MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Eighty-First Session
April 8, 2021

The Committee on Judiciary was called to order by Chairman Steve Yeager at 8:04 a.m. on Thursday, April 8, 2021, Online. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/81st2021.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Ashlee Kalina, Assistant Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Bonnie Borda Hoffecker, Committee Manager

Traci Dory, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Becky Harris, Distinguished Fellow in Gaming and Leadership, William S. Boyd School of Law, University of Nevada, Las Vegas International Gaming Institute
Matthew McCorkle, Private Citizen, Las Vegas, Nevada
George Hartline, Private Citizen, Section, Alabama
Erica Adler, Private Citizen, Las Vegas, Nevada
Michael Scully, Private Citizen, Las Vegas, Nevada
Tanner Britton, Private Citizen, Las Vegas, Nevada
Beth Holtzman, Civil Rights Area Counsel, Western States, Anti-Defamation League
Jolie Brislin, Nevada Regional Director, Anti-Defamation League
Alisa Nave-Worth, representing Anti-Defamation League
William Pregman, Communications Director, Battle Born Progress
Allison Rosas, Policy Intern, Nevada Coalition to End Domestic and Sexual Violence
Holly Welborn, Policy Director, American Civil Liberties Union of Nevada
William Dean Ishman, President, National Association of Blacks in Criminal Justice, Nevada Chapter
Kailey Barnett, Private Citizen, Reno, Nevada
Jim Hoffman, representing Nevada Attorneys for Criminal Justice
Annemarie Grant, Private Citizen, Quincy, Massachusetts
Nissa Tzun, Private Citizen, Las Vegas, Nevada
Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office; and representing Clark County Public Defender's Office
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Jennifer P. Noble, Chief Deputy District Attorney, Legislative Liaison, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association
Sandra F. Mack, President, National Coalition of 100 Black Women, Inc., Las Vegas Chapter
Brian E. Williams, Sr., Deputy Director, Operations, Department of Corrections
Troyce Krumme, Vice Chairman, Las Vegas Metro Police Managers and Supervisors Association
Erienne Overli, Private Citizen, Reno, Nevada
Jamie Stetson, Private Citizen, Reno, Nevada

Chairman Yeager:
[Roll was called. Committee protocol was explained.] We have three bills on the agenda this morning. We will be taking them out of order. The intended order this morning will be Assembly Bill 405, Assembly Bill 296, and Assembly Bill 396.

I will open the hearing on Assembly Bill 405. I will let Committee members know that there are three short amendments to the bill on the Nevada Electronic Legislative Information System. They are friendly amendments as they have been brought forward by the sponsors of the bill. I welcome former state Senator Becky Harris to present A.B. 405.

Assembly Bill 405: Revises provisions relating to gaming. (BDR 41-643)

Becky Harris, Distinguished Fellow in Gaming and Leadership, William S. Boyd School of Law, University of Nevada, Las Vegas International Gaming Institute:
I teach Law 725, Gaming Law Policy. As part of this class, Chairman Yeager has generously made a bill available for the law class. I want to provide the Committee with a little bit of context about the genesis and development of Assembly Bill 405.

Prior to the start of the semester, gaming attorneys throughout Nevada were surveyed for changes they felt would aid in the regulation of gaming. Those who were willing made suggestions to the class and provided context on how they felt their suggested changes would benefit gaming. After hearing their suggestions, the students selected an issue that they wanted to study, advocate for, and become a subject matter expert in. Chairman Yeager graciously agreed to include each of the students' issues in this bill. Students wrote white papers and were required to draft a bill draft request for their respective issues; both of which were submitted to Chairman Yeager.

The students are also driving the advocacy for the bill and have reached out to over 55 stakeholders within the gaming industry in Nevada to solicit feedback including the Nevada Gaming Control Board. Today, you will hear testimony directly from the students, some of whom have conceptual amendments to propose based on the stakeholder feedback that they received.

Chairman Yeager:
Thank you, Professor Harris. At this time, we will allow the students to introduce their portions of the bill. As you can see, Committee, it is not a terribly long bill although it might be topic areas that you are not familiar with. We will have the students present and then have questions from the Committee. I think it makes sense to go in the order of the bill.

Matthew McCorkle, Private Citizen, Las Vegas, Nevada:
I would like to thank the Committee for this opportunity to testify regarding our class bill, Assembly Bill 405. As Professor Harris alluded to, A.B. 405 is composed of five main sections. Each one of those sections was conceptually brought about by five distinct members of our class at William S. Boyd School of Law at the University of Nevada, Las Vegas. Each member of the class is going to testify about their individual section in the proposed legislation.

Section 1 pertains to the use of digital and electronic signatures in the gaming industry. The use of digital and electronic signatures is authorized in *Nevada Revised Statutes* (NRS) Chapters 719 and 720. However, the use and acceptance of electronic signatures in the

gaming industry is one of silence rather than expressed permission. The intent behind section 1 is to create a legislative declaration which authorizes the use of electronic signatures in the gaming industry which would harmonize it with their use in other forms of commerce.

This proposed legislation is timely given the past year with the pandemic and the shift in work environments from in person in offices to working from home. Gaming attorneys, licensees, and regulators have all been forced to work remotely at some point over the past year. To accommodate these changes, attorneys, licensees, and regulators have been forced to use electronic means to send messages, applications, records, documents, and other materials to one another. In an effort to make sure the transmission of these messages, records, and documents are compliant with the gaming laws, which are codified in NRS Chapter 463, I am proposing section 1 of A.B. 405 be enacted so that there is not any silence or confusion regarding the use and validity of electronic signatures in the gaming industry.

Finally, some of my fellow classmates and I have conceptual amendments as Chairman Yeager indicated. Chairman Yeager, would you prefer that I present my conceptual amendment to section 1 at this time or would you prefer that I wait until all of my fellow classmates have presented their sections first?

Chairman Yeager:
Thank you for asking, Mr. McCorkle. Go ahead and present that conceptual amendment. I think we will let each student get through their particular section and any amendments and then we will have questions.

Matthew McCorkle:
My conceptual amendment [Exhibit C] to section 1 involves two changes. The first I would propose is the elimination of the word "digital" from section 1. *Nevada Revised Statutes* 720.060 defines "digital signature" as a type of electronic signature. Thus, the use of the word "digital" is duplicative and superfluous. Second, in an effort to facilitate the economic and efficient delivery of messages, applications, records, documents, and filings in the gaming industry, I would propose a legislative declaration allowing for the electronic transmission of such messages, applications, records, documents, filings, or any other submissions to the Nevada Gaming Control Board and the Nevada Gaming Commission. As with the electronic signatures, the use and acceptance of electronic transmissions for submitting materials to the Board and Commission is one of silence rather than express permission. Such a legislative declaration authorizing this type of conduct would help to clear up any sort of ambiguity.

George Hartline, Private Citizen, Section, Alabama:
I am a gaming law student in the William S. Boyd School of Law at the University of Nevada, Las Vegas. Section 2 has to do with a complicated topic. I did not understand it at all when I first started this, and it has taken me up until about yesterday to finally wrap my head around it. I want to break it down to you. Essentially, publicly traded gaming

companies in Nevada, which make up about 76 percent of the gaming industry, have to file a prospectus on selling their securities with the Commission every three years. It is contained in Regulation 16.115 of the Regulations of the Nevada Gaming Commission and Nevada Gaming Control Board. This proposed section seeks to extend the time frame for that prospectus to be good for five years rather than three years. What it really does is help publicly traded companies avoid having to come before the Commission and do a lot of paperwork every three years. Instead, they would get an extra two years. The reason why that is important is because they need to have the ability to capitalize on the market's conditions. The more paperwork and hearings they have to do, the less likely they are to be able to capitalize on the market situation.

For example, if the conditions are right and they decide they want to sell their stock or bonds, if they do not have an active shelf approval, then they cannot do it. Then they may have to apply and do a lot of legwork and then by the time they get done, they have missed the opportunity. I am not going to spend a lot of time on this as you will probably have more questions than anything else. Essentially, that is the long and short of it. We do have a proposed conceptual amendment to delete this section.

Erica Adler, Private Citizen, Las Vegas, Nevada:
I will be speaking on section 3 regarding the foreign gaming statute. The foreign gaming statute was enacted in 1977 in response to New Jersey legalizing casinos. The statute at that time required Nevada casinos to first get the Commission's approval to operate gaming outside of Nevada. In 1993, this requirement of first having approval was removed by the Legislature in the statutes. This was done because gaming companies were held back from expanding into new jurisdictions because of the lengthy foreign gaming approval process. Gaming is much more expansive today than it was in 1993, but those reporting requirements have remained unchanged.

The way foreign gaming reporting requirements work today is that a gaming licensee has to report both quarterly and annually on certain aspects of their operations outside Nevada. The annual reports are regulatory reports generally describing compliance with regulations while the quarterly reports ask for more specific things like changes in ownership, changes in officers and key employees, as well as complaints, disputes, and arrests related to gaming in the foreign jurisdiction.

My proposed change within my conceptual amendment [Exhibit D] is to move some quarterly reporting requirements from quarterly to annual requirements. The key reason for doing this is because the way Nevada gaming manufacturers do business today is, they enter into agreements with hundreds of jurisdictions on receiving a portion of revenue for renting gaming machines. These agreements have to be reported to the Board as part of their quarterly report. This includes reporting on a machine's location name, street address, city, state, and installation and removal date of each machine. As many manufacturers grow, this report has grown as well. The larger manufacturers report on hundreds of jurisdictions where they have this type of agreement. This information could be provided annually instead of quarterly.

Another part of the quarterly report includes gaming licensees reporting on complaints, disputes, and arrests relating to their gaming operations outside of Nevada. These specific reporting requirements will remain the same with my proposed changes to this statute. The Board and Commission would still receive these reports quarterly.

