

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

**Eighty-First Session
April 7, 2021**

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:03 a.m. on Wednesday, April 7, 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
Bradley A. Wilkinson, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager
Traci Dory, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Andrew Bennett, Public Information Officer, Office of Traffic Safety, Department of Public Safety
Sean Sever, Administrator, Legislative Liaison, Division of Management Services and Programs, Department of Motor Vehicles
Danielle Hafeman, Ignition Interlock Program Coordinator, Office of Traffic Safety, Department of Public Safety
Scott E. Pearson, Justice of the Peace, Department 4, Reno Justice Court
Fred Shakal, Chief Traffic Safety Engineer, Department of Transportation
Thomas Conner, Chief Administrative Law Judge, Administrative Hearings Office, Department of Motor Vehicles
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Jim Hoffman, Member, Legislative Committee, Nevada Attorneys for Criminal Justice
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada Coalition of Legal Service Providers
April Stokes Green, Directing Attorney, Family Justice Project, Legal Aid Center of Southern Nevada
Stephanie McDonald, Directing Attorney, Family Law Self-Help Center, Legal Aid Center of Southern Nevada
Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence
Abbey Pike, Private Citizen, Sparks, Nevada
Arielle Edwards, Government Affairs Specialist, City of North Las Vegas
Christopher M. Ries, representing Las Vegas Metropolitan Police Department
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
Tess Opferman, representing Nevada Women's Lobby
Gabrielle Boliou, Private Citizen, Henderson, Nevada
Bryan Schwartz, Deputy District Attorney, Clark County District Attorney's Office

Lauren Boitel, Executive Director, ImpactNV; and Chair, Nevada Policy Council on Human Trafficking
Mary-Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office
Annemarie Grant, Private Citizen, Quincy, Massachusetts

Chairman Yeager:

[Roll was called. Committee protocol and rules were explained.] We have three bills on the agenda as well as a work session. We will begin the work session with Assembly Bill 160.

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

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 160 was sponsored by Assemblywoman Torres and was heard in Committee on March 2, 2021 [[Exhibit C](#)]. This bill authorizes a court to allow credit for time spent in residential confinement in a person's place of residence under the terms and conditions imposed by the court before conviction to reduce a sentence of imprisonment.

Assemblywoman Torres proposed an amendment, which does the following:

1. Requires rather than allows the court to order that credit for time served be allowed for actual confinement before conviction and allows the court discretion to order credit for time spent in residential confinement before conviction;
2. Provides that for defendants convicted of a misdemeanor, the court shall order 100 percent credit for the amount of time which the defendant has actually spent in confinement before the conviction and allows the court discretion to order credit for 25 percent credit for the amount of time which the defendant spent in residential confinement; and
3. Provides that for defendants convicted of a misdemeanor, a maximum of 60 days credit may be awarded for time spent in residential confinement.

Chairman Yeager:

Committee members, you might remember that during the presentation of this bill the opposition was mainly centered on misdemeanors and not wanting to give defendants a credit that might expire their entire misdemeanor sentence. I believe Assemblywoman Torres has worked on this and, as you can see on the work session document, the way it came out would be 25 percent credit. That is discretionary; a judge does not have to order that, and it would only be for a maximum of 60 days. As you may recall, for a misdemeanor, you can be sentenced up to 6 months. I think it addresses some of the concerns regarding the bill.

Are there any questions from Committee members on A.B. 160 as detailed in the work session document?

Assemblywoman Nguyen:

Some members have reached out to me on this, and I have been helping Assemblywoman Torres with this bill. Someone asked if the City of Henderson's amendment had been accepted. Their amendment in March was initially not accepted, but I did speak with Marc Schifalacqua from the City of Henderson, and they are in support of the work session amendment that caps it at 60 days for misdemeanors as well as the ratio of essentially 1 to 4. We would like to thank Assemblyman O'Neill for that suggestion.

Chairman Yeager:

Thank you for the additional information. Are there any questions from Committee members? [There were none.] I am looking for a motion to amend and do pass A.B. 160.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 160.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMAN WHEELER VOTED NO.)

I will assign the floor statement to Assemblywoman Torres, and we will have Assemblywoman Nguyen as a backup if needed. We will go to Assembly Bill 161 next.

**Assembly Bill 161: Makes various changes relating to actions for summary eviction.
(BDR 3-736)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 161 was sponsored by Assemblywomen Torres and Summers-Armstrong and was heard in Committee on April 6, 2021 [[Exhibit D](#)]. This bill eliminates actions for summary eviction in certain circumstances. A landlord who wishes to evict a tenant of any dwelling, apartment, mobile home, or recreational vehicle with periodic rent due by the month or a shorter period who defaults in the payment of the rent is required to proceed through a formal action for unlawful detainer.

Assemblywoman Torres proposed an amendment, which does the following:

1. Deletes sections 1 through 18 of the bill; and
2. Replaces it with a new section requiring the Legislative Commission to appoint a committee to conduct an interim study concerning the process for summary eviction of tenants.

Chairman Yeager:

Are there any questions from Committee members on Assembly Bill 161 as detailed in the work session document? [There were none.] I am looking for a motion to amend and do pass A.B. 161.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 161.

ASSEMBLYWOMAN GONZÁLEZ SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Hansen:

I had grave concerns about this bill in its original form, but now that it is going to be a study, I can support it out of Committee.

Assemblyman Wheeler:

Even as a study, I do not think I can support this bill, because a study usually leads to something else. I do not think a study will be giving us action quickly enough. I will vote no on it for now.

Chairman Yeager:

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

THE MOTION PASSED. (ASSEMBLYMAN WHEELER VOTED NO.)

I will assign the floor statement to Assemblywoman Torres, and I will be backup if needed. We will go to Assembly Bill 326 next.

Assembly Bill 326: Revises provisions governing cannabis. (BDR 56-641)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 326 was sponsored by Assemblyman Roberts and was heard in Committee on March 26, 2021 [[Exhibit E](#)]. This bill authorizes the Cannabis Compliance Board to impose certain penalties, in addition to any criminal prosecution, for engaging in the business of a medical cannabis establishment or adult-use cannabis establishment without a license. All advertising by a cannabis establishment must contain: (1) the name of the cannabis establishment; and (2) the adult-use cannabis establishment license number or other unique identifier or the medical cannabis establishment license number or other unique identifier of the cannabis establishment.

Assemblyman Roberts proposed an amendment deleting section 1 of the bill and adding a provision authorizing local jurisdictions to pursue people engaged in unlicensed activities through the civil justice system, as opposed to the criminal justice system.

Chairman Yeager:

I know this hearing was a little while ago, but the concern expressed at the hearing, particularly from the Cannabis Compliance Board, was that they really did not have the ability to pursue people or do enforcement on the criminal side. In talking with Assemblyman Roberts, the idea was to allow local governments to use the civil justice system. We do not have the language to look at—it is just in conceptual form at this time—so I understand if people want to wait to see what that amendment actually looks like if we are to pass this bill and it is to get to the floor. In the interest of keeping it moving, this is what we have on the work session document this morning.

Are there any questions from Committee members on Assembly Bill 326 as detailed in the work session document? [There were none.] I am looking for a motion to amend and do pass A.B. 326.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 326.

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 Assemblyman Roberts, and Assemblyman Wheeler will be backup just in case we need it on the floor. We will move to Assembly Bill 394 next.

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

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 394 was sponsored by the Assembly Committee on Judiciary and was heard in Committee on April 1, 2021 [[Exhibit F](#)]. This bill provides that any person acting as a member of a mobile crisis response team, whether for compensation or gratuitously, is immune from any civil liability in the performance of mobile crisis intervention services if: (1) the acts or omissions of the person are in good faith; and (2) the acts or omissions of the person do not constitute gross negligence or willful, wanton, or intentional misconduct.

Assemblyman Yeager proposed an amendment, which does the following:

1. Clarifies that it is a behavioral health specialist performing mobile crisis intervention services by phone or video; and
2. Clarifies the definition of "mobile crisis intervention services."

Chairman Yeager:

Committee members, you might remember that there were concerns about the broadness of the bill, particularly from the Nevada Justice Association. The amendment tightens up the bill to have it only apply to the mobile crisis response teams that we envisioned during the hearing. That is what you see in the mock-up—it is a tightening of the language, so it meets the intent of the bill.

Are there any questions from Committee members on A.B. 394 as detailed in the work session document?

Assemblywoman Cohen:

Do we have a definition of "behavioral health specialist"?

Chairman Yeager:

We do have a definition of it, but it is not in the mock-up. It will be in the formal amendment. There is an existing definition that we put in with Assembly Bill 236 of the 80th Session when we envisioned these units.

Is there further discussion on the motion? [There was none.] I am looking for a motion to amend and do pass A.B. 394.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 394.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

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

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to myself. That takes us to our final bill on the work session, Assembly Bill 403.

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

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 403 was sponsored by the Assembly Committee on Judiciary and was heard in Committee on April 1, 2021 [[Exhibit G](#)]. This bill decriminalizes the commission of the prohibited acts when a pedestrian:

- Does not yield the right-of-way to vehicles;
- Does not cross at a crosswalk; or
- Crosses diagonally.

Instead, the bill provides that such a violation is not a misdemeanor and is punishable by a civil penalty of \$100. This bill removes the reference to the statute that prohibits such acts by pedestrians, thereby providing that a violation is no longer subject to any additional penalties if the violation is committed in a pedestrian safety zone.

Assemblywoman Brown-May proposed an amendment, which does the following:

1. Changes the fee structure by allowing a civil penalty of up to \$100;
2. Provides that this bill applies to persons who are alleged to have committed a jaywalking offense but have not been convicted of jaywalking before the effective date of the bill; and
3. Invalidates existing warrants for jaywalking.

Chairman Yeager:

For clarification, there was some concern raised at the hearing that perhaps we should not set the fine at exactly \$100 and should be up to \$100 depending on the discretion of the adjudicating officer. That was the first amendment. The ideas for the second and third amendments are that if we are to now say that jaywalking is no longer a criminal offense, it probably makes sense to apply that to people who have not been convicted or had their day in court as well as invalidating warrants for people who have not yet gone to court on their jaywalking offense. If you have already been convicted of jaywalking or you are in the court process and there is a warrant, it is not going to be invalidated because that gets a lot trickier and requires a lot more work for the courts to try to go back and undo adjudication. In talking with the bill sponsor, this seemed like a good compromise to make sure we are treating people fairly.

Are there any questions from Committee members on Assembly Bill 403 as detailed in the work session document? [There were none.] I am looking for a motion to amend and do pass A.B. 403.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 403.

ASSEMBLYWOMAN BILBRAY-AXELROD 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 Brown-May and Assemblywoman Bilbray-Axelrod as backup on the floor. Thank you for being here with us, Assemblywoman Brown-May, and congratulations on getting your bill through the first step in this process.

