MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-first Session
April 8, 2021

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Thursday, April 8, 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 Julia Ratti, Senatorial District No. 13
Senator Pat Spearman, Senatorial District No. 1

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nicolas Anthony, Counsel
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Kristina Wildeveld
Jim Hoffman, Nevada Attorneys for Criminal Justice
John Piro, Clark County Public Defender's Office
Brigid Duffy, Director, Juvenile Division, Clark County District Attorney's Office
Kendra Bertschy, Washoe County Public Defender's Office
Liz Davenport, American Civil Liberties Union of Nevada
Matthew Richardson, Juvenile Justice Supervisors Association; Nevada Association of Public Safety Officers

Darren Dimaya, Juvenile Justice Supervisors Association
Rick McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition
Jack Martin, Director, Department of Juvenile Justice Services, Clark County
Neal Tomlinson, Nevada Collectors Association
Tim Myers, Nevada Collectors Association
Elliot Malin, Creditor Rights Attorneys Association of Nevada
Donna Armenta
Sophia Romero, Legal Aid Center of Southern Nevada
Jamie Cogburn, Nevada Justice Association
Linda Marie Bell, Chief District Judge, Department 7, Eighth Judicial District
Dan Reid, National Rifle Association
Randi Thompson, Nevada Firearms Coalition

CHAIR SCHEIBLE:
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 hearings for the bills are 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

The hearing for Senate Bill (S.B.) 313 is now open.

SENATE BILL 313: Revises provisions regarding juvenile justice. (BDR 5-875)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):
It is important to understand that children who are arrested and charged with crimes are much different than adults in the adult criminal court system. Those children lack mature judgment. They also have a greater capacity for positive change. Our juvenile justice system maintains rehabilitation as its primary goal, which is different from the adult criminal justice system in important ways.

I would like to point the Committee to Proposed Amendment 3231 (Exhibit B). I have been able to reach out to Brigid Duffy in the Clark County District Attorney's Office. The Proposed Amendment 3231 represents an agreement between Ms. Duffy and other stakeholders working on this legislation. I will briefly go over the highlights from Proposed Amendment 3231 and then turn it over to Kristina Wildeveld to speak more to the bill and the amendment.

Senate Bill 313 under Proposed Amendment 3231 would prohibit a youth from being committed to a correctional facility if found incompetent. This bill would also allow a youth found to be incompetent to request his or her records be sealed. It reduces the time the youth must be under supervision of a juvenile parole or probation officer from a minimum of three years to a minimum of one year if the youth is adjudicated for a sexual offense.

It also requires the court to consider specifically whether a youth would be a danger to commit a sexual offense in the future and to determine whether the youth should face registration as a sex offender. These provisions would enable greater rehabilitative efforts within the juvenile justice system using developmentally appropriate strategies rather than the statutory scheme.

KRISTINA WILDEVELD:
The juvenile system and the adult system are entirely different for numerous reasons. Nevada's formal juvenile justice system is established for the most part by *Nevada Revised Statutes* (NRS) 62. All juvenile matters, regardless of the nature of the charges, are considered civil offenses. Therefore, the Nevada Supreme Court has ruled that constitutional and statutory provisions related to criminal procedure are not applicable to proceedings in juvenile court, which are not criminal in nature. Instead, the focus and function of juvenile court is both rehabilitation and community safety, while consistently recognizing children as children.

This bill makes a number of necessary and positive tweaks to the laws as they relate to the juvenile justice system so the separation between juvenile court—civil in nature—and adult court—punitive by nature—remains intact.

With regard to the amendment, we have agreed to delete sections 1 and 2; sections 3 through 6 will be kept as written. Under law, a child who commits a sex offense must have three years minimum of supervision by the juvenile sex offender probation officer.

Section 4 of the bill modifies this to a minimum of one year. The juvenile sex offender (JSO) court, unlike other juvenile courts, operates by statute as a one-size-fits-all model. A child in JSO court will be placed on three years of probation for everything from pinching a peer's bottom on St. Patrick's Day to taking a nude selfie or sexting to the extreme cases of unwanted sexual penetration. This modification will give all parties more discretion, so the

exploration and experimentation cases can be treated differently than those of a more predatory and abusive nature.

Sections 5 and 6 of the bill do not mandate a juvenile sex offender be required to register as a sex offender like an adult must do. Instead, the court will be granted the discretion to determine whether a child poses a future threat or danger to the community which will then subject the child to future registration and community notification as a sex offender.

As we currently operate in JSO court, the district attorney and the defense attorney negotiate cases so the child will not be subject to adult registration for delinquent acts committed as a juvenile, taking this mandate from the courts. The court is required to have the child register as an adult sex offender, then have future supervision and notification provisions if the events are so severe in the rare cases that the parties believe the child will forever pose a threat to the community.

This provision gives the courts discretion and changes the standard to only require future notification if there is a threat to commit subsequent sexual offenses by the juvenile. The bill will also add a provision that juvenile sex offenders' cases cannot be sealed for three years. Unlike other juvenile cases, if the defendant is in JSO court, there will be a three-year waiting period to seal the case.

I urge you to pass S.B. 313 to make the necessary changes in statutes for those of us who work in the system and navigate the laws. This bill will clarify and give guidance statutorily as the laws were intended in accord with the operation of juvenile court, maintaining the integrity of the two different systems. The changes are beneficial to not only those of us who practice in JSO court but also to the court and the community it serves.

SENATOR OHRENSCHALL:
Brain science in terms of child and adolescent development has improved greatly from when these statutes were originally adopted. We know more about the immaturity of youth in terms of these decisions. Recommended changes in the Proposed Amendment 3231 will help bring Nevada statutes in line with what is now understood about youth who end up in the delinquency system.

SENATOR PICKARD:
I agree that we know much more about how the brain develops and how the last thing to develop is the prefrontal cortex, or the judgment center, which does not fully develop until our mid to late 20s or early 30s. We know that when children are making decisions, they literally have half of a brain, and they act like it. This is important to retain the ability of the court to sequester kids when they are a danger to themselves or others.

SENATOR HANSEN:
My concern with the bill is that if we are going to err, we should err on the side of victims. Striking out the safety of others and making it strictly a sex offense makes me uncomfortable. It would be better to have more discretion for the courts and not just limit it to sex offenses.

We can agree with the argument that they have half a brain at this point, but when you are an 18-year-old male, you have full libido, and this creates a bad combination in some cases. It is ironic that we insist on considering their brain undeveloped until they are aged 25 or whatever, yet we allow abortion without any parental involvement at all. Why are we striking out the verbiage "the safety of others" and making it much more specific "commit a subsequent sexual offense"?

SENATOR OHRENSCHALL:
The adult criminal court system is based more on punishment for the crime and making the victim whole. The juvenile justice system is a model based more on rehabilitating the child by trying to make sure whatever services, treatment and therapy would prevent the child from ever being in the same situation or committing that delinquent act again.

Looking at the changes recommended in the Proposed Amendment 3231 where a potential consequence for a child who is charged with a juvenile sex offense could be required to register as a sex offender, I am recommending the bill language changes to "threat to commit a subsequent offense" instead of "to commit some other delinquent act" because the consequence could be registration.

We are trying to have a child land on his or her feet and to balance protecting the community but also getting the child the services needed to never end up in this situation. Many of the children who are charged with juvenile sex offenses

have themselves been a victim of molestation, and sometimes these patterns are picked up. Once those kids go through treatment and therapy or JSO, the recidivist rate is remarkably low across the Country and in Nevada. A child accused of this kind of offense is much different than an adult charged with the same type of offense.

