proceeding in this state.

The second amendment adds Senator Spearman as a primary sponsor and Assemblymen Cohen, Hansen, Hardy, and Wheeler as cosponsors of the bill.

Chairman Yeager:

I will note that I wanted to be added as a cosponsor as well. I neglected to convey that to Assemblyman Miller. When we get to a motion, I would ask that we include that as well. Are there any questions from the Committee on A.B. 230 as detailed in the work session document?

Assemblywoman Bilbray-Axelrod:

I would like to be added as well.

Assemblyman Miller:

Actually, Chairman Yeager, Assemblywoman Bilbray-Axelrod was already a sponsor from the beginning.

Assemblywoman Summers-Armstrong:

I would like to be added as well.

Chairman Yeager:

Assemblyman Miller, is Assemblywoman Summers-Armstrong already a sponsor?

Assemblyman Miller:

She is already a sponsor. At this point, I believe every member of the Assembly Committee on Judiciary is a sponsor. If someone is not a sponsor, I guess that is what we are doing right now. I am not completely sure, but I believe I have everyone on the Committee and thank you all for jumping on board with this.

Chairman Yeager:

Are there any other questions from the Committee? [There were none.] I will take a motion to amend and do pass with the addition that I am added as a sponsor.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 230.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG SECONDED THE
MOTION.

Is there any discussion on the motion?

Assemblywoman Hansen:

I just wanted to congratulate Assemblyman Miller on this bill. I am appreciative of the work he has done as a member of the Legislative Committee on Child Welfare and Juvenile Justice. This has been an issue, and I am so happy to support this legislation. I appreciate the work he has done as a freshman, working this through and working with stakeholders. I very much appreciate it and congratulations.

Chairman Yeager:

Is there any further discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Miller, and congratulations. We will next move to Assembly Bill 284.

Assembly Bill 284: Revises provisions relating to statutory liens on motor vehicles. (BDR 9-761)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 284 was sponsored by Assemblywoman Martinez and was heard in this Committee on March 22, 2021 [[Exhibit J](#)].

This bill establishes a procedure for a person to contest the validity of a lien on a motor vehicle. After the receipt of a notice of opposition to a lien, the Department of Motor Vehicles (DMV) is prohibited from transferring the title to the motor vehicle until the matter has been adjudicated. A lien on a motor vehicle expires six months after the lien is filed with the DMV.

There are two proposed amendments to this measure. The first amendment is proposed by Paul J. Enos, Nevada Trucking Association and Tow Operators of Northern Nevada, to exclude tow cars holding a certificate of public convenience and necessity issued pursuant to *Nevada Revised Statutes* 706.4463. Assemblywoman Cohen proposed an amendment clarifying five "calendar" days in section 1, subsection 2 of the bill.

Chairman Yeager:

Are there any questions from the Committee on A.B. 284 as detailed in the work session document? [There were none.] I would take a motion to amend and do pass A.B. 284.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 284.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Martinez, and I will be the backup. We will move next to Assembly Bill 318.

Assembly Bill 318: Revises various provisions relating to estates. (BDR 3-805)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 318 was sponsored by Assemblywoman Marzola and was heard in this Committee on March 23, 2021 [[Exhibit K](#)].

This bill clarifies provisions relating to trust and estates. The measure authorizes a principal or person granted authority to act for a principal under a power of attorney to obtain declaratory relief under the power of attorney. This bill exempts from such a requirement certain fiduciaries who take temporary possession or control of or title to residential property

solely to facilitate the sale of the property on behalf of a person who is deceased or incapacitated. The bill revises various provisions governing electronic wills.

There are two amendments to this measure. The first amendment was proposed by Mark Knobel and Alan D. Freer, Co-Chairs, Legislative Committee of the Probate and Trust Section of the State Bar of Nevada, with the intent to streamline the probate and trust administration process while including safeguards to prevent abuse. The amendment does the following:

- Revises section 19 regarding the independent administration of estates to provide for circumstances where the holder of property that is attributable to a decedent receives the order providing to whom such property is to be transferred, but does not request additional information. The person must accept and comply with the court order providing to whom such property is to be transferred no later than ten business days after presentation of the order;
- Revises the language in section 31, subsections 2 and 3 to clarify and make consistent that it is the exercise of the trustee's discretion to make the tax payment;
- Adds clarifying language in section 39 regarding the distribution of property to the "second trust";
- Changes "may" to "shall" in section 41 regarding the mailing of a copy of the notice to the additional creditor;
- Adds a new section amending *Nevada Revised Statutes* (NRS) 139.100 (Clerk to set petition for hearing; notice of hearing) to provide notice provisions on initial hearing petitions to the public administrator in situations where the petitioner seeking appointment is neither a spouse or heir nor a nominee of a spouse or heir in order to prevent potential abuse;
- Adds a new section amending NRS 143.350 (Court required to grant requested authority; exceptions) to permit the probate court discretion when granting independent administration of estates; and
- Adds a new section to NRS 143.380 (Sale of property of estate; court confirmation of sales not required) to afford heirs or beneficiaries of the estate additional safeguard by requiring their express written consent where a personal representative seeks a non-court sale of property for less than 90 percent value of its appraised value.

The second amendment was proposed by Assemblywoman Cohen to replace "business" days with "calendar" days throughout the amendment.

Chairman Yeager:

Are there any questions from the Committee on A.B. 318 as detailed in the work session document? [There were none.] I will take a motion to amend and do pass.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 318.

ASSEMBLYMAN O'NEILL SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Marzola. Remember, we pulled Assembly Bill 339, so we will next move to Assembly Bill 393.

Assembly Bill 339: Makes various changes relating to domestic violence. (BDR 14-120)

[Assembly Bill 339 was not considered.]

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

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 393 was sponsored by the Assembly Committee on Judiciary and was heard in this Committee on March 30, 2021 [[Exhibit L](#)].

This bill requires the executive director of the Department of Sentencing Policy to assist the Nevada Sentencing Commission in carrying out the requirements relating to the use of the formula to calculate the amount of costs avoided by the state each fiscal year as a result of the enactment of Assembly Bill 236 of the 80th Session and the preparation of a biennial report. This bill authorizes the Commission to adopt any qualifications that a person must meet before being appointed as a member of the Nevada Local Justice Reinvestment Coordinating Council and requires each member of the Council to meet any such qualifications. To provide uniformity in the information contained in reports of presentence investigations, provisions concerning reports of presentence investigations are revised.

The bill repeals the requirement that the chief parole and probation officer of the Division of Parole and Probation of the Department of Public Safety (DPS) adopt standards to assist in formulating a recommendation concerning the granting of probation to an eligible convicted person or the revocation of parole or probation of a convicted person. This bill further removes the requirement that a court consider such standards when determining whether to grant probation to an eligible convicted person.

This bill also repeals the requirement for an inquiry to determine that probable cause be conducted before a probationer who is in custody for a violation of a condition of probation

is returned to court for the violation and establishes provisions relating to such an inquiry. This bill removes references to parole and parolees from the Division of Parole and Probation of DPS's written system of graduated sanctions for parole and probation officers to use when a parolee or probationer commits a technical violation of parole or probation. This bill specifies that a person who is convicted of embezzling a vehicle is also guilty of a category C felony and is additionally required to pay restitution. This bill generally provides that a person who is convicted of the possession of more than 1 ounce, but less than 50 pounds, of marijuana or more than one-eighth of an ounce, but less than 1 pound, of concentrated cannabis, is guilty of a category E felony.