We will now move to the agenda and take the bills slightly out of order. I will open the hearing on Assembly Bill 427. Before I hand it over for the presentation, I will let Committee members know there are a couple of amendments [[Exhibit H](#) and [Exhibit I](#)] from Judge Pearson and me on the Nevada Electronic Legislative Information System.

Assembly Bill 427: Revises various provisions relating to driving under the influence of alcohol or a prohibited substance. (BDR 43-373)

Andrew Bennett, Public Information Officer, Office of Traffic Safety, Department of Public Safety:

Assembly Bill 427 suggests some improvements and brings us up to federal regulations regarding Nevada's interlock program. I will give a brief history before I turn it over to some of our subject matter experts, as we do have a rather large coalition today to help present this bill. The Nevada interlock program has been established in law since 2017 [[Senate Bill 259 of the 79th Session](#)], where it was unanimously passed by both houses. We believe that the interlock program [Ignition Interlock Program] is a life-saving tool in combating impaired driving in our state. As we go through this presentation, you will hear from representatives of the Department of Transportation (NDOT), the Department of Motor Vehicles (DMV), and some subject matter experts from the Department of Public Safety (DPS), as well as Judge Scott Pearson. I will turn the presentation over to Mr. Sean Sever of the Department of Motor Vehicles.

Sean Sever, Administrator, Legislative Liaison, Division of Management Services and Programs, Department of Motor Vehicles:

Sections of Assembly Bill 427 will simplify the DMV's administrative hearing processes as well as clarify existing language to help the program be easier to understand and be built upon in the future.

Section 4 clearly separates a "restricted license" from an "ignition interlock driving privilege." The added definition introduces the new concept of referring to this specific privilege as an "ignition interlock driving privilege." This allows for future clarity when administering the driving privileges related to driving under the influence (DUI) offenses. Section 5 organizes the current revocation language to allow for an easier determination of revocation length. Changes related to this section are solely based on organizing and structuring revocation lengths for future use.

Section 7 separates restricted license and ignition interlock-related requirements. Changes related to this section permit a holder of the ignition interlock driving privilege to statutorily align the original intent of S.B. 259 of the 79th Session. Language in *Nevada Revised Statutes* (NRS) 483.490 has become hard to understand. The way "restricted license" has come to be used in this section greatly confuses the meaning and blurs the lines of how the license is to be used. This can cause great confusion for those wishing to understand how the licenses are used. Separation of this privilege will allow for greater clarity of future license and privilege changes. All the requirements related to the use of the ignition interlock privilege are relocated to clearly identify what pertains to this specific driving privilege.

Section 13 removes the driver's license revocation for failing to submit to a preliminary breath test. The DMV proposes that change because, as it is currently written, the law allows the revocation of a person's driver's license for failing to submit to a preliminary non-evidentiary breath test. There is a big difference between the two. The results of preliminary breath tests are not admissible in court; they are only used to see if there is probable [cause] for making an arrest for DUI. Evidentiary test results are admissible in court and are the results that the court uses to determine if the person is 0.08 or more. The way the law is written now, the preliminary breath test revocation does not require a warning that your driver's license will be revoked. Evidentiary tests require this warning. The DMV believes that a person has a constitutional right to refuse the preliminary breath test. If you have a right to refuse this test, we feel you should not be penalized for doing what you have a right to do.

Section 14 extends the illegal per se revocation length from 90 to 185 days to coincide with the ignition interlock-mandated 185 days. This language is aiming to correct a timing issue within the program to allow participants a more streamlined process and fewer trips to the DMV. Currently, situations may arise where an individual is required to install and uninstall the ignition interlock device multiple times during the serving of the revocation. Having one continuous 185-day revocation will allow for a continuous serving for both revocation and ignition interlock time as the courts can credit both. This could potentially save the participants money and save several trips to the DMV.

Various sections throughout the bill conform to the new ignition interlock driving privilege and ignition interlock device definitions.

We appreciate your considering our request. I have several people on Zoom who can help answer any DMV-related questions. I will now turn the presentation over to Ms. Hafeman with the Office of Traffic Safety.

**Danielle Hafeman, Ignition Interlock Program Coordinator, Office of Traffic Safety,
Department of Public Safety:**

The ignition interlock device is an excellent tool to protect individuals and others from driving while intoxicated. As with any tool, it is only effective if used properly. Data shows that states that enforce the ignition devices have decreased amounts of alcohol-related driving offenses. As you know, in 2017, with the adoption of S.B. 259 of the 79th Session, Nevada became a mandatory ignition interlock state. The model for the ignition interlock program, as it is today, is very flawed. As it is, the officer now will conduct the stop and issue the DP-45 [Officer's Certification of Cause and Notice of Revocation and/or Suspension]. The offender has the right to go to DMV and get a restricted driver's license with the device, or they will go to court and the judge can order it. That is where the process stops. The only way the driver can be held accountable is if an officer actually witnesses a violation of a person blowing into the device or the officer sees it being tampered with. They would have to go to court and the judge would have to find him guilty. No other violations can be addressed at this point. Nevada currently has 12 manufacturers and vendors certified to provide interlock services to the drivers and has approximately 5,700 devices in use.

Without the implementation of regulations, the limited data that we have indicates the devices themselves are working correctly, but the behavior by the driver is not being corrected. For instance, as of March 28, 2021, one driver in particular has had in excess of 570 failed tests. Of those, two-thirds were 0.08 or higher. That shows us the device does work, but this gentleman is not stopping his behavior. Another driver has skipped a rolling retest 481 times, meaning he could be actively drinking and driving. Because no entity has current jurisdiction to enforce sanctions or consequences, the drivers will continue their reckless behavior.

The DPS has studied other state's models, laws, and regulations, and obtained a baseline starting point as to how we would like to build the program. In-depth research was done with Washington state, and their state patrol oversees the program. They have had tremendous results in reducing recidivism rates, crashes, and that is all stated in research data from the National Library of Medicine. A research article was published by Responsibility.org, sharing statistical information from several states on the effectiveness of interlock devices. The study reveals that the device will reduce recidivism rates at an average of 64 percent in an estimated 1,250 prevented fatal crashes that would have occurred by drunk driving.

In an article produced by the Traffic Injury Research Foundation regarding total impaired driving technologies and critical implementation issues ["Impaired Driving Technologies and Benefits"], the biggest issue related to interlock programs is developing policies and procedures, as well as defining responsibilities and data collection. As of right now, we do not have any of that. By passing A.B. 427, DPS will be granted the authority to adopt regulations and hold offenders accountable for violations, as well as hold vendors and manufacturers accountable to ensure fair practices for consumers. The Nevada Committee on Testing for Intoxication would still maintain the authority for the preliminary blood alcohol concentration (BAC) lab tests and evidentiary BAC testing devices, as those are done completely separately from the interlock device. In the past, a Nevada law would have to provide testing on interlock devices to ensure they were suitable for certification. We have made some changes to the interlock device certification. Now the state requires that every manufacturer or vendor have an independent lab provide proof of certification and that it meets the specifications required by the National Highway Traffic Safety Administration. (NHTSA).

In addition to this, it would allow DPS to develop an actual ignition interlock program to collect revenue in order to not only fund the program, but to provide funding for a case management system that would be created to accurately monitor drivers and allow for on-site audits to manufacturers in better locations. It would also fund activities related to impaired driving, such as outreach programs, training, and education of the devices, and assist with treatment options for behavior corrections.

That concludes my portion of the presentation, and I am available for questions. I will turn the presentation over to Judge Pearson.

Scott E. Pearson, Justice of the Peace, Department 4, Reno Justice Court:

I am addressing sections 22 through 26 of A.B. 427, which are changes to our "24-7 sobriety program" [[Exhibit I](#)]. By way of introduction, this is my eleventh year on the bench at the Reno Justice Court. For 12 years before that, I was a deputy district attorney. I saw firsthand the devastating effects of DUI cases in our community. I responded to the scene of far too many DUI fatalities. I handled tragic cases of brother killing brother on the way to his wedding and husband killing wife here on vacation.

The changes to the 24-7 program in this bill are necessary to give judges in the state the tools to provide a pathway to success for defendants. Quite frankly, we all have the same goal for the most part and that is to help defendants obtain and maintain sobriety. In the simplest of terms, the goal of our criminal justice system is to make sure the individuals do not come back the best we can. We have learned in the Judiciary to follow the best practices in other areas of behavior modification. That is why we have problem-solving courts, drug courts, and DUI courts. We know that simply a punishment in and of itself is not likely to change the behavior of individuals. We also know that the carrot works better than the stick, or an incentive works better than a sanction.

In this 24-7 program that was built in South Dakota in 2005, when a majority of individuals are arrested for DUI—if it is a breath case, which is the majority—their driver's license is revoked. They then have difficulty getting to their job, maintaining their job, keeping their affordable housing, maintaining their relationships, and getting their kids to soccer practice or whatever it may be. In South Dakota, they said, We recognize you made a mistake, but we do not want to ruin your life. As long as you prove to us, twice a day, that you are clean and sober, we will give you your license back immediately so you can keep your job, you can keep your housing, you can keep taking your kids to those important obligations. The defendants actually volunteer for it. That is far more successful when you have individuals choosing to do something versus forcing them to do something. That in and of itself lends a lot greater success to the program.

The other thing we have learned is that if you are going to do sanctions or punishments, they need to be swift, certain, and fair. When an individual comes in person and tests positive, the 24-7 program allows you to address it immediately. It is not effective—whether you are a parent, employer, teacher, or coach—if you do not address something for months after someone makes a mistake. You try and address it immediately to have the best outcome. The 24-7 program allows that because the person is coming in person to provide that test and you can immediately address it, whether that is through a short period of jail time, treatment, or increased testing. We have learned that is the most effective. It has to be certain, rather than a defendant wondering what is going to happen if I do this and testing those boundaries like we get individuals who do—whether it is our teenagers who test those boundaries or our defendants. We have it clearly defined.

In my drug court, every possible action you take that is against our rules has a consequence. It is a fair consequence, and the defendants agree to it. It is a contract. They say, Yes, I get it, if I make this mistake, here is what happens. But it is not all or nothing. It is not, you

make one mistake and we throw away the key—so to speak—to the jail cell and just lock you up for as long as we can. We use the minimal effective dose to get the change in behavior, and we usually use treatment, because that in and of itself is the most effective way to help these people obtain and maintain sobriety. The 24-7 program—from my position as a judge and a former prosecutor—is the most valuable tool we have to ensure these individuals are able to maintain sobriety, keep their jobs, and be successful. Success, again, is having a healthy and happy lifestyle that avoids the criminal justice system. These changes will allow judges to do that. They also allow easy and affordable means for these defendants to do this, so we have learned that as well. If you put unreasonable expectations on individuals, they are just not going to do it.

