

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

**Eighty-Second Session
May 31, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8:05 a.m. on Wednesday, May 31, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Brittney Miller, Chair
Assemblywoman Elaine Marzola, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Venicia Considine
Assemblywoman Danielle Gallant
Assemblyman Ken Gray
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Selena La Rue Hatch
Assemblywoman Erica Mosca
Assemblywoman Sabra Newby
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Melanie Scheible, Senate District No. 9
Senator Heidi Seevers Gansert, Senate District No. 15
Senator Pat Spearman, Senate District No. 1
Senator Dallas Harris, Senate District No. 11

Minutes ID: 1252



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Devon Kajatt, Committee Manager
Traci Dory, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

Marco Rauda, Founder and CEO, Embracing Project
Regan Comis, representing Awaken
Christopher M. Ries, Detective, Las Vegas Metropolitan Police Department
Serena Evans, Policy Director, Nevada Coalition to END Domestic and Sexual Violence
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office
Caitlin Gwin, Private Citizen, Las Vegas, Nevada
Nick Shepack, Board Chair, Return Strong!; and Steering Committee Member, Social Workers Against Solitary Confinement
Lilith Baran, Policy Manager, American Civil Liberties Union of Nevada
Barry Cole, Private Citizen, Reno, Nevada
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada
Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada
Nicole Williams, Private Citizen, Dayton, Nevada
Melissa Duna, Private Citizen, Las Vegas, Nevada
Betty Guess, Private Citizen, Indiana
Estee Padgett, Private Citizen, Las Vegas, Nevada
Crystal Voight, Private Citizen, Las Vegas, Nevada
Chris Kovello, Private Citizen
Andres Moses, Assistant Court Administrator, Civil/Criminal Division, Eighth Judicial District Court
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association

Chair Miller:

[Roll was called. Committee protocol was explained.] We have three bill hearings. We are going to take them out of order, and we will begin with Senate Bill 389 (2nd Reprint), which is presented by Senator Scheible.

Senate Bill 389 (2nd Reprint): Revises provisions relating to crimes. (BDR 15-133)

Senator Melanie Scheible, Senate District No. 9:

I am happy to be in front of you today discussing Senate Bill 389 (2nd Reprint). Senate Bill 389 (2nd Reprint) is a joint effort between me and Senate Minority Leader Seevers Gansert, who may or may not be joining us, depending on the mechanics of the Senate Committee on Finance hearing. I am happy to give you an overview, walk you through the bill, and answer any questions you might have. The bill has two components.

The first component of the bill, which is contained in sections 1 through 3, clarifies and expands some language around the crime of soliciting or trafficking a child. The purpose of sections 1 through 3 is to ensure we are addressing people's intent when they act, as opposed to creating a distinction between people who succeed and do not succeed in trafficking children, to put it simply. Basically, we have a number of task forces throughout the state, northern and southern, that work alongside law enforcement to try to stop child sex trafficking before it ever starts. One of the ways they do that is by posing as children online, because that is one of the main ways children are targeted for trafficking. We have law enforcement officers who will pose as children, who will create an online profile, who will be on an online dating website or a social media network, and they will claim to be children and will interact with adults online who want to exploit those children.

The purpose of sections 1 through 3 of the bill is to ensure that a person who is online seeking to meet up with, receive pictures from, talk to, or interact with a person whom they believe to be a child is treated the same as somebody who actually does that, because their intent is not different regardless of whether or not the person on the other end of that email, that text message, or that instant message is an actual child or a person posing as a child. The purpose of sections 1 through 3 is to align the penalties for people who actually traffic children and people who attempt to traffic people who they think are children so they are the same. That is what the first part of the bill does.

The second part of the bill, sections 4 through 9, requires every sex trafficking or human trafficking prevention agency, organization, and law enforcement agency within the state to participate in the commercial sexual exploitation of children database, which is being expanded to include not just cases involving children, but cases involving adults, and is housed at the University of Nevada, Las Vegas. Senate Bill 389 (2nd Reprint) requires that everybody participate in the database so that the database can provide a report to the Joint Interim Standing Committee on Judiciary (Interim Judiciary Committee) or another committee regarding the efforts that are being made to address human trafficking throughout the state of Nevada every single year.

I have been doing this work for six years now, and every year we come to the Legislature and talk about human trafficking, prevention, and making small incremental steps to try to stem the tide. What we have done is created a very complex web of policy councils, task forces, commissions, and committees, and they do not necessarily coordinate, and they do not necessarily agree on an approach to ending human trafficking; but that is okay. The purpose

of S.B. 389 (R2) is to ensure that we are getting accurate data about how many people are being served in the state of Nevada by victim resources organizations; how many people are having law enforcement engagement regarding human trafficking; and that all of that information is centralized so we can start to make better data-driven decisions regarding how we address human trafficking here in the state of Nevada.

The structure of that second part is to require everybody to participate in the database, and then the database will provide the report to the Interim Judiciary Committee. They can also provide policy recommendations to allow the Interim Judiciary Committee to respond in upcoming years.

Perhaps the most important part of the bill that was just approved by the Senate Committee on Finance yesterday is a \$1 million appropriation to the Contingency Account for Victims of Human Trafficking. That account is managed by the Department of Health and Human Services, and yes, I talked to them before I brought the bill to make sure they are willing and able to accept an extra million dollars. Surprise, they were happy to. That account is utilized for nonprofit organizations that engage in the prevention of human trafficking and servicing victim-survivors of human trafficking. Hopefully with a million-dollar infusion into the account, we will be able to put our money where our mouth is and start providing more services, more wraparound services, and more preventative services to avoid falling into the trap of always relying on law enforcement to be the one tool we utilize, increase, and expand every session to try to address human trafficking in the state of Nevada. As I said, that allocation was already approved by the Senate Committee on Finance yesterday. It is found in section 7.5, and I would be happy to answer any questions.

Chair Miller:

Are there any questions from Committee members?

Assemblywoman Cohen:

I am not quite sure how to ask this without sounding glib or making light of this. What if you have an adult person who has an existing relationship with a prostitute and knows that the prostitute is over 18, but that is part of the game they play, pretending, doing the schoolgirl thing, which we know is gross but is different than going out and seeking a child. Are they captured by this, are they under this, or are they okay because they already know that this person is over 18, so this would not add extra charges for them?

Senator Scheible:

I appreciate that question because I think it is a valid concern, even if those are not the people we care most about protecting. Everybody has a right to their freedoms and their personal expression, and they would not be captured by this bill. It is intended for somebody who truly believes they are soliciting a child, even though the person is not a child. The policy reason behind that is basically that as our law enforcement agencies seek to stop this behavior, it is a little bit backwards to say, Well, let us wait until they contact an actual child

before we stop them, arrest them, punish them, whatever. Let us make sure that whether they believe they are soliciting a child or actually soliciting a child, they are treated the same way; but pretending to solicit a child would not fall under the same category.

Assemblywoman La Rue Hatch:

What currently happens in these sting operations without this new language? What charges can be brought against these individuals?

Senator Heidi Seevers Gansert, Senate District No. 15:

We worked with law enforcement on this bill, and they would have normal penalties. It would not be the higher level of penalty. This is an enhanced penalty. I worked on legislation like this with now U.S. Senator Catherine Cortez Masto around 2007, and it was around the individuals luring children online. Recognizing, knowing, or saying, Oh yeah, I know you are 12 years old, and I still want to meet up with you, and those types of things. Times have changed and we have had this for a long time, but we are looking at this specifically around solicitation. This is a form of legislation that has passed before. It has been well supported because we want to make sure that these folks who know, who are acknowledging that they believe this person is underage and still want to solicit them, that they are prosecuted and that we have these penalties related to that type of crime for someone who is a minor.

Assemblywoman Newby:

In section 4, subsection 1, it speaks to the submission of operating budgets and policies and such to the Center for the Analysis of Crime Statistics. Later in that section, under subsection 5, it says that the Center shall compile all of that information and prepare a report and submit that to the Legislative Counsel Bureau for the Joint Interim Standing Committee on Judiciary. In addition to compiling the policies and procedures of the various groups within the state, I am wondering if your thought is that perhaps the Center or someone would make recommendations on making sure that the treatment of those crimes and victims is consistent throughout the state or making recommendations for best policy practices as well.

Senator Scheible:

This might be surprising, but actually, the intention is not for the statistical analysis center to make a policy recommendation because part of the issue we have seen over the last 10 to 15 years, as we have tried to address human trafficking in Nevada, is a wide variety of approaches, opinions, and frankly, some debate around what the data shows and what the best way forward is. The purpose of this bill is to create a clearinghouse so that the Interim Judiciary Committee has all of the information—disaggregated and objectively—in order to make policy decisions that are not driven by one particular organization or one particular coalition with one particular philosophy on how to address human trafficking so that they get an accurate and unbiased view of what we are doing in the state of Nevada. How many organizations treat victim-survivors who are still in the game? How many treat victim-survivors who have left? How many treat victim-survivors who also have criminal records? How many do not treat victim-survivors and only participate in law enforcement

activities? That is the purpose of the report: to get a better landscape of what is going on in Nevada without the editorializing that each organization puts on their own participation in this space.