One amendment was proposed by Tom Lawson, Chief, Division of Parole and Probation, DPS, which does the following:

- Revises provisions governing a sex offender's petition for release from lifetime supervision [*Nevada Revised Statutes* 176.0931] to provide that a licensed, clinical professional who has received training in a treatment of sex offenders may perform the evaluation; and
- Strikes the language "court or" in section 21, subsection 6, as revocations will be heard only by the State Board of Pardons Commissioners, DPS, and not the court.

Chairman Yeager:

Are there any questions from the Committee on A.B. 393 as detailed in the work session document? [There were none.] I will take a motion to amend and do pass.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 393.

ASSEMBLYMAN WHEELER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Nguyen. We will next move to 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)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 401 was sponsored by the Assembly Committee on Judiciary and was heard in this Committee on March 30, 2021 [[Exhibit M](#)].

This bill requires the Advisory Commission on the Administration of Justice to appoint a subcommittee to conduct an interim study concerning the sealing or expungement of records of criminal history. The subcommittee is required to: (1) make recommendations concerning its findings; and (2) report the results of the study and its recommendations to the Advisory Commission.

There is one amendment to the measure proposed by Assemblywoman Nguyen, which does the following: revises the bill by directing the Legislative Commission to appoint an interim committee to study the sealing or expungement of criminal records instead of the Advisory Commission on the Administration of Justice appointing a subcommittee.

Chairman Yeager:

Are there any questions from the Committee? [There were none.] I will take a motion to amend and do pass Assembly Bill 401.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 401.

ASSEMBLYWOMAN KRASNER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Krasner. That concludes our work session. I will open the hearing on Assembly Bill 403.

Assembly Bill 403: Revises provisions governing certain crimes. (BDR 43-1030)

Assemblywoman Tracy Brown-May, Assembly District No. 42:

As a mom, dog walker, runner, and a cyclist, I spend a significant amount of time as a pedestrian on my local streets. Many of my neighbors cross mid-street to say hello and greet each other. The *Nevada Revised Statutes* (NRS) identifies this action as criminal. Miss Ida can be cited for a criminal violation for crossing the street outside of a marked crosswalk. This is troubling. Often, marked crosswalks are more than half a mile away.

This bill, as presented, decriminalizes certain violations by pedestrians, most commonly referred to as "jaywalking." While crossing the street outside of a marked crosswalk may be a safety hazard and should be deterred when safety is at risk, a criminal charge for violating this statute is unnecessary and excessive.

A little background information: Nevada's current law criminalizes jaywalking as a misdemeanor, which is punishable by imprisonment in the county jail for not more than six months or by a fine of not more than \$1,000, or both the fine and imprisonment. This bill would decriminalize jaywalking. It is important to note that this bill does not eliminate

penalties or citations for jaywalking. It does, instead, direct the courts to consider the citation as a civil infraction, not a criminal infraction.

Chairman, with your permission, I would like to introduce my copresenter, John Piro, Chief Public Defender, Clark County Public Defender's Office, who will walk us through the sections of this bill and then be available to answer questions.

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

This is a short bill, but it is a good bill. Section 1 eliminates jaywalking from frankly what looks like a weird place to have jaywalking for a consecutive penalty—jaywalking was listed in section 1 in a pedestrian safety zone, which is weird because that is where people would walk anyway. We are eliminating it there. If you go to section 2, it clearly states at the very bottom that it is making it a civil infraction punishable by a \$100 fine and not a misdemeanor criminal offense that student doctors would have to report on their applications when they are trying to get residency or get into medical school.

There are some things I wanted to let you know. My friend, Roger Pharr, who is going to testify on the phone in support, runs a web scraping program that picks up the numbers of people arrested for pedestrian offenses when they are easily fineable. Just to let the Committee know, as of yesterday, there were 199 people arrested and jailed for 1 1/2 days on a jaywalking or a pedestrian offense alone, just that. At a cost of \$190 a day plus half of that rate, that comes out to about \$56,715 that we have paid to jail somebody on a jaywalking offense. However, just the Las Vegas Municipal Court, because we cannot find out the county's numbers, has 4,515 outstanding warrants for pedestrian offenses alone. If all of those people get arrested and jailed for one day to deal with this jaywalking offense, that will amount to \$898,485. That is freeze-framing jaywalking arrests and jailing until March 31, 2021. That is not talking about any other arrests that will happen the rest of the year. That is how much we, as taxpayers, will pay.

This is a short bill that has a big impact, that is both smart criminal justice policy as well as fiscally responsible.

Chairman Yeager:

Assemblywoman Brown-May, is there anybody else as part of your presentation or would you like to take questions at this time?

Assemblywoman Brown-May:

We can entertain questions at this time. We do have Attorney General Ford on the phone who is here to offer his support when we get to that part of the meeting.

Chairman Yeager:

Thank you. I appreciate the brevity of the presentation, given how much work we have left to do in the Committee yet today. Are there any questions from the Committee?

Assemblywoman Nguyen:

I think it is a long time coming, and I know it has been used for decades to stop people to investigate other crimes. I believe you said 199 people. Is that correct, Mr. Piro?

John Piro:

Yes, Assemblywoman Nguyen, 199 people, just on traffic offenses alone—jaywalking by itself—have been jailed.

Assemblywoman Nguyen:

You are not counting someone who was stopped for jaywalking and then later arrested for some other offense. That 199 is solely jaywalking?

John Piro:

Yes, just fully jaywalking.

Assemblywoman Hansen:

I appreciate the bill on the surface. As Mr. Piro said, weird, and I am all for getting rid of weird in the statutes. I am assuming that a lot of that is along the Las Vegas Strip. Do we have an idea of where the majority of those 199 were?

John Piro:

I do not have that data, I am sorry. We just pulled the number from the jail's numbers. That would be a question more appropriate for Mr. Callaway. But I will say that the Strip has done a good job of making pedestrian-safe zones and bridges so that jaywalking is not something that happens as frequently on the Strip.

Assemblywoman Hansen:

The other statistic was 4,500 outstanding warrants due to jaywalking. Is that correct?

John Piro:

It is 4,415 just in the Las Vegas Municipal Court alone, Assemblywoman Hansen. That is not counting North Las Vegas Municipal Court, Henderson Municipal Court, Las Vegas Justice Court, North Las Vegas Justice Court, or Henderson Justice Court. That is just Las Vegas Municipal Court alone. That number that I cited to you, is if they all went to jail for just one day, which does not happen in Las Vegas Municipal Court, because if you get arrested on a Thursday, you are not going to see a judge until Monday. I am giving you a baseline one day, the most generous number possible, for one municipality; it is going to cost us \$898,485 for the year if we just freeze-frame it right now.