Overall, the effect of the statutory change is the reduction in the frequency of some reporting requirements that the Board receives and that a licensee submits to the Board regarding its operations and jurisdictions outside of Nevada. The time period for these specific requirements is reduced, but the information required would remain the same.

Michael Scully, Private Citizen, Las Vegas, Nevada:
Section 4 of our bill expands the definition of who can engage in global risk management. I have to admit when I first started working on this bill, I had no idea what that meant. I will try to explain it for all of you. Global risk management generally speaking means setting of lines on sports bets across multiple jurisdictions, balancing those bets, and collecting information on who is wagering and how much they are wagering.

As the statute is currently written, it only allows for Nevada licensed sports books to engage in global risk management. The proposed change to the statute would modify this language to allow affiliates of licensed sports books to engage in global risk management as well. "Affiliates" is already a defined term under the statute. Basically, this would cover parent companies, sister companies, and subsidiaries.

The purpose of this change is to allow for ease of communication between sports book operators acting in multiple states and to encourage the expansion of book operators into the Nevada market. As you know, recent changes in sports betting laws have opened it up to many other jurisdictions. With the current statute, if a multijurisdictional sports book operator wanted to begin operation in Nevada, they would be forced to either choose to move their global risk management group to Nevada or to open up a new global risk management team just for Nevada in addition to their current global risk management group. Obviously, this could lead to communication errors between the departments and other unnecessary headaches. Instead, this change would ease their expansion into the Nevada market by allowing these companies to retain their current global risk management operation no matter the location as long as they obtain a license to operate a sports book in Nevada.

The reporting requirements under the Board's regulations would remain the same for every global risk management operation no matter the location. While the Board would not have direct jurisdiction over a global risk management team operating in another state, they would still be able to discipline the actual sports book operator, the Nevada licensee, if there is any misconduct by the affiliate.

This bill could also bring some of Nevada's current global risk management practitioners into compliance with the law. Anyone in Nevada currently performing global risk management who does not hold a license to operate a sports book is technically in violation of the statute

in its current form. By adding the language "or an affiliate," we can bring operators who are unknowingly breaking the statute into compliance.

Tanner Britton, Private Citizen, Las Vegas, Nevada:
I am here to present section 5, which is in relation to match-fixing. This section of the bill was drafted with the intent to codify the criminalization of match-fixing in *Nevada Revised Statutes*. Assembly Bill 405, section 5, provides guidance to Nevada law enforcement in situations where athletes, coaches, and managers determine margin of victory by using less than his or her best efforts.

Our amendment to NRS 465.070 as illustrated in section 5 of the bill, is not the end-all and be-all in terms of overseeing match-fixing issues in Nevada. However, this section of the bill is a great first step in regulating match-fixing. As my colleague, Mr. Scully, just spoke about, with the popularization of sports wagering nationwide across more jurisdictions, it is important for us in Nevada to be at the forefront of regulation. Language in section 5 looks to avoid situations where both professional and collegiate athletes are exploited, while at the same time upholding the integrity of these matches that are wagered on in Nevada's sports books.

Over the past 50 years, the National Collegiate Athletic Association has been the primary target of a lot of match-fixing scandals, the most common being college basketball. Oftentimes these collegiate athletes are exploited in match-fixing scandals because of a multitude of factors like cost-of-living expenses or having different economic statuses than most other college athletes that they interface with day to day on campus. A good situation that illustrates what happened here is there was a large match-fixing scandal that happened at the University of San Diego in 2010, where a student-athlete was exploited in a match-fixing ring being paid for point-shaving. Language here in section 5 of A.B. 405 looks to address that, and with the language in that section being "best efforts," the language of that was drafted in accordance with contract principles of the term "best efforts." *Black's Law Dictionary* defines "best efforts" as an obligation to both parties to make their best attempt to accomplish a goal. This definition is used when there is uncertainty about ability to meet a goal such as a college basketball game where there is no certainty about who is going to come out and win.

We did submit a conceptual amendment [Exhibit E] to section 5 clarifying the term "managers." The term "managers" in that section was meant to mean a coach. Oftentimes, in soccer and baseball, coaches are referred to as managers. That would be where the term "managers" comes from in the amendment.

I wanted to thank Chairman Yeager for having us, and we stand ready for questions from the Committee at your discretion.

Chairman Yeager:
Thank you all so much. First of all, let me say how much we appreciate your being concise with the presentation this morning, given that we are in a deadline week and we certainly

appreciate your efforts. It is a pleasure to have you all in the Committee this morning. Are there any questions from the Committee?

Assemblywoman Bilbray-Axelrod:
I am looking at the section that includes the digital signature, which I think is a great idea especially as we seem right now to be moving into a digital world. I am just wondering if that might be too broad. I know that a digital signature can be everything from writing your signature on a piece of paper and taking a picture of it. I was wondering if perhaps because of the security issues especially within this area of statute, words like "encrypted" or something like that might be justified. I wanted to hear your thoughts on that.

Matthew McCorkle:
With regard to whether or not under section 1 is too broad, the use of electronic signature is defined in NRS Chapter 719, which is more broadly the Uniform Electronic Transactions Act. It defines electronic signature as "an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record." I think certainly if the Committee wishes, that language could be added as well into section 1 to make it more concise so there is not that breadth of just a signature and whether or not that is somebody signing or just scribbling on a document.

Assemblywoman Bilbray-Axelrod:
I appreciate the reference. I think because of the nature of what we are trying to do here, I think a word like "encrypted" would be necessary in the statute. It is not a question; it is just a suggestion.

Matthew McCorkle:
I agree with you, Assemblywoman Bilbray-Axelrod. I think the use of the word "encrypted" would be appropriate. Oftentimes we do see that in other commerce such as real estate transactions when there is a closing on a house and you get a specific key from the sender attached for you to sign so that there is the acknowledgement that you are the recipient as well as the individual who is authorizing that transaction.

Chairman Yeager:
To keep things orderly, we will go section by section for questions. Since we started logically on section 1, I would like to go to Assemblywoman Marzola who has a question on section 1.

Assemblywoman Marzola:
Relating to the electronic signatures, how do you make sure that they are not forged? Is there a system in place or safeguards? Do you already have to have a relationship?

Matthew McCorkle:
I think it could go two ways depending on the Board and the Commission, if they so choose. Possibly since we are relating with them as the regulators in the gaming industry, if they have a preferred method in which they would like to have those types of documents signed and

accepted, if they would like to have an encrypted key to minimize the use of fraud or forged documents, that certainly can be. I know that there are different companies, like DocuSign, that already have these types of electronic signature or software that you can use. I think maybe using something that is recognized already in the industry or even other highly regulated industries such as banking or e-commerce, which people use all of the time and much more than we even do in the gaming industry. I think trying to use something like that that has already been proven and tested would be helpful.

Chairman Yeager:
Are there any other questions on section 1 from Committee members? [There were none.] Are there any questions from Committee members on section 2, which deals with shelf approval?

Assemblywoman Kasama:
It sounds like we want to cut back on administrative burden. The gaming companies and affiliates have to have these updates every three years, but we are going to make it five years so there is less administrative burden. Where it talks about the continuous or delayed public offering of its securities or an affiliated company, can I get better clarity of what that means? Does that mean the company is selling the treasury stock, or is this just for transfers of stock in general on the stock market, or if a new affiliate has formed an IPO for that? Which ones are we talking about here or does it encompass all of those?

George Hartline:
To my knowledge, it encompasses all securities that they want to raise money for. They have to do this on the federal level with the U.S. Securities and Exchange Commission (SEC) also. It is a duplicative process to some extent. I understand why, but at the same time, it is not like this is the first time that they are going to have to go to the principal's office. The first time they go to the principal's office is when they file this prospectus with the SEC. To drill down and answer your question more specifically, it is what is in the prospectus that is allowed to be approved. It could be anything as long as they included it in the initial prospectus. It is called a "shelf approval." It makes sense once you get past the technology and the technical terms. They are allowed to put this ability to raise money on a shelf and take it down anytime they want to within those three years. What this would do is allow them to go five years. Whatever they put in their initial prospectus is what they are allowed to do. I hope that answered your question.

Assemblywoman Kasama:
Yes, that really helps. It was a good overview.

Chairman Yeager:
Are there any additional questions on section 2 of the bill? I think after you presented that section, you indicated you were desiring to remove that section from the bill. I just wanted to ask about how you arrived at that decision. Did you learn something along the way that concerned you with potentially making this change in statute?

George Hartline:
Unfortunately, there is a fiscal note attached indicating it would cost $400,000. My understanding for the reason is that there are fees involved every three years, and if you did not have those fees, there would be a deficit. I had an idea about what could be done about that which would be to increase the fees every five years to reflect essentially the same price they would pay either way, but I do not think we were able to get it accomplished with the stakeholders and get enough of them on board at this point to make that happen. I think that theoretically in the future all of this is amended to be deleted to save this bill. I do think that in the future there are companies that have reached out to me, like International Game Technology PLC, and said, Yeah, I think the companies might be able to agree to fees. Just let us know how much it would be increased in order to make up for that deficit because their time is money. To have an extra two years of not having to do a lot of legwork is very valuable to them.

Chairman Yeager:
Are there any questions on section 3 regarding the foreign gaming reporting and auditing? This was not an area I was all that familiar with, so thank you to the gaming students for broadening my education on gaming issues. Does auditing of foreign gaming operations already happen at the Board level, or would this essentially be a new regulatory requirement that is imposed on certain licensees?

Erica Adler:
This is a regulatory report that already exists, so this would not be an additional regulatory request. This would just be an extension on two items that already requested shifting from quarterly to annually.

Chairman Yeager:
Are there any additional questions on section 3 from Committee members? [There were none.] Are there any questions on section 4 from Committee members?

Assemblyman Wheeler:
I understand the intent and during the presentation as far as defining an affiliate of such a person. What I read here is all we are changing is "or an affiliate." What I am seeing is can an affiliate for instance be just a friend, someone who is working with that particular company? How does it have to be affiliated and where is that in the bill?