The breath test in South Dakota is a dollar. I visited the program in Rapid City and saw 600 people come in and out that morning. They are there for a minute or two at most. They pay their dollar, they do their preliminary breath test, and they are on their way. It is open from 5:30 a.m. to 8:30 a.m. and 5:30 p.m. to 8:30 p.m. People do not have to come to the court, find a parking spot, go through security, and then provide their test. We developed this location and this body approved the 24-7 program two years ago—Assemblywoman Tolles was carrying that bill [Assembly Bill 316 of the 80th Session]—but unfortunately it was only applicable to second- and third-time offenders. It was applicable after they were convicted. That is not consistent with the best practices of behavior modification. We need this very soon and we need the ability to do it as a form of pretrial release. We get these people out of jail, let them keep their jobs, help them be successful, but keep our roadways safe by keeping them sober. It gives positive feedback. That is another great thing. I see it in person at our location. Someone comes in and tests clean and they are told, Hey, have a great day. Thanks so much for being here today and testing clean. Building that positive relationship with law enforcement at this time is incredibly important as well, and the defendants understand that we are not all out against them. We are trying to help them obtain and maintain sobriety, and keeping their job and livelihood is incredibly important for our criminal justice system.

Those are some of the many reasons why I am here today asking for these amendments to our 24-7 program so it can be applicable to first-time offenders and applicable right after they are arrested so we can get the best positive result for them and our community.

Chairman Yeager:

I appreciate your testimony and appreciate all you are doing to help offenders and keep the community safe. I know it is a lot of work. Those specialty courts take a lot of personal investment, so on behalf of the Committee, I would like to thank you for the work you are doing. Is there anyone else for the presentation, or are we ready for questions?

Andrew Bennett:

We do have Fred Shakal from the Department of Transportation. I do not know if he has anything prepared or is just here for questions.

Chairman Yeager:

I would like to know if you could also address the potential loss of federal funding or restriction of federal funding that prompted the bill. Committee members, this was not on Nevada Electronic Legislative Information System (NELIS) until about 10 minutes ago, but in November 2019, the Nevada Department of Transportation received a letter [[Exhibit J](#)] from the U.S. Department of Transportation expressing some concerns about some changes we made in 2019 that potentially would have resulted in some restrictions to federal monies that we receive. It was, in fact, the genesis of the bill and why I requested it as a Committee bill. As you can hear, we used it to clean up some other aspects of the DUI law as well. I will be the first to acknowledge this is a complicated and technical area of the statute.

Fred Shakal, Chief Traffic Safety Engineer, Department of Transportation:

The Department of Transportation is in support of A.B. 427. The proposed changes will put Nevada in compliance with the federal regulations regarding sentencing requirements for repeat intoxicated offenders. This legislation will ensure DUIs stay on a person's record for at least five years, even if the conviction is set aside after a successful completion of a diversion program. These changes will allow for the return of federal funds to highway, construction, and maintenance activities for the Department of Transportation.

Chairman Yeager:

Committee, I hope that clears up a few things. The letter is on NELIS—it is quite long—but upon receiving that, we began to work on what the necessary changes would be so that the highway fund money that comes into the state would not be restricted in any way. I know we have gone through a number of different sections of the bill and this is a very technical area of the law. Are there any questions from Committee members?

Assemblyman O'Neill:

Would it be inappropriate for someone to give me a very short summation of how this program works? I thought it was tied into the vehicle, but the judge was talking about how the people come into their location. I am a little confused on the process itself.

Chairman Yeager:

Yes. We are talking about two different things: the traditional DUI path, which entails the breath interlock device—we put that into statute in 2017—and then the 24-7 sobriety program, which we put in place in 2019 and is a different track. I think Judge Pearson might be the best to address this, as I am sure he has some experience with both of those tracks that a case can go on.

Scott Pearson:

The ignition interlock is one way to try to ensure individuals do not drive under the influence after they have been arrested for a DUI. That was put in place in 2017. It comes in at different stages. First, it was just a form of punishment after conviction, and then it was provided as an avenue to reinstatement of your driver's license on a restricted level. All

I asked for in 2019 was an "or" because in some circumstances, we need in-person testing if it is available. The 24-7 program is not available across the state for everybody. The interlock is an important tool for those individuals.

Or it may be that a judge has somebody test in person for a period of time and then says, You have earned the right to test in your car by interlock. We want that flexibility. About half of our DUI defendants are also using controlled substances, and there is no way for the interlock to test for controlled substances. We need that in-person urinalysis testing for those individuals. They can work in conjunction. They can work in both one and then the other or one instead of the other. They are not opposed to each other. They are both recognized as best practices.

They are both recognized by NHTSA with regard to what you heard about the federal Section 164 compliance, which, in addition to having some sentencing requirements on DUIs, also has requirements with regard to driver's license on repeat offenders. You are allowed to deviate from the one-year mandatory suspension on a DUI conviction for a second offense if you have interlock or 24-7. They are both effective tools, they are both validated in studies, and they can work in conjunction with each other. We want to give the judges, defendants, and participants in this state the most available tools that are validated in order for them to be successful and keep our roadways safe.

Assemblyman O'Neill:

Thank you for your explanation; now I understand much better. Mr. Sever, if this system has been in operation for a few years as it sounds, why now do we need to initiate and account for it?

Sean Sever:

I have two people on Zoom who can help answer those questions. One is Zack Cord from the Department of Motor Vehicles. He is our subject matter expert on this. The other is our administrative law judge, Thomas Conner.

**Thomas Conner, Chief Administrative Law Judge, Administrative Hearings Office,
Department of Motor Vehicles:**

One of the concerns that came out of the original bill when it passed in 2017 was the conflicting language in the statute. A person was required to have their driver's license revoked in one part of the statute and another part of the statute said the person could begin driving again if they installed a breath interlock. A revocation means the loss of your privilege to drive. We had statutes that were in effect conflicting with each other. We had language in the statute originally which pertained to traditional restricted driver's licenses, meaning those licenses were limited to the time and purpose that the person was using it for. For example, a person with a restricted license could drive to work. If they were not working, they would not be able to drive. The statute allowed for a revocation and then specifically allowed for a restriction for certain things.

The language of the breath interlock was placed inside that restricted driver's license section of the statute. That created confusion as to what a restricted driver's license was for. When people asked questions about this, such as, If I get a breath interlock, does that mean I can only drive to work with it? No, you can drive anytime you want to as long as you do not have any alcohol in your blood. The reason we would make these changes is to make it clear that we have the authority that if a person is revoked, we can reinstate them with a breath interlock and then also provide for—in a separate section—the traditional restricted driver's license. Those would apply to people who have license revocations or suspensions that are not DUI-related. For example, if you have a point violation suspension, you can certainly get a restricted driver's license, but it is not restricted by breath interlock. We wanted to separate the two and make it clear that there was a specific provision for restricted licensing, a traditional restricted licensing, and then this breath interlock privilege to drive, which will currently be defined in statute as the ability to drive as long as you have a breath interlock in your vehicle, and that is for DUI only.

Chairman Yeager:

Assemblyman O'Neill, I think you may have been asking about section 11 of the bill.

Assemblyman O'Neill:

Yes.

Chairman Yeager:

I appreciate that information, Mr. Conner, because before we take that next question, this was one of the confusions that resulted. Again, this is a very technical area of law, but there was real confusion about when you had to get a breath interlock device, when you had to get a restricted license, and what kind of credit you got toward your sentence when you got that breath interlock device. A lot of what you see here is trying to make that very clear in statute so offenders are getting accurate advice from their lawyers and they are being told accurately by our state agencies about what their options are when they have a DUI. I think the question Assemblyman O'Neill was asking pertains to section 11 of the bill which requires the Director of the Department of Public Safety to establish the Ignition Interlock Program. Mr. Bennett, you may be the best one to answer why that change is being made. I know we had some conversations with Ms. Davey, who is not here today, but I think she designated you to pinch-hit for her.

Andrew Bennett:

That is correct, Chairman Yeager. Currently, there is no mechanism for DPS to collect funds through this program. Yes, this program has been operating since 2017, but it is a national best practice that the agency that holds the ability to implement this program is usually the one that collects funds. This language specifically allows us to adapt that policy to be able to collect funds on behalf of this program to self-sustain this program as well.

Chairman Yeager:

We might have some representatives from ignition interlock programs. Have you had discussions with them about this particular provision? If so, are you at liberty to state what their feelings might be about establishing the program as envisioned in section 11?

Andrew Bennett:

As we started this meeting, we received a letter of support [[Exhibit K](#)] from the Coalition of Ignition Interlock Manufacturers. We will be sure they pass that along, and if they do not, we will pass that along for them. We do believe that we have their full support. The simplicity of this bill boils down to two points. It is making the necessary changes to meet the federal requirements and to make sure we improve existing programs. Between the letter of support and that brief explanation, I hope that answers your question.

Chairman Yeager:

Assemblyman O'Neill, did that answer your question or make you more confused about what is happening?

Assemblyman O'Neill:

I guess what I am trying to figure out is how we have been paying for this. Has this been coming out of highway funds over the past couple of years? If we have been getting money, where has it been going? I am trying to figure out the two-thirds part. I like the program. I think it is a great program, and I want to support the bill. I am just confused about how we have been paying for it. Are the offenders finally paying for the privilege themselves?

Andrew Bennett:

I am going to try to pass this off to Danielle Hafeman from our office or possibly the DMV just to clarify how, if any funding has been collected, it has been collected so far.

Danielle Hafeman:

Currently, we do not collect any fees for interlock devices at all. The only people who collect the fees are the vendors of the manufacturer, and that is from installation or violation from the offenders. We want to establish this program and get it self-sustained to assist with people who cannot afford it or who need help with other types of treatment, such as the gentleman I spoke about earlier who has tested over 500 times. This device is not working for him, and he probably cannot afford any other treatment process. We want these funds to help all these individuals that it is not working for, or the ones it is working for. We are not collecting any fees right now. We do not have the authority to collect fees. It is not going to impact the offender or the driver at all. We are asking for a very slight fee from the vendor on each installation. It is not going to be a huge impact because we do not want to punish the offenders. We just want to correct the behavior.

Chairman Yeager:

Assemblyman O'Neill, is that adequate for now?

Assemblyman O'Neill:

I appreciate the time. I know I have used it up for the next several bills. Yes, it helps me out greatly.

Chairman Yeager:

I want to address a question I was asked regarding the issue of funding that could be at a loss if we do not make these corrections. It was never that Nevada was going to lose funding, but we receive various funds from the federal government and some of those funds are restricted and some of them are not. If we do not make the changes in this bill to get us in compliance with the federal government, it would essentially restrict about \$8 million of funding. That is funding we receive now and that the state can use for construction projects and the like. If we do not pass these changes, that money would have to be diverted to education programs or public service programs to combat impaired driving. The issue was one of restriction of about \$8 million, which obviously raised some red flags. It is better for the state to have discretion about how to spend that money. That is essentially what we are talking about. I believe on an annual basis it would be about \$8 million. Hopefully, that makes a clearer record. I do not think the letter on NELIS has an amount, but through my discussions, that is what we learned was at stake.

