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

**Eighty-Second Session
March 14, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8 a.m. on Tuesday, March 14, 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:

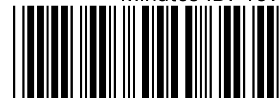
Assemblywoman Brittney Miller, Chair
Assemblywoman Elaine Marzola, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Venicia Considine
Assemblywoman Danielle Gallant
Assemblyman Ken Gray
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Selena 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:

None



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Jim Hoffman, representing Nevada Attorneys for Criminal Justice
Christopher P. DeRicco, Chairman, Board of Parole Commissioners, Department of Public Safety
Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada
Adam Cate, Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association
Greg Herrera, representing Nevada Sheriffs' and Chiefs' Association
Adrian Hunt, Police Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Jason Walker, Sergeant, Administrative Division, Legislative Liaison, Washoe County Sheriff's Office
Robert Stockmeier, Private Citizen, Las Vegas, Nevada
Tonja Brown, Private Citizen, Carson City, Nevada
Harold Wickham, Deputy Director, Department of Corrections
Aaron Evans, Major, Deputy Chief, Northern Command, Division of Parole and Probation, Department of Public Safety
Heather D. Procter, Chief Deputy, Post-Conviction Division, Office of the Attorney General
Teresa Benitez-Thompson, Chief of Staff, Office of the Attorney General
Leisa Moseley-Sayles, Nevada State Director, Fines and Fees Justice Center
Caitlin Gwin, Intern, Clark County Public Defender's Office
Regan Comis, representing Awaken
Brenda Sandquist, Executive Director, Xquisite
Serena Evans, Policy Director, Nevada Coalition to End Domestic and Sexual Violence
Katie Roe Ryan, Director, Public Policy, Dignity Health-St. Rose Dominican; and Cofounder, Nevada Policy Council on Human Trafficking
Lauren Boitel, Executive Director, ImpactNV; and Chair, Nevada Policy Council on Human Trafficking
Victoria McMahan, Private Citizen, Las Vegas, Nevada

Chair Miller:
[Roll was called.] Today on the agenda, we have two bill hearings and two work sessions. We will start first with the work sessions, and the first bill, Assembly Bill 17.

Assembly Bill 17: Revises provisions relating to penalties for driving under the influence of alcohol or a controlled substance. (BDR 43-465)

Diane C. Thornton, Committee Policy Analyst:
[Reviewed the work session document Exhibit C.] Our first bill in work session is Assembly Bill 17, heard in this Committee on March 6.

This bill removes the requirement that a person who is convicted of driving under the influence of alcohol or a controlled substance must dress in certain distinctive garb while performing community service ordered by a court. There are no amendments to this measure.

Chair Miller:
Thank you, Ms. Thornton. Members, are there any questions? [There were none.] I will entertain a motion.

> ASSEMBLYWOMAN MARZOLA MADE A MOTION TO DO PASS ASSEMBLY BILL 17.
>
> ASSEMBLYWOMAN SUMMERS-ARMSTRONG SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYWOMAN NEWBY WAS ABSENT FOR THE VOTE.)

Chair Miller:
I will give the floor speech to Assemblywoman Summers-Armstrong. We will now move on to the next bill in work session.

Assembly Bill 231: Revises various provisions of the Uniform Commercial Code. (BDR 8-604)

Diane C. Thornton, Committee Policy Analyst:
[Reviewed the work session document Exhibit D.] This bill was heard in Committee on March 8 and is sponsored by Assemblywoman Backus. This bill enacts the 2022 amendments to the Uniform Commercial Code, which is a set of uniform laws governing commercial transactions. The 2018 amendments to Article 9 of the Code are also adopted. Among other things, this bill revises provisions related to emerging technologies. There are no amendments to this measure.

Chair Miller:
Members, are there any questions? [There were none.] I will entertain a motion to do pass.

> ASSEMBLYWOMAN MARZOLA MADE A MOTION TO DO PASS ASSEMBLY BILL 231.
>
> ASSEMBLYMAN GRAY SECONDED THE MOTION.

Chair Miller:
Are there any comments?

Assemblyman Yurek:
I wanted to note that since our hearing on this matter, it has been brought to my attention there have been other, similar provisions that have been recommended to other legislatures and jurisdictions. I was able to spend a little time looking at it, and it does not look like Nevada has included the concerning language that was recommended by the Uniform Commercial Code Committee. I will be voting it out of Committee, but I do reserve my right to change my vote on the Assembly floor.

Chair Miller:
With that, I will take a vote.

> THE MOTION PASSED UNANIMOUSLY.

Chair Miller:
I will assign that floor speech to Assemblywoman Backus. Next on our agenda, we have two bill hearings. The first bill hearing will be Assembly Bill 229, presented by Assemblywoman Bilbray-Axelrod and Jim Hoffman. There was a late amendment that is now on the Nevada Electronic Legislation Information System [Exhibit E].

Assembly Bill 229: Revises provisions relating to sentencing. (BDR 16-461)

Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34
First and foremost, I want to tell you that I both know and believe wholeheartedly that the opportunity for parole is an act of grace by the State and the impact to the victim should absolutely be considered in every hearing. The intent of Assembly Bill 229, as amended [Exhibit E], specifically deals with the final discretion of the Board of Parole Commissioners in considering whether to grant parole. This bill, as amended, gives guidance to the Parole Board to establish a presumption in favor of granting parole under certain circumstances. This gives some certainty, not only to the inmate and their loved ones, but also to the victims and their families. In an effort to ensure public safety, the mission of the Parole Board is to render fair and just decisions on parole matters based on the law and impact to the victim and the community, with the goal of successfully reintegrating offenders back into society.

Section 1 of the bill as amended [Exhibit E] establishes a presumption in favor of granting parole if a convicted person has not committed a major violation of the regulations of the Department of Corrections (NDOC) that is punishable as a felony in the immediate 12 months preceding and has not been housed in disciplinary segregation for conduct that is punishable as a felony in the immediate preceding 12 months; or has not been released on parole previously for the current sentence. Section 1 also requires the Board not to consider whether a person has appealed their sentence and eliminates the requirement the Board must provide greater punishment for certain convicted persons.

In other words, when a person is sentenced at that point in time, they go to prison. They know what their minimum time is before they can be released. That person who is sentenced, their family, and the victims all know that day when the person enters prison that if the offender lives on the inside the way they should be living on the outside from that day forward, when the parole day comes, they can and should be paroled. When the offender enters prison, all the facts of the case are known. The worst facts are already digested and taken into consideration with the sentence and the negotiations. Those facts all remain static. The facts should not once again be relitigated by the Board. Once someone is sentenced, the next phase should begin. In Nevada, that is punishment and rehabilitation, which is done by the Department of Corrections and their programs.

The facts of the case in which they were convicted, all the facts that happened before the time they entered prison cannot be changed. Those things have already been considered at trial and sentencing and should not be reconsidered at the parole hearing. The role of the Parole Board is to look at the offender as they were as an inmate, and not to retry the case. When a judge and/or jury sentences the offender to a term of years, and then the offender enters the system, does everything right, serves their time, never gets a write-up, is educated, works, is a model inmate, and then is denied parole just because their initial offense was too offensive—it is a miscarriage of justice. Quite frankly, it is costly to the state of Nevada.

Anecdotally, I have heard members of the Parole Board ask questions like, "If your loved one was killed, what is enough time?" Or "Do you think you should spend less time in prison than your codefendant, who received the same sentence?" The function of the Parole Board is not to relitigate the facts or sentences imposed by the courts. I will now turn the presentation over to Jim Hoffman from the Nevada Attorneys for Criminal Justice for additional context, and then we will stand for questions.

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:
When I was researching this bill, I was surprised. I thought every state had parole. It turns out there are 17 states that just got rid of parole entirely. There are another seven states that have this "presumptive parole," which is the centerpiece of this bill. Those states include Michigan, Pennsylvania, Colorado, Vermont, Hawaii, New Jersey, and Mississippi. I want to focus on Mississippi a little bit. The Mississippi version is more friendly towards inmates than the version we have in A.B. 229.