Michael Scully:
"Affiliate" is already a defined term elsewhere in the gaming law statute. It is defined at NRS 463.0133, and the definition of affiliate is, "a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a specified person." The specified person here would be the licensed sports book.

Assemblyman Wheeler:
Thank you. I assume it would say, "affiliate" as in NRS 463.0133, but I think I get it.

Chairman Yeager:
Are there additional questions on section 4 from Committee members? I want to confirm something you said. I think you indicated that by use of the word "affiliate," then you do not really have to necessarily have the entity here doing the global risk management. I just wondered, Do you think with that change we will see a move where licensees will actually run global risk management operations outside of Nevada?

Michael Scully:
In my conversations with people engaged in global risk management currently, the companies that are operating books in Nevada are for the most part doing their global risk management exclusively from Nevada at this point. This bill would just make it easier for another company to come into the state. I do not foresee anyone making the change to take their current global risk management group in Nevada and move them somewhere else. Also, this could bring some current global risk management teams into compliance. I spoke to someone who mentioned that they currently do not have a license to operate a sports book; however, they are running a global risk management operation and did not realize they were not in compliance with the statute. By adding the language "or an affiliate," it would actually bring them into compliance.

Chairman Yeager:
Are there any questions from Committee members on section 5, which is about match-fixing? I certainly understand what you are trying to do, and I think it makes sense. How do you think the Board—if they were to investigate an allegation that would fit in the new language in the conceptual amendment—would go about proving something like that?

Tanner Britton:
Are you referring to the Gaming Control Board in terms of an investigation for match-fixing?

Chairman Yeager:
Yes, I am just curious how you would envision what kinds of investigatory means or how they would actually develop a case indicating that this sort of match-fixing occurred.

Tanner Britton:
Throughout my research on this topic, I think that most issues in this matter are investigated by the Federal Bureau of Investigation (FBI). They are investigated similar to a criminal investigation involving wiretapping. They have access to bank funds and transfers of funds. I am not exactly sure how the Board would go about investigating something like this, but the FBI would conduct a standard criminal investigation with the offense being match-fixing. The intent of section 5 of A.B. 405 is to guide what is and what is not match-fixing in the NRS.

Chairman Yeager:
Are there any additional questions on section 5 of the bill?

Assemblyman Wheeler:
I like the dog sleeping on your bed back there. He has the right idea.

Chairman Yeager:
I think we all wish we were that dog right about now given we are on Thursday of a deadline week. We have had some really good Zoom backgrounds this week in some of the Committee hearings. People are stepping up their game, and I, for one, appreciate that.

Assemblyman Wheeler:
Mr. Britton wins today.

Chairman Yeager:
One last call for questions on section 5 of the bill. [There were none.] Is there anyone who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position? [There was no one.] I would invite the presenters back up for any concluding remarks.

Matthew McCorkle:
I do not have concluding remarks regarding section 1 outside of what was already presented with the conceptual amendment as well as possibly dialing in the language to make it a little more concise. I would like to thank the Committee for allowing us this opportunity. It has been quite fun, and it is nice to figure out how laws are made as opposed to studying the law in school once it has already been passed.

George Hartline:
I wanted to just quickly say that with regard to section 1, the U.S. government's encryption standard is called Advanced Encryption Standard, and that is the standard used for any governmental organization. I think you could just use that one; I think that would be good. As far as section 2, I do not really have anything else to add there. I am glad to be here, am humbled, and appreciate the opportunity.

Erica Adler:
I have no concluding remarks regarding my section and the conceptual amendment submitted. Thank you all for this opportunity. It has been absolutely fantastic, and I am very grateful.

Michael Scully:
In conclusion, I have spoken to some stakeholders who said that this amendment adding "or an affiliate" to the global risk management statute would be beneficial for our bookmakers. I urge passage. This has been a great experience. Thank you for letting us come talk with you.

Tanner Britton:
I have no concluding remarks in regard to section 5. I just want to thank you for having us. As a class, I think we all enjoyed this opportunity and enjoyed being able to sit here and present in front of the Assembly. I thank you for welcoming my dog, too, as he seems to be the star of the show, even though he might not know yet.

Chairman Yeager:
You all did a fantastic job this morning.

Becky Harris:
We are indeed grateful for the generosity of time that you have provided the class knowing that your deadline for Committee passage is tomorrow. I want to reinforce for the Committee that we will continue to work with stakeholders and continue our outreach. We will also continue to engage in dialogue with the Gaming Control Board. It is our hope with the deletion of section 2 that the fiscal note will now be resolved, and we can move forward. We hope that the Committee will give us consideration and move the bill forward in a work session.

Chairman Yeager:
Thank you, Professor Harris. It was good to see you. Again, kudos to the students. It was a well-done presentation, and it was a pleasure to have you in Committee this morning. I will close the hearing on A.B. 405.

I will open the hearing on Assembly Bill 296. I will note for Committee members that there is a conceptual amendment on Nevada Electronic Legislative Information System [Exhibit F]. I believe it is a friendly amendment proposed on behalf of the sponsor of the bill.

Assembly Bill 296: Revises provisions relating to crimes. (BDR 15-121)

Assemblywoman Rochelle T. Nguyen, Assembly District No. 10:
For those of you who are not familiar, doxxing is a form of online harassment that is gaining popularity. Doxxing is a posting of private or identifying information about an individual, group, or organization with the intent that that information is used against the target for an unlawful purpose. These actions are a severe threat to our community, particularly individuals of protected classes, affecting the ability of already marginalized communities to be safe in both the digital and physical space. Doxxing should be codified into Nevada state law so we can protect targets and hold perpetrators accountable for their malicious and reckless actions.

Assembly Bill 296 establishes civil penalties for those who engage in unlawful doxxing. This bill does not create criminal penalties. If you look at the original text, it did have some language and in this particular aspect of law, the language really has to be very specific so it is narrowly tailored to capture the people who are causing the most malicious and reckless actions that invade people's physical and digital space.

If you look at the friendly amendment [Exhibit F] that was proposed, we have taken out those criminal penalties. I did notice that there were a few typos because in sections 1 and 10, they still appear to remain in there. It is my intention that the criminal penalties will be completely removed from this piece of legislation.

In this case, there is no question that doxxing can be extremely serious and harmful, particularly when the offender intends for the disclosure to result in death, injury, or stalking, and must accordingly be taken seriously under Nevada law. By way of an example only, Andrew Anglin, publisher of the neo-Nazi website the Daily Stormer, and one of his organizers of the 2017 white supremist rally in Charlottesville, South Carolina, posted the name and address of Tanya Gersh, a Jewish real estate agent in Whitefish, Montana. They posted photos of her children, and his purpose was to incite his readers to stalk and terrorize her. His followers understood all too well, responding with hundreds of threatening calls and anti-Semitic messages. They swatted her family's home. If you are unfamiliar with swatting, it is when you call the police on an address and say that you are being threatened. It puts police officers in danger because they will then get in their cars, lights and sirens, and go into a household because they believe there is an imminent threat. It turns out there is not, and it puts the police officers in danger and, obviously, those unsuspecting family members who are in there.

This bill would distinguish and would not capture conduct that simply involves identifying people online where the purpose may be to protect others, track down extremists, or report a public interest story. This bill does not inhibit the ability of the public to photograph or videotape police violence or police brutality. This does not prohibit the Federal Bureau of Investigation from posting pictures of those that were involved in the January 6, 2021, insurrection to post those pictures of people who murdered those police officers at that scene. This does not prohibit that conduct.

Unlawful doxxing is different from the work that advocates and researchers, including those at the Anti-Defamation League, are doing to identify extremists and help law enforcement agencies investigate those responsible for crimes. These activists and researchers are not operating with a malicious or reckless mental state. The same goes for journalists who break important stories, people who take on powerful institutions and interests by exposing information—for example, about sources of political donations—or people who report abuses of power or otherwise act as whistleblowers. To the extent that these people are publishing information to share facts and not acting with a level of intent to harass an individual and with the reckless disregard that that information posted will be used to carry out criminal conduct such as death, injury, or stalking, anti-doxxing laws should not apply. When it comes to online harassment, there is a fine line to walk. It is important that we do so when enacting anti-doxxing legislation.

My goal and my intent for this bill is to protect individuals who are doxxed while protecting individuals who identify bad actors, assist with criminal investigations, are active whistleblowers, create art, or publish newsworthy stories. I have several people with me to

walk you through the provisions of the bill as amended. With Chairman Yeager's permission, I would turn over the presentation to Ms. Beth Holtzman.

Beth Holtzman, Civil Rights Area Counsel, Western States, Anti-Defamation League:
This bill only applies to conduct in which the individual is intentionally disseminating the personal and private information or sensitive information of another person without that person's consent as well as with the intent that this would then cause that person to suffer death, bodily injury, stalking, or mental anguish, or with the reckless disregard that it would be likely to cause death, bodily injury, stalking, or mental anguish. Furthermore, the dissemination of the personal information must actually cause the person to suffer death, bodily injury, stalking, or mental anguish, or that it be reasonably likely that they would be in fear of that happening.

We provided several exceptions in the bill when conduct is not unlawful doxxing. For example, it is not doxxing if personal information is released for the purpose of reporting conduct reasonably believed to be unlawful, reporting conduct that constitutes a crime to law enforcement, the publishing, disseminating, and reporting of conduct by an elected public official, a law enforcement officer or agency that is reasonably believed to be unlawful or otherwise an abuse of authority. It is unlawful doxxing if personal information is disseminated for the purpose of investigating or prosecuting a violation as well as engaging in lawful, constitutionally protected activity such as pertains to speech, press, assembly, and petition.

