

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session  
February 23, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Tuesday, February 23, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Melanie Scheible, Chair  
Senator Nicole J. Cannizzaro, Vice Chair  
Senator James Ohrenschall  
Senator Dallas Harris  
Senator James A. Settelmeyer  
Senator Ira Hansen  
Senator Keith F. Pickard

**GUEST LEGISLATORS PRESENT:**

Senator Ben Kieckhefer, Senatorial District No. 16

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Sally Ramm, Committee Secretary

**OTHERS PRESENT:**

Jennifer Noble, Washoe County District Attorney's Office  
Matthew Lee, Washoe County District Attorney's Office  
Todd Ingalsbee, President, Professional Fire Fighters of Nevada  
Will Adler, Pyramid Lake Paiute Tribe  
Dale Way, Deputy Fire Chief, Truckee Meadows Fire Protection District  
David Westbrook, Nevada Attorneys for Criminal Justice  
Vinny Spotleson  
Nick Shepack, American Civil Liberties Union of Nevada  
John Piro, Clark County Public Defender's Office

Kendra Bertschy, Washoe County Public Defender's Office

CHAIR SCHEIBLE:

I will open the hearing on Senate Bill (S.B.) 113.

I will limit testimony on the bill and each position to ten minutes to allow the Committee ample time to ask questions of the presenters and subject matter experts. Anyone intending to testify today may submit written comments. Each person will have two minutes to testify; you may also simply state you agree with a former testifier. When the hearing is concluded, there will be time for public comment. To submit written testimony during or after the meeting, the email address is [SenJUD@sen.state.nv.us](mailto:SenJUD@sen.state.nv.us).

**SENATE BILL 113**: Makes various changes relating to arson. (BDR 15-587)

SENATOR BEN KIECKHEFER (Senatorial District No. 16):

This bill is about the criminal intent element of arson. Wildfires have long been a growing problem in Nevada and throughout many areas of the United States. The area burned by wildfires in this Country has quadrupled over the past 40 years, and while there are a lot of reasons for that, at least half of that increase is generally attributable to climate change. Higher temperatures and decreased precipitation have made these potential deadly events even more problematic in recent years.

We have felt them acutely here in Nevada, particularly in my District. Unfortunately, some of these fires are the result of people violating the law by intentionally lighting incendiary devices in our dry brushy landscape and then not alerting authorities to the growing blaze with sometimes devastating results. People can lose their homes or even their lives. Forests, vegetation and wildlife suffer lasting impact. Firefighters risk their lives and millions of dollars are spent in fire suppression efforts. Recent federal firefighting expenditures have averaged \$3 billion a year.

In 2018, individuals used illegal fireworks in a dry brushy area, and once a fire started, they fled the scene not calling for help. The resulting blaze consumed approximately 51,000 acres near Pyramid Highway and affected areas owned by the University of Nevada, Reno, the Bureau of Land Management, Pyramid Lake Paiute Tribe and private citizens. More than 300 firefighters battled the blaze. Two homes and 15 structures were lost while several vehicles were

damaged or destroyed. Costs associated with the suppression of the Perry Fire, as it was called, were approximately \$4.8 million, which fell on the shoulders of Nevada taxpayers. That estimate does not include costs incurred by home and landowners.

Recently, as part of the prosecution of this case, the Nevada Supreme Court opined that our statutory structure requires that to prove any degree of arson, the State must prove that the arsonist had an evil intent to harm or injure. The goal of this bill is to change Nevada's required criminal intent for arson to be consistent with some common laws and laws of many other jurisdictions. To satisfy the intent elements, the State would have to show that the arsonist intended to do a wrongful act in starting the fire. This change would be consistent with many other states including our neighbor to the west, California, and New Mexico, Oklahoma, Michigan, Mississippi, Florida and others. This bill would seek to increase the penalties for the separate crime of destroying timber, crops and vegetation under *Nevada Revised Statutes* (NRS) 475.040, and it increases the penalty depending upon the amount of damage done to the land.

