MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-first Session
April 5, 2021

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:02 p.m. on Monday, April 5, 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

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nicolas Anthony, Counsel
Pam King, Committee Secretary

OTHERS PRESENT:

Nathan Chio, Lieutenant, Las Vegas Metropolitan Police Department
Mike Cathcart, City of Henderson
John Jones, Nevada District Attorneys Association
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association
Chuck Callaway, Las Vegas Metropolitan Police Department
Corey Solferino, Washoe County Sheriff's Office
Sarah Hawkins, Nevada Attorneys for Criminal Justice
Daniel Heenan, Assistant Fire Chief, Clark County Fire Department
John Piro, Clark County Public Defender's Office
Kendra Bertschy, Washoe County Public Defender's Office
Yasmin Conaway, R.N., Burn Program Manager, University Medical Center
Syed Saquib, M.D.

CHAIR SCHEIBLE:
We have three bills up for hearing today. I will open with Senate Bill (S.B.) 358.

SENATE BILL 358: Revises provisions relating to wire communications. (BDR 15-1008)

We are joined by the Vice Chair and Majority Leader, Senator Cannizzaro, to present this bill. I will now turn the meeting over to you.

SENATOR NICOLE J. CANNIZZARO (Senatorial District No. 6):
I will begin the presentation with S.B. 358 which deals with the unlawful intercept of wire communications and establishes the lawful interception of a wire communication in certain circumstances.

By way of background information, telecommunications carriers maintain facilities that allow law enforcement to intercept communications under a court order, which is also known as a lawful interception.

Senate Bill 358 proposes to expand the scope of lawful interception to include certain emergency situations involving hostages, or where an individual has barricaded himself or herself and law enforcement does not have the ability to timely obtain a warrant.

This bill expands parameters that allow for the recording of wire communication.

Under statute, the interception or intent to intercept communications is only allowed in emergency circumstances if one of the parties involved in the communication has consented.

Senate Bill 358 adds another exception to this prohibition by specifying the interception of communications is lawful in two situations: first, if the person has barricaded himself or herself and is not complying with requests of law enforcement in circumstances in which there is an imminent threat or risk of harm to the person or to others; or second, if the person has created a hostage situation.

As you can imagine, these types of situations can often be not only dynamic in nature but also complicated and potentially dangerous for those who are

involved. Senate Bill 358 is needed to ensure that law enforcement personnel are not criminally or civilly liable for intercepting or attempting to intercept those communications when they are involved in those situations involving a barricaded individual or hostages. This bill is done in an effort to ensure that we can not only safely address these situations but can also timely address them.

I will turn the presentation over to Lieutenant Nathan Chio from the Las Vegas Metropolitan Police Department (LVMPD), who will provide additional remarks and background on the purpose and the reasons why S.B. 358 is a necessary piece of legislation.

NATHAN CHIO, LIEUTENANT (Las Vegas Metropolitan Police Department):
I have worked at the LVMPD for the last 25 years. My assignment is with the Special Investigations Section, and I also lead the Crisis Negotiation Team (CNT), the unit that responds with the LVMPD SWAT team on barricaded suspects, armed suicidal subjects, hostage crisis situations and terroristic threats.

We support Senate Bill 358 and bring this forward in an attempt toward transparency for the LVMPD. We want to record these conversations so there are no misunderstandings and no miscommunications between negotiators and suspects who may be barricaded or have taken hostages.

During an event, the suspect may hang up multiple times, and communication has to be reestablished at a later time; but until that time, it is critical to have a recorded conversation. The CNT can review that statement and those conversations to get some insight on how to gain rapport and how to better communicate with the suspect—or the barricaded suspect—inside the residence.

In an effort for transparency, once the event is over, these recordings can be reviewed by a third party, or anyone in the court system, so any allegations made by the suspect can be either confirmed or denied because now we do have a hard recording.

In my experience as a negotiator, establishing communication with these suspects is the hardest challenge. Usually, people who are barricaded or who have taken hostages are in a state of crisis, which means that their reasoning is based on emotion.