Assemblywoman Hansen:

A person jaywalks and a driver hits them. After this law passes, there is jaywalking, but it is not jaywalking anymore. There is no crosswalk. A driver hits the pedestrian, but it is not really the driver's fault; it is very immediate, a pedestrian dashes out. Are we now giving some immunity to the jaywalker's responsibility and all of the onus is on the driver now, even

when it is irresponsible, because the pedestrians are now given the okay to do it outside of a crosswalk?

John Piro:

They are not getting the okay. It is just a civil penalty. We are not going to criminalize them for it. We are not going to make them a misdemeanor for it. It is still not okay; you can still be cited for it. It is a civil infraction, but instead of a potential \$1,000 fine and time in jail, it is just that, and then that would be an issue litigated in the civil realm, which the Nevada Justice Association could speak to better than I could.

Chairman Yeager:

I think Mr. Piro is right about that. It would still be a violation of our laws, so that would be something that would be taken into account if there was litigation about who was at fault for the traffic accident. I wanted to clarify that we are not saying it is a criminal offense, but an officer would still be able to stop somebody and get them to a safe position if they happen to be in the road, correct? We are just saying that the person cannot be arrested for jaywalking unless there is some other circumstance. Do I have that correct in terms of what the bill is trying to do?

John Piro:

Yes.

Chairman Yeager:

Are there additional questions from the Committee?

Assemblyman Orentlicher:

At the end of section 2, subsection 2, paragraph (b), where it says, "Is punishable by the imposition of a civil penalty of \$100." It could say, "Is punishable by the imposition of a civil penalty of up to \$100." Does this mean that if the jaywalker is cited, whether they are poor or wealthy, the fine is automatically \$100? If that is the case, I am worried about the disparities that we are going to see because \$100 is pretty stiff for somebody who is living below the poverty line.

John Piro:

It would be Assemblywoman Brown-May's call to make it "up to" \$100. I think that is a reasonable request, Assemblyman Orentlicher. I also would say that people are always available to do community service if they could not afford the fine.

Assemblywoman Brown-May:

We are certainly happy to discuss that with you, Assemblyman Orentlicher, as we look to move this bill forward. Thank you for bringing that up.

Assemblywoman Hardy:

I think it does go a little far, charging someone with a misdemeanor for crossing the street. Regarding the outstanding warrants you mentioned, if this legislation passes, would that have any effect on those outstanding warrants?

John Piro:

Perhaps we could work with the court system as it is and see what we could do there. But that would probably be a question that they could answer. That is an excellent suggestion. We have the Clark County Criminal Justice Coordinating Counsel and perhaps that is a topic I could bring up with them. Hopefully, we could get the court administrators on board to do that.

Chairman Yeager:

Are there any additional questions from the Committee?

Assemblywoman Summers-Armstrong:

I do not have a question. I am really happy to see this. We see a lot of jaywalking tickets and arrests in our community, and we are grateful to see this brought forward.

Chairman Yeager:

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

Aaron Ford, Attorney General:

It is a privilege to testify today in support of A.B. 403. I do not intend to duplicate the testimony of the presenters who have spoken before me today. But I do want to emphasize how regressive current laws criminalizing jaywalking really are. Although jaywalking is a misdemeanor crime on par with a traffic citation, it is on occasion the starting point of a more prolonged series of interactions with the criminal justice system. Because jaywalking is a criminal offense, failure to pay its associated fine can eventually lead to a warrant for arrest or even incarceration.

Let me be clear. I am fully aware of the safety concerns that necessitate deeming jaywalking a prohibited act. For the reasons that underpin that policy, I agree that it should continue to be a prohibited act. But the appropriate penalty for improperly crossing the street should not be the possibility of incarceration.

The deterrent effect of citations lies more in the impact on the wallet than possible imprisonment. At the time a citation is issued, the possibility of incarceration is so remote that it fails to even have a deterrent effect. It is only those least able to afford the fine who run the risk of incarceration. In other words, the criminalization of jaywalking with the associated possibility of incarceration creates a de facto debtor's prison in my estimation. It is time for Nevada to move past this regressive policy that so disproportionately affects the poor. For this reason, I support A.B. 403.

Chairman Yeager:

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

Taylor Dixon, Policy Intern, American Civil Liberties Union of Nevada:

The American Civil Liberties Union of Nevada (ACLU) supports Assembly Bill 403. The criminalization of jaywalking in Nevada directly affects vulnerable populations. Those experiencing poverty and homelessness are inherently less likely to have access to their own transportation and often rely on walking or city buses. We have all experienced or seen someone rushing to make it to their bus on time as it approaches or have had to run quickly from one side of the street to another to get somewhere important on time. For people who rely heavily on walking or public transportation to take them from one place to another, sometimes the only option to make it on time is to jaywalk or bolt across the street when no cars are approaching them. As a misdemeanor, it currently carries a hefty fine. The criminalization of jaywalking creates added financial hardship for people who already cannot afford the luxury of their own vehicle and heavily rely on their ability to get to work in a timely manner. Jaywalking is also typically not something that people do with the intention of harming themselves or others or to break the law. Sometimes it is the only choice for how someone can cross the street for a long period of time. In rural Nevada, many streets are not well lit or have their own crosswalk, making it difficult to avoid a potential misdemeanor in these areas.

At the ACLU of Nevada, one of our goals is to reduce police interactions as much as possible and A.B. 403 supports this cause. Police interactions can be an extremely uncomfortable experience for many groups of people. If jaywalking remains a misdemeanor, vulnerable populations could be put in uncomfortable situations that could raise their anxiety for days and weeks to come as well as taking important time away from other activities that police officers could be doing. We urge you to support and pass A.B. 403 to decriminalize jaywalking.

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

We support A.B. 403. We believe that jaywalking should be treated the same as vehicle-based traffic offenses. As you know, there is a bill [Assembly Bill 116] to decriminalize that before the Legislature. Criminalizing this sort of thing does not prevent it from happening or improve our ability to collect fines, and it does not protect public safety. It simply imposes an extra burden on the poorest Nevadans, leaving them subject to arrest warrants that impair their ability to work, pay their rent, and take care of their families. Jaywalking should be a civil offense, and so we support A.B. 403.

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

We appreciate these efforts to decriminalize infractions including jaywalking. Specifically, we believe that this will help prevent people from becoming part of the criminal justice system, and we appreciate this effort.

Chairman Yeager:

Is there anyone else who would like to testify in support? I believe we had Mr. Pharr on the telephone who wanted to provide support testimony. I am unsure if he is in the queue. I will suspend support testimony to see if Mr. Pharr can get back into the queue. Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position?

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

We are in the neutral position. I had a conversation with Assemblywoman Brown-May, and I appreciate her reaching out to us. Our position on this bill is the same as the position we have had on other measures over the years to make traffic infractions civil. We do not care if the penalty is civil on the court side after the fact, but we want officers' actions in the field to remain the same. For example, if an officer sees someone violating the law, the officer could take action the same way as always and the courts would treat it as a civil matter on the back side.

Although I am neutral on the bill, I did want to make a few comments. To dispute the notion that jaywalking is just a very minor thing and is often used by officers to harass people, jaywalking, as you know, often leads to fatalities. This year, we have had 27 fatalities in our jurisdiction as of this morning. Often those fatalities involve pedestrians as part of the overall factor. Speeding and impairment are other factors, but we often see pedestrians as a factor.