Additionally, we added language to note that nothing in this section should construe to conflict with section 1983 of the Civil Rights Act of 1964 as well as providing language from anti-SLAPP [strategic lawsuits against public participation] statutes to prevent those from being utilized. There are no criminal penalties. We have removed those. This is only a civil statute.

Jolie Brislin, Nevada Regional Director, Anti-Defamation League:
On behalf of the Anti-Defamation League (ADL), I appreciate the opportunity to speak with you this morning regarding A.B. 296. Founded in 1913, ADL has a timeless mission: to stop the defamation of the Jewish people and to secure justice and fair treatment for all. Today, more than ever, this mission's relevance endures. At ADL, we work to combat anti-Semitism, prejudice, and hate in all its kinds while defending our democratic ideals and civil rights.

Unfortunately, we know that hate and extremism are on the rise and digital spaces are not immune. The disparities and stark turn in terms of which communities are particularly impacted by hate. According to a recent national ADL study last month, 27 percent of Americans experience severe online hate and harassment defined as including sexual harassment, stalking, physical threats, swatting, doxxing, and sustained harassment. Additionally, in the 2021 report, 33 percent of respondents attributed at least some of the online harassment they experienced to their identity, defined as their sexual orientation, religion, race or ethnicity, gender identity, or disability. We must do more to ensure that we

are protecting against online hate and harassment and its consequences to individuals' personal and professional lives. Such actions include the emerging threat of doxxing.

The ADL urges this Committee to support A.B. 296 to address doxxing in Nevada state law. If passed, this law would prohibit a person from posting another's information online with the intent to harm them and with reckless disregard of causing death, bodily injury, stalking, or mental anguish. According to ADL's 2020 report, 81 percent of Americans agree that laws should be strengthened to hold perpetuators of online hate accountable for their conduct. This bill empowers victims and targets of this digitally enabled hate to seek recourse. We thank you for your time and consideration and look forward to any questions you may have.

Assemblywoman Nguyen:
This is an interesting topic for me, and it became very personal because I got to know Tanya Gersh, and I would encourage everyone to look up her story. It is frightening, it is sad, and it is terrifying to know that a Realtor living in a small town in Montana, who was just a soccer mom, got thrust into this space digitally that is just not protected. It was not something where someone was lighting crosses on her yard, although I think she did have physical threats in that manner as well. The way she described it, it made her question the safety of her parents and her children. She went from worrying about taking her kids to soccer practice because these threats that lived in a digital space were so prevalent. People talked to her about just getting off Facebook or social media. But it terrorized every aspect of her life—from her business, to Yelp reviews, to posting pictures of her children and family. It was hundreds of thousands of posts and comments in this negative digital space that you could not just turn off. It was there and it is there forever. I think that was something that really struck me, and watching her go from an obscure, normal life to being thrust into this position where she is now the face and voice for other victims around the country. It is just truly inspiring. Hearing her story, I would encourage people to reach out, look online. You can unfortunately see some of the things.

The work of the Southern Poverty Law Center as well as the Anti-Defamation League in trying to bring awareness and attention to this online hate that takes place and how that can escalate to murder, violence, and stalking is just incredible. I do recognize that this is walking a very fine line with First Amendment concerns, and so getting the language just perfect is what we are looking to do here. That is part of the reason we took out some of those criminal penalties. We just were not there yet. As you can see from the amendment [Exhibit F] there are still some typos in there. We will continue to work to make sure that the intent behind this law really protects those victims in that online space. I know this affects Nevadans. We saw this with some people who were working in different government agencies being attacked with online hate just about their jobs, and they were not public officials. They were just regular citizens trying to live their life and do their work. I appreciate your patience as we work through this, and we are ready for any questions.

Chairman Yeager:
I want to make sure that I understand the intent of the amendment. Obviously, things are moving pretty quickly this week, and I understand that. It did look to me that there were

perhaps a couple of sections that were still in the conceptual amendment that dealt with criminal penalties. For instance, section 10 references a misdemeanor. I wanted to get it on the record that it is your intent to completely eliminate any criminal aspects of the bill and just have it be a civil action?

Assemblywoman Nguyen:
Yes, completely. I also see in section 2 there is a start of a line and then it does not finish, so it is definitely my intent to take out all of the criminal penalties. They just were not ready to be presented. I think sections 1, 2, and 10 all reference potential criminal stuff and that was not the intent. Ms. Holtzman definitely knows way more about this, so if the Committee does have questions, she is here to answer those.

Chairman Yeager:
On page 3, lines 64 through 75 of the conceptual amendment [Exhibit F], there are exceptions where this bill would not apply. Section 5, subsection 3, paragraph (b) talks about reporting conduct that is reasonably believed to be unlawful, and then the very next section talks about conduct believed to constitute a crime. I just wondered if there was something that was envisioned that would be unlawful but not a crime that drove the need to have these two separate sections listed in that way.

Assemblywoman Nguyen:
I will turn it over to Ms. Holtzman, but I have a feeling that because I just recently asked them to remove the criminal penalties, there is just some word-smithing where some of that did not get removed from other sections.

Beth Holtzman:
I would say that these two sections could definitely be revised to eliminate one, but I believe the intent was to try to encompass actions that did need to be as formal as reporting something to a law enforcement agency. If someone was sharing information that they believed to be unlawful in other ways, but it was not necessarily as formal as filing a police report. We wanted to be more expansive and cover other conduct as well.

Assemblywoman Nguyen:
I think specifically instead of having to force someone to file a police report if you were posting it online, I think it was meant to capture other types of social media.

Chairman Yeager:
Just to tie it in to something else we heard in this Committee, I suppose an example of that could be the bill that we passed that deals with jaywalking which would be a civil offense. It would still be unlawful, but it would no longer be criminal. I think those two words do work well in tandem, and if and when we process the bill, we will leave it up to Mr. Wilkinson about whether those two sections could be condensed.

Are there any questions from Committee members?

Assemblyman Wheeler:
I really like the intent of the bill, and it is personal to me. I actually had BLM [Black Lives Matter] and Antifa publish my address online. Thank God for the Douglas County Sheriff and our Legislative Police, nothing happened with my grandchildren in the house that weekend. I get it. There is a lot of this information that is put out there that is already publicly available. How does a judge decide whether that constitutes doxxing or not when that information is already available?

Assemblywoman Nguyen:
I think I will turn this over to Ms. Holtzman, as she is very familiar with the intricacies of how the doxxing legislation is intended to work.

Beth Holtzman:
Where it is distinguished is even if the information is already publicly available, it is the way it is being disseminated. For example, in the Tanya Gersh case, although her email address may be available online through her Realtor website, it was the fact that Andrew Anglin was sharing that information with his followers with the intent and instruction to them to then go stalk and terrorize her. Even if information is publicly available online, it is being shared in a way with the intent that it would then cause that person harm and specifically death, bodily injury, stalking, or mental anguish. That is where it is distinguished from just information being shared with no additional content and no additional intent to then cause that harm, if that makes sense.

Assemblyman Wheeler:
It does, thank you. It would have applied in my case as well. I appreciate that.

Assemblywoman Hansen:
I like the intent and hope we can get through all of the nuances to get to a place where we can tighten it up. In the bill in section 1, lines 13 and 14, the existing language states, "because the actual or perceived race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression of the victim." I am curious if we could enlarge the existing statute through this bill to include political affiliation. I know we are public officials, but a lot of times our family members did not sign up for this. A lot of times elected officials keep their personal addresses private and somehow people get ahold of them. We saw on a national level where a home address of a United States Senator was shared and people showed up on the doorstep; he was not home, but his wife and newborn baby were there and were very threatened and that information was shared. I am just curious, is there room? There are people who got involved in political activities who were not elected officials that suffered from doxxing as well. Is there room for us to consider adding political affiliation to protect and encourage people to be involved but not be subject to some of the things we worry about that are so unfortunate and are despicable that we have seen and that this legislation is trying to protect?

Assemblywoman Nguyen:
I will turn this over to Ms. Holtzman, but it is not my intention to actually include political figures in this piece of legislation as a protected class. I think we are public officials; our addresses are part of the public record because they establish our residency within our respective districts. Everyone knows where I live because I have to use it to establish residency. If I do not have that and it is not part of the public documents when I file, I am actually committing a crime for not living in the district or not providing that kind of information. I think there is a distinction. I think also with political figures, it cannot just be a mere threat; the standard is higher when it comes to things like defamation or any of those types of things. It is not my intention to include those individuals. I think some of the other people you were talking about, if those individuals are targeted under the structure of existing law, yes, they would be protected. A family member or a child is not considered the public official, so I think if it rose to this level, they would be covered under this anti-doxxing law.

Beth Holtzman:
I would just add that the intent of this bill is to focus on the protected characteristics for which people are most often targeted—the immutable characteristics that we find in hate crime laws—race, religion, color, national origin, sexual orientation, gender identity. That will be the focus. However, that being said, there definitely are individuals who have been targeted because of their political beliefs and have suffered doxxing and, depending on the circumstances of that situation, that conduct could be covered by this bill and they would still be protected.

Assemblywoman Hansen:
If I could clarify. I do not want to say political officials, I was just saying political affiliation to protect voters at large, no matter their political affiliation.

Assemblywoman Kasama:
When we are using the word "disseminates," I kept hearing people refer to "online," but I do not see the word "online" in the bill. I just see "disseminates." I want to make sure that covers online. Would that also cover if somebody put a bunch of posters on telephone poles down the street? Would it cover all types of dissemination, not just online?

Beth Holtzman:
Yes, the intent would be to cover any sort of posting, publishing of that information, although it often happens online and if it is helpful, we could provide a definition of "disseminate" into the bill.

Assemblywoman Kasama:
It was just a consideration because I know we keep saying "online" and I do not see it in the bill. It is just something to consider for clarification.