Trying to establish communication is hard when the first thing that you have to say, because of the law, is "Hello, this conversation is being recorded." With that statement, the suspect immediately hangs up in instances I have been part of.

Because of that, and prior to this Legislative Session, it was not worth the risk of attempting to establish rapport with that disclaimer, putting that out there to the suspect, because our main goal is to establish communication.

In closing, this bill is not going to get rid of dual party consent; it is just for emergency situations that are high crisis and critical. Each time we go on one of these situations, life is in the balance and our team gets a chance to save a life.

SENATOR HANSEN:
Senate Bill 358 seems totally reasonable. Is this in response to *Carpenter v. U.S.*, 138 S. Ct. 2206 (2018) that said you guys cannot do any kind of surveillance in the absence of a search warrant because it violates the Fourth Amendment?

What I do not understand is this all seems totally reasonable. Why does the Lieutenant have to ask permission, basically, to record a conversation in a situation like that?

Does the Las Vegas Metropolitan Police Department have some kind of policy now that does not allow them to use Stingray-type technologies to both find the people and then listen to their conversations?

LIEUTENANT CHIO:
Carpenter v. U.S. dealt with cell site location information, which basically meant that the police department had to gain a warrant to get the location of a suspect using cell site information.

In this instance, we have to ask for permission because Nevada law states that both parties must consent, absent a wiretap order, for the conversation to be recorded.

SENATOR HANSEN:
This is Nevada law and has nothing to do with *Carpenter v. U.S*. I wanted to get this on the record because I am concerned about the constant expansion of

surveillance techniques. The electronic surveillance stuff is becoming increasingly sophisticated and, frankly, kind of tempting for law enforcement to probably use without a search warrant.

The bill seems completely reasonable.

SENATOR PICKARD:
I agree. This seems reasonable. I had a different take on *Nevada Revised Statutes* (NRS) 200.620. I thought you had a 72-hour window.

Once the emergency is identified, it was my understanding that under subsection 1, paragraph (b), you have the ability to capture these conversations without the two-party consent that is required. Subsection 3 talks about a 72-hour window. What was not working with the prior exception that this bill captures?

LIEUTENANT CHIO:
From a practical standpoint, Senator, you are absolutely correct. There is an exception in the law where you have a 72-hour ratification period. However, within law, that ratification can be affirmed or denied; also with that time period, the CNT is in a part-time auxiliary position. Every member of my team also has a full-time job either as a detective, supervisor and such.

If we were to declare an emergency and have that ratification period to get it within the 72 hours, that window is a challenge for us at times because of what may be going on. For instance, last year we had to deal with the civil unrest and everyone who was out of work for long periods of time. The other part that is a challenge is that it may be denied at a later time if someone decides it was not an emergency.

There is a chance that the event could be challenged and overturned, which is why in this very narrow instance and circumstances, we are allowed to just record.

SENATOR PICKARD:
I appreciate that. When looking at S.B. 358, I am thinking about one district court judge I know who is regularly on the warrants and temporary protective order rotations, so she is awakened at odd hours of the morning to issue these kind of warrants.

I do not think there is a problem, at least on the judicial side of this equation. My impression on the review process, that 72-hour window, is of a check and balance on the system—not that LVMPD ever applies or requests these warrants without justification, but if there was not the emergency expected.

If I understand your statement, this is limited to barricade or hostage situations where you do not want the possibility of that check coming back and invalidating the recording, which would then make it unusable in the proceedings. Is that correct?

LIEUTENANT CHIO:
That is correct. A real-life example happened two days ago when we were involved in an armed barricade with a homicide suspect. This homicide suspect had fired rounds from inside the house at police officers, and at us, during that conversation. Because of some technical difficulties, we were not able to capture the conversation because he had shot at the robot. But if this barricade had gone on and we had captured the conversation that was later challenged in court, it may jeopardize the ensuing murder trial.

SENATOR PICKARD:
Are you suggesting the judge would probably invalidate that because the incident did not constitute an emergency? I would imagine in that circumstance the judge would readily grant it.

LIEUTENANT CHIO:
I would hope so. But after 25 years of law enforcement, nothing seems to surprise me anymore.