I would encourage the Committee, when they have time, to sit in front of East Desert Inn Road and Maryland Parkway on an afternoon near the Boulevard Mall. You can watch, as the bus stops and lets people off and about 20 people run across four lanes of traffic in an attempt to catch the bus on the other side as people are going 45 mph down the roadway how dangerous that can be and how that can lead to people being injured or killed.

Also, it is our policy that we issue a citation for minor offenses including jaywalking and a supervisor must approve an arrest. I checked with our jail just now for the month of March. According to the records section at our jail—Marcie McMahon, Director of Detention Records—we had zero arrests, I repeat, zero arrests, in March for jaywalking. I am not sure where the data that Mr. Piro presented comes from, but according to our records section, zero jaywalking arrests in March of this year.

We are neutral on the offense being a civil matter, and we hope the Committee takes into account that an officer in the field needs to have the ability to enforce people in our roadways.

Chairman Yeager:

Is there anyone else who would like to testify in the neutral position? [There was no one.] I will reopen support testimony.

Roger Pharr, Private Citizen, Las Vegas, Nevada:

I am in support of A.B. 403. I generated the statistics that Mr. Piro referenced. He did a great job, so I will not repeat them again. The statistic I will expand is this: the 4,515 people with open warrants for jaywalking in Las Vegas Municipal Court represent about 8 percent of the total number of outstanding warrants. I do not have the number in front of me, but there are over 50,000 outstanding warrants. If the other courts have a similar percentage of outstanding warrants, that number would be tens of thousands for the state. So for those tens of thousands of people who are facing warrants for pedestrian offenses, and the potential for 1,000 more who would certainly face jail this year, if we stay at the rate that we have been jailing people for pedestrian offenses, I urge you to support this bill and decriminalize jaywalking.

Chairman Yeager:

Out of an abundance of caution, is there anyone else wishing to provide support testimony? [There was no one.] I would invite the presenters back up for any concluding remarks.

Assemblywoman Brown-May:

It was our pleasure to present A.B. 403 for your consideration today. As you can hear from the comments, there are a number of data and opinions around the severity of this issue. We agree that crossing in an unsafe manner is something that people need to still be aware of; however, criminalizing this penalty is something that we certainly can move away from, so we are looking at it as a civil offense. We look forward to working with Assemblyman Orentlicher to identify the amount of the fine because really, that is exactly what we are trying to address with this bill. We urge your support for this bill.

Chairman Yeager:

I will close the hearing on A.B. 403. I will now open the hearing on Assembly Bill 407. I wanted to confirm for the Committee that there are a couple of amendments to the bill that are included on the Nevada Electronic Legislative Information System. I believe both are considered friendly amendments, but we will get confirmation from the bill's sponsor.

Assembly Bill 407: Authorizes the issuance of an order for protection of a vulnerable adult. (BDR 3-380)

Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34:

Assembly Bill 407 seeks to protect vulnerable adults against abuse, exploitation, and neglect. With me this morning are Jennifer Richards and Tammy Sever from the Aging and Disability Services Division, Department of Health and Human Services.

Assembly Bill 407 was recommended from the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs during the 2019-2020 Interim. According to Ms. Richards' presentation on September 1, 2020, vulnerable patients are particularly susceptible to mental and emotional abuse, abandonment, neglect, isolation, financial control, and other types of control. These are all among the concerns. All of these factors are known to be associated with an increased risk of abuse.

Existing law in Nevada does provide several types of protection orders under *Nevada Revised Statutes* (NRS) Chapter 33. However, as Ms. Richards and Ms. Sever will further explain, the behavior and specific relationship required to seek the existing protection order is not typically present in cases of abuse, neglect, and exploitation of vulnerable adults.

As Chairman Yeager indicated, there are two friendly amendments [[Exhibit N](#) and [Exhibit O](#)] on the Nevada Electronic Legislative Information System. In addition, there are a few fact sheets [[Exhibit P](#), [Exhibit Q](#), and [Exhibit R](#)] about abuse in these vulnerable populations. I encourage you to look at these staggering and heartbreaking numbers. I failed to mention that I served as Vice Chair of the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs, and this was probably some of the most heartbreaking testimony we heard.

I will turn over the presentation to Ms. Richards and Ms. Sever, who will discuss further the need for [A.B. 407](#) and walk the Committee through the sections of the bill.

**Jennifer Richards, Chief, Elder Rights, Aging and Disability Services Division,
Department of Health and Human Services:**

We also have with us Carrie Embree, who is the Governor's Consumer Health Advocate and the former chief of Adult Protective Services, Aging and Disability Services Division in the Department of Health and Human Services. I would like to have Ms. Sever begin the presentation, and then I will add some additional comments following that.

**Tammy Sever, Social Services Chief, Aging and Disability Services Division,
Department of Health and Human Services:**

Last session, we came before this body to expand our program to include all vulnerable adults in Nevada [[Senate Bill 540 of the 80th Session](#)]. As a result of that legislative change, we saw an immediate increase in our caseload that continues to rise. We are back today to add vulnerable adult protection orders to Nevada law in line with national recommendations and to provide necessary assistance to our friends, family, and neighbors whom we serve across the state.

Elder abuse has been referred to as a hidden epidemic in the United States with an estimate that 1 out of every 10 people aged 60 and over are victims of caregiver neglect; financial fraud and exploitation; and/or psychological, physical, and sexual abuse every year. Persons with cognitive deficits such as dementia are substantially more likely to be victimized. Individuals with intellectual or developmental disabilities are 4 to 10 times more likely to be abused than their peers without disabilities. To learn more, we have submitted exhibits from the National Center on Elder Abuse [[Exhibit P](#), [Exhibit Q](#), and [Exhibit R](#)].

Adult Protective Services (APS) continues to see an increase in cases. So far for fiscal year (FY) 2021, we have opened 5,188 cases through February 28, 2021. We are projected for 7,782 cases for FY 2021. As of this morning I found out that for March alone, we opened 752 cases statewide. In FY 2020, APS opened 7,421 cases, which showed an increase of 14 percent after our expansion to a full adult protective services program.

In addition to empowering an individual to seek an order on their own behalf, this bill will allow APS to act as petitioner. For those who have significant physical, mental, or cognitive limitations, having the APS worker assisting the client will remove barriers to getting help.

I would like to share some actual cases that demonstrate how these protective orders could impact the lives of Nevadans, specifically focusing on the limited cases where Adult Protective Services may have acted as petitioner. I have changed the names in the following examples to protect the identity and the privacy of the parties.