I represent North Shore, Lake Tahoe, much of Mount Rose and the Mount Rose Highway, and I am afraid that it is all going to burn. This would result in damage that we would not be able to quantify easily but billions of dollars would be lost and could never be recovered. Almost equally important, the ecological damage done to Lake Tahoe through the ash and soot draining into the lake would reverse decades of efforts to maintain lake clarity. This bill is appropriate to deter actions that can lead to catastrophic wildfire for our State, our region and our natural environment and cause massive damage.

JENNIFER NOBLE (Washoe County District Attorney's Office):

I also represent the Nevada District Attorneys Association. With me to help present the changes that we are seeking to make to NRS is Matthew Lee, a Chief Deputy District Attorney in our office. He prosecutes in the area of arson among other areas.

Section 1 of this bill intends to change the intent element of arson in Nevada to be consistent with the common law. Jurisdictions are split on this issue. There are a number of states, as Senator Kieckhefer just mentioned, that follow a common law general intent requirement for arson. In Nevada, we do not have a lot of case law on this issue in reference to our statutes, which are similar to California's but not identical. In a recent case, *State v. Second Judicial District*

*Court, in and for County of Washoe*, 136 Nev. 191 (2020), the Court clarified that to prove the fire was set willfully and maliciously, we have to show at the time the person ignited the match and had an "evil intent to do harm or injure." This is a high burden to meet from an intent perspective. Our first goal is to change that specific intent to conform to the jurisdictions mentioned above in addition to South Carolina, Vermont, West Virginia and Louisiana.

Section 1 also states the definition of malice only as it applies to the crime of arson, not to any other Nevada statute. "To vex, annoy or injure another person or an intent to do a wrongful act" has been added to the statute. That language is taken from a specific California case.

Section 2 adjusts NRS 475.040 to include the destruction of structures, not only vegetation, but also to adjust the value elements and the felony severity to be consistent with the property value amendments that were approved by the Legislature in A.B. No. 236 of the 80th Session. The felony levels were adjusted to be commensurate with the property crimes. In some instances, because the penalty is now set at \$5,000, a person who commits this type of crime might be facing a lesser felony depending on the value of the property destroyed.

In S.B. 113 section 2, it is a Category B felony if the property value loss is \$25,000 or more—the penalty is imprisonment of 1 to 6 years and a fine of up to \$5,000; it is a Category C felony if the property value loss is \$5,000 to \$25,000; it is a Category D felony if the property value loss is \$1,200 to \$5,000 or less; and it is a misdemeanor if the value of the property loss is less than \$1,200.

This legislation would not change the eligibility of persons charged with arson to enter diversion courts, mental health court and drug court, whatever might be appropriate. We know often arson cases are connected to a person with a mental health condition that must be addressed. However, there are people who set fire to our lands, engage in irresponsible conduct that they should know would result in the type of devastation that was described earlier and they do not have a mental health issue. Changing the intent element helps get people into diversion court who need it and helps us hold accountable in a jury trial those people who certainly engage in irresponsible conduct without any sort of excuse or mitigating circumstance.

SENATOR HARRIS:

Why does the term "property" not include structure? Regarding the new categorization of felonies that we are implementing here, why did we make the choice to delineate the new punishments here as opposed to amending NRS 193.155 and keeping that reference?

Ms. NOBLE:

We included the word "structure" which would be a shed or something on the property. As interpreted, the law covers just the land itself because that statute specifically is talking about timber, crops and vegetation. That was the reason for the addition of structures. Additionally, the structures are part of the cost associated with the damage that is caused by arson.

Secondly, structure was included in the bill because burning structures is a crime that destroys property and should be analogized to other property crimes like stolen property, destruction of property, check-related crimes and things that were included in A.B. No. 236 of the 80th Session.