Assemblywoman Mosca:

Can you speak about how much this does go on currently? Will this increase the number of stings?

Senator Scheible:

I do not have that information in front of me right now. I do know that law enforcement does actively do these, and I believe that it was their request that we amended this language so that they could be more effective. Whether more effective means more stings or just a different type or a different approach to them, I am not sure.

Assemblywoman Summers-Armstrong:

Is there data that shows quantitatively that law enforcement is not able to successfully convict people without this language? I think we need to ensure that that is the real issue before we start adding additional stuff into *Nevada Revised Statutes*.

Senator Seevers Gansert:

When I look at this legislation, it is not so much about being able to press charges and convict them. It is about what the penalties are. If you understand and clearly have a knowledge that you have someone who is a minor, then they should be charged for soliciting a minor so they can still prosecute individuals. This puts them in the category where they knowingly are soliciting a minor, which have higher levels.

Assemblywoman Summers-Armstrong:

I am hoping that you can break this down for me. Let me give you an example. We have someone who actually solicited a child and someone who is soliciting an adult posing as a child. What is the difference between what can be charged to each of those folks and why do we need this bill?

Senator Scheible:

Currently under Nevada law, that second person who was soliciting somebody who was posing as a child but was not an actual child would be charged the same as somebody who was soliciting an adult and knew they were an adult and actually was an adult. Generally, I think that would be a category B of 1 to 10 years, whereas soliciting a child is a category B of 2 to 20 years. I think there are some nuances there based on whether you are soliciting them for a violation of the prostitution statute versus the pornography statute versus the pandering statute. But generally, we are talking about a difference in the level of the penalty. That person who is communicating with somebody who pretends to be a child but is not currently would be charged the same as somebody who is communicating with an adult. What this bill does is increases that penalty so that they would now be treated the same as somebody who was interacting with an actual child.

Chair Miller:

My question relates to section 4, subsection 1, paragraph (b), subparagraphs (1), (2), and (3). We often collect data, and we often collect it based on numbers and demographics and we do not identify the individual. It says, "The identification of victims of human trafficking" in subparagraph (1), and in subparagraph (3), "The detention or citation of victims of human trafficking." I have a lot of concerns about identifying individuals. Can you explain why that is in there?

Senator Scheible:

Yes, those three subparagraphs are the written policies we are asking for copies of. If you look at paragraph (b) in subsection 1, it is for "any written policy adopted by the entity." What we are saying is that we want to be able to see that this particular organization says we identify victims based on self-identification. Maybe another organization says we identify victims based on police referrals. Another organization says we identify victims based on hospital referrals. We want to be able to compare the different organizations, what their policy is on identifying victims, referring them to services; and that subparagraph (3) about the detention or citation is more specifically, Do you provide services to people who have been cited or detained for criminal activity in connection with their status as a trafficking victim?

Chair Miller:

In no way will the identity of individuals be provided in any of these reports?

Senator Scheible:

That is correct. Subsection 2 of section 4 is a catchall to make sure that this does not apply to anything the disclosure of which would "compromise, jeopardize or otherwise threaten the safety or privacy of victims of human trafficking." We wanted to give law enforcement agencies and nonprofit organizations the latitude to decide; if they have some kind of policy they think falls under those categories but would jeopardize their safety or their clients' safety, then they simply do not have to provide them.

Chair Miller:

I do not see any additional questions from members at this point. I will open it for testimony in support of Senate Bill 389 (2nd Reprint) in Carson City.

Marco Rauda, Founder and CEO, Embracing Project:

Essentially the way the Embracing Project works is, if a young woman gets caught working on the Strip, instead of going to jail, a social worker from the Embracing Project gets a call and they start providing services for her, whether it is housing, general educational development classes, or whatever it takes to be able to get her out. That is why we are in support of S.B. 389 (R2), and we urge this Committee to please pass it.

Regan Comis, representing Awaken:

We would like to voice our strong support for Senate Bill 389 (2nd Reprint). We have worked with Senator Scheible and Senator Seevers Gansert on the data collection piece, and we are in support of that. I think it will give us an opportunity to really look at the entirety of the state as well as the extended time period for the Victims of Crime Act (VOCA) grants, which is a funding mechanism and is something important to us, as our survivors sometimes have gone through so much trauma, there is additional time that is needed for them to be able to access that. Obviously, the funding mechanism is something that is so important for us as a nonprofit. We appreciate that.

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

We are in strong support of S.B. 389 (R2), and I definitely want to thank Senators Scheible and Seevers Gansert for their work on this issue. We look forward to working with them in the interim. Again, we support S.B. 389 (R2).

Serena Evans, Policy Director, Nevada Coalition to END Domestic and Sexual Violence:

I echo the sentiments that came before me. Thank you to the Senators. We are in strong support of the data collection that will really allow us to be able to implement some meaningful statewide legislation as well as the increased time frame for VOCA. That is an extremely victim-centered approach.

Chair Miller:

Is there anyone else here in Carson City for support testimony? [There was no one.] Is there anyone on the phone wishing to provide support testimony for Senate Bill 389 (2nd Reprint)? [There was no one.] Is there anyone in Carson City who would like to testify in opposition to Senate Bill 389 (2nd Reprint)?

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

I only want to address sections 1 through 3. First, I do want to say that I am grateful that we are providing a grant and money to study this area. I think this is an area that needs to be studied. Prior to 2013, sex trafficking was not a crime. Ever since then, our legislative body saw a problem, addressed the problem, and we have been going in that direction for a long time, but I do think it is time that we study it and figure out the best way to help victims of this crime because they are indeed victims and we do want to protect them. One of the things that I am concerned about with the sting is lumping this into sex trafficking. I think we should figure out what that definition is, what the conduct is, not throw everything into that bucket of the conduct, and really focus on curing that problem, because whenever I talk to my colleagues from the victim advocate space, we keep saying that Nevada is one of the worst. But we have been creating all these laws since 2013 and we have not moved ourselves out of the position of one of the worst.

The second thing here is, during these stings, one of the concerning things is, and the media has picked up on this—there is a *New York Times* article—sometimes they pick up on cognitively delayed folks. There are folks who sit in the online chat rooms, they might have the mentality of maybe a 12-year-old or a 13-year-old, and then they are not fully able to appreciate that this person who is saying all these dirty things to them is a police officer; really setting them up for something that they would not have done in the first place had they not been down that rabbit hole as a cognitively delayed person. To take that case to trial, the risk is so great, and as a defense attorney, one of the things I do is mitigate risk and this is not a popular charge to go to trial on, this is not something you want to be in front of the jury on, and people will hate us as soon as we walk through the door. It is very difficult to fight these cases and find the right balance. That is my concern with sections 1 through 3, but I am fully supportive of the rest of the bill.

Assemblywoman Summers-Armstrong:

Something that you said really hit with me when you were talking about people with cognitive issues. I think we all assume that just because someone is confirmed or presents as cognitively disabled, charges like this will be thrown out or reduced. Is that really the case?

John Piro:

No, that is not. It really is dependent on who your district attorney is. I like to tell people—and I would say this to John Jones and he will probably agree—a lot of what happens to you in the criminal justice system is arbitrary, from who gets arrested to which district attorney gets assigned. If it is a district attorney who has common sense that I like to work with, like a John Jones or Jenny Noble, we are going to figure out the right solution to the case. If it is one of these new people who does not know what they are doing, trying to make a name for themselves, no; and then if we have to go to trial on a risk like this, you are risking your whole life.

Assemblywoman Gallant:

I understand with the cognitive impairments that the decision-making process is not as smart as somebody who does not have impairments, however, the consequence to the child is still the same. My concern is weighing the cost versus the benefits. How many of those who are apprehended for soliciting a child are in that cognitive impairment range?

John Piro:

I would have to look through all our data, but I can follow up with you on that for sure. In this case though, we are talking about adults posing as a child. I agree with you. I want to catch the bad actors, and I think when you are looking at this, it is like common sense. If you are talking to somebody online, the moment they say they are not of age, like, conversation over, stop, over. Right? But for some people, they do not make that leap. When we are talking about adults posing as a child and the adult on the other end of the online stuff keeps pushing the issue, I am not saying that is okay. I am just saying there is a weird balance here that I would like to sort out and spend more time on.

Chair Miller:

Is there anyone else here in Carson City in opposition? Not seeing anyone, we will take opposition testimony from the phone.

Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office:

I first wanted to thank the bill sponsors for hearing my concerns and working on this bill. I am in full support in collecting data. My opposition lies with the sting operations. I want to give a little background on the cases that we see in Washoe County, how these often go down. It is an adult person, usually a police officer, a picture of an adult woman, and by and far it is where the adult person reaches out to somebody online. It is often people who spend a lot of time online. This can be because they have cognitive disabilities; it can be because they otherwise have other things going on, but they are often very vulnerable, and the conversation is between two adults. The person on the other end is speaking to them like an adult, creates a relationship with them, and it is only after that rapport has been built, by and far that they then tell them that they actually lied about their age.

Our concern is that we want resources going to helping victims and ensuring that we are actually intervening when people are reaching out to children or seeking children out. But that is not what we are seeing in these stings. It leaves a lot of room for discrimination amongst who is being arrested, who is being sought out. We know that Black men are arrested at much higher rates in youth solicitation and sex trafficking cases. When we take that into account, where we have officers actually reaching out to people, there is a great risk there. We support intervention, but we want to make sure that this is data-based and evidence-based. I oppose section 1 of the bill as far as the sting operations, but otherwise I am in support.

Assemblywoman Considine:

In hearing some additional information as this goes on, are there stats available? I am assuming with some of these stats questions already, that it would be something that would have to be provided to the Committee on arrest and charges between those that are picked up from stings like these, or whatever the proper wording is, as opposed to those adults being picked up for soliciting minors outside of these stings. Is there any way to know what the differential is?

Erica Roth:

I can see if our information technology person can pull that from Washoe County. Right now, our data is only going back a year and a half because we switched systems. I can tell you just from my personal observation that we have many, many more cases that are coming from these stings than from actual intervention. We would love to see those resources put towards actual intervention. One other thing I will add is, when we are talking about sex trafficking, when you get into the facts of these cases, I had a case once where they charged sex trafficking, where the police officer posing as an adult asked for shoes repeatedly, asked if she would have to do anything in exchange for the shoes, and the person just kept saying

they would buy them shoes. It is not always, I want to give you money in exchange for a sexual act. When we get into the weeds and the facts of these cases, they are much more complicated, but I will pull that data.

Chair Miller:

Please submit that to the Committee so that everyone can view it. Is there anyone else on the phone wishing to provide opposition testimony?

Caitlin Gwin, Private Citizen, Las Vegas, Nevada:

I am calling from a community group of former survivors, sex workers, researchers, and resource providers. While we are extremely excited about the increased study and ability to understand the causes and nuances of human trafficking and arrests surrounding sex work, we need to speak in opposition against these stings. We know there are many causes that lead to violence in the sex industry and lead to increased trafficking, and increasing criminalization only pushes folks further underground, makes it more difficult for them to access resources in order to get out the course of situations, and really refocuses the money and the interest away from assisting people who are in coercive and violent situations. We absolutely do not support children being coerced. We are one hundred percent against that, and we do believe that our goals are aligned.

We do not think that increasing the stings in this manner is actually doing anything to help children who are being coerced. We believe that law enforcement already has the tools they need to go after these bad actors and instead is refocusing this energy to further push folks underground and away from access to the resources we need. We think in general, this push towards what we call the Swedish Model or the Nordic Model is a push in the wrong direction. We would love to consider the conversations during intercession that had approached this nuanced topic with all actors in mind focusing on safety.

Chair Miller:

Is there anyone else wishing to provide opposition testimony on the phone? [There was no one.] Is there anyone in Carson City who would like to provide neutral testimony on Senate Bill 389 (2nd Reprint)? Not seeing anyone, is there anyone on the phone to testify in neutral on Senate Bill 389 (2nd Reprint)? [There was no one.] I welcome the bill's sponsors back up for any final remarks.

Senator Scheible:

Before I forget, there is one other small change that we are hoping to make in the statute that was lost somewhere along the way. The account that the \$1 million appropriation was approved for is currently called the "Contingency Account for Victims of Human Trafficking." We are seeking to rename it the "Account for Victims of Human Trafficking" because the word "contingency," while it does not hold legal meaning in the state of Nevada, it does kind of have a connotation for meaning it is only in emergency situations, and it may be preventing people from applying for the funds or preventing the manager of the funds, the

Department of Health and Human Services, from accessing other grants and funding mechanisms. I do not really see any reason why we cannot remove the word "contingency." I wanted to mention that before I forgot.

I do want to thank the people who called in opposition and came up in opposition. They have spoken to me about this bill. I am open to an amendment on it. Obviously, at this late hour, it is less viable than it was a month ago when we first started these conversations, which is not to say they have not been working hard and trying to come up with something. I think Assemblywoman Considine touched on the most important issue here, which is the purpose of the second half of the bill, which is gathering the data because we do not have the data to tell us from a policy perspective whether stings are effective, whether stings are being overutilized, underutilized, or whether they are being effectively utilized. We just do not have the data.

I want to speak a little bit personally in my role as an attorney, both as a prosecutor and as a defense attorney. When this bill idea was brought to me, I thought it through in this way, and without having the data to make the policy-driven decision, I make the legally driven decision. From a legal perspective, when we are talking about culpability for criminal action, intent is part of the crime. Intent is part of the consideration and proving intent is a common part of the criminal system. It made more sense to me that somebody who intends to solicit a child be treated the same as someone who actually solicits a child rather than being treated the same as somebody who intends to solicit an adult and actually solicits an adult. I do think there are good arguments on both sides.

That is my assessment of the question in front of us. I do not think that either interpretation is unreasonable, and I think there are some gains to be made by ensuring that people who attempt to solicit children and believe they are soliciting children are treated the same and that we are not depending on victims to come forward and be victimized before we address the problem, which is predators. I would like to allow my colleague to make some final remarks.

Senator Seevers Gansert:

Some of the opposition came to me yesterday, and they sort of muddy the water. When I was talking about child luring, that legislation passed in 2009; U.S. Senator Catherine Cortez Masto and I worked together on that. If you are talking about online, right now you can be prosecuted if you willingly are trying to lure someone who you believe, the intent is, you are trying to lure someone who is underage—that is already in statute. This bill is around current operations that are not luring because again, we already have that in statute.

When you think about the intent, as my colleague just mentioned, the intent of someone to lure a minor, to lure a child, or to solicit a child—just take a moment and think about that. If you have children, think about soliciting a child and believing that person is a child. We want those offenders off the street; we want them prosecuted. I do not want the opposition to confuse you about what this bill does. This is about individuals who believe

they are trying to solicit a minor. When you look at the sex trafficking, they are the victims—those women, those young people, are the victims—and we need to be able to protect them. I urge you to support this legislation. I appreciate your consideration today.

Chair Miller:

With that, I will close the hearing on Senate Bill 389 (2nd Reprint). We will go to our next bill. I will open the hearing for Senate Bill 307 (2nd Reprint). It is sponsored by Senator Spearman and copresented by Nick Shepack from Return Strong! and Lilith Baran from the American Civil Liberties Union of Nevada. Your hearing is open; please proceed when you are ready.

**Senate Bill 307 (2nd Reprint): Revises provisions relating to human rights.
(BDR 16-881)**

Senator Pat Spearman, Senate District No. 1:

This is a bill that is a continuation of the problem we have been attempting to solve since 2017 with respect to solitary confinement. I will limit my comments to that and turn it over to the experts.

Nick Shepack, Board Chair, Return Strong!; and Steering Committee Member, Social Workers Against Solitary Confinement:

I am here today not only in my capacity as the board chair of Return Strong!, but also as a steering committee member of the national organization, Social Workers Against Solitary Confinement. As Senator Spearman mentioned, this is something we have been working on for many years. It is the one issue that I will continue to work on until it is solved no matter what job I have or where I live.

We are very pleased to have been able to work with Director Dzurenda on this piece of legislation. Prior to the director leaving, unprompted by the Legislature, Director Dzurenda had the Vera Institute of Justice enter Department of Corrections (NDOC) facilities to do a comprehensive report on the use of solitary confinement and give them a plan to reduce its use. This plan, however, was not implemented, as the director left prior to any steps being taken. With the return of Director Dzurenda, we have been able to work out a piece of legislation that gets us very close to meeting the United Nations Standard Minimum Rules for Treatment of Prisoners (the Nelson Mandela Rules), which govern the treatment of prisoners, and have found a piece of legislation that does not cost the state any money.

I will walk through the bill briefly and pass it over to Lilith Baran from the American Civil Liberties Union of Nevada (ACLU). Sections 5 through 10 provide definitions for the bill, the most important of which being that solitary confinement is defined as restricting an individual to a cell for 22 or more hours a day. Section 12 requires the director to establish regulations to ensure that solitary confinement is used as a last resort in the least restrictive manner and for the shortest period of time possible.