MS. WILDEVELD:
There is a one-size-fits-all model in the JSO court. Not all cases have to be on probation for the three years that are required. The defendants are caught doing something or they say something to a counselor, and they are brought to court. It is not an ongoing abusive relationship. Instead, it is a one-time act that is part of the exploratory, experimentation process. Those kids are all treated the same.

As Senator Ohrenschall indicated, there is a rigid process the kids go through in JSO court. The whole reason for the court is to make sure that when they are an adult, the action for which they are being charged never happens again. The alternative boundary process allows kids to learn proper boundaries with their peers, what is right and what is wrong. Those kids do not have to be on juvenile sex offender probation.

In addition, prosecutors and defense attorneys are negotiating to a charge that will keep these kids from becoming adult sex offenders. This takes the penalty out of the judge's hands. Then should the child not be successful or need more time or something happens during the course of the case because the youth was a previous victim of abuse, he or she will not automatically have to be on probation for the mandatory three years.

The amendment to this bill puts the discretion in the judge's hands, so the judge can determine which child needs longer periods of probation of three years or which only needs one year of probation.

SENATOR HANSEN:
Brigid Duffy is on board with this?

SENATOR OHRENSCHALL:
Brigid Duffy and Mike Watson in the Clark County District Attorney's Office have worked closely with me, Kristina Wildeveld and Jennifer Fraser, Clark County Juvenile Public Defender. The Proposed Amendment 3231 represents consensus with Clark County.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):
Nevada Attorneys for Criminal Justice support S.B. 313. These changes are helpful to ensure that the juvenile justice system is administered in a fair and effective manner. In particular, incompetent children with mental health issues should not be held in correctional facilities. They should be treated to resolve their issues rather than punished in a way that exacerbates them. Senate Bill 313 addresses this problem, as well as a few others, so we support this bill.

JOHN PIRO (Clark County Public Defender's Office):
We are grateful for the efforts of Senator Ohrenschall and Ms. Wildeveld for working with all the stakeholders involved to make S.B. 313 the best bill possible.

BRIGID DUFFY (Director, Juvenile Division, Clark County District Attorney's Office):
I am speaking today on behalf of the Clark County District Attorney's Office in support of S.B. 313. We appreciate the sponsor and the stakeholders taking into consideration our ideas for the amendment and believe this bill will work to both look after our children and protect our community's safety.

KENDRA BERTSCHY (Washoe County Public Defender's Office):
We want to put our support for this bill on the record and appreciate all the hard work of the stakeholders to protect our children.

LIZ DAVENPORT (American Civil Liberties Union of Nevada):
We are in support of S.B. 313. I echo what all others have stated. We definitely support juvenile justice, rehabilitation and reintegrating these children back into the community, and this bill accomplishes that.

CHAIR SCHEIBLE:
I will now close the hearing on S.B. 313 and open the hearing on S.B. 317.

SENATE BILL 317: Revises provisions relating to juvenile justice. (BDR 5-1016)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):
Senate Bill 317 represents an effort to reach fair conditions for employees of the juvenile justice system in Clark County in terms of issues with which they are concerned. We want to address part of the disciplinary action outlined in

statute that requires placing an employee who has been charged with certain crimes on unpaid leave for 180 days without specifying when that time frame begins. We want to make sure that good juvenile justice employees have a chance to resolve pending charges in a timely manner and to maintain a viable source of income to cover costs of living in the meantime.

MATTHEW RICHARDSON (Juvenile Justice Supervisors Association; Nevada Association of Public Safety Officers):
I am a juvenile probation supervisor in Juvenile Detention Services. Juvenile officers and supervisors are not typical law enforcement officers. They have to be law enforcement, social worker, mentor, case worker and tirelessly connect families in need with anything that might work for that family to get on the right track. While the youth is on probation, we provide services to the entire family. My peers and the officers I work with are outstanding individuals. They work with the most-troubled youth. These youth charges are normally gun-related, typically robbery-assault and sexual offenses and, at times, the extreme murder and kidnapping.

The officers I work with and I are not perfect. We may end up in the wrong place at the wrong time, we may get caught up in a bad situation with a friend or relative. We also may be falsely accused of a crime or of child abuse or neglect. This bill gives us fairness through due process.

In working through our due process and the justice system, juvenile probation officers, supervisors and employees of Juvenile Justice Services should be given the same rights afforded to other officers. Upon the outcome of criminal prosecution, the department shall pay the employee back pay for the unpaid leave in this bill. *Nevada Revised Statutes* 289.092 already gives officers this right; however, there is a difference in language. *Nevada Revised Statutes* 289.092 says that if the agency suspends a peace officer without pay pending the outcome of a criminal prosecution, the law enforcement agency shall award the officer back pay for the duration of the suspension. *Nevada Revised Statutes* 62G.355, subsection 5, paragraph (b) uses the language "leave without pay" while NRS 289.092 uses "suspends." The Department of Juvenile Justice Services (DJJS) believes there is a difference between "suspend" and "placed on leave without pay." Therefore, we would like to change the language in NRS 62G.355, subsection 5, paragraph (b) to "suspend" to give the employees of DJJS the same rights to back pay as other peace officers.

This is not a solution looking for a problem. This has happened in the DJJS in which an employee was charged with a crime. Upon the resolution of the case in which he was cleared of any charges, the DJJS waited an additional five months to bring him back to work without back pay. During that time, he had to come up with different avenues for income. He borrowed money, got behind on his mortgage and was in financial despair. This is a fairness bill for the DJJS officers.

SENATOR OHRENSCHALL:
When a child is arrested by law enforcement—whether for painting a wall with graffiti or something more serious—and brought to the Juvenile Detention Center, it is a scary thing for the young person. I have been moved by some of the juvenile officers I have seen in terms of nurturing or mentoring provided to these scared kids who are in the Juvenile Center. Many officers care about these children and want to see them land on their feet. What Mr. Richardson said about some of the officers being quasi-social workers is true. A unit takes kids to get their identification and get enrolled in accelerated classes to get their GED or diploma. These officers deserve the same protection that other officers have when they are accused of breaking the law and they are able to prove otherwise.

SENATOR PICKARD:
It is important to make a distinction that we are not talking about the kids in detention. We are talking about the adults. This bill is seeking to deal with an employee who has been placed on leave without pay, usually because there has been an internal investigation and probable cause to believe the officer has either committed a crime, violated procedures or both, and leave without pay is intended to be a preliminary action taken against the person, not without cause or some investigation. Is that correct?

MR. RICHARDSON:
The agency conducts its investigation after the criminal investigation concludes. This is about the criminal investigation. At the end of the criminal investigation, if an employee is cleared of the charges, the agency can conduct the internal investigation.

SENATOR PICKARD:
I was not clear. I meant before the criminal investigation is concluded. When officers are initially put on leave, that is because they are facing criminal charges, they have been arrested, and there are lots of different reasons why they could be put on leave. In my recent experience, an officer violated the use-of-force rules and was put on leave while that investigation was done. I do not believe any criminal investigation occurred. So it does not necessarily mean a crime has been committed though in this context that is the case, right?