CHAIR SCHEIBLE:
How often does this occur? I think LVMPD keeps those statistics. How many barricades does the team run into in an average year?

LIEUTENANT CHIO:
We are one of the busiest CNTs in the Country. Usually, we average anywhere between 50 to 60 emergency situations. This year was particularly busy. Since January 1, we are already at 23.

CHAIR SCHEIBLE:
My next two questions are about the recording itself. Lines 41 through 45, page 2, begin the new language in S.B. 358.

It is obviously nested within a section about peace officers, but section 1, subsection 5 says it "is not unlawful if the person is intercepting the communication of a person who has ... ." And then paragraphs (a) and (b) spell out the circumstances.

Is that because LVMPD employs crisis negotiators and other professionals who might not be peace officers but who are engaged in these conversations with subjects?

LIEUTENANT CHIO:
Yes. Within our CNT, we do have civilians. On my team, I have a civilian psychologist, a trained mental health professional and an investigative specialist who is the civilian counterpart of a detective.

CHAIR SCHEIBLE:
Then this would cover all of them as well as conversations with them?

LIEUTENANT CHIO:
Yes.

CHAIR SCHEIBLE:
These conversations could also be a recording tool for future crisis negotiators. Is that something you already do or would consider doing with these recordings, or am I off base?

LIEUTENANT CHIO:
I would love to do that. For training, we use face-to-face negotiations because whenever we do not have to worry about an electronic communication, we do record those and go over them with the Team. Later on this month, we are having a negotiator basic school to bring new candidates up to the Team.

A lot of our case studies are using some of those recorded conversations that are face to face or ones where the suspect has called into 911; we are able to record those called into the 911 system. You are absolutely correct. This is a great training tool for us to use.

SENATOR SETTELMEYER:
If you obtain information and it is utilized elsewhere, what is the penalty?

Let us say you think it is for a barricade or something like that, and it ends up that you obtained other information that somehow got leaked to the general public and caused damage? Someone has said something inappropriate or to that nature. What happens in this type of situation? Is the person guilty of anything for leaking confidential information obtained through the process? What would the penalty be?

LIEUTENANT CHIO:
From my understanding of NRS 200.620, it is a felony to break this law. There are consequences for that.

We do not take barricaded subjects in situations lightly. Usually, my team and a SWAT team do not get called out to a barricaded suspect for at least an hour or so into the event. That is only after patrol officers and everyone have tried every kind of diffusing, de-escalation techniques to convince this person to come out.

In my four years as a Crisis Negotiation Team member and the last four or five months as the Crisis Negotiation Team leader, there has never been a situation when we get deployed where there is not a barricaded suspect. This law clearly defines a barricaded suspect who must have a refusal to law enforcement that he or she is not coming out. We do not employ any of our tactics until we make sure that we do have a barricaded suspect.

SENATOR SETTELMEYER:
Let me be a little more frank. In other words, I am thinking of the old argument, a fruit of the poisonous tree was evident. Is this information necessary to get individuals out of harm's way, or would this information also be admissible in a court of law to convict someone of crimes or someone else's crime in that matter, or is this information only pertinent and useable to diffuse the situation?

LIEUTENANT CHIO:
Any time that we are going to be using this and making a recording, we are creating evidence. It is something that would be used in the judicial process afterwards. Whenever you do a recording or anything like that, our reports are

all discoverable. We turn them over to the case agents, and they are discoverable to the defense.

SENATOR SETTELMEYER:
That was the answer that I was looking for.

SENATOR PICKARD:
That question just spurred a question in my mind. This would necessarily create a presumption of admissibility for evidence that the judge in the criminal trial felt was truly the fruit of the poisonous tree. Just because you are removing this from the criminal statute as to the interception does not mean it would deprive the court of discretion if the court felt it was inappropriate.

I am not saying it is likely. I am using logic wherein the criminal court could then say, "No, I do not agree. This was an emergency, and we are going to exclude this evidence if the judge thought that was the right thing to do." This would not create a presumption in that respect, would it?

LIEUTENANT CHIO:
I defer to Senator Cannizzaro on those kinds of legal questions. I do not think so, from my understanding as a law enforcement professional, but I defer to someone who practices law and has a law degree on that question.