Are there additional questions from Committee members?

Assemblywoman Summers-Armstrong:

There was a mention of fees to be collected from the vendors and not from those who are in the program. Would you please expound upon a couple of things, such as if a person is in the program, using an average hookup fee, what portion of the fee that the person in the program pays are you looking to collect from the vendor? My concern would be that they might increase the hookup fee in order to now pay a fee to the DMV, which might make it inaccessible for some people to participate.

Danielle Hafeman:

We are going to be charging only \$20 for installation. Right now, one of the biggest issues with the vendors is that they can charge anywhere from \$80 to \$200 per installation, and there is no way to govern that. Along with the regulations and the adoption of these fees, we want to get to an established program that is fair to all the consumers, and the vendors and manufacturers will be paying a certification and recertification fee, which will be the biggest offset to the program. For the offender, it would only be a \$20 fee, which the vendor will pay directly to the Department of Public Safety.

Chairman Yeager:

Are there additional questions from Committee members? [There were none.] This is still a work in progress to make sure we make the necessary corrections so the federal government does not restrict our funds. We are still working on some of the more technical provisions of what we can put in here and what we cannot.

Is there anyone who would like to testify in support of A.B. 427?

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

We are in absolute support of A.B. 427 and appreciate this Committee considering this bill.

Chairman Yeager:

Is there anyone else who would like to provide support testimony? [There was no one.]

Is there anyone who would like to provide opposition testimony?

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

The Nevada Attorneys for Criminal Justice (NACJ) opposes A.B. 427 under the rules of the Committee, but we want to thank the bill's proponents for meeting with us yesterday. We believe we can ultimately come to an agreement. The NACJ supports a number of changes made in this bill. In addition, there are a number of other changes that we appreciate are necessary for federal funding, so we do not oppose those, even if we do not love them. Unfortunately, we do have some concerns that put us in opposition for now.

First, the bill as currently drafted requires interlock devices for DUIs that do not involve alcohol, even though interlock devices cannot detect when someone is intoxicated from marijuana or other drugs. This has no benefit to public safety. Second, we do not believe that the extended duration for interlock devices after conviction is necessary or beneficial. We believe that the existing duration required is appropriate and protective of public safety. Third, we share the concerns reflected in Judge Pearson's amendment [[Exhibit I](#)] about the language regarding 24-7 sobriety testing. Again, NACJ met with the bill's proponents last night and had a productive conversation with them, for which we are thankful. Ultimately, while we are here in opposition in order to put our concerns on the record, we think we can get to an agreement and do not object to the Committee moving the bill forward while we continue to work on these issues.

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

I want to thank Assemblyman Yeager for his hard work on this bill as well as the other sponsors for meeting with us yesterday to discuss our concerns. We appreciate the cleanup language to help ensure that the statutes do not contradict each other. As Assemblyman Yeager indicated, this is a very complicated section of the law where, unfortunately, there has been a lot of confusion with portions of the law being changed. There are a lot of issues in terms of what we can actually tell our clients and what is being done in practice versus what other portions of the statute state. We agree with making those technical changes.

We also agree that we should not and do not want to lose any federal funding. As Mr. Hoffman indicated, we are in support of those portions of the bill which ensure we would not lose that funding. We also do not have any concerns with the intention of the bill in order to provide different treatment options, including presentence options for our offenders. We do appreciate the 24-7 program and had concerns in the original bill regarding the frequency and lack of discretion for the courts. We are in support of Judge Pearson's amendment regarding those subsections.

Mr. Hoffman detailed the issues that we do have concerns with, so I will not go into that again. We appreciate the sponsors meeting with us and will continue to work with them to ensure we are providing flexibility and discretion to the courts for the best outcomes for all Nevadans. We agree that we do not want drivers who are under the influence on the road and want to make sure we are all safe.

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

We share the same concerns as our colleagues from NACJ and the Washoe County Public Defender's Office. We say ditto to their testimony as well and look forward to continuing to work on the bill to make it better.

Chairman Yeager:

Is there anyone else who would like to provide opposition testimony? [There was no one.] Is there anyone who would like to provide neutral testimony on A.B. 427? [There was no one.] Do our presenters have any concluding remarks?

Andrew Bennett:

I would like to thank Chairman Yeager and the members of this Committee for allowing us to spend a few moments this morning to talk about this vitally important public safety program that we have in place. Just to clarify, the intention of this bill is to improve the existing program and align with federal requirements. We have had productive conversations over the last few days, and we hope we are able to move this bill forward as we believe that, with the amendments that have been discussed, we can make sure and ensure that public safety and traffic safety is at the top of mind. I would like to conclude with the mission statement of the Office of Traffic Safety, which is to eliminate serious injuries and fatalities so everyone arrives home safely. We are extremely cautious when we propose legislation, and every time we do, we want to make sure it is in line with our mission because lives are on the line.

Scott Pearson:

I failed to mention the amendment that I proposed to A.B. 427 [[Exhibit I](#)]. I appreciate the other speakers making that point. Currently, as written, the bill would only allow in-person testing twice a day at a 24-7 sober location, and that has proved unrealistic. In South Dakota and other states that have had the program, it is unrealistic for every person. About 75 percent of the people in South Dakota do test in person twice a day, but there are some individuals who cannot, and there is technology, like an interlock, that allows them to test remotely or with a handheld device or ankle bracelet. We need that amendment in order to make sure we provide equal opportunity and equal protection for all individuals and defendants and we have a fair and effective program.

I am so thankful to Chairman Yeager and the stakeholders for allowing me the opportunity to improve this program, and I would encourage you not only to pass it, but to also include the amendment so it is an effective program.

Chairman Yeager:

I will close the hearing on A.B. 427. Given that it is deadline week, I would like to move this bill out of Committee this morning. We have three proposed amendments on the Nevada Electronic Legislative Information System. One is from me [[Exhibit H](#)], one is from Judge Pearson [[Exhibit I](#)], and we have another one from the Director of the Coalition of Ignition Interlock Manufacturers [[Exhibit K](#)], which seems to align closely with what Judge Pearson was requesting.

I would like to take a motion to amend and do pass with all three of those amendments with the qualifier that I will work with legal counsel to figure out if there is anything in there that would be problematic as far as federal funding. If that is the case, it will probably not make it into the amendment, but we want to do as much as we can without having \$8 million restricted.

I am looking for a motion to amend and do pass as stated.

ASSEMBLYMAN MILLER MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 427.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG SECONDED THE
MOTION.

Is there any discussion on the motion?

Assemblyman Orentlicher:

I am curious about the opposition's point that we are requiring testing in the case of substances where the device does not work. Would you talk about that?

Chairman Yeager:

I cannot really talk to it, but I can commit to figuring out if that is a requirement for any of the programs we are doing. We have had that discussion in the past that technology right now does not allow breath interlock devices to do anything other than test for alcohol. I am hopeful that with the advent of new technologies, perhaps that could be augmented, but I am certainly committed to taking a look at the issue to see if we can make that change. I do not know if we can without restricting the federal money. You have my word that I will work on it.

Assemblywoman Kasama:

I like the bill, I will vote yes to get the bill out of Committee, and I reserve the right to change my vote. I will keep you informed.

Chairman Yeager:

Things are moving fast this week. Before we vote on the floor, we will have an amendment to look at and amend the bill. That should hopefully provide some clarity.

Assemblyman O'Neill:

I will be voting yes to get it out of Committee. I support the bill, but I still have some concerns with section 11. As we speak, I am trying to schedule a meeting with DMV to go into more depth on it.

Chairman Yeager:

Thank you, Assemblyman O'Neill. I will remind members that things are moving really fast this week, so obviously I understand the need to actually see amendments. I would just request that members let me know if they change their vote between now and the floor vote, which will happen sometime in the next couple of weeks, most likely, unless the bill gets scooped up by the Assembly Committee on Ways and Means; then it could be significantly longer into session. Is there further discussion on the motion?

Assemblywoman Hardy:

I will just say ditto to my two colleagues and move it out.

Chairman Yeager:

Is there further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMAN WHEELER VOTED NO.
ASSEMBLYWOMAN NGUYEN WAS ABSENT FOR THE VOTE.)

Assemblywoman Krasner:

I apologize, Chairman Yeager. I will be voting yes to get it out of Committee but also reserve my right to change prior to floor.

Chairman Yeager:

I will assign the floor statement to myself. Committee, we will wait to see what that amendment looks like, and you have my commitment that we will try to get this as right as possible before the floor vote.

Assemblyman Wheeler:

I want to let you know that I am voting nay for the moment; I may change and, if I do, I will certainly let you know.

Chairman Yeager:

Thank you, Assemblyman Wheeler. I will open the hearing on Assembly Bill 404.

Assembly Bill 404: Revises provisions relating to orders for protection against domestic violence. (BDR 3-1023)

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

With me today to help walk through Assembly Bill 404 is Bailey Bortolin, representing the Nevada Coalition of Legal Service Providers. We also have two attorneys, April Green and Stephanie McDonald from Legal Aid of Southern Nevada, should there be any questions.

Domestic violence affects people in every community regardless of economic status, age, race, gender, sexual orientation, religion, or nationality. Sadly, it is all too common. According to the National Coalition Against Domestic Violence, one in three women and one in four men have experienced some form of physical violence by their partners, and one in four women and one in nine men experience severe violence by their partners. Victims of domestic violence are often cut off from their family and friends by their abuser and made to feel completely alone. It is vitally important that we put in place structures to protect and support victims. Studies show that victims of abuse are often at the greatest risk when they attempt to flee their abusers. Protection orders can save lives, stopping a cycle of abuse, control, intimidation, and allowing victims to reclaim control of their lives.

Assembly Bill 404 makes two improvements to existing protection laws to protect victims of domestic violence. First, it ensures that victims of domestic violence have equal access to protection orders in Nevada's court system by adding clear jurisdictional statutes where the law is currently silent. Without this change, there can be inconsistencies in different court rooms or different parts of the state as to when a victim fact pattern is eligible for a protection order. The language proposed today reflects what a majority of states already have in law—statutes that permit fleeing victims of domestic violence to file for a protective order in one of many places, including where the plaintiff resides or is sheltering at the time of filing. The reality is victims of domestic violence can often not stay put where they are when they are fleeing violence. Nevada is a very transient state, and our domestic violence statistics reflect that. It makes sense and is good policy to allow victims who are here to access help here applying for those protection orders.