In the bill, parole is presumptive unless there is bad behavior in the last 12 months. That bad behavior is anything that is a felony, minor felonies up to serious felonies. That is also if you have been out on parole and you violated the terms of your parole. Mississippi does not have that. Mississippi has just that if there was bad behavior in the last six months, you do not get parole. With the Mississippi version also, there would not be a hearing in most cases. In Mississippi, there is only a hearing if law enforcement specifically requests one. The Nevada version has a 12-month period for bad behavior, and there is always a hearing. There is always a chance for the Parole Board to review what people are doing.

Our thinking with this bill was, when you are sentencing someone in court, there are a lot of rules the judge has to follow. The judge has to follow rules about not giving a cruel and unusual punishment. The judge has to follow the statutes the Legislature has laid out. The judge has to base sentencing on facts which are not highly impalpable or suspect. There are all these rules that judges are governed by and if the judge screws something up, it gets appealed to the Nevada Supreme Court. Then the Nevada Supreme Court can check it and make sure everything is going right. As Assemblywoman Bilbray-Axelrod said, parole is an act of grace. In a theological concept, grace is something everybody gets whether they deserve it or not. That is not what it means under Nevada law; an act of grace under Nevada law is there is no appeal, there is no check or oversight. The Parole Board is the final decision and if you do not like the decision they made, you have no recourse. This is nothing against the Parole Board; they do a good job in many cases, most cases. There are seven people on the Parole Board; they hear hundreds of cases every month. In that circumstance, it is easy for them to default to just looking at the offense conduct, and just saying, "Oh, you are in here for this crime, well, that is a bad crime. Parole denied." We believe there needs to be a balance of both individualized discretion and the rules and guidelines. We believe this bill is a good balance, and that is why we are here presenting it.

Chair Miller:
I will start our questions with a clarification on the amendment [Exhibit E]. With the amendment we see, there is a lot of language in blue in section 3. I want to make sure the only new language you are adding in the amendment is section 4, because the rest of section 3 looks like what is currently in the bill.

Jim Hoffman:
That is correct.

Assemblywoman Mosca:
Do we know how many people are being denied parole in our state right now?

Jim Hoffman:
I do not have that number. I know the Parole Board is here and I believe they would be better placed to testify to that.

Chair Miller:
Can I have a member of the Parole Board approach to testify.

Christopher P. DeRicco, Chairman, Board of Parole Commissioners, Department of Public Safety:
I have been the Chairman of the Parole Board since 2018. Our five-year grant rate from fiscal year 2013 to 2017, averaged 55.19 percent. So, 45 percent of those were denied. Since being in this capacity as chairman and working to do everything we can to take a good look at that, our average grant rate over the past five years is 65.87 percent, which is an increase of 11 percent over the course of the last five years. We understand that we are here to grant opportunities to individuals, and sometimes those individuals may not be granted parole. The denial rate is approximately 34 percent.

Assemblywoman Cohen:
The language in the amendment that constitutes a felony, for instance, section 1, subsection 3, paragraph (b), subparagraph (1), "committed a major violation of the regulations of the Department of Corrections (NDOC) that constitutes a felony," so if someone commits a misdemeanor, would parole still be granted? Would there be new charges for a misdemeanor? What happens with something that is not a felony?

Jim Hoffman:
That language is in there because the list of major violations at NDOC is really big. That includes felonies, misdemeanors, along with more minor things. For example, if you have a job in the prison canteen and you do not show up, that is a major violation. My favorite one, if you have a copy of the regulations, that is a major violation for some reason. The point of that language was, we wanted to make sure if people were doing really bad stuff, like felonies, the presumption goes away. If they are doing less bad stuff, like a misdemeanor, the presumption is still there. However, a presumption is not a hard and fast rule. The presumption is just the starting point. If somebody commits a misdemeanor, the Board can look at the facts of what that misdemeanor was, and the Board can decide it was too serious to grant parole. The point of presumption is just to start from the perspective that people should get parole. Then the Board is still free to consider any reason they should be granted parole.

Assemblyman Yurek:
I want to confirm that with the amendment, *Nevada Revised Statutes* 213.10885, the removal of that section is not going to occur under the amendment.

Assemblywoman Bilbray-Axelrod:
That is correct.

Assemblyman Yurek:
For Chairman DeRicco, I am generally aware of the risk assessment tools that are used in helping to assess the appropriateness of granting parole. Can you give us any information on the assessment tools and how they have been validated over the years?

Chris DeRicco:
We have a validated risk assessment tool the Board has used since 2004. It was revalidated in 2008, 2012, 2017, and is currently under review right now, with our result of the revalidation coming back to us next month. How the risk assessment works is that we first consider the severity level of the crime. Every crime is assigned a severity level from highest, high, moderate, low moderate, and low. So, you have one axis.

The Board also considers the inmate's risk level, which is ranked from high, moderate, or low. In our risk assessment, it is a starting point, and it is the standards as in statute right now is the first tool to take a look at. We apply the risk level to the prisoner being considered for parole at their initial assessment. There are a bunch of questions that get us to where this person falls regarding the empirical data. The static factors this risk assessment goes through are first, the age of first arrest, whether they have been revoked before previously under parole or probation supervision, their past employment history, prior offenses or prior convictions to this offense, history of drug or alcohol abuse, and their gender. Those are the static factors of this assessment and those are not going to change.

From there, we look at the dynamic factors: age, active gang membership, whether they have completed any programs while in the institution, disciplinary conduct, their current custodial level at the institution. From there, you get a final score, and it will place them in the matrix. This tool gives us a recommendation of a few options; it might come out to deny parole because they score so high; it might come out to consider factors; it might come out to parole at first or second hearing; or it might come out to parole at the initial hearing. If you have a validated assessment that says deny parole, that is easy, we know how this person scores; much like if it says parole at initial or first or second hearing. The deviations on those are not great, but they do happen. We make our paychecks with the ones that come out in the middle as consider factors. From there, after this initial assessment, we go even further and consider all aggravating and mitigating factors of a case, as well.

Some examples of aggravating and mitigating factors that we cover, and this is above and beyond the assessment: whether a prior prison term served by the prisoner did not deter subsequent criminal activity; whether they were convicted or adjudicated delinquent for a sexual offense; whether they were adjudicated delinquent for violence; is there repetitive criminal conduct, prior criminal history, disruptive institutional behavior; whether they scored as a high risk on a separate sex offender assessment which we also must review prior to any grant of parole; whether they have committed a crime against a child, vulnerable victim, or the elderly; if there are any extreme or abnormal aspects of the crime; if they refuse to participate in treatment; whether they were removed from a correctional program, such as maybe a 305 DUI or 315 program where they were out in the streets as an inmate and were brought back in; whether they committed any prior crime while on parole, pretrial, any type of bail; whether they have been in disciplinary segregation before.

I also want to bring up that we consider the mitigating factors of the case as well, and with that we want to know whether they have no prior criminal history or very little prior criminal history; whether they have had no infractions during their incarceration term; have they been

participating in programs; have they adjusted positively to a reentry program; whether they have been previously successful under probation; do they have a stable release plan; do they have a detainer lodged against them in another jurisdiction or a consecutive sentence; is the sex offender a low versus a high.

Chair Miller:
Is this information available to the public?

Chris DeRicco:
This is all posted on our website—the assessment and the tools and the scoring guide. In a nutshell, we do not look at just one thing. The risk assessment has been in play for almost 20 years and is being revalidated again. That is a starting point, but then we also look at the aggravating and mitigating factors before a decision is made.

Jim Hoffman:
The Chairman was talking about the risk assessment tools that are used. To be clear, our bill would not do anything to touch that. They would still be using this risk assessment. They would still be allowed to consider all of these factors. We do not have a problem with that part of the process and are not trying to change that part of the process.