SENATOR HARRIS:

*Nevada Revised Statutes* 193.155 is all about the penalties for public offenses proportional to the value of property affected, so you may want to consider making amendments to that statute. We have lost the ability with this bill to fine anyone when the loss is under \$25,000, and we drop straight to a misdemeanor, eliminating the option of a gross misdemeanor. The category of the crime goes from a misdemeanor straight to a Category D felony. I encourage you to think about putting an intermediate step in between there.

SENATOR SETTELMAYER:

I know there are several situations in northern Nevada sadly where people's careless, reckless actions are causing fires and there is no ability to hold them accountable because the courts rule in their favor. I agree with my colleague about an intermediate step between the misdemeanor and the felony because there is not much variance there. We are not giving the Judicial Department many options in that respect.

I want to talk more about the definition of "malice." In reading *Black's Law Dictionary*, it seems that we could go with the reckless disregard of the law or of a person's legal rights. Would that be simpler terminology rather than getting into the discussion of vexing, annoying or injuring another person? Where did

the definition of "maliciously" in this bill come from? What state did you borrow that from or what thought process went into it?

MS. NOBLE:

The language was taken from *People v. Atkins*, 25 Cal.4th 76 (2001) which is a California case. The same definition can be found in other places in California law. Essentially the Court ruled that as the Nevada statute is written, we have to show specifically an evil intent. That is something that can be difficult to do with the circumstances we have. The *Black's Law Dictionary* definition is one to look at, but in looking at all the common law jurisdictions that I was able to research, the definitions were similar in the common law jurisdictions where this is a general intent crime. That is why this specific language was selected with respect to the intent element.

SENATOR SETTELMAYER:

There might be a little better definition of "maliciously."

SENATOR HANSEN:

The evil intent, in this case the Perry Fire, happened in my District. I do not know how this guy was prosecuted, but if somebody is reckless and irresponsible with fireworks, should it be considered evil? What we are doing here is going back and saying if we were to have a better, broader definition, we could convict this guy. What was he charged for and what penalties did he pay for his reckless use of fireworks?

MS. NOBLE:

The decision in *State v. Second Judicial District Court in and for the County of Washoe*, 136 Nev.191 (2020), was actually an interlocutory appeal on Mr. Radonski's case explaining what evil intent meant. Evil intent is not intentionally doing something reckless or stupid that caused all the damage; something that the defendant knew he was not supposed to be doing but did it anyway. That would not necessarily fit the evil intent element, and it is tougher to prove that to a jury. However, it is my understanding that case is still pending.

SENATOR HANSEN:

If we are going to change the statute based on this one case, I want to know what the actual outcome was.

MATTHEW LEE (Washoe County District Attorney's Office):

That case is still pending so I do not want to get into too many details, but Mr. Radonski was charged with two counts of first degree arson, a count of third degree arson, another count of third degree arson and then lastly the gross negligence which we see in NRS 475, which is a part of this bill.

The court decision requiring that evil intent as defined by NRS 205 hurts future efforts to prosecute this type of case. The definition of malice we have now as defined by the court requires us to show that the intent was not to be careless or reckless but actually to cause the harm by the resulting fire. It is not enough to say he was lighting firecrackers under these terrible conditions. We would have to show he intended to actually cause a fire like the Perry Fire.

SENATOR HANSEN:

The way it is currently structured seems reasonable to me. The guy did not have evil intent. He was irresponsible. Let me ask a hypothetical that one of our colleagues mentioned earlier: what if there is a catalytic converter on your car that is known to be malfunctioning and the car is driven through cheat grass and causes a fire. It was known in advance that there was something wrong with the car. Could that be considered evil intent if we pass this law?

Ms. NOBLE:

No, I do not think so.

SENATOR HANSEN:

I just wanted to make sure. The firecracker example to me is careless and irresponsible causing remarkable degrees of damage, but to consider it evil intent makes me uncomfortable.

Ms. NOBLE:

We are trying to not characterize that as malicious. To hold somebody responsible under any degree of arson, evil intent is what the court requires. We are trying to move from that specific intent requirement to a more general intent requirement used by the other jurisdictions, making it easier to hold people responsible when they are involved in catastrophic arson events like the Perry Fire.