Section 12.3, subsection 1 restricts the use of solitary confinement to a period not to exceed 15 consecutive days except under certain exigent circumstances; does not allow anyone to be held in solitary within 90 days of release—as we know, this increases recidivism and danger to the community; and restricts the use of solitary confinement for anyone who is suffering from serious mental illness. They are not allowed to be placed in solitary as we know it greatly exacerbates these mental health issues. Section 12.3, subsection 2 allows for the removal of an offender from solitary for good behavior at any time. This gives the Department leeway to remove people as they see fit.

Section 12.3, subsection 3 clarifies the privileges afforded to offenders held in solitary. These are the same rules as people held in disciplinary segregation, which is a type of solitary. Section 12.3, subsection 4 ensures there is a wellness check at least one time a day by a health care professional. We know people can deteriorate within hours or days in solitary confinement, and these wellness checks are necessary to ensure the safety and sanity of those individuals.

Section 12.5, subsection 1 allows for an offender to be held in solitary more than 15 days for a few reasons, one being if the offender refuses to leave. We had discussions with the director, and there are times when individuals do not want to leave this isolation. It is either for safety, fear, these things, and if we had written the bill where they had mandated to be removed, that would mean cell extractions by armed officers. We do not want to see that. The second reason is a medical professional recommends an offender be held past 15 days due to medical necessity. In conversations, we were talking about individuals who are on breathing tubes, are bedridden, or individuals who are not medically safe to be removed. The final reason is if a multidisciplinary team, which we will talk about in a moment, recommends the continuation in order to protect the health or safety of the offender or other staff. The director talked a lot about individuals who are openly expressing suicidal or homicidal ideation at the end of the 15-day period.

Section 12.5, subsection 2 requires, if an offender is held in solitary past 15 days, they may only be held for a maximum of another 15 days and they must be removed for a period and reevaluated by the multidisciplinary team. Section 12.5, subsection 3 requires a multidisciplinary team to create individualized plans for everyone held in solitary to ensure successful reintegration into the general population. This section allows members of the team also to participate in these plans remotely if necessary. This is something we are missing right now in the state, which is we place people in solitary confinement and there is absolutely no plan for reintegration. People can currently spend anywhere from months to years in solitary confinement.

Section 12.5, subsection 4 requires an offender who refuses to leave solitary, any of those people we talked about earlier, may request at any time to be released from solitary and must be released within a 24-hour period. If somebody does refuse at the end of that period and decides within the next day or the next week that they want to leave, they have to be removed within 24 hours. Section 12.5, subsection 5 requires a multidisciplinary team to submit

a report to the director regarding anyone who is held in solitary for more than 15 days and lays out what must be in the details of that report, including the plan to remove that individual from solitary.

Section 12.5, subsection 6 lays out the requirements for keeping records of meetings or discussions regarding the offenders held in solitary and who must be placed on the multidisciplinary team. This multidisciplinary team includes a correctional officer from the unit of the offender, a mental health clinician, a caseworker, a correctional supervisor, an associate warden, and any other staff deemed necessary by the director.

Section 13.3 lays out training requirements for staff who deal with individuals in solitary confinement, ensuring that everyone is properly able to deal with people we are holding in these conditions. Section 14, subsection 7 requires the Department to submit an annual report on the use of solitary to the Legislature or the Joint Interim Standing Committee on the Judiciary, depending on the year. This will allow us to determine how effective the policy is and to really have an ongoing understanding of our use of solitary confinement here in the state.

Finally, section 17 makes the bill effective upon passage for the purpose of adopting regulations and performing preparatory administrative tasks, and the bill must be implemented in completion by January 1, 2024. I will pass it over to Ms. Baran from the ACLU.

Lilith Baran, Policy Manager, American Civil Liberties Union of Nevada:

I would like to thank the sponsor and everyone who has worked very diligently on this bill for several sessions. I would like to just take a moment to highlight some of the effects of solitary confinement. It is one of the most consistently researched policies within the prison system that there is. It is overwhelmingly researched. You have before you the most recent research [[Exhibit C](#)]. I apologize for not getting it in earlier. As you can see, it was published in May of 2023. This is brand-new data, and it is very well done.

A lot of what we would like to highlight is that solitary confinement survivors really experience mental, emotional, and physical disparities that cause irreversible neurological damage very early on within the process. Most people who commit suicide while in solitary confinement do it within the first five days. We are talking about trying to restrict the amount of time that someone is in a solitary unit in restrictive housing to 15 days. I have personally met and spent time with people who have spent years within solitary confinement, and it is incredibly disturbing to hear the way we are treating those folks in restrictive housing.

Human beings have one thing in common that I think we can all agree about, and it is that we are, by nature, in need of human interaction with each other. To deprive someone else of interaction with another individual for such a long time is against who we are by nature. It is not how we are created to be as a species. These meaningful connections are absolutely imperative to reduce recidivism as well, once these people are on the outside. Releasing

someone who has experienced torture on these levels to the general public is extremely dangerous. Those confined in solitary are more likely to suffer from heart disease, heart attacks, strokes, and loneliness. When they return to the outside community, some of the other things that occur are suicide, homicide, drug overdose, and other associated violent deaths and crimes.

Some of the data I would like to highlight in the report [\[Exhibit C\]](#) you have before you, I think is really important. To preface how incredible the opportunity we have before us here is to make a global stance on solitary confinement as a state, which is almost the worst or is the worst on this issue. If you look at Mississippi, with a prison population of 13,441 individuals, it has a rate of 4.7 percent placed in restrictive housing; Florida, with a population of 84,751, has 12.9 percent; Arkansas, which is 14,825 people, is 13.5 percent. The average nationally is 6 percent. Nevada's prison population is 12,202 and we have 25 percent of people in restrictive housing as of May 2023. We absolutely are elated to have worked with the director to bring us to the Nelson Mandela Rules. This would be an historic achievement if we do pass this legislation. I urge you to please consider this data and consider this an opportunity before us to be a leading example in how we treat those who have offended and who are placed in restricted housing.

Senator Spearman:

One of the reasons I started this in 2017, I was chairing the Senate Committee on Health and Human Services, and we had a number of the agencies come and talk about what they were doing, and within that realm, Director Dzurenda mentioned some statistics, real-life statistics, which made me come up out of my chair. When he got there, he found there were some severely mentally ill inmates who had been in solitary confinement for, I believe it was more than five years. Absent guardrails and guidelines, we know that people who are in prison, some are guilty, some are not, but all of that aside, they are still human beings. What we have put forth in this bill is something that was developed in relationship to how Nelson Mandela felt when he was in prison and how he overcame. It is very important that with the restrictive housing that we have, as you can see, we are really an anomaly, outsized with respect to that. We have got to have this, and it closes some loopholes from the bills we had in 2017 and 2019. We really, really, really, really, really hope that you all will take this into positive consideration.

Chair Miller:

Ms. Baran, when you say we are, as a species, created to be together, to interact, to have physical and emotional connection, I do not think that was ever proved so vividly to many of us until COVID-19. When there was the shutdown and when many of us could not leave or interact with others and were losing even that physical touch, we do not realize how much we are in physical touch with one another daily as well as conversation. I am someone who is fascinated by the movies where the person is in complete solitude and the rest of the world has disappeared, like *I Am Legend* or *The Martian*, and the whole time I am trying to figure out how they survive without human interaction. Now, of course, these are the movies, but I want us to all think about that, because it is critical. We know it is for plants; we know it is

for all living species; we know for child development how important interaction and physical and social interaction is. That really struck a chord with me. Are there any questions from Committee members?

Assemblywoman Gallant:

A comment on how important physical touch is: when preemies were born, they used to have them in this sealed, very sterile environment. The babies would cry, and they were dying; they could not survive. This night nurse in England just could not handle the crying and she started holding them at night, breaking the rules, and then the preemies started to live, and the doctors were trying to figure out what was different. She finally came clean, and then we realized that babies need human touch. So just that little piece of information.

However, I am looking at these numbers—25 percent is crazy. Is this individual restrictive housing just solitary confinement, or does that also include segregated housing for those that are in danger, which are still with other people—they are not in a cell for 22 hours solid, alone? Is that number, the 3,140 people, in 22 hours of solitary confinement?

Nick Shepack:

That number is going to include people who do not meet the 22-hour threshold. There are going to be individuals who are in restrictive housing who are in the numbers you see in the report who are not going to be necessarily touched by this bill, say, individuals on death row, and I am not sure if the director is here. It was my understanding that for a long period of time, it was the top tier would have half the day off and the bottom tier had the other half of the day off. That would still be considered restrictive housing. While we use solitary confinement at a higher rate at the 22 hours in Nevada than most places, the 25 percent is not solely people who are held to our definition of solitary confinement in this bill.