Assemblyman Gray:
We have heard that about 67 percent of convicts in prison have committed violent offenses or sexual offenses. Most of us in society go through our entire lives without committing a single felony, yet we are going to take people who already have at least one conviction in prison and presume because they have behaved in prison for the last 12 months, in a controlled environment, they are going to be able to reintegrate into society. What empirical data are you looking at to base this judgment on? Twelve months is a small period in the life of a person who is behind bars for a violent offense or sexual offense.

Jim Hoffman:
We already account for the fact that people commit violent or sexual crimes. The first way we take that into account is the Legislature sets a harsher penalty for those things. The second way is the judge, at sentencing, can look at this individual and say, "Oh, they are the most violent, I am going to sentence them at the higher end of the range." Telling the Parole Board to also consider this is like triple dipping. The function of parole is not to stack more punishment on top of people because they did a bad thing. That is the function of the Legislature's laws and the judge. The function of parole is to evaluate as to whether this person has reformed in prison or whether they are going to do it again. That is what we believe the Parole Board should be focused on.

Assemblyman Gray:
What empirical data are you basing these decisions on?

Chair Miller:
We will come back to that.

Assemblywoman Gallant:
I am looking at this amendment. How will the validation process still be in play? From reading the amendment, section 3 seems like it trumps everything else. Can you conceptualize how the Parole Board would still be able to use the current measures they have and how will this not open up frivolous lawsuits against the Board?

Jim Hoffman:
This is a presumption that we are creating. A presumption is just a starting place. To analogize, there is a presumption that you are innocent until proven guilty in our system. That does not mean people do not get proven guilty. People get proven guilty all the time in court. The presumption with sentencing is telling the judge this person is innocent until proven guilty. With parole, it would be telling the Board this person should get parole unless it is proven they should not. They are allowed to look at anything in making that decision. Chairman DeRicco talked about all of the different factors they can look at.

From my perspective as a defense attorney, we do not have a problem with the system not being able to convict people. That part of the system functions even though there is a presumption. That is how it would work here.

Assemblywoman Hardy:
Part of my question has been addressed, but I would like to confirm the Board can only look at the preceding 12 months and nothing beyond that in making a decision? I also want to address the change of "commission of," to "conviction of." That is concerning given the items listed under that.

Assemblywoman Bilbray-Axelrod:
No, the Board can go beyond the 12 months. As far as the commission rather than conviction, to me it is really simple. It is saying that you have been accused of a crime, which is the commission, where we are saying it is conviction.

Jim Hoffman:
To answer your first question, the 12 months is just for the presumption. If there are no bad things in the last 12 months, there is a presumption of parole. The Board is still allowed to look before that and say, for example, "There was a bad thing you did 13 months ago. That is the reason we are denying you parole." It is when the presumption attaches; they are still free to rebut that presumption.

As I said to Assemblywoman Gallant, in our system, we presume you are innocent until you are proven guilty. We believe that should be true in the parole context as well.

Assemblywoman Hardy:
I understand we presume innocence until proven guilty. If they are committing any of those things, like violating a protection order or being in places they are not supposed to be in any way, especially when involving victims and things like that, that is a concern.

Jim Hoffman:
If someone commits a crime or violates a protection order, then they are going to get convicted of it sometime later; usually a month or two later. That is when they would get violated. They would still get violated, it would just have to go through a judge looking it over and being like, "Yep, you are guilty." I do not think it would be such a major change.

Chris DeRicco:
Chair, may I provide some insight on this from the perspective of the Parole Board?

Chair Miller:
Quickly.

Chris DeRicco:
The commission versus conviction, what I see happening with that, the statutes in this bill have to do with parole violations. In essence, I do not believe with that change, the Division of Parole and Probation is going to be able to allege a parole violation until they have a conviction. For instance, if someone goes out and commits an armed robbery, a sex offense, something else, they do not have an alleged violation if it changes to conviction, because they will somehow, some way continue to supervise if they are released on their own recognizance, released on bail, or whatever; they do not have a violation. That individual quite possibly still could be in the streets, could be supervised, could be sitting in a jail if they were held in detention; they would not be able to be returned to NDOC because right now we have "commission"; there is probable cause; they got arrested for some new crime. Until there is a conviction, the Division is going to be hard-pressed to submit a violation report with that language change.

Assemblywoman La Rue Hatch:
You said this brings a presumption of innocence to this select group of people who have not had any issues in the last 12 months. Does that mean currently there is not that presumption, that the presumption is parole will be denied unless you prove your way out? Along with that, it sounds like we can still consider all of the factors they are currently considering, so what would actually change in the day-to-day process with this new language?

Jim Hoffman:
There is no formal presumption either way, right now. Our concern that arose from talking with inmates is there seems to be an informal rule that the more serious an offense is, the more often people should expect to get their paroles denied. Chairman DeRicco talked about how the risk assessment spits out an answer sometimes of "parole on your first or second hearing." What that means is we are not going to grant you parole now, we are going to deny it, come back in a year or two. That can be a problem because it might not be the same panel of people in a year or two. Those people can say, "Oh, you need to do more anger counseling. Come back after you have done anger counseling." That person expects parole, but now it is a different panel or someone new has been appointed to the Board, so they are getting a different result and getting denied again based on the nature of the offense, even though they have been working hard to do what they are supposed to be doing.

What this would change is directing the Board to not put so much weight on what the offense was. They would still be allowed to consider that; they would still be allowed to consider the person's conduct; it is just sort of a tweak to make, so this triple dipping is less likely to happen.

Assemblywoman Newby:
I was curious about the new language in section 2, subsection 11 regarding the recommendations to improve the possibility they would be paroled at the next hearing. Could you give an example of what kind of direction is given now and what sort of direction would be hoped to get or be provided to the inmate with this change?

Jim Hoffman:
That is more of a conforming change. Under existing law, the Board is already required to explain why they are denying parole. This would just be giving people written advice on what they could do to improve their score on the risk assessment. From our perspective, it is not really a substantive change. We changed the presumption, so we want to tell people about that.

Assemblywoman Summers-Armstrong:
During COVID-19, a lot of programs were suspended. Can you talk to us about what happened to those folks who were eligible or should have been eligible who were not able to participate in the programs? Did you make any special accommodations for those folks or were they just denied parole because they were unable to participate?

Chris DeRicco:
Everything we did previously continued to happen. They continued to have a risk assessment done; it was the first step in going there. If they were unable to program, our commissioners were very cognizant of that fact. It is a fact that there were a lot of programs individuals could not attend to better themselves. If they could not attend those programs, we made sure we looked at that in relation to where the assessment would have been had they been in a program or where they would not. The score on that assessment, if they were in or completed a program, they could get a minus one if they completed that programming. If they did not, they would get a zero. They were not negatively or adversely affected by not completing the program. We knew if they were there on the cusp, for instance, if they were on the cusp of a "grant parole" versus a "consider factors," we took that into effect as well.

Additionally, during COVID-19, when we had this happen, we were shut down to the public for two and a half months. However, for that two-and-a-half-month period, commissioners went through every file by hand to go through and determine who we could grant parole to, in absentia. For that two-and-a-half-month period, we had a 100 percent grant rate. Why? Because statute says we cannot deny parole in absentia. Even though we were closed, and our hearings have to be open to the public, we wanted to find a way to continue doing our job to look at and get as many people out as we could. We did just that.

Assemblywoman Summers-Armstrong:
You just gave a numerical definition, "minus one," for a program. How many points are in your assessment, and if you are only getting "minus one," for completing a program, how high is this bar for people to even be able to get enough points off for it to make it worth their while to try to comply with going through all these rehabilitative processes?

Chris DeRicco:
The maximum points someone could have is 19 points. That is the maximum. That is someone who would be a clear deny. We do not see 19 points. You could potentially have negative points, but once again, we do not see that either. With the risk assessment, if you score 14 and above, you come out as a high risk according to this validated tool. If you score between 8 and 13, you are a moderate risk. If you score between 0 and 7, you would be a low risk. That is the scoring for the risk level in the three separate categories.