MR. RICHARDSON:
An officer is accused of a crime and arrested. We are saying that if the charges are cleared or the officer is found not guilty, he or she has been falsely accused, whatever the circumstances, and the charges go away. When the criminal charges are dropped, then you return back to work with full pay. It is not that if you are convicted, you will come back with full pay; it is only upon being exonerated in one way or another.

SENATOR PICKARD:
I am talking about prior to adjudication as to the criminal action. They are put on leave. My understanding is under the collective bargaining agreement, once they are put on leave, they are not to be receiving an income by that agreement until the criminal charge is completed. Is that accurate under the law and the collective bargaining agreement?

MR. RICHARDSON:
I believe that is accurate. However, the agency investigation required is not complete until the conclusion of the criminal investigation. Sometimes, if they conduct simultaneous investigations, one or the other will become tainted, so they are done consecutively. They are not done concurrently, and the criminal investigation takes precedence.

SENATOR PICKARD:
That makes sense. I wanted to make sure that my understanding was correct because it leads to the next question. If the collective bargaining agreement and the law is that when an officer is suspended pending a criminal investigation whether or not he or she is guilty, the attempt is to suspend the pay. In NRS 62G.355, section 1, subsection 5, paragraph (b), the employee can elect to use paid time off during that period of leave even though the collective bargaining agreement contemplated that would be suspended because of a

potential loss of pay if convicted. If we look at the other side of the equation and the employee is guilty of the crime, we are paying the criminal even though the collective bargaining agreement expressly allowed for the suspension of that pay. Right?

MR. RICHARDSON:
Yes; however, the provision you are talking about has been removed from that portion of the bill in our amendment (Exhibit C). We also came to an agreement on when the timeline would start. We agreed that it is from time of arrest, not time of arraignment. That second portion has been completely removed. Now all we are dealing with is receiving back pay whether or not you are cleared of the charges.

SENATOR PICKARD:
I apologize. We did not have the amendment before the meeting started today, so I did not see that.

DARREN DIMAYA (Juvenile Justice Supervisors Association):
I support S.B. 317 on behalf of the Juvenile Justice Supervisors Association.

RICK MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):
I am here today in support of S.B. 317. I thank those who worked with the stakeholders of Clark County to resolve about two-thirds of this bill, as you can see from the proposed amendment (Exhibit D). The remaining part deals with the equity of reimbursing an officer who has been placed on leave without pay for a criminal charge ultimately dismissed. That is only fair in an attempt to restore the officer in some way for successfully defending oneself against unprovable criminal charges.

JACK MARTIN (Director, Department of Juvenile Justice Services, Clark County):
We will be testifying in opposition to the bill. A couple of sessions ago, the Legislature recognized that in order to protect children under the care and custody of DJJS or the Division of Child and Family Services (DCFS), employees regularly working with children need to be held to a higher standard of conduct.

That legislation directed that employees charged with domestic violence, DUI and other significant criminal acts—NRS 62G is specific in the crimes that disqualify somebody from working within a department—could not interact with

a child or a relative of a child under the Department's care while those charges were pending. Prior to that legislation, staff was working with youth who had pending sexual assault charges, domestic violence charges and other criminal charges listed in NRS 62G. Senate Bill 317 retains statutory language prohibiting the employee from working with a child while those charges are pending.

However, it adds a new provision that if the employee is ultimately not convicted of the charge that resulted in the leave of absence, the County would be liable for all back pay for the time that employee was off work. Clark County has no control over a staff member being arrested for a crime that comes under the statute. The County has no control over the charges made by the District Attorney. The County does not control the filing date to start the court process. It does not control the setting of future court dates, postponements, plea deals, counseling, ordered dismissals or reduction to a crime not covered by the statute. The County has no control over whether the victim of a crime will show up at a hearing. It has been estimated that almost 35 percent of domestic violence cases have to be dismissed because the victim does not attend a trial, not because the event did not happen.

It is unfair to hold the County responsible for back pay when the statute requires the County to put an employee on leave, and the County has no control or influence over what happens after the case is filed. Charges of DUI are often reduced to reckless driving.

Staff negotiated to use their accrued time during the correction period. Adding this language to statute is solving a problem that does not exist. This bill will allow staff to go through a court process that could extend over a year and a half at taxpayers' expense. The DJJS peace officers and employees should be held to a higher standard due to their ability to remove the freedoms of our youth. Staff provides services for similar issues. These are specific charges. We are talking about seven charges. We are not talking about all charges. If a charge is dismissed, it does not equate to that event not occurring.

In light of how our officers are viewed in the community, how officers are now fighting for what we have seen, I am concerned, as law enforcement, to seek lessening the charge against our standards of conduct. We should be held to a higher standard than the children we supervise, not a lesser standard.

CHAIR SCHEIBLE:
I will close the hearing on S.B. 317, and we will move to our work session.

SENATE BILL 356: Provides for a study of certain issues relating to the housing of youthful offenders. (BDR S-501)

PATRICK GUINAN (Policy Analyst):
Sponsored by the Senate Committee on Judiciary on behalf of the Legislative Committee on Child Welfare and Juvenile Justice, Senate Bill 356 requires the Department of Corrections (DOC) and DCFS, in consultation with the Juvenile Justice Oversight Commission and other stakeholders, to study the feasibility of housing youthful offenders regionally in DCFS facilities or in county facilities and develop a new model for housing youthful offenders in which those between 18 and 24 years of age, who have been convicted as adults and who will be released from confinement before reaching 25 years of age, would be housed separately from offenders, who will not be released before reaching 25 years of age, as enumerated in the work session document (Exhibit E).

SENATOR SETTELMEYER MOVED TO DO PASS S.B. 356.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 356 and open the work session on S.B. 357.

SENATE BILL 357: Requires the Department of Corrections to track and report expenses that are directly related to housing youthful offenders. (BDR 16-499)

MR. GUINAN:
Senate Bill 357 is a bill sponsored by the Senate Committee on Judiciary on behalf of the Legislative Committee on Child Welfare and Juvenile Justice, as described in the work session document (Exhibit F).

This bill requires the DOC to establish a system to track expenses directly related to housing youthful offenders who are under 18 years of age.

SENATOR SETTELMEYER MOVED TO DO PASS S.B. 357.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 357 and open the work session on S.B. 365.

SENATE BILL 365: Requires the implementation of a pilot program relating to the housing of certain youthful offenders. (BDR S-500)

MR. GUINAN:
Senate Bill 365 is sponsored by the Senate Committee on Judiciary on behalf of the Legislative Committee on Child Welfare and Juvenile Justice to develop a pilot program whereby youthful offenders under 18 years of age who have been tried and convicted as adults may be housed in the DCFS rather than in an adult DOC facility, as enumerated in the work session document (Exhibit G).

SENATOR PICKARD MOVED TO DO PASS S.B. 365.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 365 and open the work session on S.B 187.

SENATE BILL 187: Makes various changes relating to the solitary confinement of offenders. (BDR 16-170)

MR. GUINAN:
This bill relates to solitary confinement of offenders. The bill was sponsored by Senator Spearman and requires the director of DOC to adopt regulations governing the use of solitary confinement to: provide that solitary confinement may only be used as a last resort in the least restrictive manner and for the shortest period of time safely possible; limit the use of disciplinary segregation to specific circumstances; review and evaluate the use of solitary confinement; provide offenders assigned to solitary confinement with programming; require training for staff who work in solitary confinement units; and establish minimum requirements, reviews and other procedures relating to various types of solitary confinement. Administrative requirements are in the work session document (Exhibit H).