SENATOR CANNIZZARO:
You are seeing an exception to where the interception would be deemed lawful. That does not mean a court would have to admit the evidence. It is a little bit different than the fruit of the poisonous tree because that would require a finding of the court on a challenge—usually under the Fourth Amendment search-and-seizure clause—that there had been some sort of improper search and seizure; therefore, anything found pursuant to that would be deemed fruit of the poisonous tree and must be suppressed.

Generally that happens in motion practice. Typically, you may see that in a defective warrant, for example, if there was not probable cause, and the court would later define that. Anything found as a result of the execution of that warrant would be deemed fruit of the poisonous tree, so evidence of a crime committed would be suppressed in the court of law.

This is saying that in these very narrow circumstances where there is a barricade or a hostage situation, it is not unlawful for law enforcement to obtain the wire interceptions.

If in the course of that, some other intervening instance might arise, potentially, you would have an argument under the Fourth Amendment or other statutory provision that this should be excluded.

Nothing about this would mean the Court would have to admit any adverse evidence still subject to motion practice, but this in and of itself, because it was not a wire intercept during a hostage or barricade situation, would still be legally permissible.

It does not permit the court from then entertaining arguments as to why or why not. Potentially, it does not fall under the hostage situation, they went farther than what the statute permits, they obtained something that then led to something else that then might be suppressible.

This is not a presumption. Obtaining this wire intercept in and of itself is not illegal. This would not prevent a court from litigating some of those other issues. That is, in part, a decision for this Committee to make as to whether these situations are of such a nature that we would want to make sure they are recorded. If there was evidence of a crime that occurred or if this particular intercept provides evidence of a crime that occurred, it certainly would be admissible at trial. There can always be motion practice to suppress that, but it would ultimately be up to the court.

SENATOR PICKARD:
Thank you. I defer to you on this. Obviously, you practice in this area. The 72-hour ratification was, in my view, the check on the ability of law enforcement to step over that line. I wanted to make sure we still had a check in place, so I am comfortable with that.

CHAIR SCHEIBLE:
We will move on to testimony in support and opposition of S.B. 358.

MIKE CATHCART (City of Henderson):
This would be a good tool for law enforcement, and we are fully supportive of Senate Bill 358.

JOHN JONES (Nevada District Attorneys Association):
Senate Bill 358 provides a narrow exception to our wire intercept statute for serious, volatile situations. We support this bill.

ERIC SPRATLEY (Executive Director, Nevada Sheriffs' and Chiefs' Association):
I am here in support of S.B. 358.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):
We have Lieutenant Chio helping present the bill, but I wanted the record to be clear that the agency is in support of S.B. 358.

COREY SOLFERINO (Washoe County Sheriff's Office):
We encourage your support of S.B. 358.

SARAH HAWKINS (Nevada Attorneys for Criminal Justice):
We are in opposition of S.B. 358 because it is entirely unnecessary. Police already have the power to do this when an emergency situation exists.

It is interesting that Lieutenant Chio described and used the word "emergency" in letting us know why this is necessary. If there is an emergency, police can already do this. There is absolutely no reason to make laws that are duplicative. For those reasons, we oppose S.B. 358.

SENATOR CANNIZZARO:
One of the important pieces of this legislation is these hostage and barricade situations are not only dangerous but also dynamic in that they are often met with a number of individuals—some of whom are law enforcement and mental health professionals—and the ability to make sure there are recordings of what is happening in these situations.

It not only protects all of the parties involved on the law enforcement side and those involved from a medical professional standpoint but also individuals who are involved in these situations.

This will ensure that everything happening with respect to these departments, the mental health professionals and other individuals who may be part of these situations, is what we expect of them in these situations.

CHAIR SCHEIBLE:
We will now close the hearing on S.B. 358, and we will open the hearing on Senate Bill 359.

SENATE BILL 359: Provides that certain prohibited acts are also punishable as arson under certain circumstances. (BDR 40-1006)

SENATOR NICOLE J. CANNIZZARO (Senatorial District No. 6):
Senate Bill 359 establishes enhanced penalties for illegal drug manufacturing that results, ultimately, in a fire or explosion.