Assemblyman Gray:
On what empirical data are you basing the 12 months that these inmates will be returned to society any better than any other period of time?

Assemblywoman Bilbray-Axelrod:
Unfortunately, we do not have a crystal ball. In the state of Nevada, the idea is that we do rehabilitate people and we do want to get them back into society. We do not want to just put people in a cell and throw away the key. That is not what we do. Most of our information is anecdotal because people are different. We do know and have had many conversations with NDOC, and I am so pleased that Commissioner DeRicco is here. The goal of this Legislature and the goal of the state of Nevada is to rehabilitate people. We do not have empirical evidence because all people are different. We are just trying to do the best we can.

Jim Hoffman:
I would lean heavily on the experience of other states. Seventeen states and the federal system have gotten rid of parole entirely. They think it is too much discretion; it should only be judges deciding when someone gets out. We do not want to go that far. We think the Board does mostly good work. There are these other seven states that have said parole should be presumptive, but the Parole Board should still be able to deny it if it feels it is warranted for a given offender. That is where we think the best balance is. There are 24 other states that are already doing this; we would be number 25. We think their empirical experience is helpful in that regard.

Chair Miller:
With that, I will now open testimony in support of A.B. 229.

Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office:
This bill sets a uniform standard for everyone who is looking at who is going to go up for parole or if they should or should not be released. It is important to note the goal of parole is to continue the process of rehabilitation of offenders and guide them back into society. It is

not a punishment: it is a tool in rehabilitation. When done right, parole can reduce prison cost and reduce crime. There have been some questions today about data. The Pew Charitable Trusts, a nonprofit organization, found that parolees can be 36 percent less likely to commit new crimes when parole is used correctly. Parole, again, is a tool in rehabilitation.

To touch on another question that came up, when we are talking about the commission of crime versus the conviction of a crime; when an individual, for example, gets into a fight in prison, it is a category B felony, battery by prisoner—that is not a little thing. If an individual violates an extended protection order, if they call the victim of a sexual assault, that is a category C felony. They will be held pending the determination of guilt on those charges. It is not a situation where someone is released just because there is no conviction yet. When we are thinking about what this bill does, it sets uniform standards, it says that a person who is not getting in fights, who is following what they are supposed to be doing, they get a presumption they should be released on parole. So many things can still be considered and that is why we think this is good policy.

John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:
I would like to echo what Ms. Roth and Mr. Hoffman have said. One of the things that is important for us is the commission versus conviction issue here. If you get accused of a new crime while you are out, you are going to be held on either a parole hold or a probation hold. You are not going to be released to the street, unless it is under very extreme circumstances; like the district attorney's case is very weak and we could show that in a bail hearing. In some instances, you are pulled all the way back to the prison to go before the Parole Board before you are convicted of a new crime. We could go to trial on this new offense, win, and get a not guilty, but frankly, you were waiting in prison for a year or more for your trial. The difference between commission and conviction is a big deal. This is a much-needed change in our statutes.

Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada:
In our work, we work specifically with people who are currently incarcerated and their families on a wide variety of issues. One issue our members regularly write to us about is the Parole Board process. We have had almost 200 letters in the past year, specifically around this issue around parole boards. While we understand that parole is not presumptive and everyone understands they do not have a right to parole, the entire process has always been mysterious and unclear for people who are incarcerated and their families. This bill, we feel, would really address some of the major issues with the process and take huge steps towards a more equitable system that encourages people to focus on preparing for parole and life after prison.

Currently it seems there is no rhyme or reason for how someone gets parole. Obviously, there is some, but it does not always feel like that. There is no communication with people so they even know why they were not granted parole, and they go to the Parole Board with sometimes zero institutional behavior issues, but they will come back on a violation or a technical violation that requires them to get dumped. They do not get parole even if they

were doing everything right while they were incarcerated. Hope is a powerful motivator. Losing hope can change the trajectory of one's life. In the case of parole, it is not just the person in prison who can lose hope, but families, children, mothers, fathers, wives, and husbands.

Today, I would like to tell you a quick story about a family we have worked with. The father was incarcerated prior to the daughter's birth. I helped with visitation for this family for a long time. He came to the Parole Board when she was eight and was denied. She could not understand and cried and cried and for months was in a depression. I remember sitting down with her one day and explaining she had just gotten in trouble with her grandmother for something and her grandmother grounded her for longer than she felt was necessary. I had to try to break down why he did not get parole into something a child could understand. He did not end up getting parole; he did not have any issues while he was in prison. He was doing his sentence. By the time he came home, she was 12, almost 13. The impact on that family, that family relationship, still is not repaired. She is now pregnant and 15 and in the care of the Washington Department of Children, Youth, and Families and still looking for her father. I want to provide another side of this, is that we can destroy hope sometimes with risk assessments. I understand the need for those things, but I want you to remember there is a human side of this outside of that and I could give you 185 stories today, but I will leave it at that one.

[Exhibit F, Exhibit G, Exhibit H, Exhibit I, Exhibit J, Exhibit K, Exhibit L, and Exhibit M are letters and statements submitted to the Committee expressing support for A.B. 229.]

Chair Miller:
With that, I will open it up to testimony in opposition of A.B. 229.

Adam Cate, Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:
The District Attorneys Association disagrees with the premise that the factor of the inmate's performance in the last 12 months in prison should be granted superiority over the remaining factors in determining whether someone should be granted parole. Really, of the nearly 30 factors considered by the Board, it is simply one factor. I do not think it is "triple-dipping" for the Board to consider factors related to the crime and the person's previous supervision—how they performed when they were on parole or probation in the past—in determining whether they should be granted parole again. The job of the Parole Board is about the risk the inmate poses to our community. They have told you today they have a validated risk assessment tool they have used for the last 20 years to determine the inmate's risk to the community. The District Attorneys Association believes that is the best method for determining the risk they pose and whether they should be granted parole.

Additionally, there was discussion about how the judge sentences, and that is when we consider many of these aggravating factors. That is not always the case. It is my opinion that the judge sentences the maximum and then it is the Parole Board's decision as to whether the person should be released, once they are eligible. But many crimes—sexual assault,

lewdness with a child, sexual assault upon a child—the judge has one option: either 10 years to life for lewdness or sexual assault. They do not get to determine the sentence. It is up to the Parole Board to look at the facts and circumstances of that crime and determine whether parole is appropriate or whether this person should remain in prison for a longer period of time, based upon the facts and circumstances of the crime.

Additionally, the District Attorneys Association also opposes the changing of the non-technical violation definition from commission to conviction. It increases the standard for revoking someone's parole from probable cause to now proof beyond a reasonable doubt. Additionally, it places the conviction of another crime more difficult to prove than other parole violations, which are less serious. So, more serious, more risk, and it is more difficult to prove. We also disagree with the timing situation, and we think this will lead to a long delay in people's paroles being revoked if this change is adopted.

Greg Herrera, representing Nevada Sheriffs' and Chiefs' Association:
I would like to say ditto to everything he just said. I will sum it up quickly. We also have some of the same concerns. It has been stated in this and previous hearings that parole is an act of grace. The presumption of parole simply based upon 12 months of following the rules, which in many cases is just a small fraction of the time being served, does not equate to an act of grace. We believe this could also provide for unsafe conditions for NDOC staff, with inmates knowing they are not on the clock for being held accountable until the final 12 months leading up to parole eligibility.

Presumption of parole may also discount the significance of victim impact statements at the time of parole hearings and reduce them to irrelevance. Victims often spend a lifetime trying to heal from crimes committed against them, and their statements should continue to be considered by the Parole Board. We also believe the language change from conviction to commission will have a significant impact on jail populations for our local jurisdictions. Parole violators will be months waiting in county jails for a trial to be sent back to NDOC for these violations. For those reasons, we are asking you oppose this bill.