Chairman Yeager:
Are there any additional questions from the Committee? The new section that is being added in section 7.5 of the conceptual amendment [pages 5 through 7, Exhibit F] is commonly

referred to as anti-SLAPP, which is a complicated area of law. I believe it was put in our statutes back in 2013. Could somebody do a very high-level overview of what section 7.5 is intended to do and how these anti-SLAPP lawsuits actually work in the courtroom for the edification of the Committee? If somebody could try to address that just for the legislative record, please.

Beth Holtzman:
There were concerns about individuals who would be sharing information about either elected public officials or law enforcement that they believe are engaging in misconduct and there was fear that those individuals would then come back and sue the person who had shared that information. This was to add a level of protection to prevent those lawsuits from occurring and using the anti-SLAPP language as protection as well as, I believe, the language includes attorney's fees and so that is something that an individual could gain from this.

Chairman Yeager:
Thank you. I will note that the anti-SLAPP bill [Senate Bill 286 of the 77th Session] was from former Senator Justin Jones when he was here in the 2013 Session. My other question is, is section 7.5 needed in the law, and does anyone have an opinion on whether the existing anti-SLAPP law that is already in statute already covers lawsuits like this?

Assemblywoman Nguyen:
I believe Ms. Nave-Worth is on Zoom and can answer that question.

Alisa Nave-Worth, representing Anti-Defamation League:
We added this language with the intention of protecting those who are sued in bad faith under this section. As you know, a lot of language is being added very quickly, so we wanted to ensure that with regard to this particular new form of liability, that was included. It might not be necessary if there is redundancy within the system, and we can certainly follow up with you on that. We are going to work on negotiating and cleaning up a better amendment right after this hearing. We will recirculate that with the Committee.

Chairman Yeager:
Thank you, I appreciate that. I will work with our legal counsel as well. I think the intent is pretty clear in terms of what you want to do. I just do not know if we need a new section or if we can just incorporate it. We will hopefully get that ironed out in the next 24 hours or so, and I appreciate your willingness to keep working on it.

Assemblywoman Nguyen:
I believe that we have some people calling in either in support, opposition, or neutral, but they might be able to address that. I believe Ms. Welborn is familiar with why we wanted to include that section.

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

William Pregman, Communications Director, Battle Born Progress:
We are in support of A.B. 296. As we have become more online and digitized in the past year, doxxing has become a serious threat to privacy and safety of individuals. People's lives and livelihoods are threatened by the practice of doxxing. As someone who works in the digital space, there is always a fear of how my life could be turned upside down if my personal information were leaked on an unsavory part of the Internet. This bill will hold accountable those who intentionally seek to leak personal information to harm people. Thank you to the sponsor of the bill, and we encourage your support.

Allison Rosas, Policy Intern, Nevada Coalition to End Domestic and Sexual Violence:
First, I want to thank Beth Holtzman and Jolie Brislin with the Anti-Defamation League for meeting with our policy team on this bill. We are here today in support of A.B. 296. Harassment, stalking, and abuse are complex, and abusers and perpetrators use many different means to terrorize their victims. Doxxing and the specific sharing of personal information online causes many victim survivors to fear an increase to harassment. Here is a horrific story that we have heard in the advocacy community: A jealous ex-boyfriend posts his ex-girlfriend's address online. In his post, he shares that this woman fantasizes about rape and wants to live out a strange rape fantasy. This ex-boyfriend provides his online followers with her address, how to break into the home, and what time she will be home. This results in a horrific sexual assault of this woman.

For purposes of this story, I used the traditional narrative as an assault on a woman, but this could happen to anybody regardless of gender or sexual identity. It is important that the ex-boyfriend be held accountable for sharing of his ex-girlfriend's personal and private information. While this is a very extreme scenario, the act of doxxing is not that uncommon. Many individuals experience online harassment and stalking that is persistent and causes mental unrest for many victim survivors. We support A.B. 296, as it will help make online spaces safer and hold perpetrators accountable.

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

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:
We appreciate Assemblywoman Nguyen for reaching out to us months ago to discuss this bill and working with us to ensure that we get it to a place that does not punish innocent behavior. We share her and the Anti-Defamation League's commitment to protecting people from racist and bigoted attacks. It was imperative that we ensured that the bill did not capture activities that are protected by the First Amendment and are essential to our ability as citizens to expose and address racism, violence, and corruption in our society and in our government institutions. Posting information online and in other forums is one of the few ways that ordinary people have of holding people in a position of power accountable. So many defining moments in our nation's fight against prejudice and systemic racial injustice have been the result of a bystander picking up a camera, filming a video of an individual

engaging in bigoted or violent behavior, and sharing that video and accompanying identifying information online. Our concerns are diminished by removing the criminal penalties in the bill, but I do want to mention that defending a civil lawsuit is stressful, expensive, and time consuming.

You were discussing section 7.5 [pages 5 through 7, Exhibit F], and I believe when we were talking and correlating that with our current anti-SLAPP statutes. We need some type of protection in the bill that ensures that in courts. For example, there is a case before the Nevada Supreme Court, *Williams v. Lazer*, Case No. 80350, that seeks to diminish the strength of our anti-SLAPP statute. In order to ensure that we are insulating this and that this law is not going to be abused, there needs to be something throughout the bill addressing that when a person posts something that is a matter of public concern, that will not be punished activity. I want to make the record abundantly clear that the statute cannot under any circumstances be used by a government official, whether that is a police officer or a legislator, as a tool to punish innocent behavior in constitutionally protected speech. I am more than happy to continue working with the sponsor and legal to get that language very tight to ensure the intent of the bill is achieved and we also protect constitutionally protected speech and activity.

Chairman Yeager:
Is there anyone else who would like to testify in the neutral position? [There was no one.] I had never heard the phrase "doxxing" until about six months ago. Where did doxxing come from?

Assemblywoman Nguyen:
The term doxxing comes from the expression "dropping docs," which is a revenge tactic used by hackers when they drop malicious information on a rival. It has more commonly been incorporated in our lexicon, not just a digital hacking lexicon, as a search for and publishing of private and identifying information about a particular individual on the Internet, typically with malicious intent. To use in a sentence: Hackers and online vigilantes routinely doxx both public and private figures. That is the public and official definition of the word "doxxing" and it is not something I was familiar with until I heard Tanya Gersh's story and became more familiar with it. Again, I would encourage people to look up her story.

I appreciate the team at the Anti-Defamation League. They have been fantastic to work with. I know that eliminating online hate and violence, especially amongst our vulnerable, targeted communities is something that they work tirelessly and passionately on, and they know that human life is at stake in a lot of these cases. I appreciate all their work. I also want to thank Ms. Welborn for her work in making sure that our intent matches the language that is potentially included in any piece of legislation that this body decides to pass. I do hope that I can count on your support for A.B. 296.

Chairman Yeager:
Ms. Holtzman, did you want to make any concluding remarks?

Beth Holtzman:
I have no additional remarks, just thank you again for your consideration.

Chairman Yeager:
Thank you to the presenters. Committee, we are going to give a little bit of time to get that amendment more squared away. We will not work session the bill today, but it will likely be on tomorrow's revised agenda at some point. You learn something every day. I had never heard the phrase "dropping docs." I do not encourage anyone to be dropping docs on rivals out there, but I do encourage you to try to use that phrase at some point today to some unsuspecting colleague in the Legislature and see what the reaction is. I will close the hearing on A.B. 296. I will open the hearing on Assembly Bill 396.

Assembly Bill 396: Makes various changes relating to the use of deadly force. (BDR 15-1042)

Assemblywoman Shondra Summers-Armstrong, Assembly District No. 6:
Assembly Bill 396 makes changes to *Nevada Revised Statutes* (NRS) 200.140 and NRS 171.1455, governing justifiable homicide by police officers when trying to effect an arrest. At this time, I would like to walk you through the proposed changes of the bill. To my knowledge, there have been no amendments submitted.

Section 1, subsection 1 of the bill changes the word "public," and clarifies that this applies to "peace officer, or person acting under the command and in the aid of the peace officer" in NRS 200.140. Section 1, subsection 2, paragraph (b) now reads, "When the homicide results from the use of deadly force by the peace officer in accordance with NRS 171.1455." Section 1, subsection 2 now reads, "As used in this section, 'peace officer' has the meaning ascribed to it in NRS 169.125." When I looked up that statute, it specifically outlines police, sheriffs, folks who work on Indian reservations, but folks who are trained in policing. That is where the clarification comes in.

The next change is in section 2 where peace officer is added to NRS 171.1455. Section 2, subsection 2 is changed to state, "Poses an imminent threat of serious bodily harm to the peace officer or to others." I think that you should pay close attention to the word "imminent." According to my investigation of the word meaning and looking online, it says that the word imminent means about to happen. They are in imminent danger of being swept away; it is at hand; it is close; it is near; it is approaching. I think it is also interesting to know that this term is also used in the Las Vegas Metropolitan Police Department's Use of Force Policy dated May 15, 2020.

I am grateful that Chairman Yeager thought me capable of bringing this amendment. It is a reasonable amendment to a current law. I think that we are in a place in our society right now, especially considering what happened on May 25, 2020, in Minneapolis, Minnesota, when Mr. George Floyd was killed by Officer Derek Chauvin in view of all of us in broad daylight. That incident really brought to the fore the need for a discussion nationwide about use of force and how police interact with our communities. That incident sparked mostly

peaceful protests across the country, and it brought forth this discussion and changes to use of force policies not only in our state but across the country.

I believe this bill is a reasonable first step to bring consistency and clarity in a standard across the state of Nevada. I would like to bring to your attention a press release from June of last year from the Las Vegas Metropolitan Police Department (LVMPD) where they spoke about these changes to their use of force policies. Again, the horrible incident in Minnesota happened on May 25, 2020, but LVMPD made updates to their policy on May 15, 2020. Las Vegas Metropolitan Police Department is the largest policing organization in the state of Nevada, and even they found that there was room for improvement or clarification, and they believe that they are the gold standard. I know that the Sheriff was on the radio yesterday talking about these issues and the intent here is very simple: consistency across the board so that we are clear what is to happen, how people are to engage if someone is fleeing, and what they are to use as a determination on how much force they are to use when pursuing a suspect and how much force they should use and making sure that we are clear and they are clear that imminent is the adjective.