Assemblywoman Gallant:

I had the pleasure of speaking with Director Dzurenda because he is not able to be here today. As of today, 772 inmates are in solitary confinement, which is roughly 6.6 percent. I think it would be important that we work from these numbers. We do need to deal with this because Director Dzurenda is not always going to be there. We know he is great; we have had him in the past. But I think it is important that we work from data that is showing the true picture.

Lilith Baran:

If you would like, I would be happy to extract that data from the states that I mentioned just to have a comparison. I will be happy to provide that.

Assemblywoman La Rue Hatch:

I think my colleague lead into my question a little bit. Obviously we have a current director whom everyone seems to be much happier with, but he will not always be there. Those changes, if they are being reduced right now, is that because of policy changes in the director? What are those current policies? Does this codify those policies or does this take it even a step further for protections for individuals?

Nick Shepack:

This will absolutely take it further than what is current policy. Current policy for disciplinary segregation is a 15-day disciplinary sentence. However, that is after a hearing. People who have been held before—we know individuals who have been held for years. As far as solitary policy goes, there is nothing in NDOC policy that uses the words "solitary confinement." The policies are unclear, and as we mentioned before, the director was doing a lot of work prior to leaving to establish said policies for this type of housing. They are not specifically laid out, and I believe that is what is leading to a significant rate of the use of solitary.

Senator Spearman:

If I might address some of the questions and concerns, one of the things that we noticed after we passed the legislation in 2019 was that there were ways that people were working around it. Although I can appreciate what the numbers are today, I am not sure those are the same numbers that are applicable prior to Director Dzurenda coming back. I do not know if they are on, but in a previous hearing in the Senate, we had young ladies who told us about being in solitary confinement for 90 days straight, for six months straight, and there was really no real reason for that. What this legislation does is if you want to look at it from the standpoint of codifying, it says very explicitly, these are the things that will happen—not "may"—but these are the things that will happen if you were to put someone into solitary confinement. I want to put that there because I want to make sure the numbers we are talking about may be a little skewed in terms of 6,000. But what we are really talking about is bringing this all into code.

This is what it looks like because I guess if Director Dzurenda were here, he would probably tell you that some of the numbers that were reflected in solitary confinement prior to his returning were probably grossly underrepresented. Now with this legislation, we have closed the loopholes and we have said in no uncertain terms, these are the things that will happen, and these are the things, if they do not happen, then these are the penalties. I really need the Committee to understand this. This legislation is really designed to close loopholes and to make sure that it is not just the numbers, because the numbers reflect individuals. If it is 6,000, it is 6,000 individuals. If it is 12,000, it is 12,000 individuals. I need us to understand that, and that is the only reason we are bringing this legislation, because we have to close those loopholes. These are people; these are people.

Lilith Baran:

I did not mention that other similar states who have passed legislation like this have seen a tremendous cost savings as well, due to the medical difficulties that often present themselves when people are in long-lasting solitary confinement. New York found a \$25 million savings by adopting a similar piece of legislation. We could project that we would also see the same.

Assemblywoman Mosca:

I think this is really important legislation, and I am grateful that you brought it. My question is, just looking in this research and with who you have talked to and all your work, section 12 says it is as a last resort. Are you finding that some of our rates are higher because there is

some missing piece in progressive discipline, or is it automatic that people just go to solitary? I am just really curious. It makes sense it should be as a last resort, but what is in the middle?

Nick Shepack:

There does appear to be a missing piece in the state of Nevada. The director has said many times this session that he hopes that one of the things that will fill that gap is the tablets, and he wants to bring a level of scaled discipline. It does appear from talking with members of Return Strong! that solitary is used often as a first resort in some prisons, not always for an extended period of time, but it is a go-to sort of punishment in some places.

By ensuring it is used as a last resort, we will ensure that the director creates regulations that have a sort of scaled discipline. Maybe you lose recreation time first, maybe you lose access to certain items that are not life-sustaining prior to being placed in isolation. There was a long period of time in the United States where solitary was the go-to, throw them in the hole was the first move, and it has taken a long time and a lot of conversation for the entire country to start thinking this is what we should do last instead of it being that somebody acted up, send them to the hole, which is just a traditional American punishment in prisons.

Assemblywoman Newby:

I think it is a really important thing to bring, especially if we are considering rehabilitation of these individuals to rejoin our society. I am curious though, about section 10, the definition of "solitary confinement." It seems in that definition, it imparts an intent of the system, I guess in terms of putting in solitary confinement. Previously in this session we have heard from the Department that because of their struggles with staffing, sometimes they do have to lock down just because they do not have the staffing to address folks getting out of their cells and doing their normal course of visitations or recreation. I am wondering in your experience with NDOC, in the most recent past with the personnel issues they have had, do you find that solitary confinement is even more restrictive now? Is there an effect on restrictive housing because of staffing versus restrictive housing as you have defined it in section 10, which seems to impart an intent of punishment?

Nick Shepack:

The first thing I would do is point us to section 10, subsection 2, which is for the "Security or orderly operation of the facility or institution." If we are locking people down because we do not have the staff, that still falls under this definition. The reason they are locked down is for the security or orderly operation of the facility due to a staffing shortage. They would still be subject to these regulations under those conditions. We have seen increases of block-wide lockdowns where people are getting out for significantly less time. The goal here, and I believe the director is moving towards this, is to ensure that even when you have those staffing shortages and it might be absolutely necessary, until we get the staffing, to close some tiers periodically, that it is not for more than 22 hours a day. We are making sure there are periods of time where people are out of their cells, whether that is through rotating different individuals in different blocks or, when you have full staff, letting everybody out, however they choose to approach that.

We really saw these issues start snowballing during the pandemic where we used system-wide lockdowns as a method of stopping the spread of the virus. It has gotten better, but we have seen that extend far past what we would consider the end of the peaks of the pandemic. But I do believe that even just locking people down due to staffing reasons would fall under the regulations of this bill because of the definition.

Chair Miller:

Thank you for that question, Assemblywoman Newby. We know that staffing issues have been a part of this and are an ongoing issue that we are trying to address but cannot avoid, especially when we see, according to this data right here, that it would be a quarter of our individuals.

Senator Spearman:

This is a policy committee, but I just want to say that one of the ways we have been trying to address the staffing issues during this legislative session is looking at pay, because one of the reasons why we cannot keep people is because of the very low pay. The budgetary process has included the fact that we are losing some really good people, not only in NDOC but in other parts of state government, because of pay.

And the last thing I will say is, during my time in the service as a military police officer, I did work for a period of time at Fort Leavenworth, which is the military's version of a secure facility. I was the operations officer. Now I know we had some "staffing challenges" then, but it is still a time when people can go back and figure out how do we still treat these people with respect? For Leavenworth, it is people who were formerly in the military who did something or whatever, and now they are in Leavenworth. The idea or the goal for the operations officer was to say these are some of the things that may happen and if this happens, this is what we will do.

I think proper training and understanding that staffing shortages, somebody is going to get sick, all these things are going to happen, but it is a consequence of leadership, and it is leadership's responsibility to look at all of the things that may or may not happen and then have plans in place, courses of actions in place, so they can address that. When you do not have that, that is when you have arbitrary solitary confinement. I do not know if the young woman who testified earlier in the Senate is on, but she was put in solitary confinement, she did not know why, they took her clothes, all she had was a blanket, and she said she was left on the floor of the cell for 90 days.

Chair Miller:

Thank you for that, Senator Spearman, because this is what we are trying to move away from, and it should not be based on staffing concerns.

Assemblywoman Summers-Armstrong:

I have a couple of things I am trying to get clear. There was some talk about reintegration in section 12.5. If an offender is kept in solitary confinement for 15 consecutive days, there is going to be a report, and then, Mr. Shepack, you spoke about reintegration into general

population. It is not written in here. I do not see it, but you made this comment. Can you please talk to us about what does reintegration after solitary look like? If we are talking about this type of a process for an individual who was coming out of solitary because of maybe a disciplinary thing, how do you do this on a broader scale if you are talking about a lockdown on larger populations because of staffing shortages and all that kind of thing? I am hoping we would not see whole blocks locked down for 15 days because of a staffing shortage. What does reintegration look like?

Nick Shepack:

I will point briefly to section 12.5, subsection 3, which requires the multidisciplinary team to create an individualized plan for anyone placed in solitary. These individualized plans are where we are going to find that reintegration, and that is where this team is going to determine what services are needed for the individual to be removed from solitary and reintegrated. Talking to the director, this can be cognitive behavioral therapy; it can be any litany of therapies; it can be contact with mental health staff and counseling; it might be that the reason they have gotten into trouble or the reason they have ended up in solitary is that they are in a unit in which they may have a gang affiliation or there just might be another group of individuals on that unit, and that is what is causing the problem. It is this multidisciplinary team's duty to determine whether this individual would be safer here.