Adrian Hunt, Police Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:
We oppose A.B. 229 as written for the reasons my colleagues have mentioned. We are particularly concerned about the technical violations. Mr. Hoffman said the time between commission of a technical violation and conviction would be a month or two. I need to rebut this. In Clark County, the time frame between commission and conviction of a technical violation could be months or years. It most definitely would not be a month or two, and while a person is awaiting the decision, they would be housed in county jails. This process would cause population issues and fiscal impact for our local jails for the process of these technical violations.

Jason Walker, Sergeant, Administrative Division, Legislative Liaison, Washoe County Sheriff's Office:
I echo the comments of my colleagues. Commissioner DeRicco clearly explained the factors in use for granting parole. It is my opinion that is an above and beyond look other than a standard. I am here on behalf of the Washoe County Sheriff's Office, and we are opposed.

Robert Stockmeier, Private Citizen, Las Vegas, Nevada:
I am in favor of the bill, but I had some issues getting through. Can I continue with my testimony?

Chair Miller:
Yes, we understood that you had some technical difficulties. We are in opposition, but I will accept your testimony. Please proceed.

Robert Stockmeier:
[Mr. Stockmeier read from his written testimony, Exhibit J.] The ideas behind this bill demonstrate the progression of a maturing society through continued criminal justice reform. This bill reflects the appropriateness of fairness for those who have already served very tough sentences under Nevada law. I know; I was there. I went to prison in 1990 after a guilty plea to sexual offenses I committed when I was an emotionally and socially immature 21-year-old. I am now almost 55. Being in the military in a small town near election time, I was sentenced to two consecutive 10-to-life terms, which shook the community. Upon entering the prison system, I immediately sought counseling. I wanted help. In those days, the then Department of Prisons offered intensive sex offender programs of a whole different nature than just reading from a book. They were intense and life changing. I participated in these programs for 18 years. Throughout my 30 years of incarceration, I was a textbook model prisoner. I took all kinds of programs and high schools and took college until the Pell Grant expired. I remained employed for 22 years working as a psychology department clerk, a law library researcher, a sewing machine operator, and a prison industries clerk.

Over the course of three decades, I received a single minor write-up. I developed and facilitated courses for the psychology department including social skills, arts and humanities, and other classes. The Parole Board went on to recognize the value of these programs by deducting points from my inmate risk assessments for completing these very programs which I developed. I became eligible to be paroled off my first life sentence and start my second one in 2000. Notwithstanding my accomplishments and growth, the Board saw fit to deny parole to me in 2000, 2003, 2006, 2008, and again on rehearing in 2008. On the rehearing from the rehearing, the Board finally allowed me to move on to my second life sentence in a peculiar order which granted parole 13 months later. The consensus seemed to be the Board did not deem 19 years sufficient on a 10-to-life, even with another one to go. Upon my first appearance for parole consideration on my second life sentence in 2020, the Board granted my parole.

Over the past three years, I have flourished in this society and my life demonstrates the 10 extra years I served were not necessary. While I have tremendous respect for the Parole Board and the often tough decisions it must make, I have never been able to fathom any just reason for repeatedly denying parole to a prisoner doing everything right and with a consecutive life sentence yet to serve. I could never grasp how this prolonging of punishment reflected the grace with which paroles could be administered.

Chair Miller:
Sir, I am going to ask you to wrap up your testimony, please.

Robert Stockmeier:
This bill would remedy such imbalances and would not only create a standard of fairness for all prisoners who seek parole from lengthy sentences but would also provide some certainty and clarity for the families and the victims.

Chair Miller:
We will move back into opposition. Is there anyone else wishing to testify in opposition? [There was none.] With that, I will open it up to testimony in neutral for A.B. 229.

Tonja Brown, Private Citizen, Carson City, Nevada
I am representing the Advocates for Inmates and the Innocent. We are here today in neutral. We do echo the comments made in support. The reason we are in neutral is because we would like to see some changes made to the bill. Under sections 1, subsection 3, paragraph (a), and 2, we ask the change of language that constitutes a felony, to new language convicted of a—

Chair Miller:
Excuse me, Ms. Brown, under the Committee rules, unless you are accepting the bill as written, if you have anything against it, it is actually opposition. If you are asking for amendments or changes, it would be in opposition. Would you like to change your testimony, or would you like to send your amendment suggestions to the bill sponsor?

Tonja Brown:
I would like to change it to opposition.

Chair Miller:
Continue.

Tonja Brown:
[Ms. Brown referred to written testimony, Exhibit N.] We would like to change the language "that constitutes a felony" to the new language "convicted of a felony." We based that on the inmates who will wind up getting disciplinary action; it will be submitted to their files and to the Board. The Board will not know if the inmate has filed suit and won, and it should have been removed. Also under section 1 of subsection 4, we would like to include new language right after the Board shall provide to the convicted person a written statement of its reasons,

to include new language to the effect that the Board's written reasons must be defined and delineated other than "a threat to society or a heinous crime." The threat to society and nature of the offense must be defined. These are reasons the Board can use to overcome the presumption to grant parole. That is a huge thing; they will come in and say, Reason to deny, threat to society. They do not say what the threat is, or the offense. The Board is there to see what they have done. The jury makes the decision on the guilt. The judge carries it out; if they have a life with possibility of parole, they should be granted it. A lot of times they are not because the Board relitigates the case, and they should not. The Board is there to see how well they are doing in prison and base it on that, not retry the case.

Chair Miller:
We will move back into neutral testimony.

Harold Wickham, Deputy Director, Department of Corrections:
I am here with Kirk Widmar, Chief of the Offender Management Division, Department of Corrections. Our only concern would be that NDOC typically does not charge felonies if an offender gets in a fight or assaults another offender. We do not charge them with a felony, specifically. We could, but it goes through the Office of the Attorney General and then through the courts, which would absolutely bog the systems down to a complete stop. We use an administrative process to do that. Our concern would simply be that if the language could be modified. We are happy to work with staff and the bill sponsor and all stakeholders.

Aaron Evans, Major, Deputy Chief, Northern Command, Division of Parole and Probation, Department of Public Safety:
In my conversations with Chairman DeRicco, this bill will increase the rate at which individuals are granted parole. By doing so, I would like to make you aware of the impacts on the Division of Parole and Probation and our operations. With the effective date of the bill as written, the additional parole grants and reentry plans this will generate will add to the workload of my existing prerelease staff and supervision staff across the state. These positions are responsible for coordinating the releases and processing the releases to places that will set these individuals up for success and foster rehabilitation all the way through the end of their parole supervision.

To handle the increased number of parole grants, the Division will need new positions created, recruited for, background checked, hired, and trained, which can take months to even over a year. Adding more people to the parole queue before having the necessary personnel in place to process the releases will result in a greater amount of time between parole grants and parole releases. The number of people incarcerated past their parole eligibility date will increase. Until enough sworn positions can be hired and trained, which can take over a year, supervising the increased number of parolees will be challenging and the rehabilitation efforts will be impacted. If the Division is able to hire, train, and retain individuals to fill these positions prior to the enactment of this language, then these impacts could be mitigated.

Heather D. Procter, Chief Deputy, Post-Conviction Division, Office of the Attorney General:
I would like to preface this by saying we have some concerns regarding the policy and implementation of A.B. 229.

Chair Miller:
Are you testifying in neutral?

Teresa Benitez-Thompson, Chief of Staff, Office of the Attorney General
We are not going to speak to the policy, we just want to speak to policy implementation, what this will look like on the back end moving forward as written.

Chair Miller:
Please continue.

Heather Proctor:
My division litigates any inmate challenges to time calculation as well as the denial of parole. Our concern is, with the presumption of parole, it actually creates a liberty interest, which creates a right to parole and undermines the act of grace that exists in our state's statutes. The second concern is that in section 2, it does specify that the Board must give specific reasons for denying parole. Our concern is if one of those reasons is victim information, which could potentially undermine victim confidentiality if it has to be listed specifically, and it could potentially put victims at harm.