SENATOR PICKARD:
Does this report include those who are not put into segregation or solitary confinement for disciplinary reasons but for some administrative reason like the offender is in need of protection? Is the intent to include those as well?

SENATOR PAT SPEARMAN (Senatorial District No. 1):
Yes, the intent is to delineate the reason a person is held in solitary confinement so that we can get a full picture of who is in solitary and for how long.

SENATOR OHRENSCHALL MOVED TO DO PASS S.B. 187.

SENATOR PICKARD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 187 and open the work session on S.B. 267.

SENATE BILL 267: Establishes provisions relating to the collection and reporting of information concerning diversity and equality in the workplace. (BDR 7-461).

MR. GUINAN:
Senate Bill 267 is sponsored by Senator Spearman. It establishes provisions relating to the collection and reporting of information concerning diversity and equality in the workplace as described in the work session document (Exhibit I).

Senate Bill 267 establishes an annual workplace diversity and equality survey of businesses in Nevada that employ 500 or more people. The Department of Taxation is to develop the survey in consultation with the Nevada Commission for Women and the Nevada Commission on Minority Affairs and to gather information on females and persons from underrepresented communities. An amendment was presented at the initial hearing on the bill with former Senator Becky Harris, and the Committee discussed that amendment at length. The amendment contains the following:

• Creates a voluntary reporting program for corporations of all sizes. There is authorization for corporations of any size to make their reports available on the website.

• Expands the applicability of the bill so that, in addition to corporations, the provisions would also apply to State governmental agencies including the Nevada System of Higher Education (NSHE) and all of the institutions of NSHE and local government agencies. Governmental agencies will be required to complete the report.

• Requires corporations and governmental agencies to submit their reports to the Department of Taxation. The report prepared by the Department of Taxation will only include information regarding corporations and local governmental agencies.

• Requires state governmental agencies to submit their completed reports to the Division of Human Resource Management of the Department of Administration instead of the Department of Taxation. The Division would be required to make available on its website the annual reports submitted by State governmental agencies with personally identifiable information redacted and aggregate data relating to annual reports with personally identifiable information redacted. The Division would be required to submit the consolidated report annually to the Governor and the Director of the Legislative Counsel Bureau.

• Requires the Department of Taxation to include certain questions in the survey regarding vacancies and the rate of attrition at the corporation or agency.

• Does not impose penalties.

• Deletes provisions requiring the Department of Taxation to consult with the Nevada Commission for Women and the Nevada Commission on Minority Affairs when developing the survey and requires both commissions to assist the Department in developing the survey. Instead, provides that the Department must develop the survey in consultation with the Legislative Commission.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 267.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HANSEN VOTED NO.)

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SENATOR HANSEN:
I am a strong no on this. This is Big Brother on steroids. We are asking highly invasive and personal questions of people we should not be bothering. If you look at the in-depth questioning this bill talks about from everybody's sex life to their racial composition, we have gone way overboard on this idea. Something like this could be handled by a private sector hiring company that could survey for this information, but for the government to force this on the private sector is outrageous and wrong.

CHAIR SCHEIBLE:
I will close the work session on S.B. 267 and open the work session on S.B. 177.

SENATE BILL 177: Revises provisions relating to the Account for Aid for Victims of Domestic Violence. (BDR 16-926)

MR. GUINAN:
Senate Bill 177, sponsored by Senators Ratti, Cannizzaro and Scheible, revises provisions relating to the Account for Aid for Victims of Domestic Violence.

Senate Bill 177 revises the eligibility of nonprofit organizations that provide services for victims of domestic violence to receive grants from the Account for Aid for Victims of Domestic Violence. It also renames it as the Account for Aid for Victims of Domestic or Sexual Violence.

The bill requires that an organization must provide services exclusively to victims of domestic violence in a county with a population of 100,000 or more but need only provide services primarily to victims of domestic violence in a county with a population of less than 100,000. The bill also excludes nonprofits that provide services exclusively to victims of domestic violence from the requirement to shelter victims on any day at any hour and to store and prepare food in order to receive grants.

The Administrator of DCFS must allocate 75 percent of the money allocated to a county under this program for services for victims of domestic violence and 25 percent to services for victims of sexual violence. Other requirements are in the work session document (Exhibit J).

The portion of the fee collected by a county clerk when issuing a marriage license used to fund the Account is raised from $25 to $50.

SENATOR HANSEN:
According to the people involved in this industry, if the tax is increased, the number of people paying for marriages goes down. If our goal is to reduce domestic violence, we should be encouraging marriage.

SENATOR PICKARD:
I reached out to people in the marriage industry who say we have been losing ground to other marriage destinations for decades, and they expressed some serious concerns about what this would do. People who can travel to a destination for marriage can travel anywhere they want within some reason.

The people in Nevada's marriage industry are concerned that since they are not directly associated with domestic violence, they should not be the ones shouldering the bulk of the tax burden. I encourage the sponsors of the bill to look for a permanent funding source outside of marriage. I cannot support this bill, even though I sympathize with the need to expand the services.

SENATOR SETTELMEYER:
I talked to the sponsors about finding another way to fund this. I agree with the concept, and if this could be a budget line item, I am sure you could have this bill out of here unanimously without a problem. Continuing to apply it to a fee that has a marginal nexus at best is our objection. I wish that we could put the amendment forth and have a bipartisan agreement to put more funds into this worthy cause, but for now, I have to oppose.

SENATOR CANNIZZARO:
When we talk about domestic and sexual violence, so much of that is about power and control; the more tied you are to a partner, it is that much harder to leave that individual. There is unlikely to be the financial ability to leave or a support system existing outside the home for the victim to leave. The policy is how we fund these types of services.

The funding is woefully inadequate. Senator Ratti presented the fact that this has been unchanged for a substantial period of time, but limited resources are real. The way we fund things in this State is to find something we can relate them to. Without some grander plan and the support behind it to figure out the permanent funding source, this is a small burden to ask to fund legitimately needed services in this State.

CHAIR SCHEIBLE:
I also support S.B. 177, and I agree with the Majority Leader. I also am disappointed to hear different reasons to not support a bill when people purport to support, in theory, funding the fight against domestic and sexual violence. To me, the correlation is not even important. If there was another tax or fee that we could levy to raise this money—it could be on candy bars or bubble gum, we would try.

This money is desperately needed in our State. I do not know of any married people who would want a refund on their marriage license fee, knowing that the additional amount went to help combat domestic and sexual violence. I am happy to support this bill. For 40 years we have not found another solution, so I am ready to support this incremental increase to fund the fight against sexual and domestic violence in Nevada.

SENATOR OHRENSCHALL:
I was moved by the coalition Senator Ratti brought together and to hear former Lieutenant Governor Sue Wagner talk about the effort to get this on the books in the early 1980s and how bipartisan it was then. I hope we can achieve that bipartisanship here. I will be supporting it.

SENATOR HARRIS MOVED TO DO PASS S.B. 177.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HANSEN, PICKARD AND SETTELMEYER VOTED NO.)

* * * * *

SENATOR SETTELMEYER:
This is worthy, and we should fund it. Let us do it right now. The American Recovery Plan Act is going to pass. When it does, let us dedicate $10 million or $20 million or whatever is the appropriate amount to help these individuals. I do not support the concept of the nexus that we put into law a long time ago. There are better ways to fund this. I do not object to the funding but where the funds are coming from.