Secondly, the bill codifies best practices for victims who need to keep their addresses confidential for safety reasons. This is extremely important. The last thing we want, and what we have unfortunately seen in the past, are victims filing protection orders seeking protection but instead having that piece of paper inform a dangerous party of their new address. Sadly, victims of domestic violence have died from their addresses being disclosed in this manner. The language of the bill is how the legal system is navigating this difficult situation and will ensure consistency across the board.

With that, I will turn it over to Ms. Bortolin to walk through the bill, and then we are available for questions.

Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada Coalition of Legal Service Providers:

Section 1 is where we placed the jurisdictional language which makes it clear when someone has jurisdiction to apply for a protection order in Nevada. I would point out that I have submitted on the Nevada Electronic Legislative Information System (NELIS) an American Bar Association chart that is outdated [[Exhibit L](#)]. It is from 2009 and shows that over 30 states already had this language that is currently missing from our laws, which does not allow someone who came to Nevada because they are fleeing that domestic violence to

apply. I would say the law is somewhat silent, so some judges are allowing it in practice and other judges are not allowing it in practice, so we thought it was time to make that clear and consistent.

Section 3 is the address confidentiality language. As Assemblywoman Bilbray-Axelrod said, this is reflecting what we are doing statewide. There is a statewide form for an application for a protection order which, for anyone familiar with the legal system knows, is a huge feat and took a lot of work and time to get the state to agree on one statewide form. That statewide form is in circulation and it allows for some canvassing that makes it clear when someone is able to withhold their address. If the adverse party already knows your address, you should not be withholding it if it is truly a safety concern that you do not want it disclosed.

I would add that it is a difficult balancing act, and we do not advise people to withhold their address unless absolutely necessary because should the party know your address, you are absolutely better protected if that address is specifically listed in the protection order. Should the party come to find out your address, we do advise people with protection orders to immediately reach out and seek help to file a motion to modify and have that address added. This is not a heavily used situation, and we are not advocating that more people should withhold except in those truly dire circumstances. We do not want the protection order to be the thing that makes someone's situation more dangerous because it discloses that information. That statutory language reflects what we are doing in practice as a legal system. With that, we are available for questions.

Chairman Yeager:

Thank you for that brief presentation. Are there any questions from Committee members?

Assemblyman Wheeler:

It is actually more of a statement than a question. I wanted to thank Assemblywoman Bilbray-Axelrod for bringing this to the Committee. This is long overdue and long needed. I have seen this in action where people have moved to my area to get away from someone and then have to refile again. It is just ridiculous. I just wanted to say thanks and vote this out.

Chairman Yeager:

Are there other questions from Committee members? [There were none.] Let me ask a quick question for legislative intent. In section 1 of the bill, it talks about an applicant's temporary location. Would you give us a couple of examples of when that provision might come into play?

Bailey Bortolin:

I will let April Green speak to this as well. For statutory choice languages, we thought it was important to say "temporarily located" because there have been cases across the state where it has been a barrier to obtaining a protection order if you have not yet been to the Department of Motor Vehicles. If you have not had the opportunity to get a Nevada driver's license or a

Nevada utility bill yet because you are in that crisis, but this is an emergency protection order that you need that temporary location, it removes the need for the court to canvass and investigate, Do you know that this is where you are going to stay long-term, and should that be a barrier to whether or not you feel that you are safe in this moment and need this protection order.

April Stokes Green, Directing Attorney, Family Justice Project, Legal Aid Center of Southern Nevada:

I practice in temporary protection order (TPO) court regularly, as well as the other five attorneys, and practice in family law at the Legal Aid Center in Las Vegas. I had a case where parties had lived in Las Vegas for a good part of their short marriage and then moved to Arizona for a few months. Domestic violence had occurred against the applicant in both states, but the last incident was serious, which precipitated the application for the TPO but it occurred in Arizona. Having no contacts, family, or place to stay in Arizona, the client packed up the car, took the baby, drove home to Las Vegas where her mother lived, and applied for the TPO here in Las Vegas. Ironically, they gave her the initial TPO, but at the extension hearing, the hearing master gleaned that some of the violence happened in Arizona. Even though there was also violence that happened in Nevada, he denied the TPO on jurisdictional grounds because the violence that made her apply for the TPO happened out of state.

Believing she was in serious danger, this particular client did go to Arizona at that point to apply for a protection order and she was denied because she was no longer a resident. She was not able to get a TPO in either state, and that is part of the confusion and the trouble, that people who seriously need these kinds of protections cannot get them when there are ambiguities and confusion in the law. This particular applicant ironically is still in Las Vegas; Las Vegas is her home. She was not able to get the help from the courts here, and not long after all of this happened, her ex-husband, who was the applicant in the TPO case, actually killed someone in Nevada. I believe he was exonerated because of a self-defense allegation, but I do think this speaks to the person's ability to be violent and engage in violence. She was probably well-founded in her fear of her husband.

Having practiced in our TPO court for over 18 years, I have seen many different instances where the hearing masters as well as the district court judges come up with different decisions on this very issue, which is a venue issue. Our position is that if you are fleeing domestic violence and you come into our state and you are temporarily here, whether you stay or not, you should be able to use our state courts to get a protection order. Protection orders are entitled to full faith and credit all over the United States. As Ms. Bortolin said, other states have long ago adopted this.

I feel like Nevada is uniquely situated as far as domestic violence when you compare the statistics. For instance, between 2004 and 2018, we were number one for domestic violence homicides against women. We are almost always in the top ten and usually in the top five. I really think that if someone did the math on this, we could be considered numerically the number one state for domestic violence homicides and incidents. SafeNest has given

statistics recently that there was a 76 percent spike in calls during the pandemic. Their shelter is 100 percent occupied, and it usually is. This is a big issue. We are the fourteenth-highest state as far as usage of gun rates in the country.

Our TPO court in Clark County hears a couple of thousand cases every month. I am sure Ms. McDonald could speak to this. Sex trafficking and the legal sex trade business fuels the illegal sex trade business. We made a list of the dirty dozen—all of these things are interrelated. I feel like our law should be nonambiguous, very clear, and bend towards safety of victims and children. We do not want to have a situation where we are coming up with all kinds of different decisions and making these protection order determinations because the law is ambiguous. We really need this change.

I feel very passionate about this because I have represented people who have been denied protection orders arbitrarily as far as I am concerned. Clearly, TPO court is a specialty-type court with subject matter jurisdiction. If there were challenges to jurisdiction, obviously the court has the wherewithal to address those, but that should not stop the court from being able to grant protection orders to domestic violence victims who are present in our state and need protection. This state, of all states, should be doing anything and everything we can to make sure that our *Nevada Revised Statutes* Chapter 33 is cogent and tight and meets the legislative goals that were set out when it was enacted all those years ago.

Chairman Yeager:

Thank you for the work you do in getting domestic violence protection orders. I know it is emotional work, but it is really important work. As a Committee, we want to thank you for that work. We wish you were not so busy, but hopefully this will help in the process. Thank you, also, for answering the question about "temporarily located" with that Arizona and Nevada example. That really illustrates the problem we are trying to fix in A.B. 404. Are there other questions from Committee members?

Assemblywoman Cohen:

I understand the jurisdictional issue. I want to make sure that those TPOs will not grant any type of jurisdiction for any other domestic case including custody, even if there is a temporary order as part of the TPO.

Bailey Bortolin:

Yes, that is correct. It is in NRS Chapter 33, which is only the protection orders. It will not apply outside of that situation.

Assemblywoman Cohen:

I understand and support the confidential address. We could theoretically have an issue where, if there does need to be a domestic case and the adverse party—who would be the plaintiff in the domestic case—would not have an address to serve. So theoretically you could have the adverse party being served, coming into court but not being able to serve for

the domestic case. Is there any way to do service through the courts so the domestic complaint can be served on the defendant in the domestic case who is the movant in the protective order case?

Bailey Bortolin:

I am going to ask Stephanie McDonald to explain how that is working in practice.

Stephanie McDonald, Directing Attorney, Family Law Self-Help Center, Legal Aid Center of Southern Nevada:

This only applies to the protection order cases. It would not apply to domestic cases where litigants are required to disclose contact information. It presents issues with service in that domestic case where the parties are responsible for serving one another; however, there are a couple of options people can use within the domestic case. The first is they do not have to provide a residential address. They simply have to provide a mailing address. So a post office box would be acceptable, assuming we are not needing to do personal service. Most services are done by mail after the initial complaint and summons. Generally, we are suggesting either obtaining a post office box so your residence is still protected or possibly providing a friend or family member's address if there is someone who is not opposed to disclosing their address for service purposes.

There is also the state's confidential address program, in which a victim of domestic violence can get a confidential address through a domestic violence advocate that can be used for service purposes as well, which gives them a fictitious address to use for legal and other purposes. It still creates the issue of documents that need to be personally served. Maybe there will be another hearing, in which case people can be served on the record in open court. People do not need to be served at a home address. There are other ways to get around that, but it does not protect their address in the domestic case. They will still be responsible for service in that arena.

Assemblywoman Cohen:

I am concerned with the concept. One party is getting the benefit of the court and being able to come to court and have issues addressed, and the other party is not because of that initial service that has to be done in person, especially now that we are doing so many hearings online over different applications, for instance, BlueJeans in Clark County. If you have someone you cannot serve with the TPO, you cannot serve the complaint in the domestic case at the TPO because you are not in person. I will follow up offline about that.

Chairman Yeager:

Are there additional questions from Committee members? [There were none.] Is there anyone who would like to provide testimony in support of A.B. 404?

Serena Evans, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence:

I want to give a huge thank-you to Assemblywoman Bilbray-Axelrod for bringing this bill forward. This language change is long overdue for Nevada. Over the interim, we at the

Coalition worked closely with Bailey Bortolin and the other Legal Aid attorneys to address the safety concerns with our current protection order process, and we are very pleased to be here in support of A.B. 404 today.

As Ms. Bortolin mentioned, if your address can be provided in the protection order, we absolutely want to encourage victim-survivors to do so. This is only intended to be used as a last resort for extreme cases when a victim-survivor's safety would be at heightened risk if the adverse party were to find the applicant's new address. Allowing victim-survivors to withhold personal information from the protection order when being served to the perpetrator is a necessary step in protecting victim-survivors. Victim-survivors should not feel fearful, but a necessary and helpful tool for protection could in fact cause more harm than good, and they should be allowed to withhold their personal information from the adverse party.

We also appreciate section 1 of this bill, which would expand the jurisdictions in which victim-survivors can apply for protection orders. Many times, after enduring and fleeing abuse, victim-survivors seek safety in new counties or new states. This important piece of legislation would make sure that all victim-survivors can seek safety anywhere in Nevada regardless of where their abuse took place. This bill is small but mighty and will create the necessary protections for victim-survivors. We encourage your support of A.B. 404.