I do have Mr. Ishman on Zoom who would also like to speak.

William Dean Ishman, President, National Association of Blacks in Criminal Justice, Nevada Chapter:
I am a former New York City Transit Police Department officer. First, let me thank you for this opportunity to speak on this critically important issue. This has special meaning for me going back to 2005 when I first thought about this introduction. We, today, support and applaud any good faith effort to at least meet the new level of deadly force before it is expected by the LVMPD's use of force policy. For the benefit of Nevada, we urge you to pass A.B. 396, especially now since more and more progressive states and police departments are also changing their laws. We are long overdue for this change in our laws. In realizing that police policy could easily change with the next sheriff, it makes A.B. 396 that much more necessary. Justice, unfortunately, is not always swift, but today we can make this life-enhancing change. We also believe that it is necessary to further clarify some things such as a fleeing suspect versus a fleeing felon as a part of the overall meaningful criminal justice reform.

Today, I speak not only on behalf of our association but for several other community-based organizations such as the National Association for the Advancement of Colored People, Las Vegas Chapter, Roxann McCoy, President; the East Vegas Christian Center, Troy Martinez, Pastor; the Fountain of Hope African Methodist Episcopal Church, Las Vegas, Reverend Gregory Keith McLeod, Pastor; the National Coalition of 100 Black Women, Inc., Las Vegas Chapter, Dr. Sandra Mack, President, just to name a few. We strongly urge you to approve A.B. 396 in an effort to restrict the use of deadly force by peace officers who effect the arrest of persons where no immediate and/or imminent threat of serious bodily harm or death exists for the officer or others. Be advised that this same and similar language is now a part of the majority of states' use of force laws; many introduced as of the horrific events of 2020 and by our addition to A.B. 396, this law gives some teeth to

police policy and affords victims and families of victims a statewide legal redress. Again, we strongly urge the passage of A.B. 396.

Chairman Yeager:
I wanted to ask a question to make sure that the legislative intent was clear. I think it is, but I think it is always helpful to get it on the record. With respect to section 2 of the bill, I read that to mean that if an officer is going to apprehend a fleeing felon, they can still use force to do that but it reads that they can only use deadly force if the person is an imminent threat to themselves or others. This does not prevent officers from using force; it just restricts the times that they can use deadly force to apprehend a fleeing suspect. Is that right?

Assemblywoman Summers-Armstrong:
That is absolutely correct, and it is also in line with the policy adopted by LVMPD in May 2020. They have explicitly laid out the need for de-escalation, and I think that when we talk about imminent, I think that is the key word that directs the entire conversation. If that person has turned around and is threatening with a weapon, we understand that may rise to the occasion, but this is about imminent and is there a threat right now. Yes, Chairman Yeager, you are correct.

Chairman Yeager:
Are there any questions from Committee members?

Assemblywoman Bilbray-Axelrod:
I wanted to clarify what you just said. I think you said an imminent threat of serious bodily harm to the peace officer or to themselves. I think that you said that, and I am confused.

Chairman Yeager:
I might have misspoken.

Assemblywoman Bilbray-Axelrod:
I just wanted to make sure because I know suicide by police happens, but I just wanted to make sure it is peace officer or to others, correct?

Assemblywoman Summers-Armstrong:
You are correct. The text is "peace officer or to others."

Chairman Yeager:
I apologize for misstating that. That is an important distinction to make. We see the effects of a long week already. My apologies for that. Are there any additional questions from the Committee?

Assemblywoman Hansen:
Assembly Bill 3 of the 32nd Special Session passed, and it dealt with several issues regarding the outcomes of the tragedy of Mr. Floyd. In that bill, the chokehold was dealt with and not to use it. I am just curious, I know as I had conversations with the law enforcement

community and particularly in the seven counties that I represent, a lot of them said they were on board with Assembly Bill 3 of the 32nd Special Session because they already do not practice some of the concerns. I am curious about the difference between A.B. 3 of the 32nd Special Session and this bill. What does this expand on?

Assemblywoman Summers-Armstrong:
From my understanding of reading the policy of the Las Vegas Metropolitan Police Department, the banning of the chokehold and discussion about putting folks in positions where they cannot breathe as we have heard many mornings in our sessions, were adopted as restraining techniques and to ban those as restraining techniques once someone is being held. This is mostly for a fleeing person—if someone is trying to get away and how they address that situation in determining, with the word imminent, how they will react to a fleeing suspect who they do not have in near or physical custody and how they address whether they use deadly force or some other level. They have many levels in their policy at LVMPD when they talk about de-escalation and they talk about the levels of force. They lay out in detail these multiple levels, and they also give explanations in this policy on what kind of actions they are taking at each level. This change is two-fold. One to clarify who, and that is peace officers, and then imminent, is it or is it not. I hope that answers your question.

Assemblywoman Hansen:
It did. Thank you very much.

Chairman Yeager:
Assemblywoman Summers-Armstrong, even though you were not here during the special session last summer, that was a very good summary of what Assembly Bill 3 of the 32nd Special Session sought to do and what the difference is between the two bills, so you must have been paying attention during the special session. Are there any additional questions from the Committee?

Assemblyman Orentlicher:
My question is about the connection between sections 1 and 2. I understand why we would want to delete some of the previous grounds for using deadly force out of section 1, but it looks like it is now defined in terms of section 2. In section 2, subsection 2, as you say, adding imminent threat is critical. It states, "Poses an imminent threat of serious bodily harm to the peace officer or to others," but you could have that stand alone. That could be if the suspect poses an imminent threat of serious bodily harm to the peace officers or others, deadly force is justified. But we further narrow that by having committed a felony which involves the infliction or threat of serious bodily harm. I am curious about the purpose of narrowing the category of imminent threats of serious bodily harm, why we would not just want any situation involving an imminent threat of serious bodily harm to peace officer or others.

Assemblywoman Summers-Armstrong:
The word "felony" is a holdover as it has been in this legislation for a long time; I think it was amended in 1993 and the word felony was still in there. My thought would be that they

would not use deadly force on something that would be considered a misdemeanor. You would use the level that it would rise to. It would have to be something that is a felony. I think that in the Nevada Supreme Court, there was a case that drove a lot of this back in the 1990s with someone who went to someone's house and shot someone in the back. They were not a peace officer, but the Supreme Court mentioned "felony." I think that is why that term is used—so that there is a high enough standard for the behavior of the police. If I have that wrong, Chairman Yeager, please correct me.

Assemblyman Orentlicher:
In section 1, subsection 1, one of the things that is deleted is paragraph (d), "protecting against an imminent threat to the life of a person." I am trying to think of examples. Perhaps there is somebody who is, out of a mental illness, brandishing a gun and has not shot anyone yet. Does that rise to the level of felony with just those circumstances? I could see where a police officer might feel that they would have to shoot to protect against harm to the police officer or others by somebody with mental illness brandishing a gun. Are we leaving that out by having the requirement of committing a felony?

Chairman Yeager:
I think some of the confusion is that section 1 of the bill talks about one instance of justifiable homicide, but there are other statutes, namely NRS 200.200, which is the self-defense statute, that would apply more broadly. Those protections would still be in place in terms of someone, whether a peace officer or not, defending themselves or others would be able to avail themselves of NRS 200.200. This one is a more specific, sort of narrow justifiable homicide that applies to peace officers. I think what we are not seeing in the bill is the rest of the self-defense statutes. I think that is why you see the change here; the changes in section 2 required some changes necessarily to NRS 200.140, which is in section 1. I would recommend to Committee members to review NRS 200.200 for the entirety of the self-defense statutes.

Just to bring the conversation back to A.B. 3 of the 32nd Special Session, those of you who were here may remember talk about the chokehold. The chokehold was banned, but you could still use a chokehold if you used it under NRS 200.200 in self-defense of yourself or others. Although it was banned, you would always have the ability to avail yourself of the statutory defense of self-defense. Of course, a jury would make that determination about whether you were justified under that statute. Hopefully, that sheds a little bit of light on the question, Assemblyman Orentlicher.

Are there any other questions from Committee members?

Assemblyman O'Neill:
I am looking at the deleted paragraph (c), in section 1, subsection 3, where "In lawfully suppressing a riot or preserving the peace" has been stricken. I am thinking about an officer being deployed to a riot—which means it is a violent affair that has potential and one could even easily argue imminent threat to the masses of severe injury or death—but the officers, in an attempt to suppress, have deployed such things as bean bags or rubber projectiles that are

skipped off the ground, hit somebody who has a pacemaker, and there is an unintentional death. If I am reading this correctly, it becomes a homicide and the officer is acting in legal authority to suppress. It has been declared a riot, all that has occurred, and I am just having trouble with that. Could either of you help me work through that issue?

Chairman Yeager:
I think it relates to what we just talked about. Section 1 defines when something would be justifiable homicide and when it applies to peace officers or those acting at their direction and refers to section 2. I think in the situation you are talking about, you would still have the self-defense. If there is some kind of incident, whether it be a riot and it is getting threatening to police officers or to others, they would be able to use what is available under NRS 200.200 to defend themselves or others, including with deadly force.

I did not draft the bill, but I think taking this out of the statute, as you see in section 1, sends a message that there might be something going on, but if there is not an imminent threat to yourself or others, you cannot use deadly force on those people unless it would fall under the self-defense that is already in statute. I do not know if that helps, but I think the intent of the language we see is to say, Look, we do not want you using deadly force. Deadly force comes in a lot of means, but we do not want you shooting into a crowd if there is not an imminent threat there to yourself or to others. Police can use other means to get that situation under control, and again, if they are feeling threatened or someone else is being threatened, they could use force under NRS 200.200, and it would likely be justified.