SENATOR RATTI:
I appreciate that we are not relitigating the bill here at the work session. I spent a lot of time with Senator Settelmeyer looking at divorce fees because several Committee members asked us to do that. There are significantly fewer divorces in Nevada than marriages, and we would have to raise the divorce fees up to $200. There are people who cannot afford to get divorced, so that seemed not to be a good solution, so we set that aside. Nobody approached me with an amendment to the bill. If we had time to consider an amendment, I would have taken a look at it.

My concern is that last Session, we did a bill on vaping, raised the tax on vaping and brought about $9 million into the State. The appropriation was for vaping prevention, a strong nexus, and it was a General Fund allocation. Now we are in a recession and the money for vaping has been cut 100 percent because of the 12 percent cuts we are making. My lesson from this is by just

doing a single General Fund appropriation, you are good for two years but not guaranteed sustainable funding.

My concern with the American Recovery Plan Act is that the vast majority of that is one-shot money. We can take a good chunk of money; if we want to give $10 million to domestic and sexual violence out of the American Recovery Plan Act, I will be a strong yes. It would be appropriate for perhaps building a shelter but not sustainable. The marriage license fee has been sustainable long-term funding for 40 years. I will continue to talk with my colleagues in good faith and find a way to get the funding for domestic violence and sexual violence. Funding the nonprofit organizations important in our State infrastructure is critical so the victim-survivors have reliable, sustainable funding.

SENATOR HANSEN:
Senator Ratti has issued a challenge to find possible funding packages, so I did some research and found that approximately 80 percent of the licenses sold in Clark County are to out-of-state people who come to Las Vegas for marriage and a honeymoon. The logical spot to go would be a room tax. I recognize that the Legislature in its wisdom came up with a big room tax to pay off a $750 million football stadium for a billionaire, but somehow we are uncomfortable raising the room tax for domestic violence issues. I wonder about our priorities.

CHAIR SCHEIBLE:
I will close the work session on S.B. 177 and open it on S.B. 369.

SENATE BILL 369: Revises provisions relating to criminal procedure. (BDR 14-375)

MR. GUINAN:
Senate Bill 369 was sponsored by the Senate Committee on Judiciary on behalf of the Committee to Conduct an Interim Study of Issues Relating to Pretrial Release of Defendants in Criminal Cases.

Senate Bill 369 revises statutes regarding the imposition of bail to comport with the Nevada Constitution. The bill removes provisions requiring an arrested person to show good cause in order to be released without bail. Additionally, the bill consolidates existing procedures for releasing a person with or without

bail into a standard procedure for courts to follow in making pretrial custody determinations; requires a prosecuting attorney who requests bail to prove by clear and convincing evidence why it is necessary to protect the community and ensure the accused will appear in court; and requires a court to consider the prosecutor's request before imposing bail or any other condition of release on a person.

Senator Harris has offered Proposed Amendment 3206 that is attached to the work session document (Exhibit K). The amendment revises language in section 3 to authorize a prosecuting attorney to request bail or another condition of release or both. If requesting bail, the prosecutor must prove by clear and convincing evidence why bail is necessary. After considering the prosecution request, the court will only request bail or condition of release or both as the court deems to be the least restrictive means necessary to protect the safety of the community and to ensure the person will appear in court.

Proposed Amendment 3206 also provides that if a person used a firearm in committing the act for which the person was arrested, there is a rebuttable presumption that the least restrictive means necessary to secure the community's safety and ensure the person will appear at trial includes the imposition of bail or a condition of release or both.

SENATOR SETTELMEYER:
Some testimony indicated this could potentially lead to letting criminals out to harm victims of sexual assault.

CHAIR SCHEIBLE:
That issue is a broader concern about our bail system. This codifies the decision in *Valdez-Jimenez v. Eighth Judicial District Court*, *in and for the County of Clark,* 136 Nev. 155 (2020) which says nothing in Nevada law prevents a judge from allowing a defendant who is accused of sexual assault to be released either on bail and/or have nonmonetary conditions applied. This bill does not change that, but it does not weaken it either.

SENATOR SETTELMEYER:
I am going to oppose based on the fact that I want to get that cleared up.

SENATOR HANSEN:
Is this the bill where if they are incarcerated for seven years, they have an opportunity to get out?

CHAIR SCHEIBLE:
You are mixing it up with another one. Senate Bill 369 says that the burden is on the prosecutor to show by clear and convincing evidence the person poses a risk to the community and/or is a flight risk. Then the judge makes the determination as to the least restrictive means to ensure that person's return to court and the safety of the community. Proposed Amendment 3206 clarifies that a judge can make that determination without hearing from a prosecutor because it is common practice for law enforcement agencies to submit an arrest report or an arrest packet directly to the judge without having an in-person hearing to read the report and set bail on Friday night even though the arraignment might not be until Tuesday morning.

SENATOR CANNIZZARO:
The amendment clarifies some of my concerns. We may need to have some conversation and clarification on the courts to set bail and to make sure wording in section 3 captures what it needs to capture, but I am comfortable with voting to amend and do pass. This is codifying some considerations for instances of use of a firearm in the commission of an event which speaks to the safety of the community. The Nevada Supreme Court's decision was that these are the standards under *The Constitution of the State of Nevada* which must be considered to set bail or conditions of release. This is the law.

SENATOR HARRIS:
It is the intent of the Proposed Amendment 3206 to clarify that the court has the ability to put forward what it deems is the least restrictive means to make the community safe and to make sure the defendant returns to court, so I am happy to continue the work to tighten that up.

SENATOR OHRENSCHALL:
This bill and the other bills on pretrial release and detention reflect a national movement toward bail reform. The Uniform Law Commission has promulgated a uniform act regarding this issue, and this is happening around the Country. I will be supporting this legislation.

SENATOR PICKARD:
I was going to mention the uniform act as well. This deviates from that a little bit. It was my understanding after talking to a few prosecutors that the least restrictive means is already the state of the law. I will be supporting the bill out of Committee, but I am going to reserve my right to change my vote.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 369.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR SETTELMEYER VOTED NO).

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CHAIR SCHEIBLE:
I will close the work session on S.B. 369. I will open the work session on S.B. 401.

SENATE BILL 401: Requires the reporting of certain information relating to pretrial detention. (BDR 14-378)

MR. GUINAN:
Senate Bill 401 is sponsored by the Senate Committee on Judiciary on behalf of the Committee to Conduct an Interim Study of Issues Relating to Pretrial Release of Defendants in Criminal Cases.

Senate Bill 401 provides for the collection and reporting of data from the court system related to pretrial detention in criminal cases. The bill requires data concerning a charged offense; whether bail was granted, denied, or the defendant was released without bail; bail amount and conditions of release; date of initial custody and date a court set bail or denied bail; date a defendant was released from custody with or without bail; whether a bail hearing was held; whether a defendant failed to appear, was arrested for violating a condition of release or was arrested for a new offense while released on bail; and sentence imposed, date taken into custody to serve sentence and date released. Additional information and an amendment to the bill from the Department of Sentencing Policy are included in the work session document (Exhibit L).

SENATOR HANSEN:
I am in favor of this bill.

CHAIR SCHEIBLE:
I want to clarify with you, Senator Harris, in looking at the language, the bill requires informing the court that somebody has been held for more than seven days with bail of less than $2,500, but it does not indicate what that means the court should or must do about it.