Reintegration could be as simple as this person needs to be placed in another location; it could be as complex as we need to get medication right; we need to get therapy started, and we need to write a more detailed plan. That is why, and this was in conversations with the director, it is very important that these plans are individualized. There is not just a "get out of solitary" plan. It is a team that meets with the individual to determine what they need to safely be reintegrated back into the general population. That is that piece.

I would be deeply concerned as well if we start seeing cellblock-wide lockdowns for 15 days or more. I do not believe I have the proper answer to what a 40-person individualized plan for reintegration looks like. But I can promise you, I will be very loud at that point if that starts happening.

Assemblywoman Summers-Armstrong:

If that did happen, I would expect you to be calling some of us so that we can help you be on the vanguard. I did check to see that there was no fiscal note on this. I am looking at this team which, in section 12.5, subsection 5, includes a psychiatrist, a psychologist, a clinical social worker who has to be degreed and informed, a registered nurse, and all these folks. Now, I am going to ask the question, do we have this staff already available? Are they contracted? Do we have this team that can do this? If we do not, how long would it take us to get this team together? The ideas do not mean anything if we do not have—you can have a ballgame, but if you have no players, you have got no game.

Nick Shepack:

How we landed on this list of the individuals you just read is essentially the definition of what a mental health clinician is. There needs to be a mental health clinician on the team. Any of the individuals on the list could meet the qualifications of that mental health clinician. Originally, we had psychologists outlined in the bill. The director said we do not have enough psychologists to actually man these teams. By changing it to a mental health clinician and broadening the definition, the director believes they have staff currently at every prison to staff these teams in their entirety starting on Day One. That is, he said, if we needed a psychologist, there would be a fiscal note on the bill because they do not have them. They also do not believe they can necessarily get a full-time psychologist in a place like Ely, but they do have people who meet the definition of mental health clinicians who could participate on these teams at every single facility currently.

We started with a very large fiscal note on the first iteration of this bill. I will mention that we ran the same bill two sessions in a row. It was \$50 million the first go-round; the exact same bill came back at \$15 million this time, taking what you will from that. But working with the director, we were able to remove the fiscal note and it was not easy, and that was ensuring that we did this right, that we had the robust teams but that we did not exceed the capacity of NDOC, especially with trying to require them to hire people because if they could, it is not for lack of trying that we do not have more of these mental health clinicians.

Lilith Baran:

Some of the states where they have been using solitary confinement reform are actually seeing a positive result on correctional officers. It takes a significant toll on the officers themselves to administer solitary confinement. If you have ever heard the sounds of what a solitary confinement unit sounds like, it is very scary. It is screaming, pleading, crying, begging. Those states that have enacted solitary confinement reform are hearing from correctional officers' families that they are having better relationships at home, that that person is displaying better mental health when they are coming home from work. This could actually have an effect on staffing and perhaps make this a better job to have in the first place because you are not asking people to torture other people. You are actually asking people to correct and rehabilitate.

Chair Miller:

Thank you for that, because sometimes in these conversations we forget, and it does have a dramatic impact on our staff. It absolutely does.

Assemblyman Gray:

Section 12.3, subsection 1, paragraph (b), about using solitary within 90 days of discharge from the facility, what is the purpose of that? Why should they not be subject to the same rules as they are the rest of the time?

Nick Shepack:

An ample amount of research that the director is well aware of shows that if you place an individual into solitary confinement within the last 90 days before release, they are significantly more dangerous to society upon release. The most famous example would be where solitary reform kind of started, which was in Colorado, where an individual was released directly from solitary confinement to the community. He went and tracked down the warden of the prison and murdered him directly upon release. They then started researching this deeply and realized that releasing people from solitary confinement into the population is dangerous. That is why this provision is in here. Now, the way that our credit system works is, if you have major violations prior to your release, your release date is going to get kicked back. It is not a lack of punishment. It is a safety precaution for the community in which the individual will be released.

Senator Spearman:

One of the things we have to be cognizant about is what solitary confinement does. It really creates a situation, a mental situation, which is acutely akin to post-traumatic stress disorder. We know what happens when we have soldiers, members of the military who come back, and one of the things that happens when they come back from the combat zone is there is a stand-down period, and the stand-down period is so they can get reacclimated to what it feels like to be in a noncombative situation. That is really what it is about; it is very akin to what happens with the military and a stand-down.

Chair Miller:

Not seeing any additional questions, I will open it up for testimony in support of Senate Bill 307 (2nd Reprint) in Carson City.

Barry Cole, Private Citizen, Reno, Nevada:

As a psychiatrist, this is really fundamental to me. If you think about what I am allowed to get away with in a psychiatric environment, patients are under continuous monitoring when they are even in a seclusion room. Should we restrain someone? You are posting another person at the door to make sure everything is okay, that they are not choking at any time. We have to check them every two hours. There have to be comprehensive reports written. You have to have a full explanatory note. This is not just necessary; this is critical legislation.

I will tell you, I have spent a couple of months working as a prison psychiatrist, some of the scariest two months of my life. What I remember was when I went to administrative segregation, so called "solitary," there were women—this was a women's prison—who had covered themselves with feces, screaming, yelling. You hear about Bedlam and how insane Bedlam was. Segregation is far worse.

Yes, this notion of standing down, remember the mistake we made in the Vietnam War as we pulled people out of the Mekong Delta and landed them at Travis Air Force Base in the same 24 hours. There was no stand-down. You were in combat in the morning, and you were in your own bed that night. That was not a way to do it. World War II was different. People

had a few weeks to come home on those troop transport ships. They could decompress and process what had happened. I read this bill and yeah, I do not think it is a very good idea to put anyone with mental illness into an isolated environment. This is what we call "enhanced interrogation."

This is what we did at Gitmo [Guantanamo Bay]. Let us not do it in Nevada's prisons. I am going to put my money where my mouth is. I have already told Director Dzurenda, once this is over and I get to go back to my real life, I would like to start volunteering or helping in our correctional system. We have not worked out the details yet, but I am going to put my money where my mouth is, or whatever the term is. Please support S.B. 307 (R2).

Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:

I am here in support of Senate Bill 307 (2nd Reprint). The conditions of solitary confinement differ drastically from a correctional facility's general population, and the absence of meaningful human interaction and physical activities can have an enormous impact on mental health. In fact, those in solitary confinement have shown a significant increase in suicide attempts compared to other incarcerated individuals. The psychological impacts can make it even more difficult for individuals to adjust to reentry and potentially increase recidivism rates. We must ensure that we do not misuse solitary confinement and only use the practice as a last resort. There are many safe and proven alternatives that could reduce violence, increase public safety, and cut incarceration costs. We urge your support of S.B. 307 (R2).

Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada:

Honestly, as I sat down to start thinking about what I wanted to say or write in this statement, I tried to really think of something new or catchy or shocking enough that might move people with the power to end solitary confinement to do that or at least to implement a cap of the 15 days. But I realized that is part of the problem. We have heard the research statistics and anecdotal evidence of inhumane, degrading horrors that are associated with solitary confinement. We know it causes mental illness. We know it increases a person's chances of dying by suicide. We know it has been named a form of torture when it is used for longer than 15 days. And yet we still are here in 2023 trying to figure out if we can stop this practice. So today, instead of re-explaining the same evidence that has been available to all of us in this room, I decided to share quotes from people who are incarcerated in Nevada who have experienced solitary confinement and who are part of our membership. They have described what this form of torture has done to them.

Here is what they say. The first quote is by somebody at Ely. He says, "Each passing day pushed me deeper and deeper into an abysmal pit. When you are on the brink of sanity leaving you, there is no true awareness of self-awareness of what is happening around you. Autopilot rules the days as they arrive. I was vulnerable beyond measure, agonizingly paranoid, and the effects of solitary confinement are real, and they last a lifetime. They are never leaving me."

Second person—you have actually met this person numerous times: "Once you are in solitary confinement, you are finally all treated equally, like animals." She goes on to say, "A lot of people think that it is quiet back there, that people find solitude, like it is a time out, but it is actually very noisy. It is blood-wrenching screams. I went to sleep with those screams. I woke up with those screams, and today I am free and I still hear those screams." Two of these quotes are from a woman that you have seen here all session giving testimony. She wrote this to us during her incarceration and she works with us now. She lives with the impact of the harm that was done to her by us, by the state. She is out here now, forever living with that. Return Strong!, our membership inside prisons and out here, we are here in strong, strong support of S.B. 307 (R2), and we appreciate Senator Spearman and everybody who has been part of getting this here.

Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office:

We are testifying in support. I will keep it brief. I do not think there is much I can say beyond those who have experienced solitary confinement. What I will say is that punishment is not torture. We can both punish those who are wrongdoers and rehabilitate them, but none of that includes torture. We urge your passage.