The first example is regarding Joy Smith, a 91-year-old, recently widowed, living with her 57-year-old intellectually disabled son, John. Her husband had previously taken care of all the bills and shopping for the three of them. After her husband's death, two neighbors befriended Mrs. Smith and John, buying the groceries and assisting with bill-paying. Other neighbors became concerned when the couple started isolating both Joy and John from the community and an Adult Protective Services report was filed. During the investigation, it was discovered that one of the neighbors convinced Mrs. Smith to add her name on the deed to the home. Access to both the mother and son's bank accounts was also granted. During this time, the neighbor also diverted funds to have plastic surgery. Mrs. Smith was further preyed upon when the neighbor's friend moved in, rent-free, while she paid for weekly caregiving services when no care was provided. He was also using illicit drugs in the home. Adult Protective Services referred the exploitation to law enforcement and a criminal investigation was started. Mrs. Smith and John were fearful of retaliation. Guardianship was pursued for both clients. Even with law enforcement's ongoing investigation and Adult Protective Services' continued involvement, the couple continued to exploit and intimidate the mother and son. John continued to be taken to the bank by the neighbors to withdraw hundreds of dollars at a time, even up to the very minute the guardian court commenced. Later, it was also discovered that Mrs. Smith had been physically abused. A protective order in this case would have helped Joy and John sooner.

I would like to share Karen's story. Karen Jones was a 45-year-old, mostly bedbound, and she allowed her friend to move in with her after the friend lost her job. The friend then allowed her boyfriend to move into the home. Both were addicted to drugs. Ms. Jones was being verbally abused, and they were financially exploiting her. Because Ms. Jones had mobility issues, transportation was difficult. Her situation did not currently fall within existing legal protective orders, so it was very difficult for Karen to get help.

Finally, I would like to share Robert's story. Robert Lee was 85 years old and being abused and neglected by his live-in caregiver. Mr. Lee had significant cognitive deficits. He did not clearly fall within existing legal protective orders and because of his cognitive limitations, it was difficult to get help. Months later, the caregiver was finally evicted and subsequently a guardianship proceeding commenced. If Adult Protective Services had the ability to obtain a protective order, Mr. Lee could have been spared further abuse and neglect.

Elder abuse and more broadly, the abuse of vulnerable adults, is a serious public and human rights issue that erodes an individual's safety and dignity. For vulnerable adults, abuse is not

limited to physical threats of violence and harm, but also includes mental and emotional abuse, abandonment, neglect, isolation, financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser in fear of retaliation or an inability to meet basic needs. Many vulnerable adults are unable to access the resources necessary to seek lasting options or meet their immediate care needs.

I thank you for the time and will now turn the presentation over to Ms. Richards to walk you through the bill.

Jennifer Richards:

As illustrated by Ms. Sever, existing state law can be strengthened to fully address the unique needs of our vulnerable adult population throughout the state. Currently, 28 states and territories have some form of specialized protective order that provides relief to this population.

Sections 3 through 6 of the bill define a vulnerable adult. We do have a proposed amendment [[Exhibit N](#)] to this section to align the definition of vulnerable adult with APS and ensure that, in addition, those individuals aged 60 and over, just by purview would be covered in seeking this type of order.

Section 7 includes the mechanics of the order and how it will work. Notably, the individual is empowered to seek a protective order on their own behalf. However, in addition, under section 7, it does provide that, in certain instances, APS can act as petitioner.

Section 7, subsection 2, paragraph (b), also includes language that APS may refer cases to the public guardian if they believe that a guardianship is appropriate. There has been an amendment offered in this section from Clark County [[Exhibit O](#)] that we do not oppose. Additionally, section 7 outlines the relief that may be granted under this protection order which in short includes restricting contact, restricting access to specific locations, providing an accounting, and refraining from transferring, selling, or disposing of the property of the vulnerable adult for a specified period of time. There is also a provision regarding custody, possession, or control of pets. When we looked at the 50 states surveyed, we felt that was very important to include because, for some of these individuals, their pets are their life and that can often be used for abuse and control.

Section 8 of the bill waives filing fees. Section 9 outlines the timelines for temporary orders and extended orders. Section 10 outlines the procedure for law enforcement to receive those orders so they can be enforced. Section 11 outlines registry of the order, and finally, sections 12 and 13 lay out criminal penalties for violating a protective order.

We want to thank the Committee for their time in hearing this bill. We are especially thankful to the interim committee and all of the stakeholders who have participated over the last several months to bring this forward in Nevada. We are open to answer any questions at this time.

Chairman Yeager:

Are there any questions from the Committee?

Assemblywoman Nguyen:

I know that we have guardianship already, so what types of due process rights do these vulnerable people get? What if they want to associate with someone?

Jennifer Richards:

The proposed legislation is laid out similar to the other protection orders in existing law with those due process rights, such as a temporary being available. I noticed that in applying for an extended order, importantly, individuals would be able to pursue these protective orders on their own. In very limited circumstances, APS could act as petitioner. But we are very focused on empowering individuals to pursue these orders on their own.

Assemblywoman Nguyen:

Under a current guardianship, you have to have a licensed physician's statement, but in this case, how would a petitioner establish that medical need? Would it just be hearsay? It just seems like it would be hearsay or a lack of expertise in that area. Under this procedure, how would you establish a diagnosis that a vulnerable person needs assistance with activities of daily living? We have those guidelines and protections in a guardianship. I just do not see how that works in these circumstances.

Jennifer Richards:

I am happy to provide some of the other state statutes for you to review and discuss with me. If APS were to act as petitioner in a guardianship proceeding under NRS Chapter 159, just having the law enforcement report from APS is enough to petition by province of their being that agency. If an individual is over 60, they would automatically be eligible for the protective order just by basis of age. And then there is some other criteria in section 3—based on where they are living or if they receive personal care—that would also qualify them for the order, and that is modeled after language in our sister jurisdictions of California, Washington, and Oregon.

Assemblywoman Nguyen:

Do you know how those statutes compare with our guardianship statutes? I know that this is a complex area that our family court judges have accumulated more and more expertise in. I just want to make sure that these come together first and can work in coordination.

Jennifer Richards:

Absolutely. I was a practicing guardianship attorney with Legal Aid of Southern Nevada prior to entering this world and I sit on the Nevada Supreme Court Guardianship Commission. The intent is that this protective order would work in harmony with our existing guardianship laws. Our setup is different. When we consulted with the National Adult Protective Services Association, they actually have a different setup and these types of orders are built into a different mechanism, so we did adjust this to be Nevada-specific to work within our existing [unintelligible] framework. There are individuals who would be

eligible for the protective order who would not also meet the criteria for guardianship. I wanted to make that clear as well.

Assemblywoman Nguyen:

Thank you, and I will follow up offline.

Assemblywoman Cohen:

I do have some questions and procedural concerns. In section 6, subsection 8, there is the term "personal aide," and I am not sure if that is defined in statute, but if we could get a definition for that I would appreciate it.

Assemblywoman Bilbray-Axelrod:

Yes. I do not believe we have legal with us today. Let me say that this bill is by no means the final product. It literally got delivered to me a couple of days ago. As you see, there are two friendly amendments, and I am also in talks with the public defenders and the Nevada Justice Association about certain sections as well. Anything that you see that you would like a definition, we can definitely do that. We will definitely get that for you.

Assemblywoman Cohen:

In section 7, subsection 10, I would ask that supportive decision-making also be considered, certainly and possibly in other places throughout the bill, because certainly we have legalized supportive decision-making, and I think for this population, it might be very helpful to make sure that if they do trust and have taken advantage of our supportive decision-making statutes, that is included in this.

In section 8, there is automatic attorney's fees and costs, and I was just a little concerned because other temporary protective orders do not come with automatic fees. Additionally, if someone is denied the protective order, are the fees still in play? I would like a little more information about the fees section.