SENATOR HARRIS:
That is correct.

> SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 401.
>
> SENATOR HANSEN SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
That concludes our work session for today.

SENATOR PICKARD:
Was the intent to skip over S.B. 359? We have been bouncing around, and I wanted to make sure I did not miss something.

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

CHAIR SCHEIBLE:
We are pushing S.B. 359 to tomorrow's work session. We will now move to the hearing on S.B. 261 from Senator Settelmeyer.

SENATE BILL 261: Revises provisions relating to actions to collect a consumer debt. (BDR 8-902)

SENATOR JAMES A. SETTELMEYER (Senatorial District No. 17):
The bill relates to consumer debt. Sometimes in these situations, we have individual claims so small that the concept of collecting them is problematic. It costs far more money than can be collected. This bill puts in a clause that the minimum fee for attorney fees is $500 to facilitate collections of all types of debt. Neil Tomlinson is here to present the bill.

NEAL TOMLINSON (Nevada Collectors Association):
The bill is straightforward, starting with the background to explain why it is needed. Assembly Bill No. 477 from the 80th Session contained a provision that affected the calculation of attorney's fees in actions relating to the collection of consumer debt.

That provision provided attorney's fees could not exceed 15 percent of the original consumer debt when a percentage was specifically stated in a consumer form contract. When a percentage was not stated in the consumer form contract, attorney's fees were capped at the lesser amount of 15 percent or fees calculated as a reasonable rate for a reasonable amount of time to obtain the judgment.

An unintended consequence by capping attorney's fees at 15 percent is having a severe negative impact on the small business community when collecting on smaller valid debts. Many small businesses do not know how or do not have the time to navigate small claims court on their own, so they turn to an attorney for assistance.

Many of you are lawyers, so you understand the time and effort it takes to prepare the necessary pleadings, complete the filing, serve the defendant and appear at court hearings. Depending on the value of the debt, the maximum of 15 percent for attorney's fees creates an artificial threshold when a lawyer decides whether to take a case.

Something lower than that threshold results in the small business owner not getting legal representation and facing the decision of either attempting to navigate the legal system alone or just not collecting on payments rightfully owed. It is inequitable to expect small businesses doing their best to stay open to carry the burden of these valid debts simply because they cannot find legal representation.

Senate Bill 261 seeks to allow a minimum level of $500 for attorney's fees in this type of action. A 15 percent cap would still be applicable in most instances; however, an attorney would be entitled to at least $500, which is significantly less than attorney's fees calculated at a reasonable rate for a reasonable amount of time to obtain a judgment even on the simplest cases.

TIM MYERS (Nevada Collectors Association):
Nevada Collectors Association represents 30 brick-and-mortar businesses in the State licensed and regulated by the Division of Financial Institutions. In 2019, the provision at issue intended to limit the amount of attorney's fees the consumer must pay. However, it has had an unintended consequence. Most licensed agencies are corporations and must retain legal counsel in Nevada.

We represent all types of businesses in the State, and most businesses expect us to go to court for them. These are the small businesses that cannot hire corporate counsel at $300 per hour to represent them on a case-by-case basis. By way of example, a small doctor's office retains one of our members to collect on a valid $1,500 medical bill. The maximum allowable attorney's fee would be $225. It does not matter if it settles, defaults or goes to trial, this is the maximum an attorney can be paid. We cannot find a lawyer to represent us in cases like this. It takes too much time and effort to prepare and serve pleadings and attend the court proceedings. It costs more than $225 for the lawyer to accomplish this.

This bill seeks to correct this unfortunate consequence by allowing a minimum fee of $500, so the small businesses have the ability to collect on valid bills.

SENATOR PICKARD:
I want to understand how this works. In my experience with the collection side of this, usually we would assign the rights to the claim in its entirety in exchange for 50 percent back, plus or minus, but the collectors get a percentage of the amount owed. I always thought that was to pay the attorneys. Would this be an award of attorney's fees in addition to the other collection costs accrued and contracted for?

MR. MYERS:
That is only if we go to court. Basically, most of our members are contingency collection agencies, so anywhere from 10 percent to 25 percent is what we charge the client only if we collect. When we advance or go to court on a

consumer that has the means to pay but refuses to pay, we advance all court costs and attorneys' fees for our client, the small businesses out there.

Once we go to court, we have to make sure we have a contract from the original business stating that our attorney's fees are awarded or allowed if they default and attorneys must be hired to go to court. Advancing all court costs and attorney's fees is in addition to the contingency fee we make. We ask the court to return the costs to us once we go to court. This has been limited to 15 percent, so on a $1,000 bill, we get $150 back, and our attorney probably cost us $250 to $400 to prepare and file the lawsuit. It is not feasible for us to go further for our small businesses.

SENATOR HARRIS:
Is this done anywhere else where we set some guaranteed income for another profession outside of where we establish Medicaid reimbursement rates and things of that nature?

MR. TOMLINSON:
I am not sure of the answer to that. These fees were included in the past law.

SENATOR SETTELMEYER:
We can look to see if the State establishes a minimum wage for things and get back to you on that.

CHAIR SCHEIBLE:
Since we are applying an exact dollar amount of $500, could you give us a picture of what these settlements usually look like, either the average claim or the average amount recovered?

MR. MYERS:
We handle claims from $15 to $20,000. It depends on the creditor—utilities, medical, retail, commercial. There is a threshold from the industry standards of what you can afford to do. You cannot help everybody. The last thing we want to do is go to court, but some clients cannot hire their own attorney at $300 per hour, so they hire us to do the collections, and then ask us to advance all the costs to take the debtor to court on a volume basis.

We are not taking a $200 account because it is not feasible for us to spend that much money on the collection. As the law stands, we cannot afford to help the

pool cleaner, the electrician or the people who are doing $700 services because we are only awarded less than $150 for attorney's fees. By increasing the amount of attorney's fees to $500, we are able to help the smaller bills from smaller companies.

CHAIR SCHEIBLE:
It sounds like this is specifically targeting a case in which the recovery might only be $200 to $300. You are ensuring that anybody who has a judgment against them of $200 will have to pay at least $500 in attorney's fees in addition to whatever the judgment. If a judgment of $200 was ordered by the court, what attorney's fees would be awarded under this bill?

MR. MYERS:
Before 2019, there was never a set amount that the judge would award for attorney's fees.

CHAIR SCHEIBLE:
Now we are putting a floor on the award of $500, so this effectively makes it so all claims are worth going after. Originally, an organization would not go after a $200 claim because it knew the group would not get even $200 in attorney's fees. Now it can go after a $3 debt and get $500 in attorney's fees. Why not go collect every single debt owed from people who have small outstanding amounts?

MR. MYERS:
Our members pretty much have a threshold of $200 to $300 owed before they try to collect. Mr. Tomlinson, can you add anything?

MR. TOMLINSON:
This is mainly designed to fix the problem when we have valid debts between $1,000 and $3,000. Mr. Myers says his association members do not go after small-dollar debts in litigation because it is not worthwhile. The reality is that a lot of small doctors' offices, pool cleaners, housekeepers and other service providers are not getting paid, and they legitimately should get paid. People have the option to avoid paying because they know providers will not take them to collection, and that is not a good situation. This bill is designed to address those debts large enough to litigate but still small enough that 15 percent will not be enough for an attorney to afford to take. If the policy of the State is that you can avoid any small debt, it is not a good policy. This attempts to fix those

claims Mr. Myers described of $1,000 to $3,000 that can be problematic to collect because they are significant enough, but no attorney will take them.