SENATOR OHRENSCHALL:

Fellow was out target shooting. I do not know if it was legal or illegal, but for the purposes of argument, he had been illegally target shooting and caused a fire. He had not intended to cause a fire on any land. With the law and the penalties, the court can still order restitution for whatever damage that does. Is that correct?

MS. NOBLE:

That is correct. However, for the crime of arson, there has to be some sort of incendiary involved.

MR. LEE:

Target shooting legally or illegally sometimes creates a spark that can start a fire. I cannot imagine how I could make that an arson case. The recoupment of costs for the suppression efforts and investigation are only available under NRS 205.034 for arson charges. So, someone target shooting who causes a fire and depending on how that person is charged—such as failure to extinguish a fire which is a misdemeanor—there may be restitution for damage done but certainly not to recoup suppression and investigation costs. Oftentimes those are the larger costs than even homes burning down.

SENATOR PICKARD:

We are heading in the right direction if we are trying to hold people accountable for catastrophic loss due to idiotic behavior even if they do not intend to burn somebody's house down. If they should have known that lighting a fire in a particular area is likely to result in that sort of destruction, we ought to hold them accountable.

I am perplexed as I read NRS 193.0175. This language was listed right from our statute on malice because it says malice and maliciously import an evil intent, wish or design to vex, annoy or injure another person. All this bill is intended to do is remove the evil intent piece which is what the court was focusing on. In fact, the court said that they agree that the State lacks an adequate remedy on this case. My concern is changing the definition of maliciousness to apply to all arson. The crime of arson is different from a property crime to the extent that arson has an intent to do damage to someone's home and is a more serious crime than destruction of private property. Will this change make arson a more inclusive crime now we are moving from its specific intent to burn somebody's house to a careless act where they should have known that it would result in



the destruction? Does this significantly broaden the scope of who is now going to be caught up in this net?

Ms. NOBLE:

Part of the definition of "malicious" talks about a wish to vex, annoy or injure another person in Nevada. There is also the evil intent that is required by the court as it interprets our statutes. The term "maliciously" is used in a lot of the common law states, but it has a somewhat different meaning. We still have to show that they were trying to annoy, vex or injure another person. For example: I am going to intentionally set a fire in a neighbor's yard and make him mad. This bill changes the definition to include an intention to do a wrongful, or unlawful, act. Or, I have fireworks and I know that I am not supposed to light them right here, I know that is against the law, but I am going to do it anyway. My actions cause 15,000 acres worth of damage. To incentivize people to stop engaging in this type of behavior, this change to the law is necessary.

SENATOR PICKARD:

The better approach might be to enhance or create a new statute regarding this rather than make all arson more inclusive, particularly since we are talking about putting people away for a long time. I think that might be excessive.

SENATOR CANNIZZARO:

We would typically define or have to prove malicious intent versus how we would do that under this bill including to vex, annoy or injure another person and have the intent to do a wrongful act. Does evil intent pertain to the specific intent to cause the harm that results?

Ms. NOBLE:

Yes. That is my understanding.

SENATOR CANNIZZARO:

If we are removing evil intent, I think the hesitation is that if someone was doing something that the person never intended to cause harm, but harm was the result, we are adding to the punishment. Can you talk about what it would mean from a practical circumstance to remove something like needing to show evil intent?

Ms. NOBLE:

Our intention with this bill: if a catalytic converter or a generator stops operating normally, something could happen and accidentally there is a catastrophic fire. This was not done intentionally. However, this can be compared to the situation faced in court with the driving under the influence (DUI) statute.

For example, when people drive under the influence of alcohol, they know that this is illegal. The consequence for that crime could vary because they could get lucky, return home and not kill anybody. They could get pulled over, not kill anybody and be charged with a misdemeanor, or they could kill a family of four and now they are looking at a felony DUI causing death charge. The important part is they made that first decision, to violate a law, to do a wrongful act, and the consequences could vary but the reason we treat the crime that way is because we know of the potential consequence.