Chris DeRicco:
Since 2017, Nevada's prison population has been declining. In fact, it is at its lowest level since 2001. Approximately 85 percent of the prison population, right now, consists of category A and B felony inmates. Category A felonies apply to individuals sentenced to death or imprisonment for life, or life with or without parole. Some of these crimes include murder, kidnapping, sexual assault, child pornography, lewdness with a minor under age 14, and habitual criminal. Category B felonies apply to individuals who have been sentenced to not less than 1 year and no more than 20 years imprisonment. Some of those crimes include voluntary manslaughter, robbery, assault with a deadly weapon, sex trafficking, possession of a firearm by an ex-felon, arson, luring a child for sex, and driving under the influence causing substantial bodily harm or death. Eighty-five percent of those are made up of similar type cases right now.

In 2018, Marsy's Law was overwhelmingly passed by the voters and was added to the state *Constitution*. It allows the victims to participate and provide information to the Board and to have the safety of the victim and the victim's family and the general public considered before any parole release decision is made. If this bill is passed, we will continue to provide those rights to the victims and educate them, but the presumption of parole may result in a grant unless it can be rebutted with a specific reason. This will move the Board away from what has been our primary mission: focusing on public safety and successfully reintegrating

offenders back into the community, but we will adapt to any legislative changes. Lastly, Mr. Hoffman mentioned there are no appeal rights for someone that is denied parole. That is false. We do have appeal rights and those are in our regulations.

Chair Miller:
I do not see any further testimony in neutral. With that, I will bring up the bill sponsor for any final remarks.

Assemblywoman Bilbray-Axelrod:
As I said in the beginning, I realize the opportunity for parole is an absolute act of grace and the impact of the victim should absolutely be considered in every hearing. I thank Chair DeRicco for being here. I asked around if anybody was aware of the appeal process. I guess you can write a letter, but we are not aware of any time that that appeal has been overturned. This is an important bill. I know none of you will take this lightly. We are asking that the State of Nevada give people a chance.

As my copresenter mentioned, this is the way it is going. We would be the twenty-fifth state to have this presumption of innocence. We all know, as he said, innocent until proven guilty, just to be able to go in when you are doing the right thing—and I urge my colleagues to look at the letters which have been submitted. People are really trying to turn their lives around in prison, and I believe the State of Nevada should recognize that. When Commissioner DeRicco said you get a minus one for doing those things, that just does not seem like it is enough when you are actually trying to make a difference in your life and rehabilitate yourself.

Jim Hoffman:
The first thing I would like to address is we are in ongoing discussions with the various institutional actors who have testified. There will be at least one amendment forthcoming. We have spoken with NDOC and are going to address their concerns. The other big picture point I would like to make: there is a carrot and a stick in the criminal justice system. The stick is prosecution, the stick is prison time, but the carrot is the hope of parole. That carrot is important because that is what encourages people to work to address their problems, to deal with the reasons they committed the crime in the first place, and that is a really important part because that is what ensures they do not commit that crime when they get out. That hope of parole needs to be meaningful and consistent. We believe this bill will get us there.

Chair Miller:
With that, I will close the hearing on A.B. 229. Our next agenda item is Assembly Bill 275, which will be presented by Assemblywoman Hardy and Leisa Moseley-Sayles, the state director of the Fines and Fees Justice Center.

Assembly Bill 275: Revises provisions governing the sealing of criminal records. (BDR 14-204)

Assemblywoman Melissa Hardy, Assembly District No. 22:
Early in my time as a lawmaker, I had the opportunity to meet and hear the stories of victims. Their bravery and strength astounded me, but I was also struck by some of the more modern inconveniences visited upon them as they worked to rebuild their lives. In the 2021 Session, I worked on Assembly Bill 113 of the 81st Session, which extended the statute of limitations for prosecutions of sex trafficking crimes. That bill, like this, was a practical, commonsense policy done in a bipartisan fashion. It is my belief that good policy knows no party affiliation. We can tackle these issues as lawmakers with no daylight between us.

In preparation for this session, I knew that I wanted to build on the work I had done on this area in 2021. I had the privilege to work with several coalitions, including the Nevada Policy Council on Human Trafficking and also Shared Hope International, to discuss and determine policy recommendations they thought would be beneficial and advocates wanted to see brought forward. This bill is a result of that work. Assembly Bill 275 is a small step forward, but the foundations of justice for victims are built on small but meaningful steps, things that taken as a whole constitute a picture of our society, fairer and more just for those most in need. These are the small obligations we have toward those who have lived too long with shame and in the shadows, the opportunity to rebuild their lives free of as many obstacles we can practically remove.

I want to share some statistics with you to give context: It is estimated that 3.8 million adults and 1 million children are trafficked for forced sexual exploitation per year. That is larger than the entire population of the state of Nevada. Of those, women and girls are disproportionately affected by human trafficking, representing more than 70 percent of all victims. According to the United States Department of State, there are as many as 27.6 million victims worldwide at any given time. The number of perpetrators facing punishment for this crime increases every year, but the number of victims shows less fluctuation.

Many of the victims may not have homes or communities to return to. They need the necessities: food, clothing, a roof. Their trauma can be prolonged, and resulting disabilities are common. Post-traumatic stress disorder, anxiety, depression, shame, alienation, disorientation, and more psychological disturbances are also common. These victims have been robbed of their confidence and self-worth. The road to recovery is very long, and largely unimaginable for those of us who have not lived it. As a society, we are getting better and learning more every day. Much work remains to be done. I believe A.B. 275 is one more step down the path, another step toward justice for victims.

Leisa Moseley-Sayles, Nevada State Director, Fines and Fees Justice Center:
In our work at the Fines and Fees Justice Center with fee elimination, we have worked with people who have been impacted with fees. We have had the opportunity to work with people and have learned these ubiquitous fees are prohibitive and prevent people who have

interacted with the criminal legal system from getting their lives back on track. We have seen fees in all kinds of ways in the criminal legal system. They are harmful and prevent people from getting their lives back on track in many ways. When it comes to fees that seal criminal records, these fees range from anywhere between $150 to $300 in many cases. They present obstacles for someone who is trying to get their life back on track and have their record sealed. A criminal record can prevent individuals from getting jobs or attaining housing.

As you all may know, prior to 2013, there were no laws against sex trafficking here in Nevada. Anyone suspected of illegal sex work was simply turned over to the federal government for federal law enforcement prosecution. This included women, girls, and in many cases boys who were being trafficked. To date, these victims probably would never be prosecuted thanks to our state enacting laws against sex trafficking. Though Nevada now has stricter laws in place that protect women, girls, young boys, and men who otherwise would fall victim to sex trafficking, there are victims who have criminal records that stem from a time when we had no laws in place. They are faced with being victimized a second time by having to pay these fees to seal their criminal records, records that stem from a time when there were no laws against sex trafficking in this state.

In recent years, our state has committed all kinds of resources in the forms of task forces with law enforcement, funding stricter laws, and educating our communities on the perils of sex trafficking. I think we should make one of those resources eliminating fees for victims to seal their records. I think being trafficked has cost them enough already, as Assemblywoman Hardy said, in many cases their confidence, and their ability to exist and co-exist in society. Let us do the right thing. I remember asking Assemblywoman Hardy why she wanted to bring this bill forward and she said it is the right thing to do. I think these victims have paid enough and I also agree it is the right thing to do. With that, I urge you to move this bill forward and let us put some additional resources in place to help these victims begin to turn their lives around.