Assemblywoman Bilbray-Axelrod:

I will happily work with you, Assemblywoman Cohen, with a fine-tooth comb if that is all right with you.

Jennifer Richards:

I was just going to add that provision was not in our presentation. It was added during the drafting process, so we do not have a vested interest in that provision. We are willing to collaborate to get the bulk of the bill passed, if that is an issue.

Assemblywoman Cohen:

My other issue that we do not have to solve today, but I would like to discuss further, is the length of the protective orders. You cannot get a five-year temporary protection order from your spouse or former spouse, and so I would also like to discuss that offline.

Assemblywoman Marzola:

My question is on section 7, subsection 4, and it relates to the immunity from criminal and civil liability. What happens when a vulnerable adult is under the care of APS and something occurs; what would be the recourse for the vulnerable adult at that point if we are giving immunity to the Department of Health and Human Services, its officers, and employees?

Jennifer Richards:

Just to clarify, APS does not take custody of adults. We do not remove them from homes. We do not have the same procedure and authority that an agency such as Division of Child and Family Services has, so that provision is just providing that APS has discretion to pursue or not pursue protective orders as they deem appropriate for the clients they serve. That would be on a case-by-case basis, developed by the staff at APS who have the expertise to make that determination. It is to prevent someone from coming and saying, Why did APS not file a protective order on my behalf? It should be within the sole discretion of the Department whether or not they would act as petitioner. I can also speak to the bill's intent which is, of course, to work with our legal aid providers throughout the state. I serve as the State Legal Assistance Developer under the Older Americans Act of 1965, and we have amazing legal aid providers in Nevada. Our hope is that there will be referrals between APS and we can work collaboratively to get the people the help they need.

Assemblywoman Marzola:

I would like to talk about the immunity part offline.

Assemblywoman Summers-Armstrong:

I do have a question about how this works as far as reporting. Often folks with physical disabilities have in-home health care workers who might be the first people to notice if there is abuse or suspicious behavior going on that could be detrimental to this vulnerable population. Are they mandatory reporters?

Tammy Sever:

Yes, home health personnel are mandated reporters.

Assemblywoman Summers-Armstrong:

Do I understand with these amendments that you are requesting, that they, on behalf of the person they are providing services for, could make a report and then your agency would be able to step in to assist and file protective orders?

Tammy Sever:

As a mandated reporter, they are required to contact our office to make the report. A case would be opened, and an APS worker would go out and do the investigation. That would be the determination of what steps in the investigation we are going to proceed with. That does involve talking with the client themselves and what their wishes are.

Assemblywoman Summers-Armstrong:

Does this change in the legislation help that process at all?

Tammy Sever:

It does help in the sense where time is considered. We are perhaps able to alleviate the abusive situation sooner and assist the client on being able to get that abusive person out of the home quicker and keeping them safe.

Chairman Yeager:

Are there any other questions from the Committee? [There were none.] Is there anyone who would like to testify in support? I see Ms. Kelly on the Zoom. Are you in support of the bill or are you in a different position?

Karen Kelly, Public Guardian, Clark County Public Guardian's Office:

We are in support of the bill with the proposed amendment [[Exhibit O](#)], and I just wanted to provide some information on that. This amendment specifically modifies section 7, subsection 2, paragraph (b), by providing that it only applies to counties with less than 100,000 population in that particular section.

The Clark County Public Guardian's Office does not have the legal authority to investigate the personal and financial history of a proposed protected person or determine if the guardianship is appropriate. Under NRS 253.220, this only provides that the Public Guardian's Office can access the personal and financial information of a protected person after we have already been appointed as guardian. In order to determine if a guardianship is appropriate, an investigation would need to be conducted and access to all of the personal information would be needed in order to move forward with a petition.

Gaining access to such documents and information, which is incredibly private in nature, should not be allowed without judicial oversight. As a person who has not yet been deemed incompetent, the Public Guardian's Office, as a governmental agency, should not have access to such information until the office has been appointed as the guardian in order for us to develop an effective case plan.

If the Public Guardian's Office is investigating and then subsequently petitioning for guardianship, we find that this is an inherent conflict. The public guardian's role is really not to determine who in the community specifically needs a guardian. The burden of that proof on whether or not a guardianship is required falls on the petitioner and the court, not our office.

We are not involved in cases where the need for guardianship is still at issue. We are there to serve in that capacity once a court has determined that it is appropriate and when there are no friends, family, or any interested party willing or appropriate to serve.

Chairman Yeager:

Thank you for your testimony, Ms. Kelly. Is there anyone else who would like to testify in support?

Barry Gold, Director of Government Relations, AARP Nevada:

You have heard some of the terrible stories, and I will tell you those are just truly the tip of the iceberg. The first thing I want to say is I am not an attorney. Please do not ask me any of the technical questions that have been discussed earlier. What I want to talk about is the need for this and what this does. These are our moms and dads, our grandmas and grandpas, who have lived their whole lives, worked hard, raised their kids, and paid taxes. As Speaker Frierson said during Senior Issues Day last week, these are people who have paid their dues. They truly have, and now they find themselves in the position where they need a little more help. How about if I say they need a little more protection? They need a little more protection, and that is exactly what this bill is intended to do; it is to allow that to happen and allow that protection to them so they can protect their assets, their lives, and everything else that is important to them. Therefore, AARP is strongly in favor of the concept of this bill. You have heard how it is spreading across the country. More and more states every year are passing something like this. Please consider that these are the people who have paid their dues and they really need this help and this protection. On behalf of our 345,000 members across the state, AARP strongly supports this bill, and we urge you to pass it.

Marlene Lockard, representing Retired Public Employees of Nevada:

We are in strong support of this measure. We think it is a continuing piece of legislation to add to the protections of our seniors and many of our nearly 8,000 members. We appreciate the bill's sponsor in bringing this bill forward, and we thank you for your continued oversight and protection of this vulnerable population.

Chairman Yeager:

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

Matthew L. Sharp, representing Nevada Justice Association:

I am speaking in limited opposition to the bill and specifically as to section 7, subsection 4, which provides for absolute immunity to the state for any wrongful act that is committed by the state in the enforcement of this particular bill. Our position would be that is excessive. The best intentions apply; everybody is in favor of helping vulnerable adults. But if an innocent person is injured in the process, they should have some remedy. For that limited purpose, we are opposed to the bill.

Chairman Yeager:

Is there anyone else who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position?

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

We are in neutral. We spoke with the bill's sponsor. We are neutral because we would have to move to opposition if the amendment was not accepted. But we are in discussions with Assemblywoman Bilbray-Axelrod, and she is going to accept the amendment. Our issue with the bill lies in section 7, subsection 9, paragraph (c), that creates a new temporary protection order penalty structure. Last session we worked on Assembly Bill 19 of the 80th Session with the Office of the Attorney General and the district attorneys that outlined the penalty structure for temporary and extended protection orders in NRS 33.100. We are just asking to keep the same penalty structure that we worked on from last session. We fully agree and support the intent of the bill in protecting vulnerable people. Our issue is only with the penalty structure, and we believe that we are going to get it worked out.