Abbey Pike, Private Citizen, Sparks, Nevada:

I am currently serving as an intern for Assemblywoman Bilbray-Axelrod, but I am not speaking today on her behalf. I am also the policy director for the Associated Students of the University of Nevada, Reno. I strongly support A.B. 404 because it will expand the protections for victims of domestic violence. The changes made in section 1 of this bill will clarify the county where a victim of domestic violence may apply for an order of protection. This ensures that victims are protected, even if they are temporarily located somewhere outside of their home county or have to travel across county lines for work.

Section 3 of the bill also further protects applicants for an order of protection by requiring that there be a procedure in place if they wish to keep their address and contact information confidential. An applicant should not have to fear for their safety even more after filing for an order of protection. The changes made in this bill are commonsense clarifications that will protect victims of domestic violence. I encourage every member of this Committee to vote yes on A.B. 404.

Arielle Edwards, Government Affairs Specialist, City of North Las Vegas:

I am testifying in support of A.B. 404 on behalf of the City of North Las Vegas. The City supports giving fleeing victims of domestic violence quick and easy access to protective orders. This bill makes it clear that victims can be protected in numerous places and gives victims flexibility and clarity when filing for domestic violence protective orders. These measures help protect victims in the community as a whole. The City of North Las Vegas is in full support of A.B. 404 and urges the Committee's support and passage. Thank you for your time and consideration today.

Christopher M. Ries, representing Las Vegas Metropolitan Police Department:

In the spirit of brevity, I will simply echo the presenters and offer our support for A.B. 404. We support protections for survivors of domestic violence that ensure their safety from an abusive partner.

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

I am here on behalf of the Nevada District Attorneys Association in support of A.B. 404. We want to thank Assemblywoman Bilbray-Axelrod and Ms. Bortolin for bringing the bill. It makes commonsense changes to our domestic violence protective order statutes and, as Assemblyman Wheeler said, they are long overdue.

Tess Opferman, representing Nevada Women's Lobby:

We are in full support of A.B. 404, which helps give clarity in NRS for where a person is able to apply for a temporary protective order for those critical victim-survivors of domestic violence who may have fled their abuser for safety and may be staying in an address outside the county or state in which they reside. This also gives necessary protections for those who are not able to disclose their address for fear of being found by their abuser. It is a straightforward and simple measure. We want to thank the Committee for hearing this bill this morning and urge your support.

Chairman Yeager:

Is there anyone else who would like to give support testimony? [There was no one.] Is there anyone who would like to give opposition testimony? [There was no one.] Is there anyone who would like to give neutral testimony? [There was no one.] I will hand it over to Assemblywoman Bilbray-Axelrod and Ms. Bortolin for any concluding remarks.

Assemblywoman Bilbray-Axelrod:

I would like to thank the Committee and thank you for all the calls in support.

Bailey Bortolin:

I want to note that we absolutely recognize the legal intricacies of the confidentiality piece. It is something we have been grappling with for many years. Through those conversations with the statewide Protection Order Forms Committee through the Nevada Supreme Court, we feel this is the best way to strike the balance. I would note that a few months into being a lawyer, I was working at the courts, and we had a case where the hearing master disclosed the address through the TPO and it did result in a murder. It is something that stays with you and is difficult to balance when you look at how to work through it. As a system with the self-help centers, Legal Aid, and the court systems, we are working through them on a case-by-case basis and individual fact pattern to make sure that we can find a path forward for each case that is safe and measured but does balance that due process issue. Thank you for hearing the bill today, and I appreciate your time.

Chairman Yeager:

I will close the hearing on A.B. 404 and move into a work session on Assembly Bill 404. Assemblyman Wheeler, would you like to make a motion?

ASSEMBLYMAN WHEELER MOVED TO DO PASS ASSEMBLY BILL 404.

ASSEMBLYWOMAN BILBRAY-AXELROD 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 Bilbray-Axelrod and if she desires, she could give it to Assemblyman Wheeler, or he could do an Order of Business 15 in support.

Assemblyman Wheeler:

Just do that.

Chairman Yeager:

I will open the hearing on Assembly Bill 113. There is a proposed amendment [[Exhibit M](#)] on the Nevada Electronic Legislative Information System from the sponsor of the bill.

Assembly Bill 113: Provides that there is no limitation of time within which a criminal prosecution for sex trafficking must be commenced. (BDR 14-610)

Assemblywoman Melissa Hardy, Assembly District No. 22:

I am here to present for your consideration Assembly Bill 113, which extends the statute of limitations for prosecution of sex trafficking. As Chairman Yeager mentioned, there is an amendment on the Nevada Electronic Legislative Information System [[Exhibit M](#)]. In the interest of time, I want to be brief in my opening remarks so we can focus on the merits of the bill and hear the story of the young woman who brought this issue to my attention during the interim. I have some prepared remarks that include additional background and data that I will submit for the Committee's review at their convenience.

I want to touch quickly where this bill came from. I had the privilege of participating with an organization at the University of Nevada, Las Vegas, William S. Boyd School of Law. It is called the Policy and Legislation Society, and they held their inaugural Making the Law Competition in 2020. One of the bills in the semifinals was presented by Ms. Gabrielle Boliou, and this was the bill. After the competition was over and I was preparing for session, I spoke with her and asked if she would be okay with my carrying this bill for this session. Gabrielle agreed and she has been a tremendous help with research and preparing for this bill, especially for this hearing today.

I would like to turn it over to Ms. Gabrielle Boliou. She is a senior staffer at the *Nevada Law Journal*, and a juris doctorate candidate at the University of Nevada, Las Vegas, William S. Boyd School of Law. She will tell her story and how she came to write this bill. After Ms. Boliou, I will have Bryan Schwartz discuss the bill and go through the amendment and then be ready for questions.

Gabrielle Boliou, Private Citizen, Henderson, Nevada:

I am a third-year law student at the University of Nevada, Las Vegas, William S. Boyd School of Law. I have a master's degree in political science, and I wrote my thesis on international sex trafficking. I intentionally chose to attend law school in Las Vegas for the purpose of partnering with organizations here that are trying to fight sex trafficking and advocate for victim-survivors.

I have walked Tropicana Avenue and Flamingo Road and seen traffickers patrolling while I offer water bottles to victim-survivors who are still under their control. I have responded to calls from victim-survivors who are desperate to escape an abusive relationship. I have watched victim-survivors refuse services because they do not believe they are victims of sex trafficking. I watch children show up again and again in courts and yet nothing keeps them from running back into the arms of their abusers. For the past year, I have mentored young girls who have been through more horrors in their short lives than I can wrap my head around. Both my research and my personal experiences have taught me that sex trafficking causes layers and layers of trauma, making it all but impossible for a victim-survivor to come forward to talk to law enforcement about the intimate details of their exploitation and abuse, at least not until after years of healing. I wrote this bill in acknowledgement of that fact and presented it at the law school's Making the Law Competition where it was graciously sponsored by Assemblywoman Hardy. I want to talk briefly about why it is necessary we give victim-survivors more time to heal before letting this clock run out.

A common misconception about sex trafficking is that it is perpetuated by strangers in a van. In reality, trafficking often occurs not primarily through physical violence, but through intense and intentional psychological abuse and manipulation. Traffickers will target the most vulnerable individuals who lack a broader support system and generally have a history of other types of abuse. Traffickers then intentionally build a relationship with their victim-survivors, even manipulating Maslow's hierarchy of needs to make themselves indispensable in the lives of their victim-survivors. They will also alternate between emotional and physical abuse and will offer strange rewards. This creates what is called a "trauma bond" between the victim-survivor and the trafficker, such that the victim-survivor cannot even conceive of their trafficker as a bad guy. Traffickers will also blame their victim-survivor, intentionally destroying their sense of self and self-worth. They may even threaten friends and family if the victim-survivor were ever to dare come forward and tell anyone about what they have experienced. You also have to keep in mind that sometimes these traffickers are in fact members of the victim-survivor's own family, meaning that we are asking these individuals to come forward and report their own family members, which obviously is incredibly difficult.

As if all that were not enough, studies have also shown that victim-survivors of sex trafficking experience post-traumatic stress disorder at levels comparable with war veterans, and these symptoms do not necessarily decrease over time. This is particularly problematic because one symptom is "avoidant coping mechanism," which can be defined as the cognitive and emotional orientation away from a threat or trauma. Avoidant coping mechanism makes it incredibly difficult to talk about trauma in any kind of timely manner, and has been shown to be enhanced by factors that are endemic to the tragedy of sex trafficking. With sex trafficking, we are talking about repeated, high-intensity, physical traumas for an extended period of time coupled with severe psychological manipulation. On top of all that, we also have certain factors that make it especially difficult for survivors of sex trafficking to talk to police. Law enforcement is a male-dominated field, and most of these victim-survivors have been abused primarily by men. They also generally have a history of bad experiences with police, both as children and as adults.

Finally, we have to keep in mind that the last thing the traffickers want is for their victim-survivors to trust law enforcement or anyone else offering to help them. The traffickers will present lies and manipulation and do everything they can to make their victim-survivors feel completely alone but for the help of their traffickers. For these reasons we, as Nevadans, have to recognize the needs of victim-survivors and, for their sake and for the sake of a just society, we must extend the statute of limitations for sex trafficking offenses.

Chairman Yeager:

Thank you for your testimony, Ms. Boliou, and for participating in the competition you referenced. I had the pleasure, along with Assemblywoman Hardy and Assemblyman Orentlicher—I think a lot of us were judges of the most recent competition, which happened either last weekend or the weekend before. We were very impressed by our Boyd law students and the work that all of you are doing. I have no doubt that many of you will be sitting in these seats or standing in front of these computer screens in a not-too-distant future. Thank you for working on this concept.

Bryan Schwartz, Deputy District Attorney, Clark County District Attorney's Office:

I am currently assigned to the Sex Trafficking Unit of our Special Victims Unit. The amendment to this bill is very important to our unit in allowing us to get the justice for these victims that they desperately need. I could not have said it better myself, the way Ms. Boliou explained it, the different challenges we face as a prosecuting unit to even get through to the victims at times that they are actually the victims; the sex traffickers have them under such a spell, and they have been manipulated and controlled. It is really sad to see. My colleague prosecuted a case recently where fortunately the defendant was found guilty, but the victims testified on behalf of their trafficker. Fortunately, the jury was able to see through what was going on and understand the severity of the matter.