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

We are in strong support. We would like to thank Senator Spearman for continuing to bring this issue to this body and Director Dzurenda for helping us get this issue over the hump. This has been a long road coming, but the purpose of policy is to make sure we are not dependent on one person. I will continue to say this: losing Director Dzurenda just for that four-year period probably put the state of Nevada ten years behind where it could be in the correction space. We do want to make sure that policy is there moving forward to make sure that what we are doing is not dependent on one great person running an organization.

Chair Miller:

Not seeing anyone else in Carson City wishing to testify in support, we will open the phone line for anyone wishing to testify in support of Senate Bill 307 (2nd Reprint).

Nicole Williams, Private Citizen, Dayton, Nevada:

I am a board member with Return Strong! and I am calling in today to give our collective statement on this bill. First, we support S.B. 307 (R2). In our work, we spend a lot of time talking to people in solitary and reading letters about the horrors of this practice for our organization. We consider solitary anyone spending 22 or more hours a day in isolation. While this bill does not define it exactly the same way, it is an important and significant step in the right direction to restrict the use of solitary confinement. In recent years, as people, we have begun to understand the horrors of what happens to people in solitary confinement, physically, emotionally, and psychologically. It is torture. Before doing this work, I used to think that solitary was saved for the worst of the worst; people who had no redeeming qualities as human beings.

Along the journey I have learned a few things. One, two things can always be true. You can have committed a crime, maybe even a horrific crime that requires accountability, and you can also have redeeming qualities and a story worth redeeming. Two, solitary confinement is not for the worst of the worst. It is for the person who stole packets of butter from the chow hall. It is also for the person who has too much mail or property in their cells. It is for the person who talked back to a correctional officer. It is for women who are waiting for a class to move from a behavioral modification unit back to general population. It is for having hobby craft items without approval or permission. Three, right here in Nevada, we use isolation, solitary confinement, excessively, and we are doing harm to people who are coming home to our communities.

Solitary is torture. Is it possible to calculate torture? Can you put a number on unimaginable suffering? Is there a way to accurately count the human cost of a system designed to cause harm? No, there is not. Return Strong! and our membership is in full support of S.B. 307 (R2), and we thank Senator Spearman for bringing this critically important legislation and the Committee for hearing it. Please help us in the fight for humanity and creating a world that ends torture.

Melissa Duna, Private Citizen, Las Vegas, Nevada:

I am a member of Return Strong!, and a mother of an incarcerated son. I cannot express how grateful I am for this bill to come forward. My son has been in solitary confinement. He cannot be moved into general population because of retaliation. The first thing my son tells me when he comes home is, Ma, straight to the emergency room, I need to get medical care. The mental strain on him and my family is something we will never forget, and we just want to move forward. I urge everybody on the Committee, and I thank Senator Spearman for bringing this bill forward and everyone who is working so hard to know that jails should be for rehabilitation, and let us have humane treatment and compassion for everyone in this world.

Betty Guess, Private Citizen, Indiana:

I am a corps volunteer and activist with Return Strong! and I am calling in today in support of S.B. 307 (R2). I used to believe that I was not one who had as yet been personally impacted by the use of solitary confinement. Though I do have a son incarcerated by the Department of Corrections in Nevada, he thankfully has never been subjected to any type of disciplinary segregation. However, in reality, are we not all truly personally impacted by the use of this torture? Yes, I said torture. According to the United Nations, prison isolation fits the definition of torture as stated in several international human rights treaties and thus constitutes a violation of human rights law. One of the documented consequences of long-term isolation is uncontrollable feelings of rage and fear. Many prisoners are released directly to the streets after spending years in isolation. Because of this, long-term solitary confinement goes beyond a problem with prison conditions. It poses a formidable threat to public safety and becomes a community health problem.

The United Nations Convention Against Torture defines torture as the state-sanctioned act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for information, punishment, intimidation, or for any reason based on discrimination. I stand for ending solitary confinement in all of its many forms. Senate Bill 307 (2nd Reprint) is a step in the right direction. I strongly support this bill and urge you to pass it.

Estee Padgett, Private Citizen, Las Vegas, Nevada:

I echo what has previously been said, and I strongly support S.B. 307 (R2).

Crystal Voight, Private Citizen, Las Vegas, Nevada:

My fiancé is currently incarcerated in NDOC. Unfortunately, my fiancé was in solitary confinement about two years ago for violating a rule. I understand that there are consequences and punishments, but I believe they need to be humane. He was in solitary for over 60 days when he was told initially it would be 30 days. Our phone calls were reduced to two times a week. The worst part of the phone calls was hearing his mental health deteriorate as time went on. The conversations about his plans for the future stopped and the hope in his voice was gone. We were working hard on his rehabilitation and his way of thinking, just for it to revert back in less than 30 days. He lost all hope and motivation for even living. I strongly believe the only reason he did hold on was our two phone calls a week. Please take into consideration the impact the length of solitary confinement can have on one person's mental health and motivation to live.

Chris Kovello, Private Citizen:

I know this might sound silly but when I was younger and I would visit zoos, I noticed the animals were all caged up alone in a cage, prancing back and forth, vomiting and so forth; very agitated; it was not a good situation. Nowadays, if you visit a zoo, you will see that they are out and are free, and they seem a lot calmer. Things are a lot better. Zoologists have realized that the solitary confinement for animals is no good, the same as it is not any good for inmates. I also volunteer at Hope for Prisoners. I instruct those who are recently released, and some of the conversations I hear in class are just horrific about the time and the years and the months and the days they have spent in solitary confinement. I noticed that some of these students who talk about the solitary confinement are much more reserved, much more quiet. They do not participate as much as the other students do. Please, I urge you to pass S.B. 307 (R2). It is very important.

Chair Miller:

Is there anyone else wishing to provide support testimony? [There was no one.] Is there anyone in Carson City who would like to testify in opposition? Not seeing anyone, is there anyone on the phone wishing to provide opposition testimony? [There was no one.] Is there anyone in Carson City who would like to testify in the neutral position? Not seeing anyone, is there anyone on the phone wishing to provide neutral testimony? [There was no one.] I welcome the bill sponsors back up for any final remarks.

Nick Shepack:

I want to close by first thanking Senator Spearman for her years of dedication, her steadfast approach to never giving up on this issue, to changing hearts and minds, from moving this from a conversation around tweaking a few things here and there to something that has been supported in the Senate unanimously.

This is a major issue, and it is something, as I said, I will work on for the rest of my life. I will leave you with this: among solitary confinement survivors there is a saying and it is, if you did not have a mental illness before you entered solitary, you have one when you leave. I work with an individual named Frank DePalma—he is a dear friend of mine—who spent 22 years and 36 days straight in solitary confinement in the Nevada Department of Corrections. He lives in Reno, Nevada, now, and every day is a struggle but he is doing amazing. But I do this work to ensure that we never do what the state did to that man to anyone ever again. This is one simple step in that direction, and we urge your support, and we thank you for your time in this last week of session.

Chair Miller:

One final thought before I close the hearing and because I know you are someone who is actively and continually engaged with the Department of Corrections and in these discussions. While I was listening to this hearing, it reminds me of how children are often sanctioned. We know that again, it was mentioned before, sometimes there does need to be a sanction. But again, we also use the idiom, let the punishment fit the crime. As I think of how, when it comes to children, there is also a form of time-out or isolation or solitary confinement, especially when I was a kid, but it was intermittent. It was temporary. It was whether it was half an hour or even an evening, it was not on and on and on.

I wonder if there is a way to work with policy to also see if things could be done intermittently because sometimes, again, just like a kid, two hours can feel like a lifetime, even if it was to enable someone to sleep back in their own bunk, to sleep back in their own cell, and have a healthy, more normal rest. Have there ever been any discussions where it is not just you have got 15 days, but it is maybe just like anything else, you are losing your privileges to attend this? Do you see where I am going with this?

Nick Shepack:

Absolutely, I see where you are going with this. In conversations I have had with the Department, we talk about things like congregate recreation. Maybe you are removed and placed into solitary, but there is a group of individuals you are comfortable around that is safe, so every day you are out for multiple hours and you get to be with those individuals. There are many ways to do this in order to give people, when sometimes they need a necessary time-out, right?

There is no research that suggests zero time away from people is what should be done. But how we do it can be creative, and I believe that the director is willing to use those creative solutions which are like the things you said, like using congregate recreation, like ensuring that you can still go to programming, but maybe you still have to do a couple of days where

you are removed from the general population. There is no one-size-fits-all approach to this. That is where the idea of an individualized plan is something that makes me very excited for how this can work. What we are doing is treating individuals, and as with all policy we have created this session and over the years, a one-size-fits-all approach to individuals rarely works.

Senator Spearman:

If you look in section 12.3, subsection 1, it says no confinement for more than 15 days. We are not talking about 15 days automatically. There are incremental things that can happen before that. Prior to 2019, I think it was, they were putting juveniles in solitary confinement. One of the things that prompted me to be even more aggressive in getting this across this session is because there were some people who were trying to skirt the law, because it is no longer legal in Nevada to put juveniles in solitary confinement. Hopefully with this, this will also make a statement to those who think it is all right, "Open up a can of act right and tell them it ain't."