CHAIR SCHEIBLE:
These debts exist between $1,000 and $3,000, and it is not worth the money to go after them for what you may recover. Basically, we have a market failure that you are asking the government to come in and fix by putting an artificial $500 floor on the amount debt collectors can recover in these cases because the free market is not doing it by itself.

SENATOR SETTELMEYER:
We, as the government, stepped in and interfered with the market when we put forth a rule establishing a percentage to begin with.

SENATOR HARRIS:
How often do consumer contracts have provisions that shift the recovery of attorney fees automatically to the consumer if they have to collect a debt?

SENATOR SETTELMEYER:
I will look that up and get back to you. I am not aware enough of the field to know that.

MR. MYERS:
Most of our clients have that provision in a financial agreement with their consumers that allows if debts go to accounts receivable, consumers will be responsible for court costs. Utilities or other creditors do not utilize contracts, but the Public Utilities Commission of Nevada, for example, allows for collection of attorney's fees and court costs if it goes through the collections process. Many do have this in contracts.

SENATOR HARRIS:
You say that in some industries, it is fairly common to have in the financial agreement that the person would be responsible for the attorney's fees and costs although those are capped at 15 percent.

MR. MYERS:
That is right.

ELLIOT NALIN (Creditor Rights Attorneys Association of Nevada):
Creditor Rights Attorneys Association of Nevada is an industry trade group of attorneys who represent creditors before all courts in Nevada. We regularly run into debt consolidation companies that largely work on behalf of consumers. Aside from their contracts with consumers, these companies often have no ties to the State. They regularly allow undisputed consumer debt to go into litigation, then require court filings instead of immediately working to resolve the cases when there is no dispute and debts are justly owed. The volume of unneeded cases overwhelms the judicial system. We encourage S.B. 261 as a way to incentivize presuit resolution as a benefit to the consumer and the courts.

DONNA ARMENTA:
I am an attorney who represents collection agencies as well as small business owners in collecting debts in Nevada. I have small clients such as cabinet installers, daycare centers, landscapers and pool people who come to me to collect debts under $3,000. They have their contracts in hand, and they have a provision in the contract that allows for awards of attorney's fees and costs. I have to turn them down because I cannot charge them an hourly rate, and I am unable to recoup my attorney's fees. This was not happening until the law was passed that interfered with contract provisions and now says the most I can receive is 15 percent of the debt. With regard to the claims I have filed, if it is an undisputed default judgment, in general, I would be awarded $500 to $800 from the court. But debt consolidation companies dispute the debts and file answers even if there are no grounds for the answers. I have to litigate those to get the judgment status.

In those cases, and when I win on summary judgment, I am usually granted about $1,650 or more in a justice court action. The 15 percent limit is a detriment to a process where debt collection is helping small businesses stay on their feet. There is an economic need for debt collection for small businesses, and this 15 percent limit has overridden the contractual positions small businesses relied upon to stay in business and to collect their debts.

SOPHIA ROMERO (Legal Aid Center of Southern Nevada):
Senate Bill 261 attempts to remove the protections that A.B. No. 477 of the 80th Session put into place. While $500 may not seem like a lot of money to some, for those who are behind on paying debts, it is an extremely large amount. Since NRS 97B.160, subsection 1, paragraph (b) went into effect on

October 1, 2019, courts are interpreting this statute to require a contract entered into after that date. We have not seen the results of the legislation as it stands because courts are not enforcing it yet. People are sued on large or small amounts all the time. To give you an idea of the actual dollar amounts we are discussing, in 2020, one debt collector brought suits on principal dollar amounts of $442.11, $328.19, $285.08 and $276.26. This was a small period of time and a single debt collector. These types of suits belong in small claims. There is plenty of information about small claims both on the Civil Law Self-Help Center website and at the Legal Aid Center of Southern Nevada that holds a class every Friday about small claims and how to use small claims court. It is open to everyone in the community who may need assistance with the process.

If this bill passes, someone who is being sued on a bill of $125 would be required to pay at least $500 in attorney's fees. That is 400 percent of the original debt in attorney's fees, not including what one would have to pay in collection costs, which usually includes attorney fees. Senate Bill 261 completely negates the entire purpose and intent behind NRS 97B.160, subsection 1, paragraph (b). Raising fees such as collection costs and attorney's fees does not facilitate the collection of debt but drives people toward bankruptcy. This bill attempts to target people who already do not have money to pay, requiring them to pay more and putting it into statute. These are small claims matters. This bill is extremely detrimental to consumers by allowing and codifying predatory business practices, which is why we are in opposition and encourage the Committee to oppose this bill as well.

JAMIE COGBURN (Nevada Justice Association):
We are in opposition to this bill. I am looking at a lawsuit filed in January for $583.06 in principal amount, a collection agency fee of $291.53, attorney's fees of $550, court fees of $81.38, service fees of $30 and interest on the underlying amount of $564.15—24 percent interest per contract—for a total due of $2,100.12. This is an original amount of debt of $583 for a prenatal doctor. This case was filed this year, so to say that these lawsuits will not be filed is blatantly false. This was filed by someone who testified today, a member of the Nevada Collectors Association, so nobody is going out of business. As Ms. Romero mentioned, the courts are saying the law only applies to contracts after October 1, 2019, so we have not seen any detrimental effect to anybody. This type of case belongs in small claims court where the amount claimed can be up to $10,000. These are claims for hundreds of dollars, not thousands.

The No.1 debt in America is medical debt: on average in Nevada, 37 percent of the population was in collections before the pandemic. The average median debt is $742. To add $500 to that as a base for attorney's fees more than doubles it when added to all the other costs and fees. The Nevada Justice Association opposes this bill.

CHAIR SCHEIBLE:
I will now close the hearing on S.B. 261 and open the hearing on S.B. 6.

SENATE BILL 6: Revises provisions governing orders for protection against high-risk behavior. (BDR 3-394)

LINDA MARIE BELL (Chief District Judge, Department 7, Eighth Judicial District):
Two years ago, a bill passed to allow for high-risk protective orders in certain situations to remove firearms from people who were engaging in high-risk behaviors. I have handled all except one of these cases for Clark County. In that two-year time, we have had 33 applications—25 were people seeking other types of protective orders.

Chair Scheible had some conversations about that and worked to come up with some ideas outside of statute changes to allow community applicants to move forward and clear up that confusion, but there are some other procedural concerns. We are hoping to resolve some of those issues to streamline the process and to make sure we are balancing due-process rights and making the process simple and clear for those who are filing applications. Out of the eight applications considered, there was confusion because of a process to apply for a seven-day temporary emergency order and a process to apply for an extended order. This results in the court potentially conducting two evidentiary hearings in the seven-day period. Even some of our law enforcement agencies struggle with the two different applications, which has resulted in delays and confusion.

We are seeking to change some of the procedural things about this statute. First, the bill changes the words ex parte to emergency to more clearly identify the seven-day order and reflect the nature of the order, reducing some confusion so it is easier for community members to understand, and more accurately reflects the proper legal term. The order could be ex parte without notice to the other side, but it also could be with notice to the other side. We would also like to streamline the process and avoid the confusion caused by

having two applications to having one application either granted on an emergency basis pending a hearing or not granted on an emergency basis and set for a hearing. This will avoid confusion and eliminate the need for two separate evidentiary hearings in a short period of time.