In recent years, we have seen increased demand for synthetic drugs. As a result of illegal drug manufacturing being part of that, it becomes more common than we typically realize.

Illegal drug manufacturing poses a significant law enforcement and emergency response issue in our State. Actual physical dangers can be overwhelming and hazardous. The chemicals used to produce methamphetamines, for example, are highly explosive, and they ignite or explode if mixed or stockpiled inadequately.

Fire and explosion present dangers not only to the individuals creating the drug but also to anyone in the immediate area, including children, neighbors and anyone innocently passing by. This can happen in residential areas, and this exacerbates some of the dangerousness that surrounds these activities.

Senate Bill 359 is a fairly simple bill. It establishes an enhanced penalty for those manufacturing or compounding a controlled substance other than marijuana and includes language that if a fire explosion occurs as a result of the manufacturing or compounding of a controlled substance, in addition to those other penalties in law, those individuals are also guilty of the crime of arson depending on the degree contained within *Nevada Revised Statutes*.

Daniel Heenan, who is the Assistant Fire Chief for the Clark County Fire Department, can further talk about this issue and the reasons why S.B. 359 is a necessary piece of legislation.

I do want to note that I did receive correspondence from John Piro from the Clark County Public Defender's Office indicating some requests to ensure the bill was not meant to get at legal marijuana manufacturers. I want to assure the

Committee that we will make sure S.B. 359 is not touching on those particular industries. It is certainly not our intent to include some of that.

To address some concerns over clarity of which degree of arson is in S.B. 359, the bill indicates that it would be consistent with what is already established within NRS 205.

If the Committee looks at NRS 205, the varying degrees of arson depend on the type of property, if abandoned or occupied, if a structure, and whether it is personal property. That is what S.B. 359 intends to get at when it refers to the proper degree of arson; it would be dependent upon those same factors in NRS 205. I am noting this for the record as a result of communications with Mr. Piro, and I have not had a chance to make sure it is clear in the bill.

DANIEL HEENAN (Assistant Fire Chief, Clark County Fire Department):
The reason behind S.B. 359 is that throughout Nevada's history, in the last decade or so, we have had problems with illegal drug manufacturing, specifically methamphetamine. Methamphetamine production is exceedingly dangerous in how they produce it because there are so many volatile chemicals. We now see it reoccurring in the Las Vegas Valley and throughout the State, with the illegal production of marijuana growers and butane hash oil. I will speak to each one of those separately.

In my position here as the Assistant Fire Chief of the Clark County Fire Department, I oversee the Investigations Division, commonly referred to as the arson unit. I have only been doing this for the past 3 years, but prior to that, I was a special agent with the United States Bureau of Alcohol, Tobacco, Firearms (ATF) and Explosives for 30 years. When I was with ATF, I was a certified fire investigator for the last 25 years, heading up the National Response Team that traveled throughout the United States and foreign countries for fire and explosions to assist our state, local and international partners in determining why, how and where the fire or explosion started. That is the genesis and the background of where I come from.

Speaking to this bill, throughout the Las Vegas Valley and the State, when someone does an illegal marijuana grow—I am not referring to legal manufacturing we allow in the State. Illegal manufacturing still exists in black market manufacturing—they will lease or rent a house and plant marijuana plants throughout the whole structure. Anything over 12 plants is illegal, no

matter the maturity of those plants. These people are planting upwards of 200, 300, 400 or 500 plants.

In order to sustain that grow, you need a lot of power. You need a lot of heat lamps and water irrigation. They are circumventing the meter, going right to NV Energy's main supply and capping on that. They are basically stealing power from NV Energy. This creates an issue when the house is not structurally designed for wattage and current of that nature, so we have a fire that develops in the house. When the fire department gets there, one of their first missions is to secure the power so they are not introducing water into a system or structure that has electricity in it.

Unbeknownst to them, the power is circumvented and coming from the main distribution feed. So the fire department goes in with active hose lines to put this fire out, and they are working in an energized compartment. It is a dangerous position for firefighters.