As we are discussing S.B. 113, it is okay to look at different ways to word it, but requiring the State to prove a specific evil intent when we are trying to protect our community and our lands from this type of behavior that has catastrophic effects should be changed. When people are violating the law with no regard for the consequences and not even trying to ameliorate anything by calling 911, they should be held accountable. It should be easier for us to prove arson at trial.

SENATOR CANNIZZARO:

Would this allow for prosecution for accidental incidents, or would it require an illegal act?

Ms. NOBLE:

In drafting the language it was meant to be an act that violates the law. California uses the phrase "wrongful act." I think that an "illegal act" can also be used, something that violates the law. We want to get away from something that is a complete accident where there was no wrongdoing on the part of the person.

SENATOR CANNIZZARO:

What we are trying to get at is whether to punish something that was accidental, but the way that I read this, it would expand liability for people who are engaging in an illegal act that causes a fire.

MS. NOBLE:  
That is correct.

SENATOR OHRENSCHALL:

Historically, when we have looked at increasing or enhancing penalties, we have not always been able to take that route to solve societal problems. I am concerned about expanding this net and having more people punished as felons who did not have the intent to cause a fire. One scenario that was broached to me before the hearing was if someone buys an illegal firework and shoots it off, and it hits my shed and the shed catches fire and burns down, they would be treated the same as someone who poured gasoline on the shed and lit a match because they wanted to burn it down. The way the bill is written, both people would be treated the same. The one person obviously broke the law lighting an illegal firework but probably did not intend to cause a fire, whereas the other one did intend to cause a fire and burn down the property. That is the concern that I have. I hope that the District Attorney's office will work with all the other interested stakeholders and look at common ground.

CHAIR SCHEIBLE:

I appreciate that we are facing problems with fires that are started by bad actors who are not necessarily doing something intentional but are wrongful nonetheless. I understand why we would want to change from a specific intent crime to a general intent crime. My question stems around the mechanism that you have chosen, because if I understand it correctly, basically there are a number of different ways we could make arson a general intent crime. The strategy or mechanism that this bill takes is to keep the word "maliciously" in the statute in NRS 205.010 through NRS 205.025, keep "maliciously" exactly where it is and then add this definition of maliciously that includes the intent to do any other wrongful act. I have a series of three questions that seem to me to be less cumbersome ways to do the same thing.

First, why not utilize the language that is used in the breaking and entering or tampering with a motor vehicle statute NRS 206.310 which uses "willfully or malicious" instead of "willfully and malicious"?

MS. NOBLE:

In reviewing the Radonski case and court jurisprudence, that might be an option to get us to the same spot in a way that makes more sense to the Committee.

CHAIR SCHEIBLE:

Why are we using the term "wrongful" instead of "unlawful" either in the definition or in NRS 205.010 through NRS 205.025—"a person who willfully or unlawfully sets fire to" and then continue the statute. I think that would also create a general intent crime without having definitions of malicious that are different for fire setting versus slashing tires of a car versus placing graffiti on an electric box. Those are other places I think we use the term malicious. Am I missing something with "willfully or unlawfully sets fire"?

Ms. NOBLE:

I do not think you are missing anything. In looking up this language, the intent was to take it straight from the other common law jurisdictions. It sounds like there may be more than one way to thread that needle, so if you want to take the word malicious out of it altogether and change it to willfully or unlawfully, that may get us toward our goal of holding people more accountable in these instances.

TODD INGALSBEE (President, Professional Fire Fighters of Nevada):

We support S.B. 113. We have seen the impact of these fires over the past few years firsthand. As we increase our urban interface and more people are calling these areas home, the risks are becoming even more dangerous and the costs greater. These fires have huge economic and environmental impacts, and our members have seen firsthand the devastation and destruction fires leave behind. Our members have also lost brother and sister firefighters while fighting these fires. This bill could close some existing loopholes in our current statutes.