Assemblyman O'Neill:
I appreciate that Chairman Yeager, I truly do. I guess I am having a problem, having been in several riots. I am just thinking of using rubber projectiles skipped off the ground, normally concrete or asphalt. I just feel that it is too limiting; I guess that is what I am saying. I agree with you. I have never seen a case of indiscriminate shooting into crowds with firearms. I have never seen that nor heard of one. But I am thinking of what we like to say is less than lethal, but people have argued, Well those projectiles, rubber bullets, or bean bags come out at such a speed and with impact can cause and should be considered as use of deadly force. That is just what I am having trouble coming to grips with. I appreciate the explanation, Chairman Yeager. I will try to digest and mull this over a little more.

Chairman Yeager:
I know we are all busy, but I do think it would be helpful to check out NRS 200.200 if you have a chance. I think that would help a little bit on generally the self-defense laws as they apply in our statute as well.

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

Holly Welborn, Policy Director, American Civil Liberties Union of Nevada:
We are in support of A.B. 396. It is well past time that Nevada improve their justifiable homicide statute as it pertains to law enforcement officers. A study by Bowling Green State

University revealed that approximately 1,000 people are killed by police each year. Between 2005 and 2020, 121 officers have been arrested for murder or manslaughter with 44 convicted, and often of a lesser charge. Approximately 30 percent of those cases involved a victim who was armed. This bill is simple and is not a radical concept to require that an officer only use deadly force when deadly force is used against them. Law enforcement officers are state actors. It should not be the public policy of the state to resort to deadly force without heightened justification. For these reasons, we encourage the Committee's support of this bill.

Kailey Barnett, Private Citizen, Reno, Nevada:
I support A.B. 396. I just want to reiterate justice for Miciah Lee and justice for Thomas Purdy. They were both killed by using deadly force from police officers.

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:
We support A.B. 396. The purpose of police officers should be to protect the safety of the community. When a police officer kills a member of the community, that is inherently in tension with that goal. This may be legitimately justifiable when a police officer kills one member of the community to protect other members of the community, including the police officer themselves. But Nevada's statute is much broader than that. It allows police to kill people in order to stop them from fleeing or "in the discharge of a legal duty" [NRS 200.140] among other permissions. There is no requirement in statute that the person actually be a danger to the community. Police have wide discretion to kill whomever they want. This kind of discretion does not do a good job of protecting public safety or protecting the community. Nevada Attorneys for Criminal Justice believes that deadly force should only be a response that is allowed in response to other deadly force and for no other reason. Therefore, we support this bill.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:
I am calling in support of the bill. My brother was 38 years old, he was not a threat nor an imminent threat to any officer, nor did he assault any officer. We think of guns as deadly force, but the torture devices like the hobble or restraint chair become deadly. I have been watching the George Floyd trial and the officers testified that restraints such as the hobble are a higher level of force used against people. Perhaps my brother would still be alive and somebody would be held accountable for his death. Please pass this bill.

William Pregman, Communications Director, Battle Born Progress:
We are in strong support of A.B. 396. We commend the Committee for bringing this bill to tighten the protocols for the use of force by law enforcement officers. It has sadly become too common, but unnecessary and unjustifiable violence is used by some officers as a tactic to instill fear rather than to suppress a legitimate threat to public safety. As we, as a country, reckon with the Derek Chauvin trial, it is a time for serious conversation about use of force policy. Chauvin was not the first nor the only officer to use inappropriate force that resulted in the killing of someone supposedly in their custody. It is imperative that we stop cases like this, and Assembly Bill 396 is a step towards doing that. We thank Assemblywoman Summers-Armstrong for bringing this bill forward, and we ask the Committee to support it.

Nissa Tzun, Private Citizen, Las Vegas, Nevada:
I am here representing the Forced Trajectory Project and the Mass Liberation Project. We are in support of A.B. 396. This bill is incredibly important. While in the text it might seem like an arbitrary amendment, the devil is in the details. In our work where we investigate officer-involved homicides, there have been so many cases where deadly force was used but was completely unwarranted.

There are countless cases of civilians being shot to death when not posing a threat to the officer. For example, Rafael Olivas was having a mental health breakdown and had a knife in his hand when he walked out of his home, but did not wave the knife or even have a chance to interact with law enforcement when they arrived and shot him to death within a few minutes. Erik Scott was killed for simply having a concealed weapon at Costco. Keith Childress, Jr. was killed and clearly he had a cell phone in his hand not a gun. Joseph Justin was killed when the officers who shot him claimed they saw a gun, but no gun was found near or around his body. Tashii Brown was having a mental health breakdown when he was chased by Officer Kenneth Lopera and subsequently punched multiple times, tased several times, then put in a chokehold just like George Floyd. We also have the case of Byron Williams, who was allegedly riding a bicycle without a safety light and was subsequently killed by being crushed to death and losing his breath definitely in the same manner as George Floyd. There are countless other cases. None of these officers have been held accountable. Again, this is a very important bill. Assembly Bill 396 has to be passed because the killing has to stop, and these officers also need to be held accountable.

Kendra G. Bertschy, Deputy Public Defender, Washoe County Public Defender's Office; and representing Clark County Public Defender's Office:
We are here in support of this bill. With the minor language changes that are made in this bill, we do believe that it will have a significant impact, mostly on the trust of our communities. As was stated, this is really an extension of the bills that were passed during the special session, and we appreciate that Assemblywoman Summers-Armstrong was willing to listen to the voices of the communities demanding that more action be taken to ensure transparency and to hold our officers accountable. We want to state that we do believe that there are other defenses that are still in play if an officer is involved in a homicide. We do not believe that this is deleting any defenses, and they would still have the right of using self-defense and other means if it were to go to trial. We do support this legislation and urge the Committee to pass this bill.

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

Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association:
We are in opposition to one single word of A.B. 396, in section 2, subsection 1, the word "and." This requires subsections 1 and 2 before an officer may use deadly force. For instance, you walk out of the legislative building late tonight and are passed by the legislative police officer who keeps you safe while doing your elected duty. As you head outside, an

unknown person comes up behind you and grabs you. The attentive officer who has been making sure you were safe as you walked out, draws their weapon and points it at that person who then sees the officer and says, I will kill her. But the officer cannot see the weapon or determine how this person will kill you. With the "and" language of this bill, the officer must try to determine if that person has merely committed a battery by grabbing you, or has made a threat and has the ability to carry out the threat. In the current language of NRS, the officer can make an immediate determination and rescue you by all force necessary. The word "and" will cause additional delay and require the officer to wait for the situation to escalate, most likely resulting in harm to you in the form of a felony and imminent harm before they can act to save you. Nevada law enforcement wants to keep you safe and save you when necessary. By keeping the word "and" in A.B. 396, you are placing Nevada citizens and visitors and yourself in additional harm. "And" is a problem in this bill.

A.J. Delap, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:
We are in opposition to A.B. 396. However, it is more of a technical opposition and we feel with clarification, our concerns could be mitigated. Specifically, I would like to draw the Committee's attention to section 1, and the deleted subsection 3, paragraph (d) of the bill where you will find that the sentence "In protecting against an imminent threat to life of a person" has been deleted. The Las Vegas Metropolitan Police Department would like clarification that peace officers would still have the same rights as citizens in self-defense and defense of others if there is an imminent threat of serious bodily injury.

Furthermore, we ask for clarification in the other deleted circumstances found in section 1, subsection 3, paragraphs (a) and (b), that if a person presents an imminent threat of serious bodily injury, the peace officer should be able to defend themselves or others under any of those circumstances deleted by this measure as well.

Finally, I have concerns regarding section 2, subsection 1, by the insertion of the word "and" and the striking of the word "or." The parameters described within this section seem to limit a peace officer's ability to react to circumstances involving imminent threat of serious bodily harm to only circumstances involving certain felony crimes. In essence, a peace officer's ability to defend oneself or others could be reduced in circumstances involving escape specifically.

Chairman Yeager:
I will note the discussion on the record about the use of self-defense under other sections of the NRS, and I do believe that those are applicable generally to everybody. They do not exclude peace officers. I will just say for the record, I think those statutes do apply. I do not think there are any exclusions in those statutes as long as you meet the qualifications. Is there anyone else who would like to testify in opposition?

Jennifer P. Noble, Chief Deputy District Attorney, Legislative Liaison, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:
I want to begin by informing the Committee that the National District Attorneys Association, of which I am a member, has publicly condemned and continues to condemn the killing of George Floyd and the actions taken as Mr. Floyd begged for his life and called for his mother as an officer's knee was jammed into his neck. We certainly appreciate the intent of this bill, and we do not object to the concept that imminent threat should be in play before an officer uses potentially deadly force.

Our primary concern is with section 2, subsections 1 and 2, which Assemblymen Orentlicher and O'Neill touched upon wherein use of the word "and" appears to potentially prevent an officer from reacting to an imminent threat of serious bodily harm if the person has not committed a felony that falls within the narrow parameters of section 1. Police officers should be able to defend themselves and others whenever there is an imminent threat of bodily harm regardless of the type of crime that may have brought them on scene.

As Chairman Yeager mentioned, NRS 200.200 is our self-defense statute, and we think that perhaps a fix might be specific incorporation by reference to that statute to make clear that this bill does not operate to apply a different standard of self-defense to police officers than to any other member of the community.

Chairman Yeager:
Again, I will note for the record that section 2 talks about preventing an escape, and that is when this would apply to peace officers. If someone is an imminent threat to you or somebody else, anybody can use deadly force. That is a statute that applies to all human beings who live in this state and operate in this state. Again, I just want to make sure that that is clear on the record that section 2 is speaking to a very limited situation when a peace officer is trying to prevent an escape. Just for sake of clarity, I wanted to mention that one more time. Is there anyone else who would like to testify in opposition?