Chairman Yeager:

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

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

I will ditto what Mr. Piro said, and I will add for the record that we are proposing for the temporary and extended protection order penalties to mirror what is currently in NRS 33.100.

Chairman Yeager:

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

Tracey A. Bowles, Public Guardian, Washoe County Public Guardian's Office:

I am here to testify in neutral this morning on A.B. 407. Given the fact that Clark County has submitted a friendly amendment to this bill, we would like to just state that we are in support of that friendly amendment. For the sake of time, I would just echo the comments that Ms. Kelly gave to the Committee this morning. One additional issue that we do have with the bill is the broad definition of a vulnerable person. I do think it is important to continue looking at that definition of vulnerable person because it does expand the current definition quite a lot. While I think there is an interest in expanding the current definition by a lot because the APS does serve individuals from 18 to 60 now, we are interested in looking at if that definition is too broad of a definition. We are happy to work with the bill's sponsor to get this where it needs to be.

Chairman Yeager:

Is there anyone else who would like to testify in the neutral position? [There was no one.] I did want to say that we had some neutral testimony where there were some concerns expressed. Normally, I think I would recategorize that as opposition, but I do realize that the bills are coming out pretty fast and furious and being heard quickly. I believe that neutral testimony was in the spirit of, We believe we are going to get there, but would just continue to ask everyone involved in the bill to work on those issues as we approach our April 9, 2021, first Committee passage deadline. I would invite the presenters back up for any concluding remarks.

Assemblywoman Bilbray-Axelrod:

I will say that in the spirit of the neutral folks, we will do everything possible to get there. Thank you for your time, Committee.

Chairman Yeager:

Did either Ms. Richards or Ms. Sever wish to make concluding remarks?

Jennifer Richards:

I just wanted to respond that we are trying to cast a wide net so no one gets left behind who needs this help. We are willing to work on the fine points of the bill because the intent and the goal are what matter and there is a huge need in our community for this protection order.

Chairman Yeager:

I will close the hearing on A.B. 407.

[Assemblywoman Nguyen assumed the Chair.]

Vice Chairwoman Nguyen:

I will open the hearing on Assembly Bill 394.

Assembly Bill 394: Provides that members of a mobile crisis response team are immune from civil liability under certain circumstances. (BDR 3-1046)

Assemblyman Steve Yeager, Assembly District No. 9:

As some of you may recall, at least those of you who were in the building last session, we passed a provision in Assembly Bill 236 of the 80th Session. In that large criminal justice reform bill, we directed the Peace Officers' Standards and Training Commission, subject to available funds, to develop and implement a behavioral health field response program. The purpose of that provision was to improve responses to people in crisis by allowing behavioral health professionals, either by telephone or video, to assist law enforcement to de-escalate, stabilize, and resolve crisis situations that are happening out in the field. In other words, the program allows for mobile crisis teams to operate via video or phone. That is particularly important in our more rural areas of the state where sometimes the nearest mental health provider could be very far away, even hundreds of miles away. As noted, we did not fund that program. We established it in A.B. 236 of the 80th Session, but it was subject to available funds.

I have some good news. We have identified and located a grant funder interested in investing in a program like a mobile crisis response in the state of Nevada through a multi-year grant. To prepare for the likelihood of securing this funding, we reviewed our statutes and believe that including immunity for mobile crisis response team members is important. Assembly Bill 394 would provide immunity from liability to encourage behavioral health professionals to participate as members of a mobile crisis response team. We do not want them to decline to be a part of this program because of concerns about liability risk. In this case, and as the bill states, immunity only extends to those situations in

which the mobile crisis response team member is acting in good faith and their actions are not considered to constitute gross negligence or willful, wanton, or intentional misconduct. This is not blanket immunity.

There is currently no statutory definition for mobile crisis intervention services in our state, so A.B. 394 makes clear exactly what these services are. Mobile crisis intervention services are important because they support law enforcement with complex behavioral health situations that they are often not fully trained to handle and often can result in really bad outcomes for the individuals involved. This model can reduce the number of involuntary mental illness holds and hospitalizations. It can divert people from jail, and it promotes voluntary participation in treatment services, which we certainly want to encourage whenever we can. Having the help of behavioral health professionals can also reduce the degree of the crisis and can result in fewer adversarial and confrontational episodes faced by law enforcement.

Members of the Committee, that is the entirety of the presentation of the bill. I would welcome any questions at this time.

Vice Chairwoman Nguyen:

Are there any questions from the Committee?

Assemblywoman Krasner:

I do not really have a question, just a comment. I wanted to say thank you to Assemblyman Yeager for bringing this much-needed bill.

Vice Chairwoman Nguyen:

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

Gabriele McGregor, representing Nevada Resort Association:

We are here today in support of A.B. 394. It is not uncommon for our security personnel to be required to intervene in crisis situations, so the protections provided in this bill are much appreciated.

Vice Chairwoman Nguyen:

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

Matthew L. Sharp, representing Nevada Justice Association:

We are in opposition to A.B. 394. Our particular concern is two-fold. First, we frankly do not understand the need to provide immunity or a level of immunity for this particular type of service. It is not to criticize the service; it is a laudable service, just like it is a laudable service to be a volunteer for a charity. There is a level of responsibility that we expect in our society, and I think it is important to understand that gross negligence is a standard, legally, that is very difficult to meet. As an example, it would be akin to driving drunk blind. That is

the type of conduct that would arise to gross negligence. It is not even what the law calls very extreme negligence. I do not think that type of immunity is necessary.

Secondly, I think the definition of mobile crisis intervention services is very broad and it would include people who do not fulfill what the intent of the legislation is. For example, we heard from the casino industry. The casino industry should be trained to deal with people who are customers who may or may not have mental disorders, but they should not be given immunity for their negligent acts. I think that in sum, nobody is against the concept of a mobile crisis intervention service to provide service to our community, but it should be done so in a responsible and fair manner.

Vice Chairwoman Nguyen:

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

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

We are in neutral on the bill today. I think that the Mobile Outreach Safety Team (MOST) is very important, and they do help with responding to crisis situations. Over the past year we have heard a lot of discussion about qualified immunity involving police officers, and I think this bill illustrates the reason why if someone is doing a very difficult job in dealing with folks who are in crisis, as long as they are acting in good faith and they are not being malicious or violating the law, that immunity is a component that helps them do their job without fear that they will lose their livelihood when trying to help others. We are neutral on the bill, but we think that MOST teams are important.

Vice Chairwoman Nguyen:

Is there anyone else who would like to provide neutral testimony? [There was no one.] I will open it for questions from Committee members after receiving the opposition testimony.

Assemblywoman Summers-Armstrong:

As Mr. Callaway mentioned, there are folks who are going out in the capacity of helping to respond to crisis situations involving the police. You mentioned Assembly Bill 236 of the 80th Session providing for de-escalation, so we are speaking specifically about those folks who are responding in the communities, like MOST in west Las Vegas, to assist those experiencing a mental health crisis. Is that correct?

Assemblyman Yeager:

That is correct. It is a focus on trying to help law enforcement deal with some of the more difficult calls that they respond to, which typically involve people who are experiencing a mental health crisis. The idea is that there would be a behavioral health professional available, likely by phone or iPad, to be able to virtually step in and help on that call. We are talking about those individuals who are providing crisis intervention in the field but through virtual means. That is who the bill is intended to encapsulate.