WILL ADLER (Pyramid Lake Paiute Tribe):

The Pyramid Lake Paiute Tribe wishes to speak in support of S.B. 113. Pyramid Lake Tribe suffered many structures lost and thousands of acres burned in the Perry Fire mentioned earlier. Through S.B. 113, arson should be addressed as the crime that it is. Please support S.B. 113 to re-establish arson as a viable and chargeable crime in the State of Nevada. With that as a deterrent to arson, the Tribe believes that Nevada will have the proper deterrence to prevent future reckless acts of fire in our State. Because of the Tribe's personal participation in the Perry Fire and the losses they had there, it was a personal issue to them when the court case decided to require evil intent. Hearing the arguments today, I do not think the Tribe would ask for a felony or some other misdemeanor or gross misdemeanor, but it does have to be a crime that is

chargeable in the State that can be applied to somebody who did create a mass destruction act of arson.

DALE WAY (Deputy Fire Chief, Truckee Meadows Fire Protection District):

The Perry Fire occurred within the Truckee Meadows Fire Protection District (TMFPD) and that is one of the reasons that we are in support of this bill, as it more clearly defines the intent of what is malicious. Some of the testimony that was heard of changing wording to willful or unlawful is also another potential avenue for this. For TMFPD, one of the things we discussed is that we would like to see section 2, subsection 4 be amended to gross misdemeanor rather than a misdemeanor because this is for an act of gross negligence.

DAVID WESTBROOK (Nevada Attorneys for Criminal Justice):

Nevada Attorneys for Criminal Justice (NACJ) opposes S.B. 113 because it would needlessly expand criminal liability under Nevada's arson statutes and treat people with innocent motives as though they had malicious, criminal intent, as noted in the NACJ Opposition Statement ([Exhibit B](#)). Fire is unpredictable. It can be set by accident and spread rapidly, which is why our arson statutes were carefully written to require specific intent. The statute criminalizes the willful and malicious burning of property because lawmakers recognized that there is a difference between a person who burns down their house because he forgot a pot on the stove and a person who torches their own house for the insurance money. In short, there can be no accidental arsonist, but S.B. 113 would change that and, like the Perry Fire itself, the result would be unintentionally devastating.

If S.B. 113 passes, it will effectively criminalize unintentional and even unforeseeable acts that result in fire. It will do this by allowing prosecutors to use misdemeanor statutes like laws against littering or creating a public nuisance as a basis to charge felony arson. A tourist who did not grow up in this area who accidentally let a campfire get out of control could receive the same felony charge as a real arsonist who dowses the campsite in gasoline because he wants to watch the forest burn. The catalytic converter point made earlier was a great example. If failing to fix that car falls under any misdemeanor statute, even traffic, then the driver can be charged with felony arson under S.B. 113. So can the guy shooting in the desert. It is "any wrongful act" that is the danger. None of us want to see a tragedy like the Perry Fire, but broadening our criminal laws and creating harsher prison sentences will do nothing to prevent them.

VINNY SPOTLESON:

I am calling in opposition to this bill as an environmentalist. I am worried that this will not actually prevent any fires because the people who do this stuff do not follow the Legislature or changes in NRS. What would actually help prevent these fires from getting catastrophic is more funding for the Division of Forestry to remove invasive weeds and grasses that spread fires and to continue fighting climate change, like reducing our reliance on fossil fuels for transportation and electricity. When you increase authoritarian government, it will increase fines and jail time for people who cannot pay those fines and it does not solve the problem of the actual wildfires, which is what we are trying to do. This bill just changes the law and increases the penalties.