Sandra F. Mack, President, National Coalition of 100 Black Women, Inc., Las Vegas Chapter:
I am in support of A.B. 396.

Chairman Yeager:
We are currently in opposition testimony, but I will close opposition testimony and reopen support testimony.

Sandra Mack:
I am in support of A.B. 396. The members of the National Coalition of 100 Black Women, not unlike the nation, have observed a significant and consistent increase in inappropriate police contact with Black women and girls like in the cases of Sandra Bland and, more recently, Breonna Taylor. The members of the Coalition find excessive force in police engagement unacceptable. The Coalition does not believe that all law enforcement personnel

commit such egregious acts; however, the absence of and nonenforcement of such a community policing model increases the likelihood of adverse incidents of violent acts by the police.

The Coalition believes that culturally competent, trauma-informed, and gender-responsive elements in the police training are essential to effective police engagement and a victimless community policing model. The Coalition believes the problem with police engagement today is systemic and requires sweeping universal policies and protocols to stop any further injury or death of Black women and girls in particular. The members of the Coalition across the country request a comprehensive review of current law enforcement practices and that there be universal protocol development and, as needed, applicable laws or promulgation of new laws be enacted to ensure safety, appropriate arrest, and due process be afforded every accused person.

These said members will request that the members of this Committee implement this bill and retool, including but not limited to the following: protocols for handling arrests of women; use of force; excessive force during the arrest process; use of inflammatory and provocative language pre- and post-arrest; use of surveillance including body camera and dash cameras at the time of car stops and arrests; and conducting ongoing post-traumatic stress disorder assessments post-critical incidents to determine real-time fitness for duty and who gets the calls to respond. The use of deadly force requires your attention. I support A.B. 396, and I thank you for your attention.

Chairman Yeager:
I will close support testimony. Is there anyone else who would like to provide opposition testimony? [There was no one.] Is there anyone who would like to testify in the neutral position?

Brian E. Williams, Sr., Deputy Director, Operations, Department of Corrections:
I just wanted to chime in briefly to humbly request that the Committee consider amending A.B. 396 for correctional facilities to include offenders attempting to escape from a medium or maximum security facility.

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

Troyce Krumme, Vice Chairman, Las Vegas Metro Police Managers and Supervisors Association:
I was trying to get in the queue for opposition but did not get queued in time.

Chairman Yeager:
I will close neutral testimony. Is there anyone else who would like to provide opposition testimony?

Troyce Krumme:
I am in opposition to A.B. 396. My opposition stands in the confusion of the bill. There are a lot of questions within section 1 that have been struck out that I believe the representative from Metro pointed out. Additionally, Mr. Spratley pointed out the problematic use of the word "and" in section 2. Further opposition of this bill is when law enforcement officers are out there working, I believe the use of force laws and specifically the most important in the areas of deadly force need to be clear for the officers who are implementing those and the agencies that are training and tasked with overseeing them. I would like this bill to be amended so that it becomes clear and allows for the law enforcement community's input so that there is a clear understanding of the laws expected of them going forward.

Chairman Yeager:
I will close opposition testimony. Is there anyone who would like to provide neutral testimony? [There was no one.] I would invite the presenter back up for any concluding remarks.

Assemblywoman Summers-Armstrong:
I cannot tell you how much I appreciate your listening today. I respect this Committee so much and the hard work that you do. The consideration you give to so many different topics and how well you listen and engage and challenge those of us who come before you. It is greatly appreciated, and I know that our communities appreciate it too.

This is a simple change to legislation that could have a huge effect. We all know what has been going on the last year, but many of us who are members of the African-American and other communities of color understand what has been going on for much longer. We are hopeful that this change will be able to bring some clarity and trust into our relationships with law enforcement.

I would like to just take a moment to reply to the example that was given by Mr. Spratley. We have built, I think, a very good relationship with the officers here at the Legislature, and I am sure that if someone came into the door and put their arm around my neck and threatened my life, that would apply to both section 2, subsection 1, with serious bodily harm because they could choke me out and imminent threat because it is happening right then. There really is not an issue with the "and." It is clear and a reasonable person would understand and be able to make a good decision based upon those facts.

What we are trying, in this language, to guard against is just overzealousness, maybe misunderstanding or ignorance, by clarifying what this is supposed to be, which is imminent. We hope that the Committee understands the purpose and the intent and sees the need for this language change. I appreciate your time today.

William Ishman:
I personally do not believe the "and" is an issue, and actually I think it is a good thing as the gentleman stated. If we could give an officer an extra second just to be sure of the action that they are taking, I think it is a good thing for all involved. That is something that I believe in.

Coming from New York, which was a long time ago, when first we sought cover, I believe that always gave you that extra second or two to determine what level of force that you need. Maybe as we go forward, police training may take a look at that and go back and borrow something from the days of old where you got that cover and an opportunity to actually assess the problem that a police officer might be facing. I strongly urge the passage of A.B. 396 and believe that this is in line to be good for everyone—no advantage for the public or for the police department.

Chairman Yeager:
I will close the hearing on A.B. 396. I will open it up for public comment.

Annemarie Grant, Private Citizen, Quincy, Massachusetts:
Please support bills that promote transparency and accountability. Do it for families like myself, for Jorge Gomez's family, for Byron Williams' family, Niko Smith, Justin Thompson, Kyle Zimbelman, and all 395 people killed through the year 2000 during interactions with police in Nevada.

Erienne Overli, Private Citizen, Reno, Nevada:
I wanted to briefly state my support for this bill. I think that when we are dealing with human lives, we have to be taking everything we can to make sure that we are making the right decisions. Including the word "imminent" is really important and necessary in this bill.

Jamie Stetson, Private Citizen, Reno, Nevada:
I want to make sure that our lawmakers understand and are hearing the public wants more police accountability in our communities. Again, repeating another caller, when human lives are concerned, we need to make sure that we are right and that we are doing the right thing. Our police officers deserve more clarity in our law and they deserve to have absolute clarity in terms of what use of force means, what does that mean, when is it necessary, how should that happen, and any legislation that creates more training for the officers in our community is going to be good for our community and it is going to be good for those officers as well. My hope is that over time our Legislature implements more and more uniform laws across counties and across police departments that help our officers do their job and ensure that our community is safe from the people who are supposed to protect us. Because right now, that is not what it looks like to those who are living in our communities. I do not feel safe with the police presence in our community, and I know lots of other people do not either. My hope is that these concerns are taken very seriously and that the loss of life in our community at the hands of police can stop unless it is absolutely necessary. In many cases, it does not seem like that is what is happening. Our police need better training, better clarity in the law, and direction from our legislation.

Chairman Yeager:
Is there anyone else who would like to provide public comment? [There was no one.] At this time, we will move into a work session of Assembly Bill 396, and I would take a motion to do pass A.B. 396.

> ASSEMBLYWOMAN GONZÁLEZ MOVED TO DO PASS ASSEMBLY BILL 396.
>
> ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Hansen:
Things are moving a little too fast. I wish this bill would have come up a lot sooner in the session. I was a yes in the summer on A.B. 3 of the 32nd Special Session, but I cannot be a yes yet on this bill. There are still some things to work out. I certainly understand the intent and support it, but there are too many things to work through right now, but maybe by the time it comes to the floor.

Assemblyman O'Neill:
I will be a no vote mainly because of the one part of section 2, subsection 1, with the word "and." I just cannot get there from personal experience. I can live with the one part that was talked about earlier on redacting the suppressing of a riot, but the word "and" is just too difficult and cumbersome upon a law enforcement officer to deal with. To me it has to be "or."

Assemblywoman Krasner:
I support the intent of this bill, but I am going to have to vote no until that amendment is worked out. I certainly hope that we can all come to agreement because I would really like to support the bill.

Assemblywoman Hardy:
I will agree with the comments of my previous colleagues. I agree with the intent of this bill, but I just have some concerns with the opposition with that one word so I will be a no right now.

Chairman Yeager:
Is there any further discussion on the motion? [There was none.] Assemblyman Wheeler does not have any discussion. This is a strange day. I thought for sure you would have some discussion today.

Assemblyman Wheeler:
Okay, Chairman Yeager, ditto.

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

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

I will assign the floor statement to Assemblywoman Summers-Armstrong. Are there any questions or comments from the Committee? [There were none.] One thing I wanted to say, Committee, before we talk about tomorrow is that I really appreciate the last couple of weeks and all of you being willing to be here at 8 a.m. and get through these bills. It has put us in a pretty good place for the rest of today and tomorrow.

We had an agenda go out midway through the meeting. The good news is we are not going to be meeting until 9 a.m. tomorrow. The agenda out now has eight bills on work session. I will say for members of the Committee and the public, there will be bills added to the work session. We started with the ones that I know are ready. Throughout the day there will probably be a couple of revised agendas adding work session bills. If there is a bill you care a lot about and it is not on there yet, it does not mean it is not going to make it; it just means we are still trying to work some things out. We will get that work session document out to you as soon as we can. If you have a bill that you are hoping to work session tomorrow or you have been told it is going to be on work session and we are still waiting on that amendment, we need that amendment as soon as possible to make sure we can get through the work session timely tomorrow morning. My hope is that we can get through the work session in a couple of hours tomorrow and then hopefully move on with the rest of the day.

The meeting is adjourned [at 10:52 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 a proposed amendment to Assembly Bill 405, presented by Matthew McCorkle, Private Citizen, Las Vegas, Nevada.

Exhibit D is a proposed amendment to Assembly Bill 405, presented by Erica Adler, Private Citizen, Las Vegas, Nevada.

Exhibit E is a proposed amendment to Assembly Bill 405, presented by Tanner Britton, Private Citizen, Las Vegas, Nevada.

Exhibit F is a proposed amendment to Assembly Bill 296, submitted and presented by Assemblywoman Rochelle T. Nguyen, Assembly District No. 10.