Chair Miller:

Thank you, Senator Spearman, and we will make sure that is a direct quote in the minutes. With that, I will close the hearing on Senate Bill 307 (2nd Reprint). We are going to work session Senate Bill 307 (2nd Reprint). Ms. Thornton will walk us through the bill.

Senate Bill 307 (2nd Reprint): Revises provisions relating to human rights. (BDR 16-881)

Diane C. Thornton, Committee Policy Analyst:

Senate Bill 307 (2nd Reprint) is sponsored by Senator Spearman and was heard in Committee today. This bill revises provisions governing the use of solitary confinement by the Nevada Department of Corrections and there are no amendments to the measure.

Chair Miller:

Are there any questions? Not seeing any, I will entertain a motion to do pass Senate Bill 307 (2nd Reprint).

ASSEMBLYWOMAN MARZOLA MADE A MOTION TO DO PASS
SENATE BILL 307 (2ND REPRINT).

ASSEMBLYWOMAN SUMMERS-ARMSTRONG SECONDED THE
MOTION.

Is there any discussion on the motion?

Assemblyman Yurek:

I want to acknowledge that I really agree with what the Senator is trying to do in bringing forward this bill and the policy considerations that are at stake here and what the intentions are. Unfortunately, at this stage of our legislative term here, we have hit deadline time,

which is why we are turning this around, and this is a big policy shift that I, at this point, I like the intentions; I am concerned about the unintended consequences and would like to try to vet this out. Normally, I get these bills in advance and I can have conversations with individuals and get answers to my questions. I do not feel like I have had the opportunity to do that, to take into consideration the logistical, the practical, the safety considerations of some of this. Unfortunately, Director Dzurenda was not able to be here today for me to ask some of those questions. At this point, I am going to vote no with the hopes that I can do some follow-up, dig a little bit deeper, and get to a point where I can vote yes on the floor.

Chair Miller:

Thank you so much, Assemblyman Yurek. Is there any other discussion on the motion? [There was none.] We will take the vote.

THE MOTION PASSED. (ASSEMBLYMAN YUREK VOTED NO.)

I will assign the floor statement that will probably never be heard to Assemblywoman Marzola. We are done with our work session. We will move on to our last bill today, Senate Bill 222 (2nd Reprint), presented by Senator Harris. I will open your hearing. You may proceed when you are ready, and I am going to hand the gavel over to Assemblywoman Marzola for a moment.

[Assemblywoman Marzola assumed the Chair.]

Senate Bill 222 (2nd Reprint): Revises provisions relating to juries. (BDR 1-192)

Senator Dallas Harris, Senate District No. 11:

I really appreciate you all being flexible and patient with me as I move about the building. Senate Bill 222 (2nd Reprint) has a very simple purpose and that is to try and assist in making our juries reflect the state of Nevada just a little bit more. It does that in two simple ways. One, we add a list that jury commissioners use to basically select who is going to be put up for jury duty. That list is the Department of Health and Human Services' list of folks who are on public assistance.

The second thing that we do is we up the daily pay. Right now, it is \$40. We are upping it to \$65. The last time this number was raised, it went from \$10 to \$40, and the \$65 you see here is really just the Consumer Price Index (CPI) adjusted amount from when we set it at \$40. I am hoping that will make it a bit easier for folks to serve. We increase the pool, make it a little bit easier for folks to serve, and hopefully we will have better juries that are more reflective of our state's population. With that, I am happy to take any questions the Committee might have.

Vice Chair Marzola:

Are there any questions from Committee members?

Assemblywoman Cohen:

You mentioned that the raise in the fee was based on the CPI. Was there any conversation of just making that annual?

Senator Harris:

No, I did not try and adjust this for CPI moving forward, although I do not think that that is a horrible idea. The folks who pay this are generally actually not the state. We are looking at localities for the most part, and I think they might need a little bit of stability in that number to know what they are going to be having to budget for. But it is not a bad idea.

Assemblywoman La Rue Hatch:

I support the CPI, especially considering you are saying it is their local budgets and they want to be predictable, but presumably their other costs will also go up with CPI, so it would not be out of the realm of possibility. Since that one was answered, in section 2, I noticed that the \$65 for each day only starts after the second day of jury selection. You have to miss two whole days of work without pay, and then on the third day you start getting paid. I wondered if there was any consideration on that, especially if we are including people who are on public assistance who may not be able to miss that much time off work.

Senator Harris:

The system is not perfect. I did not fix everything that was wrong necessarily or that could be improved with our jury selection system. I think you have noted one issue. I do know that there was a time not too long ago where we decided to make it so that people started getting paid on the second day. I do believe at that time, that was an improvement from where we were. I would be open to continuing to work on this process and taking a look at whether it makes sense to start paying folks a bit sooner.

[Assemblywoman Miller reassumed the Chair.]

Chair Miller:

There are no more questions from Committee members. I will open it for testimony in support of Senate Bill 222 (2nd Reprint).

Senator Harris:

I am sorry, Chair Miller, if you do not mind, I need to run to Senate Committee on Finance. I have been gone the entire morning, and we are hearing a pretty important bill.

Andres Moses, Assistant Court Administrator, Civil/Criminal Division, Eighth Judicial District Court:

We are here in support of S.B. 222 (R2) and specifically, as was discussed, section 2, which increases the compensation. We are the busiest trial court in the state of Nevada, so we are on the front lines in receiving upwards of over 25,000 jurors a year. We appreciate this. Anything that enhances our jurors' experience is something we are very supportive of, and we urge you to pass this bill.

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

Jury duty is one of the most important things we do in this country. But it is also one of the most inconvenient things for most people, especially if you have a job that does not reimburse you. If you have to leave your job for the day, you do not get paid for your first two days of jury duty. They squeeze you into a super small room to start, and then you get up there and people ask you a bunch of personal questions in front of other people. It does not make it the most appealing thing, but it is one of the most necessary things that we have. Any bill that makes jury duty less burdensome on our state, I am in full support of.

Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office:

Our democracy relies on juries, and we need to ensure that a fair cross section of the population is represented on each and every jury. We are in full support of this bill.

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

We are also in support of S.B. 222 (R2).

Chair Miller:

Not seeing anyone else in Carson City wishing to testify in support, we will go to the phone for those wishing to testify in support of Senate Bill 222 (2nd Reprint). [There was no one.] Is there anyone in Carson City who would like to testify in opposition to Senate Bill 222 (2nd Reprint)? [There was no one.] Is there anyone on the phone who would like to testify in opposition to Senate Bill 222 (2nd Reprint)? [There was no one.] Is there anyone in Carson City who would like to testify in the neutral position? [There was no one.] Is there anyone on the phone who would like to testify in neutral on Senate Bill 222 (2nd Reprint)? [There was no one.] The bill's sponsor has left so she does not have any final remarks. I will close the hearing on Senate Bill 222 (2nd Reprint). We are also going to work session S.B. 222 (R2). Ms. Thornton, please walk us through the bill.

Senate Bill 222 (2nd Reprint): Revises provisions relating to juries. (BDR 1-192)

Diane C. Thornton, Committee Policy Analyst:

Senate Bill 222 (2nd Reprint) is sponsored by Senator Harris and was heard in Committee today. This bill expands the pool of persons who may serve on a jury in either a criminal or civil trial by requiring the Department of Health and Human Services, upon request by a judge or jury commissioner, to provide a list of names. There are no amendments to the measure.

Chair Miller:

Are there any questions on Senate Bill 222 (2nd Reprint)? Not seeing any, I will entertain a motion to do pass Senate Bill 222 (R2).

ASSEMBLYWOMAN MARZOLA MADE A MOTION TO DO PASS
SENATE BILL 222 (2ND REPRINT).

ASSEMBLYWOMAN HARDY SECONDED THE MOTION.

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

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement not to be heard to Assemblywoman Hardy.

The final thing on our agenda today is public comment. [There was none.] For the public's sake, we most likely will have Committee tomorrow, but I am not sure on the time exactly. We are expecting a few bills to be referred, so stay tuned. Thank you, everyone. We will see you tomorrow. This meeting is adjourned [at 10:07 a.m.].

RESPECTFULLY SUBMITTED:

Traci Dory
Committee Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a report titled, "Calculating Torture: Analysis of Federal, State, and Local Data Showing More Than 122,000 People in Solitary Confinement in U.S. Prisons and Jails," prepared by Solitary Watch and the Unlock the Box Campaign, dated May 2023, submitted by Senator Pat Spearman, Senate District No. 1, and presented by Lilith Baran, Policy Manager, American Civil Liberties Union of Nevada, in support of Senate Bill 307 (2nd Reprint).