Secondarily, butane hash oil has become bigger and bigger, especially the illegal manufacturing. Butane hash oil leads to massive explosions, and those explosions result in thermal injuries not only to the person producing them but oftentimes to people outside of that immediate vicinity. Outside may be an adjoining apartment or someone walking by.

The most common—and why it is referred to as butane hash oil—is butane usage. Butane is put through the resins of the marijuana, drips down and produces what is called "wax" or "shatter." Some of this can be up to 90 percent THC, so there is a big demand for this. The problem is that butane hash oil is exceedingly explosive, and it is heavier than air. As these people are pouring the butane through the tube, the vapors collect on the ground. If you are in explosive limits, any spark or accidental ignition source, like a cigarette, light of a cigarette or spark from a refrigerator or air conditioning unit, will then create a massive explosion in which people are injured or killed.

I was speaking a few months ago at a Arson Investigator's Conference of California, and the speaker who followed me was from Davis, California, where they also have legal marijuana. He stated somewhere around 40 percent of the people in the Firefighters Burn Institute Regional Burn Center in Davis are now there because of butane hash oil explosions. That creates fewer hospital beds

for first responders or other people who are injured through burn injuries. That is the genesis of why we like S.B. 359.

Arson is defined as "willful and malicious." So we have to prove that the person willfully committed this act to be charged with arson. No methamphetamine user, manufacturer or illegal drug person will intentionally blow up his or her laboratory, but the resulting danger is massive to first responders and the community at large. When gross negligence like this is occurring, if there is an arson or explosion, it results in whatever degree, as Senator Cannizzaro stated, of arson would be predominantly there.

SENATOR SETTELMEYER:
Would this prevent an individual who had marijuana or hemp not able to be harvested—either due to the fact marijuana was so low and not advantageous or hemp was too high, putting it in the marijuana category—from spraying the field and burning it before plowing it?

ASSISTANT CHIEF HEENAN:
I am a fire expert. I am not an expert on narcotic usage or manufacturing. That would not even come close to reaching the concept behind what we are doing. We are looking at illegal manufacturing and production. Normally, within a structure is where you get the explosive limit; if people do things like this outside, I cannot imagine where you would have an explosion. There could be a fire, but I do not think that fits the concept of what we are looking for in this bill.

SENATOR SETTELMEYER:
I wanted to get that on the record because I am looking at S.B. 359 on page 4, lines 17 to 19 that state, "In addition to any other punishment that may be imposed ... if a person manufactures, grows, plants, cultivates, harvests ... ." I wanted to make sure that it is not considered arson as long as it is your own property, and it was strictly for agricultural purposes.

I was just making sure because I do not want to see that particular section of law changed.

CHAIR SCHEIBLE:
We will move to support testimony for S.B. 359.

MR. JONES:
The Nevada District Attorneys Association is here in support of S.B. 359.

JOHN PIRO (Clark County Public Defender's Office):
We are in opposition of S.B. 359, but we do want to thank the Majority Leader for hearing some of our concerns.

Because arson involves willful and malicious conduct, and there are four different degrees of arson, we are concerned about how arson is referenced here. I will point out to the Committee that NRS 475.040 deals with gross negligence. I am not saying that we should add this into that statute, but I am saying that we could pull language from that statute and make the resulting fire that comes from an illegal drug laboratory part of that.

I could never see having an illegal drug laboratory not being negligent conduct. We are not opposed to the intent of the bill, just the way it would be implemented, making sure the language is as tight as possible.

MS. HAWKINS:
The Nevada Attorneys for Criminal Justice (NACJ) are in opposition to Senate Bill 359 for a couple of reasons.

This kind of conduct is already covered by the myriad of statutes contained in NRS 453. It defines manufacturing and provides additional penalties where there is any injury or death, including to a firefighter during cleanups or in response to a laboratory situation. For those reasons, this is an unnecessary provision. In addition to that, it poses some danger to hold those responsible who do not have any responsibility for the fire that occurred.