Before I get too sidetracked, I would like to address the amendment [[Exhibit M](#)], as Chairman Yeager mentioned. We will be removing sections 1, 2, and 4, and amending section 3 to make it a six-year statute of limitations to report sex trafficking. It was

previously four years, so we will be extending it an extra two years. This is extremely important to us for all the reasons Ms. Boliou and I mentioned. The victims are just not always ready to talk about it. I did domestic violence prosecution before this, and it is a very similar cycle of abuse. I liked the trauma bond that Ms. Boliou referenced, but it is the unique relationship that is developed between the victim and trafficker based on manipulation, control, fear, the fact that they do not believe they are a victim, and the fact that they have been isolated from all their friends and family and believe they have no one else to support them. All these factors make it hard for them to come forward and report it. I believe the additional two years is extremely important to give them that time to get out of the situation, understand what has happened to them, understand that they are the victim, and find a way to be safe, secure, and confident in themselves to come forward and actually talk about what happened in the court itself.

I am happy to answer any questions that anyone has from my perspective as a prosecutor. Thank you for your time, and thank you, Assemblywoman Hardy, for allowing me to be part of this presentation.

Chairman Yeager:

Thank you for the work that you do on a daily basis. I know it is not easy work, but we appreciate it. Assemblywoman Hardy, is there anyone else for the presentation, or are you ready for questions at this point?

Assemblywoman Hardy:

We are ready for questions.

Assemblyman Wheeler:

I originally signed on as a primary sponsor on this bill because I thought we were removing the statute of limitations completely when we wrote this bill. My thought pattern at that time and remains at this time is that a lot of times these kids who are sex trafficked do not get out of that relationship for a long time. They are basically under the thumb of these traffickers for such a long time. All the allegations with the Jeffrey Epstein case are coming to mind right now. Some of these children—basically years and years later—finally come to grips with it and bring it. Why are we limiting this to six years? It does not make sense to me. It seems if you are guilty once, you are guilty forever.

Bryan Schwartz:

That is a great point, Assemblyman Wheeler. I know that initially that was the intent, but I think we came to the conclusion that it might not be successful with no limitation. If it is a minor who is sex trafficked, there is a separate statute that will address an extended period of time that they have to report. If they are a minor at the time, they have until either age 36 or age 48, depending on specific parameters. We may become aware of what happened, and *Nevada Revised Statutes* (NRS) 171.095 addresses it for a victim who was under the age of 18 at the time. This focuses more on someone who is already an adult. While I do not

disagree with your position, I think at this point any extension of time would give an adult that much more time to come forward with it. While I would certainly also support a situation where we extended it beyond the six years, at this point, this is where we are at.

Assemblyman Wheeler:

That is sad; that is actually sad. I hate to see someone's life—not their physical life, but their emotional life—ruined because a committee cannot come together.

Bryan Schwartz:

I think the six-year time frame will not cover everyone, as you mentioned. There are going to be a lot of victims who are not ready for six years. People spend their whole life not being comfortable coming forward to talk about this. I think this is where we are at now, and I would certainly be happy to participate in the future if anyone wanted testimony or support from me on an extension.

Assemblyman Wheeler:

Chairman Yeager, I will probably make a motion to pass as is unamended.

Chairman Yeager:

You are free to make whatever motion you like, but I probably will not recognize that motion, as the bill has been presented with an amendment. We can address that when we get to that point.

I will also note for the Committee that the crime of sex trafficking is rather new in the state of Nevada. It did not exist prior to 2013 when Attorney General Cortez Masto brought legislation that was passed through the Assembly Committee on Judiciary. I do not know if that is helpful for the analysis, but I will put it out there for the record. Prior to that, we only had pandering. The sex trafficking concept, while not new in practice, is certainly new in the law in Nevada as well as other states.

Are there any questions from Committee members?

Assemblywoman González:

I was wondering why we have a statute of limitations for crimes and why that exists in general?

Bryan Schwartz:

From my understanding, a statute of limitations would exist so a defendant would have a certain amount of time to have the charges brought forth against them and be informed of something and it would not come up 20 years later that they would be charged with something that happened so long ago. It also depends on the type of crime. There are certainly exceptions to it. For different and more offensive crimes, maybe there is no statute or longer period of time. My understanding is that the statute of limitations would always be to give some guideline that you would be informed of and brought forth charges against you

within a certain number of years. The sooner a charge is brought forward, of course, the more fresh recollections are from witnesses and victims and more fresh the evidence is. I would assume that would be one policy reason why we have statutes of limitations.

Gabrielle Boliou:

I also did some research into that question in preparation for my presentation. There are a couple of rationales in addition to what Mr. Schwartz mentioned. One concern is an influx of cases that could potentially overwhelm the system. I would argue that is not really applicable here given the type of discretion that prosecutors have in terms of making decisions based on actual evidence available. Related to that is sometimes the question of difficulty in prosecuting if evidence is stale, but again that is not necessarily applicable here in light of Nevada's advancements in terms of handling DNA evidence and the excellence of our government offices in actually preparing these cases ahead of time.

Assemblywoman Nguyen:

I know the answer to this and know there has been a long debate about the statute of limitations throughout the creation of our judicial system. Can you describe what other crimes have no statute of limitations?

Bryan Schwartz:

I would hate to give you an answer without being sure myself, but I know there are some scenarios where we are prosecuting a lot of cold cases for sexual assault that happened back in the 1980s. That is based on DNA evidence that has come forward. I know there is a much higher statute of limitations for that. I do not particularly specialize in murder cases. I would not feel comfortable testifying to any of this. I am happy to get back to you and provide you with exact specifics. I honestly do not know offhand all the ones that would not have it.

Assemblywoman Nguyen:

If you do not know, I think our legal counsel is on. Would it be possible for Mr. Wilkinson to answer that question on what other crimes have absolutely no statute of limitations?

Bradley A. Wilkinson, Committee Counsel:

Yes, that is contained in section 1 of the bill—murder, sexual assault, and terrorism.

Assemblywoman Hansen:

I am also a sponsor on the bill and appreciate the work that has been done. Certainly, we would like to have it longer, but we understand it takes a little bit at a time. Do we have a general idea of the average age of those involved who are victims of sex trafficking in Nevada?

Assemblywoman Hardy:

I will ask Ms. Boliou if she has any information on it from her research.

Gabrielle Boliou:

I would not want to mislead anyone. I can try to get some of that research for you, but it is incredibly difficult to get statistics here in Nevada that are accurate, partly because of the recency of the law, but also because of the complications that come with the nature of the crime. I would have to get back to you on that.

Assemblywoman Hansen:

That is fine; I appreciate it. It would be interesting to know, not that we have to have that data right away. The reason I am asking is that we have been talking about going from four to six years and the idea that the victims need some time. We do a lot of talking in our Committee about 25 years old and the brain being fully developed and not only with the trauma that these young people have gone through, but the development of their brain and why some of us would like it to be a little bit longer so these victims can get to a place emotionally, physically, and psychologically to where they can deal with it. That was the purpose of my question. Thank you so much for the work you have all done.

Assemblywoman Bilbray-Axelrod:

I would like a little clarification from the questions that Assemblywoman Nguyen asked about the laws that had no statute of limitations, such as sexual assault. Would not a lot of sex trafficking victims fall under sexual assault laws as well, especially underage victims?

Bryan Schwartz:

In my experience, yes. When we charge our cases, there is a lot of sexual assault that happens to these victims of sex trafficking as well. Typically, the evidence that we have of the sex trafficking—it is hard to say whether or not it is in all the cases. The way we typically charge our cases for sex trafficking, we typically end up deciding to focus on the sex trafficking charge. I am not sure if that is a discretion on our part where we believe we could have a better result. I believe we probably could be adding sexual assault charges as well. Sometimes it will depend on the victim if they are willing to move forward on also prosecuting for sexual assault. At this point, the younger victims are comfortable talking about being sex trafficked, but they are not comfortable talking about being sexually assaulted. There has been a little bit of a distinction. I think it is important that we have a distinction that sex trafficking continue to be increased the number of years that we have a statute of limitation and not consider it to be covered under sexual assaults. It just is not the way we are typically charging our cases.

Assemblywoman Bilbray-Axelrod:

Thank you. I was not suggesting that we do not increase the limit; I just wanted to understand if there was still an opportunity to pursue charges for these people even after the statute of limitations for sex trafficking expired.

Chairman Yeager:

I am not sure of the answer, but I believe we did some work over the past couple of sessions to deal with sexual assault as it relates to minors, or perhaps it was sex trafficking. I know Assemblywoman Krasner worked on it, if I am not mistaken. I know there was a civil one as

well. Does anyone know what the statute of limitations is with regard to minors under the age of 18 versus adults?

Assemblywoman Nguyen:

I think it is NRS 171.095(1)(b). I think it indicates that the statute of limitations is 35 or 42 years [of age].

Brad Wilkinson:

Yes, that is in section 4 of the bill in NRS 171.095. It is actually 36 years, depending on whether the victim discovered or should have discovered whether he or she was a victim. Sexual abuse covers sexual assault. It is a complicated area. If you have a report filed for sexual assault, then the statute of limitations goes away.

Chairman Yeager:

I mentioned both criminal and civil. Obviously, there are two different tracks that cases can proceed on. I believe you are referring to criminal statute of limitations. Would you please confirm that for the record?

Brad Wilkinson:

Yes, I was referring to the criminal statute.

Chairman Yeager:

I hate to reference bills that are not here or may not get over here, but I am also under the impression that the Senate may be considering legislation to remove the statute of limitations on the civil side for sex trafficking. I do not know how that is going to go over there and whether we may see it. Now that we have thoroughly confused everyone about the statute of limitations under our laws, both criminal and civil, do we have additional questions from Committee members?

Assemblyman O'Neill:

I would like to ask Assemblywoman Hardy to make an additional amendment allowing me to be a cosponsor to her bill.

Assemblywoman Hardy:

Yes, I am fine with that. I also wanted to say when I started working on this bill with Ms. Boliou, and asking people in the legal field about the statute of limitations, they are different depending on the age of the person, when it is recorded. I hope that through all this, everyone understands how it applies. Would I like it to be longer? Yes, of course. We worked hard and wanted to get to a place that we can agree and give these victims more time. We have talked a lot about victims in general in this Committee. It is not just the physical abuse; wounds heal, but the mental abuse they get, and, as Ms. Boliou said, the trauma bond. They brainwash these people. They get their victims so hooked to them. A lot of times that is what is harder to get past and to get victims to a point where they understand that it was not their fault and that they feel safe to report. It was the goal to give them extra time.

Assemblywoman Summers-Armstrong:

I would like to be added as a cosponsor, Assemblywoman Hardy. I have a dear friend whose family was affected by this. I appreciate your hard work.

Assemblywoman Hardy:

I would be happy to have you on the bill.

Chairman Yeager:

Are there additional questions from Committee members? [There were none.] Is there anyone who would like to provide testimony in support of A.B. 113?

Lauren Boitel, Executive Director, ImpactNV; and Chair, Nevada Policy Council on Human Trafficking:

I chair the Nevada Policy Council on Human Trafficking, which is a diverse cross-section of community leaders and survivors from the public, private, and nongovernmental organization sectors. Our mission at the Policy Council is to advocate for just and equitable policy solutions through education collaboration and coalition building that improve the state and federal antitrafficking systems; better support victims, survivors, and providers; decrease demand; and ultimately contribute to decreasing human trafficking in Nevada.