Assemblywoman Hardy:
Thank you, Ms. Mosley, for working with me on this. Now I just want to go through A.B. 275. Section 1, subsection 9, would prohibit a court or agency of criminal justice in this state from charging any fees related to the sealing of a criminal record if at the time the crime for which the record to be sealed was committed the petitioner was being sex trafficked. If you look at subsection 9, as used in this subsection, "fee" includes any fee to file a petition, obtain any records of criminal history, obtain records of past arrest and convictions, or obtain or certify copies of documents. We did include a fee for fingerprinting if it was provided by a governmental agency of the state. That is our presentation, and now we are ready to answer questions.

Chair Miller:
Thank you. We will now move to questions from members.

Assemblywoman Cohen:
Sometimes there are convictions which are terms that people know that are related but are not for—like loitering, we all know that loitering has been used in the past instead of a conviction for prostitution, that type of thing. I want to make sure we are covering previous convictions, especially pre-2013, for loitering or those types of convictions. Is that covered by this bill?

Assemblywoman Hardy:
The Legal Division may be able to better answer this. In the bill, it refers to *Nevada Revised Statutes* (NRS) 201.300, and is covered in that.

Assemblywoman Cohen:
I actually had that circled in my notes and did not get a chance to look it up.

Leisa Moseley-Sayles:
What we asked for in the bill was during the time period a victim was being trafficked, any crime which may have been committed during that time that is included in a criminal record, we are asking for the record of those crimes to be sealed.

Assemblywoman La Rue Hatch:
I agree we should not be charging a fine. I agree these are victims and we should protect them. Have you considered making it automatic sealing for victims of sex trafficking?

Assemblywoman Hardy:
I know there are conversations going on about that as a whole. This was something I thought we should put into practice right away to at least get the ball rolling and eliminate a huge hurdle. As Ms. Moseley said, sometimes these fees can be hundreds of dollars. Having worked in the justice court, it is quite a process. This has been explained many times. We felt this was one way we could get this started.

Leisa Moseley-Sayles:
That would be awesome. We would love to do that. I do not know what kinds of obstacles would be presented in making that argument and writing that legislation, but I think it would be amazing if we could do that.

Assemblyman Gray:
This is something that has troubled me for quite a while, that we continue to revictimize these individuals who are caught up in this. I agree with Assemblywoman La Rue Hatch, I thought about it, and I do not see a mechanical way it could be achieved. Is there something more we could do to help these folks out?

Assemblywoman Hardy:
I agree. I think we, collectively, would like them to be automatic. It may take time with what goes into that process of being able to do that. We wanted something that could be done expeditiously, pretty quickly, to assist these victims. I would encourage you to support

this legislation and be a part of the conversation as we talk about the automatic sealing of records for victims and other folks. The more we take the steps which are available to us now, that can be done and implemented in a short amount of time, is the greatest thing we can do to help these individuals.

Assemblywoman Summers-Armstrong:
It is sad we are in this situation. It is wonderful to see you are bringing thoughtful legislation to help our community hopefully improve and bring the light into an issue we have been pretending did not exist for a long time. In terms of process, how would the agency which collects these fees know that an individual falls into this category so they can get this grace? I am concerned; I do not want a survivor of trafficking to be revictimized at the district court counter when the clerk asks, "What happened?" I do not want this person to be embarrassed again. If you could talk about what they would have to present and how this would actually work in reality.

Leisa Moseley-Sayles:
I understand from people who I have talked to in the process of developing this bill, that first of all it is a confusing process; it is a lengthy process; there is nothing easy about it. I have talked to attorneys who have said they do not understand the process. What I do know is there is a declaration that a petitioner fills out when they are filing to have their record sealed. It includes questions like, why do you want your record sealed? What have you done in that process to be eligible? Why should you have your record sealed? I think it would be easy to include in there a declaration that says, "I have been a victim of sex trafficking, and this is why I would like to seal my record." That is not something they have to say publicly to anyone, it is just part of the packet that comes with the petition to seal a record. Just including that little paragraph in there would also speak to truthfulness. I think there may be concern about how we know someone is a victim of sex trafficking. The statute lays it out, but having that paragraph included in that packet with that declaration, I think would go a long way.

Assemblywoman Summers-Armstrong:
This raises my second concern, which is the length of time. If it takes a year to seal records, and we have a person who has been trafficked and is trying to turn their life around, if you cannot get a job, if everything is prohibitive, we are opening up a situation where we are forcing a person to go back to a life possibly that they did not want in the first place because they do not have any options. Remember, this does not exactly show up well on a job description when someone is trying to start over. I would like to know if you have had any conversations with the court to maybe set a separate track for folks who have experienced trafficking so that it is (1) way more confidential, (2) less fees gone, and (3) a fast track so they may get moving on with their life without these prohibitions.

Assemblywoman Hardy:
Yes, I agree. That is one of the frustrations within the court system. We would all like to move more quickly. I agree in these instances, absolutely. It stalls their lives and progression moving forward to get jobs and put these terrible experiences behind

them. I have not talked with the courts about doing something like that or if it would be possible. I assume it would be a staffing issue; or could they have the ability to do that, or are they working towards possibly doing that with the amount of record sealings that are going on?

If some of these other bills are put into law, they would be able to do that and assist these populations, such as victims and people in these situations, so that they can be done more expeditiously. That is certainly something I would love to hear the court speak to. Again, we cannot control what we cannot control, but we can work towards something, and this is a good step to take. We can work on things later in conjunction with those that are processing this.

Leisa Moseley-Sayles:
It would be great to have this conversation with the courts, but the process is the process. One of the most prohibitive parts of the process is getting the funding to file for petitions. There are several processes and parts to sealing a record; one is filing a petition, another is getting your Shared Computer Operations for the Protection and Enforcement [SCOPE] report from the police department, another is getting your criminal history from the Department of Public Safety. There are many components, and all of those things require fees you have to pay in order to get that. The process is already lengthy, and we would love to see it shortened if we could. Again, one of the most prohibitive parts of that process is the fees that it costs. You have to go to all of these places, these different agencies, to obtain all of the different components you need to include in your packet to seal your record. If we could get those fees out of the way, I think it would be a good start and would go a long way in getting this process going a little bit faster.

Assemblywoman Hardy:
I know there are some great organizations that work with individuals to help gather all of this information, attorneys that do it pro bono, and such like that. I think when they guide these people as to what they need and how to get their records, that is a very advantageous thing we have to help people. Once they are helping get those records in a more expeditious manner, then if we could have these fees waived, it will speed up the process. Sharing that information that this is now available would also help. These small steps we can piece together will help, and the more we are doing this, over time, will help speed it up overall.

Assemblywoman Hansen:
We know a lot of times those charges could be trespass or loitering. I did a quick look and subsection 9 deals with NRS 201.300, but it looks like trespass and loitering are in NRS 207.200 for trespass, and loitering NRS 207.270. I am wondering if we consult with Legal and find out we need to incorporate that, just to make sure we are covering. From prior hearings, I know that has been an issue. If we are looking to help these trafficked victims really be able to cover that record, we want to make sure we are including all of that.

Assemblywoman Hardy:
Yes, absolutely. I would defer to Legal to make sure we are covering all those areas which should be included. We do not want to leave anything out when they are going through this process.

Chair Miller:
There was one detail which Legal has said they would like to see as an amendment. We will work with you to make sure it is covered.

Assemblywoman Considine:
When you file to seal your records, you have to list all of your charges in all jurisdictions in all of the state. You have some folks who have been sex trafficked for multiple years. I appreciate this is retroactive. My question is about someone who was trafficked twenty, fifteen, five years ago, and while they were being trafficked, they were cited or arrested for some of the things which have been mentioned, but also for check fraud, credit things—because a lot of times they are being used by the people who are trafficking them for all of these. There are multiple years of issues; there can be a break in between some of the things they have been charged with, arrested, and have a record for.

Since all of those would be listed when you file a petition for record sealing, if they are eligible by state law to be sealed by the amount of time, is this going to vitiate these issues about whether something happened fifteen years ago; are they going to have to say, "Fifteen years ago I was a victim, seven years ago I was a victim?" Or, if they are automatically going to be eligible by state law, will all of them be sealed?