Assemblywoman Summers-Armstrong:

Would this also apply if there was a person to assist in person rather than virtually? This is new to me that there would be virtual assistance, but would this also apply to those on MOST who respond in person?

Assemblyman Yeager:

It indeed would. I think maybe the confusion is that we call it a mobile crisis unit, the idea being that the behavioral health professional is being transported to the scene, whether it be the actual person is being transported or it is through audio or visual technology. It would include those individuals as well who are interfacing in person with those who are experiencing a mental health issue.

Vice Chairwoman Nguyen:

Are there any other questions from Committee members? [There were none.] I will invite the presenter back to the table for concluding remarks.

Assemblyman Yeager:

I certainly appreciate the opposition, and I think everyone who knows me knows that I am generally not in favor of immunity. I believe our civil justice system requires people to pay for their acts of negligence. I generally agree with that. I think this may be a situation where we want to provide some limited immunity, and here is why. These are really difficult calls for law enforcement to respond to and certainly not a knock on law enforcement, because we expect them to do a lot out in the field. But over the course of the last couple of decades, not just here in Nevada but nationwide, there really have been some very public events of situations just escalating in a way that I think everyone would agree did not have to escalate. A lot of those are due to folks who are experiencing a mental health crisis, experiencing results of illicit drug use. I want to at least consider giving this immunity because I want behavioral health professionals to want to be involved in this process, because if they are not involved in the process, what is going to happen is the default, which is arresting the person or committing them to a hospital. And that is usually not the most effective means for treatment. It is the most expensive means for treatment, and in the rural communities, it is a big problem because if you have to take someone to a mental health facility, you might be driving for three hours; that is an officer we are taking off of the streets to do a mental health transport. We all, I think, have an interest in making sure that if we can get the person immediate help, if we can get them to agree to take medications, to be with family members, that is a service that is very valuable.

I bring this bill, although contrary to my normal belief on these issues, because I think it is going to be important for us to have this provision to ensure that we can actually find providers who want to provide these services. Again, we are looking at potentially receiving grant money, no strings attached, that will provide for funding for us to be able to do this. Hopefully, that answers the questions. I will continue to work with the opposition to see if there is some kind of compromise that can be reached. I would really hate for Nevada to lose out on what is a very exciting opportunity in the next year or two, and I simply do not believe we can wait until next session, because that opportunity will be lost.

Vice Chairwoman Nguyen:

I will close the hearing on A.B. 394.

[Assemblyman Yeager reassumed the Chair.]

Chairman Yeager:

I will open it up for public comment.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

My brother, Thomas Purdy, was killed by Reno police. I wanted to read something that I received from somebody who actually had an encounter in January with Officer Maxwell, who was one of the four Reno police officers who hog-tied my nonaggressive, mentally ill brother who was in a mental health crisis. It says:

Reno PD tried to kill me. Officers Lupe and Maxwell. They tried setting me up with drugs that had no idea I knew what was going on. I saw what they were doing. They surrounded me, seven of them. Those two, Maxwell and Lupe, were the main ones trying to do the setup. I did not let myself get set up. I told him to stop harassing me. They started beating me up. A witness jumped in. She was beaten up too. It is in a statement. After me surrendering and saying, Please stop, Maxwell stood up in front of me and Lupe still behind me, I felt a gun barrel. I said, Please don't kill me, Please don't kill me, at least four times and he let go of the taser. Hundreds of volts through my head, right in the back of my head falling. I basically died and came back alive after ten minutes. Realizing that I remembered everything, they asked immigration to deport me knowing that there were cameras in Walgreens on Kietzke near Atlantis. They erased all the evidence.

That same officer was one who hog-tied my brother. I am going to put in a public records request for that body cam footage of this incident with that man, and I would be more than happy to share the results that I get with you. Please support bills that promote transparency and accountability.

Chairman Yeager:

Is there anyone else who would like to provide public comment?

Lea Case, Private Citizen, Reno, Nevada:

I am here today with my daughter, CJ, and we are here to read you [unintelligible] moon language. Admit something. Everyone you see, you say to them, Love me. Of course, you do not do this out loud; otherwise someone would call the cops. Still though, think about this: there is great pull in us to connect. Why not become the one who lives with a full moon in each eye that is always saying with that sweet moon language what every other eye in this world is dying to hear?

Chairman Yeager:

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

One thing I wanted to say before we talk about the schedule is that I wanted to wish a very Happy Eleventh Birthday to Henry, who is the son of our Assemblywoman Nguyen. It is Henry's birthday today and he is in northern Nevada spending time with his family and with his mother. Henry, if you are out there and hear us, we hope you have a really great birthday. Hopefully you get a big helping of cake, doughnuts, pie, or whatever you want. Happy Birthday.

Thank you, Committee, for this morning. It took us a little while to get through everything. While we were in Committee, we had agendas posted. As of right now, we have agendas posted for Friday and Monday through Thursday of next week. We will have a meeting next Friday which will probably be a large work session. We are still waiting for an agenda for that day. So far, all agendas list an 8 a.m. start, and as you saw from today, we are probably going to need that extra time.

I will be presenting the cannabis consumption lounge bill, so that should be a fun hearing for a Friday morning. As a preview, there are some amendments we are working on and I will make sure to get those to all of you sometime today so you have a chance to look at those. It is not a complete rewrite of the bill, so it should not be too difficult to get through.

Pat yourselves on the back, we are through 60 of 120 days for the session. You should all be receiving a small treat from Assemblywoman Hansen and myself congratulating you for getting halfway through.

The meeting is adjourned [at 10:47 a.m.].

RESPECTFULLY SUBMITTED:

Traci Dory
Committee Secretary

APPROVED BY:

Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 7](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 8](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 42](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 59](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 125](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 219](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Assembly Bill 230](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 284](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is the Work Session Document for [Assembly Bill 318](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit L](#) is the Work Session Document for [Assembly Bill 393](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit M](#) is the Work Session Document for [Assembly Bill 401](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit N](#) is a conceptual amendment to [Assembly Bill 407](#), submitted and presented by Jennifer Richards, Chief, Elder Rights, Aging and Disability Services Division, Department of Health and Human Services.

[Exhibit O](#) is a proposed amendment to [Assembly Bill 407](#), dated March 31, 2021, submitted by Alex Ortiz, representing Clark County.

[Exhibit P](#) is a document titled, "The Facts of Elder Abuse," by the National Center on Elder Abuse, submitted and presented by Jennifer Richards, Chief, Elder Rights, Aging and Disability Services Division, Department of Health and Human Services.

[Exhibit Q](#) is a document titled, "How at Risk for Abuse Are People with Dementia?" by the National Center on Elder Abuse, submitted and presented by Jennifer Richards, Chief, Elder Rights, Aging and Disability Services Division, Department of Health and Human Services.

[Exhibit R](#) is a document titled, "Abuse of Adults with a Disability," by the National Center on Elder Abuse, submitted and presented by Jennifer Richards, Chief, Elder Rights, Aging and Disability Services Division, Department of Health and Human Services.