On behalf of the Policy Council, we would like to formally support the amended version of A.B. 113, which will extend the statute of limitations for sex trafficking offenses from four to six years. This is in alignment with our Council's policy agenda, and we support it for the following reasons: First, as it has been mentioned a lot today, victims need to feel safe to come forward. Oftentimes, there is fear and mistrust of law enforcement, and fear of violent retribution from—or the existence of those trauma bonds with—their traffickers. Sometimes victims do not self-identify or realize they are being trafficked until years later, not to mention the shame and embarrassment surrounding the issue. Survivors can take years to come forward, especially when they face the daunting challenge of proving it happened, facing their abusers, and financing a yearslong legal battle. Victims of sex trafficking deserve to see those responsible prosecuted for these abhorrent crimes that strip away youth and a sense of dignity. A statute of limitations should not prohibit the pursuit of justice in these tragic cases.

Second, there is no timetable in which a trafficker should be able to feel safe or free from the consequences of their actions from selling other human beings. Further, the additional time gives law enforcement the chance to prove a perpetrator's guilt through due process.

Third, as of 2018, 23 states have eliminated the statute of limitations for criminal prosecutions and 36 states have extended the period of commencing civil action to over five years. Finally, it serves to elevate the seriousness of the offense to be commensurate with other severe crimes and heinous acts that do not have a statute of limitations. Repeated assaults, rapes, threats, and loss of dignity should be classified as a crime in which the severity equates no statute of limitations. While this bill does not eliminate that anymore

with the amendment, which we would also support, extending that statute from four to six years is a step in the right direction and we applaud Assemblywoman Hardy for her leadership on this bill.

Nevada has shown great leadership in improving our state laws to better protect and support victims, and we need to continue this meaningful progress. We feel that A.B. 113 is an important step to this end and we respectfully request your support for this bill.

Assemblywoman Cohen:

Since 2013, I think there has been a shift in what most of us who are involved in this field know about trafficking and how it affects families from all walks of life in Nevada. Are you seeing changes in trafficking because of that awareness? I am sorry, this really is not about the bill, but when you were mentioning your credentials, I had these thoughts. Because of that, you are really involved and know what is going on on the ground and in our neighborhoods and communities. Are we seeing any changes in how the trafficking is happening because the community now knows more about it?

Lauren Boitel:

I would only be able to offer anecdotal stories about that, and it is from our policy members, specifically in the private sector. The biggest change is the community and political will to discuss the issue, be more comfortable recognizing it as an important issue of the social fabric of our state, and really be able to address it. I have not seen a difference, and I would love for anyone else on the call who has better firsthand experience with victims to address this.

In terms of how it is happening, obviously with COVID-19, there is other anecdotal evidence about increased time with traffickers and the decrease in visitors coming to the state and all those issues. In terms of the leadership on the policy side, I think it is just a greater awareness and willingness to address and discuss the issue, better help victim-survivors, and hopefully put more penalties on buyer conduct and traffickers as well.

Assemblywoman Cohen:

So there is not really any idea if that, because we are more aware of it, that we as a society are doing more to protect ourselves and the traffickers are having to change their method of operation. You are not really seeing anything like that?

Lauren Boitel:

Not that I know of. I know that in 2020, the Department of Justice reported more Nevada human trafficking cases filed than in any previous year. In terms of trafficker activity, I could not speak to that. I apologize.

Chairman Yeager:

Is there anyone else who would like to provide support testimony on A.B. 113?

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

We are in support of A.B. 113. I want to thank Assemblywoman Hardy for bringing the bill, and we endorse the comments made during the presentation.

Christopher M. Ries, representing Las Vegas Metropolitan Police Department:

I will be brief and express our support for A.B. 113, which extends the statute of limitations to prosecute sex traffickers and get justice to victim-survivors.

Mary-Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office:

In the interest of time, I will say ditto to the comments from the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office. We are in support of A.B. 113 with the proposed amendment and thank the sponsors for bringing the bill forward.

[[Exhibit N](#) was submitted in support of A.B. 113 but was not discussed. It will become part of the record.]

Chairman Yeager:

Is there anyone else who would like to provide support testimony? [There was no one.]
Is there anyone who would like to testify in opposition to A.B. 113? [There was no one.]
Is there anyone who would like to testify in neutral? [There was no one.] I will turn it over to Assemblywoman Hardy and copresenters to make any concluding remarks.

Assemblywoman Hardy:

I will have Mr. Schwartz and Ms. Boliou say something, and then I will close up.

Bryan Schwartz:

I do not have anything additional to add, but again, thank you, Assemblywoman Hardy, for allowing me to assist with this, and I am really excited we are moving in the right direction with the statute of limitations for sex trafficking.

Gabrielle Boliou:

Thank you, Assemblywoman Hardy, for sponsoring this bill and for all of you who have come out to support. It means a lot to me and the people I work with.

Assemblywoman Hardy:

Thank you to you, Chairman Yeager and the Committee, for the great discussion. This is something that I have just recently been working on, and I think it is so important. I wanted to get this bill to a point where it could be supported. I feel that extending the statute of limitations provides more time for survivors to come to terms with what happened to them and what they experienced and feel comfortable seeking justice. I ask for your support on A.B. 113.

Chairman Yeager:

I will close the hearing on A.B. 113. We will now move into a work session on Assembly Bill 113. My understanding is that we have the amendment that was presented by Assemblywoman Hardy and we also had two individuals on the Committee who asked to be made cosponsors of the bill, which would be Assemblyman O'Neill and Assemblywoman Summers-Armstrong.

Assemblywoman Hardy:

Assemblywoman Bilbray-Axelrod would also like to be added, and I would love that.

Chairman Yeager:

Is there anyone on the Committee who is not a sponsor and does not want to be added as a sponsor? [There was no one.]

The amendments we have are from Assemblywoman Hardy, and I think everyone wants to be added as a sponsor, including me. We will do that, and if you do not want to be a sponsor, just let me know and we will figure it out in the drafting of the bill.

At this time, I am looking for a motion to amend and do pass with those two amendments.

ASSEMBLYWOMAN NGUYEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 113.

ASSEMBLYWOMAN KASAMA SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Wheeler:

That is all right. You already turned me down. I do not need to add it twice.

Assemblywoman Nguyen:

Thank you, Assemblywoman Hardy, for bringing this bill and also for adding me as a sponsor to the bill. I know I had some serious concerns balancing the original language in the bill with our longstanding due process and constitutional protections that we have incorporated in many of our statutes of limitations. I am grateful that now [U.S.] Senator Cortez Masto brought this bill in 2013 to create this crime because I think bringing that awareness to these issues to our communities is an ever-evolving process. I think landing on the six years is a good starting place, and there are a lot of things I know you will continue to work on moving forward throughout your legislative career.

Chairman Yeager:

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

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Hardy. I will open it up for public comment.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:

I am the sister of Thomas Purdy, who was killed by Reno Police and the Washoe County Sheriff's Office. Poor and low-income people face a far greater risk of being targeted, profiled, fined, arrested, harassed, violated, and incarcerated for minor offenses than other Americans. A broken taillight, an unpaid parking ticket, a minor drug offense, sitting on a sidewalk, or sleeping on a park bench can all result in jail time.

Today, I would like to talk about 23-year-old Jordan Allen-Lindstrom. He was 23 years old when he died on May 12, 2019. With struggles at home, he lived on the streets in Reno, Nevada, from about the age of 14. He was essentially raised by a community most do not even realize exists. Who exactly am I referring to? The homeless who have taken refuge all along the banks of the Truckee River throughout the Reno-Sparks area. Jordan grew up with the idea that you do whatever was needed to survive. For himself, Jordan, known as "Minko" to his closest friends, did not need much, but he would give his life for anyone in need and he did. On Mother's Day in 2019, Jordan drowned in the Truckee River after attempting to steal food and supplies from a local Walmart. In order to avoid Reno-Sparks Indian Colony police officers, Jordan jumped into the river and died.

I do believe Reno police assumed my brother, Thomas, was a helpless community member rather than a guest in a suite at the Peppermill. Even had he been homeless, Reno police and Washoe County Sheriffs had a duty to care for my brother. Photos of Jordan remind me of Thomas, those bright blue eyes and blonde hair and so much life ahead of them.

I would like to suggest you check out the Minko Project at their website, [www.theminkoprojectinc.org] or go to their Facebook page, The Minko Project. The Minko Project was founded in honor of the memory of Jordan, who set a beautiful example of what it means to love unconditionally. Please support bills that promote transparency and accountability.

Chairman Yeager:

Are there additional callers for public comment? [There were none.] I will close public comment. Are there any questions from the Committee? [There were none.] Tomorrow's meeting starts at 8 a.m. with three bills and with a possible work session. We will have a work session on Friday. We do not have an agenda yet, but I anticipate it will be at 8 a.m. My sincere hope for the Committee is that we can finish with our work on Friday morning.

We will likely have to recess to the call of the Chair just in case we do not get everything correct in the morning. I know it has been a long week, Committee. I appreciate you all being here on time and your thoughtful questions. The meeting is adjourned [at 10:43 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 160](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 161](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 326](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 394](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 403](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is a conceptual amendment to [Assembly Bill 427](#), submitted by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit I](#) is a proposed amendment to [Assembly Bill 427](#), submitted and presented by Scott E. Pearson, Justice of the Peace, Department 4, Reno Justice Court.

[Exhibit J](#) is a letter dated November 25, 2019, to Kristina L. Swallow, P.E., Nevada Department of Transportation, from Jamie Pfister, Association Administrator for Regional Operations and Program Delivery, National Highway Traffic Safety Administration, U.S. Department of Transportation, submitted and presented by Assemblyman Steve Yeager, Assembly District No. 9.

[Exhibit K](#) is a letter of support and proposed amendment to [Assembly Bill 427](#), dated April 7, 2021, submitted by Debra Coffey, Director, Coalition of Ignition Interlock Manufacturers.

[Exhibit L](#) is a document titled, "Statutes Allowing Fleeing Survivors Access to Protective Orders," dated May 2009, prepared by the American Bar Association Commission on Domestic Violence, submitted by Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada Coalition of Legal Service Providers, in support of [Assembly Bill 404](#).

[Exhibit M](#) is a conceptual amendment to [Assembly Bill 113](#), submitted by Assemblywoman Melissa Hardy, Assembly District No. 22.

[Exhibit N](#) is written testimony dated April 7, 2021, submitted and signed by Marci A. Hamilton, Founder and CEO, CHILD USA; and Kathryn Robb, Executive Director, CHILD USAAdvocacy, regarding Assembly Bill 113.