Leisa Moseley-Sayles:
The hope is that whatever is in their criminal history, from the time they declared they have been trafficked, whether it is fifteen years ago or there has been a break in that, anything in their criminal history that is a result of them being sex trafficked, our hope is that entire record can be sealed. That is the intention.

Assemblywoman Hardy:
Yes, I agree. That is the intent. Before 2013 Nevada did not have these laws, as Ms. Moseley said, and since then people are not being charged with these things. Before that, however many years back their criminal records go, because of being involved in this, that is what we intend to cover. That is the hope. If that is what this is doing, that is what we intend it to do.

Assemblywoman Considine:
Thank you for that answer. I do not see the point of a clean slate if at the end of this, there is no clean slate. For women who were trafficked in Nevada and now live out of state and want to seal their records, will this cover them as well?

Leisa Moseley-Sayles:
That is the intention, yes.

Chair Miller:
Not seeing any more questions, I will open testimony in support of A.B. 275.

Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office
I appreciate the conversation we have had this morning. You have all heard me come in here, probably ad nauseam now, and say that my clients are impacted by these statutes as well. My clients are victims of sex trafficking. I often see them caught up in the criminal justice system, which can be for crimes that were mentioned, solicitation, loitering. It can also be crimes that are related to sex trafficking: living from the earnings of a prostitute. It can be related to crimes such as credit card fraud. All these things are directly connected to their circumstances. This is a first step in addressing the harm and the victimization they endured, and ensuring they can put their lives back together.

Regarding confidentiality in the processes and how practically this could work, I think a solution would be a self-certification, and those can be filed under seal. However the packet is put together, they can self-certify and if that is included, it would be filed under seal so only certain people would be able to access that information to ensure there is confidentiality in the process. Another thing I would like to touch on is automatic record sealing. Do we just trigger this for victims of sex trafficking? That is an important thing to discuss and consider; I would note that Assembly Bill 160 does have that mechanism in place and is proposing that mechanism. Helping victims of sex trafficking get back on their feet and providing those services is the Nevada way. I appreciate this bill coming forward.

Caitlin Gwin, Intern, Clark County Public Defender's Office:
We support A.B. 275 and thank you for supporting victims in their recovery. As was echoed by many before, we know criminal records can be a major barrier to employment, housing, and can keep victims in a cycle of coercion. Moving forward, we would also like to echo some of the concerns brought up today. Last session I worked on a bill to prevent the arrest of victims of human trafficking. One of the reasons it did not move forward was because it was difficult to identify who was a victim.

We do know that trafficking looks like a lot of different things. It is difficult to identify; it can be impossible sometimes. We support continuing this conversation about how we figure out who is a victim and who can apply to the provisions of this bill.

Jim Hoffman, representing Nevada Attorneys for Criminal Justice:
The previous testifiers have said everything we would say. We think this a good bill.

Jodi Hocking, Founder/Executive Director, Return Strong!, Carson City, Nevada
We are in support of the bill. Anything which removes barriers for people to move forward with their lives. One of our members says it is difficult to make good choices when your back is against the wall. This is a great opportunity to take that away. We have had some conversations with Assemblywoman Hardy. Return Strong! would love to see the language

expanded to include people who have also been victims of domestic violence that face the same types of problems and have committed a crime under duress. We are in conversations about a potential amendment with that, but we love this bill and are in support.

Regan Comis, representing Awaken:
We are in strong support of A.B. 275. We would like to work with the sponsor to ensure all of the charges our victims face are included.

Brenda Sandquist, Executive Director, Xquisite:
We directly work with sex trafficking victims. This would be a very good first step to help the victims we work with. I am in support.

Serena Evans, Policy Director, Nevada Coalition to End Domestic and Sexual Violence:
I think those before me gave some wonderful testimony highlighting what the issue is here. As Ms. Moseley said, these criminal records haunt victim-survivors and keep them from employment and safe and stable housing; which really only furthers their risk for revictimization. We know victim-survivors have suffered enough, and it is unfair they continue to be penalized and burdened by the system. This bill is a victim-centered approach to reducing these barriers and is a significant first step in allowing victim-survivors to move on from their abuse and have a successful life.

Katie Roe Ryan, Director, Public Policy, Dignity Health-St. Rose Dominican; and cofounder, Nevada Policy Council on Human Trafficking:
We are here in full support of this bill.

Lauren Boitel, Executive Director, ImpactNV; and Chair, Nevada Policy Council on Human Trafficking:
On behalf of the Policy Council, we would like to formally support A.B. 275. We see this bill as a small and meaningful step to remove costly barriers and additional harm affecting human trafficking victim-survivors.

Chair Miller:
Before we have our next testimony, I would like everyone to know I am handing the gavel over to Vice Chair Marzola.

[Assemblywoman Marzola assumed the Chair.]

Victoria McMahan, Private Citizen, Las Vegas, Nevada:
My support in this is critical as there are conversations to be had about how it is currently written. This bill is an important step moving forward. We all know legislation is never perfect and a slow process. Similarly, we know the law is not always perfect in identifying victims of sex trafficking. It is my hope those working on the legislation do everything in their power to make sure people are not revictimized during this process. It is a good step forward but certainly not the end of the conversation.

Vice Chair Marzola:
Is there anyone wishing to testify in opposition to A.B. 275? [There was no one.] Does anyone wish to testify in neutral to A.B. 275? [There was no one.]

Legal wanted me to clarify the bill applies to sealing of records of any criminal charge. The new subsection just says, no fees for a petition filed, pursuant to this section, for a victim of trafficking who committed a crime, as in any crime, while being trafficked.

Leisa Moseley-Sayles:
I look forward to moving this bill forward, thank you.

Assemblywoman Hardy:
Thank you for that clarification. I would like to thank the victims and their advocates who took the time to share their stories with me. It would be naïve to assume that the small steps we take here in this building will end the scourge of human trafficking. We do have a flashlight and we can shine it straight into darkness, illuminating by small acts of compassion the way forward for victims.

Vice Chair Marzola:
I will now close the hearing on A.B. 275. We will now move on to public comment.

[Public comment was heard.]

Our next meeting will be held on Wednesday, March 15, at 8 a.m. This meeting is adjourned [at 10:09 a.m.].

RESPECTFULLY SUBMITTED:

____
Connor Schmitz
Committee Secretary

APPROVED BY:

____
Assemblywoman Brittney Miller, Chair

DATE: ____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the Work Session Document for Assembly Bill 17, dated March 24, 2021, submitted and presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit D is the Work Session Document for Assembly Bill 231, dated March 24, 2021, submitted and presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit E is a proposed amendment to Assembly Bill 229, dated March 29, 2021, submitted and presented by Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34.

Exhibit F is a letter dated March 12, 2023, submitted by Patricia Freese, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 229.

Exhibit G is a letter dated March 14, 2023, submitted by Anonymous NDOC Families in support of Assembly Bill 229.

Exhibit H is a letter dated March 14, 2023, submitted by Kristina Wildeveld, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 229.

Exhibit I is a statement submitted by Daniel Miller-Azar, Landon Hester, Ashley Maestas, and Carissa Klarich, Private Citizens, Las Vegas, Nevada, in support of Assembly Bill 229.

Exhibit J is a letter dated March 6, 2023, submitted by Robert L. Stockmeier, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 229.

Exhibit K is a letter dated March 7, 2023, submitted by Jeffrey L. Jones, Private Citizen, in support of Assembly Bill 229.

Exhibit L is a letter dated March 13, 2023, submitted by Catherine Greco, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 229.

Exhibit M is a letter dated March 13, 2023, submitted by Michelle Ravell, Private Citizen, Las Vegas, Nevada, in support of Assembly Bill 229.

Exhibit N is written testimony dated March 14, 2023, submitted by Tonja Brown, Private Citizen, Carson City, Nevada, in opposition of Assembly Bill 229.