For example, we will acknowledge that a person who is running a laboratory has a dangerous situation. But that person goes out, is going about their business and a competing drug dealer sets fire to the laboratory. Now, all of a sudden the person who owns the building, who was in charge of the lab, has an arson charge on top of everything else, even though that person did not engage in that criminal conduct.

We should never be in a position where we are punishing someone for something he or she did not do. We should not be supporting these liability

crimes like this would be. For these reasons, NACJ opposes this bill, and we urge Committee members to do the same.

KENDRA BERTSCHY (Washoe County Public Defender's Office):
We do acknowledge that this is an important issue, especially considering the safety concerns. As Mr. Piro indicated, we do have some concerns regarding the language. It appears that this would be a sentencing enhancement with a stricter liability regarding what is a crime. We have some concerns about how this would play out.

I would just note that in section 1, subsection 2, this is already a substantial penalty of a Category B felony, where we indicated that the minimum term, when usually the 1 year on the bottom for Category B, is a 3-year maximum of 15 years. As noted in subsection 4, the court shall not grant probation to that person, which already indicates that this person is facing a mandatory prison sentence.

SENATOR CANNIZZARO:
We have heard some of the points in opposition and are going to reach out to those parties to see if we can come to a consensus. I am hoping to come back with something that will make sense and help us target individuals who are putting our community at risk.

CHAIR SCHEIBLE:
I will close the hearing on S.B. 359. I will open the hearing on Senate Bill 372 and turn it back over to Senator Cannizzaro.

SENATE BILL 372: Revises provisions relating to injury caused by fire. (BDR 54-1007)

SENATOR NICOLE J. CANNIZZARO (Senatorial District No. 6):
Senate Bill 372 revises a process of reporting burn injuries. By way of background information, burn injuries remain one of the leading causes of unintentional injury. In the last decade, Nevada hospitals have treated tens of thousands of patients with varying degrees of burn.

Healthcare providers work in conjunction with fire departments to report specific levels and types of burns, as outlined in NRS 629.045.

The Clark County Fire Department, for example, is the seventh busiest fire department in our Country, and its personnel serve as first responders to aid many of these burn victims every year. Because fire departments in Nevada are busy with numerous responsibilities, S.B. 372 refines the reporting process for burn injuries.

While not all injuries are attributed to arson, some level of investigation is required in each case. This bill establishes steps that need to be followed after a burn injury occurs. Primarily, it extends the necessary time frame from three to seven working days for reporting an injury to the State Fire Marshal. It also limits the type of burns required to be reported by the healthcare provider after treating a burn victim.

Ultimately, this will facilitate more-focused, in-depth investigations into only those incidents that require it, while lessening the burden on healthcare providers and first responders to report some incidences unnecessarily.

ASSISTANT CHIEF HEENAN:
The statute is overly broad. I have had numerous sit-down meetings with the doctors at the University Medical Center (UMC) Lions Burn Care Center who are here to speak today. This is the only certified burn center in the State.

Under statute, certain burns are required to be reported within three days. Three days is a quick turnaround, especially for the number of victims who they see at their Burn Center. One of the conversations we had was that if we could do it every seven days, which would help them push this out. The other thing is that we have to use the Nevada State Fire Marshal's form. In the Las Vegas Valley, we would like to go to an electronic form.

We sat down with UMC and developed our own form agreed upon by Henderson Fire Department, North Las Vegas Fire Department, Clark County Fire Department and Las Vegas Fire and Rescue. That will alleviate the hospitals from having to create different forms for everyone. We will just have one form valleywide that we can work on as formulated through the southern Nevada arson task force, in which we bring all of the fire investigation visions together and work toward.

Under NRS 475.125, if the UMC Lions Burn Care Center or any other burn center reports an injury to us, we are mandated to investigate. We would like to

change the word "shall" to "may," and then allow the manager of the Investigation Division determine whether that merits an investigation.

We rely upon the nurses and doctors in the burn centers to tell us if burn injuries being reported match the description and story presented by the victim. When they do not, that is time for the investigators to come in, do their interviews and do their background. Many times, the burn nurses and burn doctors can say everything is matching up perfectly, and we are fine. This does not warrant an investigation.