Proposed Amendment 3221 (Exhibit M) conforms the term "eminent risk" throughout, not only in the court finding but also in the application to encourage supplemental documentation. It is helpful to the court when receiving these applications, particularly looking at them on an emergency basis, to have additional documents to look and see if a concern warrants granting an order on a short-term basis before there can be a full hearing.This also streamlines service issues that exist in the original statute. If somebody did not apply for a temporary order and an extended order, then there had to be service through the rules of civil procedure instead of service by law enforcement. This created safety concerns and some confusion for at least one of our law enforcement applicants who only asked for the extended order, and then we struggled to get the adverse party served through the rules of civil procedure before the application could be heard.

Finally, we are looking to remove the duty of the court clerk to assist. We are happy to work with Legal Aid and community organizations to provide that sort of information, but it puts our clerks in a difficult position to be expected to give people advice on filing these kinds of documents. We always help people to do the filing, but we want to make sure our clerks are not being put into the position of giving legal advice or giving advice on filling out the forms, which is typically beyond what we ask them to do.

SENATOR SETTELMEYER:
You said that only about one-third of the applications were looked at? Is there a reason for that? Also, statute is that their firearms would be returned in 14 days. The bill changes it to 30 days. Is Clark County having a problem meeting the requirement of 14 days? This seems like a pretty big jump. Is there a reason behind the increase?

CHIEF DISTRICT JUDGE BELL:
Of eight applications considered that requested high-risk protective orders, three have been granted in some capacity, and one was on a temporary basis only, not extended. The adverse parties did not oppose the two extended orders. We have not had a big issue in that regard. Regarding the extended time

for firearms, I understand this was requested by some of our law enforcement partners, but the amendment was eliminated, and we are staying with the 14 days.

CHAIR SCHEIBLE:
Proposed Amendment 3221, Exhibit M, does reflect the 30 days as requested in the original bill, but a conversation can be held to follow up off-line to make sure the amendment conforms to everybody's intent and understanding.

SENATOR PICKARD:
I want to step back. I liked the bill before the amendment better than after. Could you describe why the bill was drafted the way it was to make the changes we made and why we undid much of that?

CHIEF DISTRICT JUDGE BELL:
The original concern was that we had so many community applicants who have mistakenly filed for this order while trying to get a domestic violence temporary protective order (TPO) or some other protective order for themselves and not understanding what this does. Of the eight considered, the two extended protection orders were from law enforcement. We are having minimal community applicants for the orders; then the orders are not being granted because applicants do not meet the standards of the statute. The initial thought was to remove the community applications; however, some concerns were raised by the community that it may not always work to get law enforcement involved prior to filing this sort of application. Chair Scheible had multiple discussions to figure out how to streamline the process and maintain the ability for family members if they have concerns.

SENATOR PICKARD:
In terms of those community applicants, did I understand that none of those submitted by the community or family member were granted?

CHIEF DISTRICT JUDGE BELL:
In Clark County, one temporary application was granted to a victim of domestic violence who had been in a cohabitating relationship. When the hearing on the extended order happened, she no longer was a family member, and the extended order was denied.

SENATOR PICKARD:
That makes sense because the TPO standard is fairly narrow when it comes to the family member or cohabitant. I recall this discussion in some detail when the bill first passed and how it could be abused. It seems that we have not experienced that, since family members are not using this. Have you seen a case where the application was based on insufficient evidence to grant it in the first instance, and they were less than candid in their application?

CHIEF DISTRICT JUDGE BELL:
With respect to the first part, yes. We had five denied because of insufficient evidence to establish what was required under statute. I cannot say any of those were being requested for improper purposes; they just did not meet the standards of less restrictive means and an imminent risk. Both of those are fairly hard to establish.

SENATOR PICKARD:
In the cases where they were granted, was the adverse party found to be mentally disturbed, or were these people who expressed their distaste in violent ways? How would you characterize the adverse parties?

CHIEF DISTRICT JUDGE BELL:
We had one of each. We had one gentleman who had some mental health issues. We had one gentleman who posed a high risk for other reasons.

SENATOR PICKARD:
Finally, when we are talking about the orders, they have been separated into two orders. This is similar to a TPO where the emergency order does not require notice but an expectation for a hearing, and that hearing could be telephonic. Now that we have had experience with telephonic hearings, as the judicial officer, do you get enough information given that 80 percent of the communication is nonverbal? Are you getting the kind of responses you need and the insight you would typically get over the telephone?

CHIEF DISTRICT JUDGE BELL:
The telephonic application allows law enforcement to call me 24/7. We have not had that happen yet. All of our applications have been in writing. Certainly, that is how we do our search warrants—most electronically but some telephonically—and that gives us sufficient information. As the statute stands right now, there is no notice requirement. In fact, it is called ex parte through

the whole statute. There is no notice requirement for that emergency application if the applicant can establish the imminent risk and the need on an emergent basis to grant that short-term order before a full evidentiary hearing. If the emergency order is granted, there has to be a full hearing within seven days. It is a short time frame.

DAN REID (National Rifle Association):
We are here in opposition to S.B. 6 as we opposed the underlying red flag law in the 2019 Session, and today we are dealing with a substantial amendment to this bill. We have been reviewing it and still have concerns with amended language.

Specifically, in sections 1 and 3, regardless of the emergency order, there is going to be a hearing on the extended order. If an emergency order is not granted, why is an extended order needed? If there is an extended order, does the court only have the discretion to not issue the extended order if the applicant withdraws the application?

We have concerns with section 8. When the underlying bill was heard, we outlined our concerns regarding surrender and providing notification to the court because that could implicate someone on Fifth Amendment grounds. There is a reduction in time to surrender firearms from 72 to 24 hours and a question regarding the 14- to 30-day time for law enforcement to return the firearms. This seems like a long amount of time, especially if someone is only subject to an order like this for a couple of days. If law enforcement has up to 30 days to return the firearms, is someone deprived of constitutional rights at that time? With that, we are in opposition.

RANDI THOMPSON (Nevada Firearms Coalition):
On behalf of the over 45 percent of Nevadans who are law-abiding firearm owners in this State, we are opposed to Senate Bill 6 and Proposed Amendment 3221. I will just say ditto to what Mr. Reid said.

CHAIR SCHEIBLE:
I will now close the hearing on S.B. 6. The meeting is adjourned at 3:33 p.m.

RESPECTFULLY SUBMITTED:

Sally Ramm,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A	1		Agenda
S.B. 313	B	1	Senator James Ohrenschall	Proposed Amendment 3231
S.B. 317	C	1	Nevada Association of Public Safety Officers	Proposed Amendment
S.B. 317	D	1	Nevada Association of Public Safety Officers	Revised Proposed Amendment
S.B. 356	E	1	Patrick Guinan	Work Session Document
S.B. 357	F	1	Patrick Guinan	Work Session Document
S.B. 365	G	1	Patrick Guinan	Work Session Document
S.B. 187	H	1	Patrick Guinan	Work Session Document
S.B. 267	I	1	Patrick Guinan	Work Session Document
S.B. 177	J	1	Patrick Guinan	Work Session Document
S.B. 369	K	1	Patrick Guinan	Work Session Document
S.B. 401	L	1	Patrick Guinan	Work Session Document
S.B. 6	M	1	Senator Melanie Scheible	Proposed Amendment 3221