NICK SHEPACK (American Civil Liberties Union of Nevada):

We stand with our colleagues from the defense bar and echo their opposition. The policy in the State has been to move away from arbitrarily establishing new Category B felonies. I grew up at Lake Tahoe and have seen firsthand how negligent use of fireworks, cigarettes and, one time, a can of gasoline and live lizards can devastate a community, destroy homes, cancel sports seasons for kids and scar landscapes for decades. I would be lying if I said that as a kid in the Tahoe Basin we never brought home fireworks from sports trips to Battle Mountain or that we did not gather around illegal fires in the woods near the high school to enjoy the exploits of our new friend with a fake identification. We got lucky too many times, and I hope future kids are much safer and more educated on the dangers than we were. What we did not know, and what most Nevadans are unaware of, is a level of felony or misdemeanor of any given crime, including arson, that causes damage of more than \$25,000. This is a concept completely foreign to any kid and most adults. Even as someone who works in the criminal justice field, I am often surprised to find out how certain crimes are categorized. The protection of our beautiful State and the forest my family called home is a noble venture, but this bill is not likely to deter the behavior it aims to address. This can be done in part through education of both local residents and tourists.

We find it hard to believe that people are setting wildfires through neglectful behavior because they are aware of the penalties and find them acceptable. We would love nothing more than to find ways to ensure the protection of our public lands and communities, but we cannot endorse the creation of new felonies. We do not believe this bill creates effective deterrents when it sets

only punishment that the offending person will be unaware of until they are charged. For these reasons, we must oppose the bill.

JOHN PIRO (Clark County Public Defender's Office):

Senate Bill 113 represents an old way of solving problems with the criminal coding that we moved away from in the last Session with the passing of A.B. No. 236 of the 80th Session. As Senator Pickard said, this proposal would broaden to catch people without criminal intent. There are plenty of good wildfire policy bills that will come before this Legislative Session including A.B. 100 and A.B. 139, which represent bipartisan efforts to try to curb the problems that wildfires present because we all care about preserving the land that we live in. Proposing a change to malice for one type of case is a dangerous precedent to set.

**ASSEMBLY BILL 100**: Revises provisions relating to wildfires. (BDR 42-109)

**ASSEMBLY BILL 139**: Revises provisions relating to local governments. (BDR 31-524)

Yes, many people with mental illness are charged with arson. However, diversion has not been an option because people with mental illness who commit arson cannot go live at group homes due to the risk. As Senator Pickard pointed out in his catalytic converter example, I would not put that past some prosecutorial minds. *Nevada Revised Statutes* 475.040 covers gross negligence. This bill is not a matter of good policy, and I would ask you to not pass this bill.

KENDRA BERTSCHY (Washoe County Public Defender's Office):

The reason we oppose this bill is not only because of its increase in penalties, but it will have a more damaging impact on our community because it is providing a deterrent for people to notify law enforcement when they set wildfires. As we have seen in Reno, Washoe County, Las Vegas and surrounding areas, if someone accidentally sets a fire due to target practice in a legal area, or kids with bonfires, they will be deterred from calling law enforcement to have the firefighters respond, and this would potentially have a greater catastrophic impact on our society. We are objecting for this reason. As Mr. Piro indicated, I have clients with mental health issues who accidentally set fires to brush or land and it is very difficult to get them into treatment when they are charged with arson because it is considered a violent offense.

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CHAIR SCHEIBLE:

The hearing on S.B. 113 is now closed.

Pursuant to Joint Standing Rule No. 14, Committee members must vote to approve the drafting of legislative measures requested by the Senate Committee on Judiciary. Please remember, a vote in favor does not indicate your support for the bill but merely allows these bills to be drafted. Today I request the Committee's approval of Bill Draft Request (BDR) 14-377.

**Bill Draft Request 14-377**: Revises provisions relating to victims of crime. (Later introduced as [Senate Bill 147](#).)

I will accept a motion to initiate BDR 14-377.

SENATOR OHRENSCHALL MOVED TO APPROVE THE DRAFTING OF  
BDR-377.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

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CHAIR SCHEIBLE:  
The meeting is adjourned at 2:04 p.m.

RESPECTFULLY SUBMITTED:

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Sally Ramm,  
Committee Secretary

APPROVED BY:

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Senator Melanie Scheible, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 113	B	1	David Westbrook / Nevada Attorneys for Criminal Justice	Opposition Statement