They can still send that information to us, we will categorize it and have it in case of a subsequent injury. But for the most part, that allows us to manage our time and only respond to those fires where we are actually needed. It is also overly broad about types of injuries. We want to change it to open flame and flash fires because the way it is written it could be construed that if someone were to have a massive sunburn over 5 percent of their body, which would have to be reported.

YASMIN CONAWAY, R.N. (Burn Program Manager, University Medical Center):
I am a registered nurse with over 11 years' experience in burn care. I am the Burn Program Manager of the Lions Burn Care Center at University Medical Center of Southern Nevada in Las Vegas.

As the oldest and only verified burn center in Nevada, we provide the highest level of quality care and still pursue ways to improve patient outcomes, even after they leave their rejuvenating confines of a hospital room or seek the expertise care of our outpatient clinic team. We are fully verified by the American Burn Association, the governing body for burn care, which also sets forth guidelines and best practices. Advanced practices is why we are here today.

The changes proposed today will provide a more-targeted reporting on burn injuries caused by flames, flash and explosions. Senate Bill 372 does not delineate any method of injury as Assistant Chief Heenan mentioned earlier.

We are required to report all types of burn injuries, including scald, compact burns and friction burns. So the person making hot soup who spills a pot of boiling soup on themselves and sustains a burn gets reported. The person who is walking to the mailbox, falls on the hot pavement and sustains a pavement

burn from the hot concrete in the sun gets reported. The motorcycle rider who skids across the ground after a crash and sustains a friction burn gets reported. These injuries are required to be reported to the appropriate fire department for investigation. For some perspective on how many reports result with the verbiage in this bill, out of the 1,396 patients we served in 2020, 290 patients met the criteria for reporting.

Under the proposed language, the number would drop to 140 patients, representing over a 50 percent decrease of reporting. What does that mean on the front line? It will offer more efficient utilization of resources. At UMC, for instance, we have a multitier process for identifying and extracting information for this report, which can take upwards of one to two budgeted work hours per day. A benefit of this change would allow these resources to be redeployed to critical areas like patient care, outreach, prevention and burn education to first responders in the community. All of this may occur while still capturing cases that were not appropriate investigations.

Another change proposed in S.B. 372 includes the use of an approved form by the local fire department, as Assistant Chief Heenan mentioned. The updated form would integrate seamlessly with the change stated earlier, allowing for standardization, flexibility and cooperation from the Nation's most affected parties.

Given the many benefits, I strongly encourage you all to consider passage of the revised provision of S.B. 372. Doing so means you will be making a direct, positive impact on how we use public resources, provide outreach and education, work within particular budget restraints and benefit the health and well-being of all Nevadans.

SYED SAQUIB, M.D.:
I have been an acute care surgeon in Las Vegas for almost five years. I am the Medical Director of the medical team at the Lions Burn Care Center, Nevada's personally verified Burn Center.

Our Burn Center is one of the oldest in the Nation, providing confidence of burn care for people of all ages and serving our State and communities for over 50 years.

With regard to the matter at hand, this legislation would improve statute which, as it stands, is broad. Senate Bill 372 would design and attempt to identify possible cases of arson that would be investigated.

Statute requires reporting of many burn injuries not related to arson to the fire department. For example, scald burns resulting from hot tea; walking on or falling on hot rocks during the summertime; a road rash resulting from a motorcycle accident. They all need to be reported to the fire department for investigation.

By focusing or reporting burn injuries limited to those caused by fire, flash and explosions, this will allow a more efficient use of resources to be reallocated to other aspects of burn care including, but not limited to, clinical care and community education in collaboration with our first responders. It will further honor the original intent of the statutes to capture cases appropriate for investigations. Senate Bill 372 will standardize documentation needed for reporting such incidents and promote better coordination in these involved parties.

I respectfully and strongly encourage the Committee to pass the revised provisions to substantially improve our utilized resources for the benefit and well-being of all residents of Nevada.

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CHAIR SCHEIBLE:
The hearing on S.B. 372 is closed, and the meeting is adjourned at 2:13 p.m.

RESPECTFULLY SUBMITTED

Pam King,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A			Agenda