

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

**Eighty-Second Session
April 28, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 9:01 a.m. on Friday, April 28, 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 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:

Assemblywoman Shannon Bilbray-Axelrod (excused)
Assemblywoman Lesley E. Cohen (excused)

GUEST LEGISLATORS PRESENT:

Senator James Ohrenschall, Senate District No. 21
Senator Rochelle T. Nguyen, Senate District No. 3



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Richard P. McCann, representing Nevada Association of Public Safety Officers; and Nevada Law Enforcement Coalition
Jeffrey S. Rogan, representing Clark County; and University Medical Center of Southern Nevada
Matthew Richardson, President, Juvenile Justice Supervisors Association; and Vice President, Nevada Association of Public Safety Officers
Kevin Eppenger, President, Juvenile Justice Probation Officers' Association
Hernan Arroyo, Private Citizen, Las Vegas, Nevada
Tina Kohl, Private Citizen, Las Vegas, Nevada
Darren Dimaya, Private Citizen, Las Vegas, Nevada
Marlene Lockard, representing Service Employees International Union Local 1107
Tyrone Roberson, Private Citizen, Las Vegas, Nevada
Edgar Ortiz, Private Citizen, Las Vegas, Nevada
Catherine O'Mara, Vice President, Government Relations, HCA Healthcare
George Ross, representing HCA Healthcare
Dylan Keith, Assistant Director, Government Affairs, Vegas Chamber; and representing Southern Nevada Forum
Jesse A. Wadhams representing Nevada Hospital Association
Blayne Osborn, President, Nevada Rural Hospital Partners
Donna Laffey, representing Dignity Health-St. Rose Dominican
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association
Barry Cole, Private Citizen, Reno, Nevada
Beth Schmidt, Director-Police Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; and representing Nevada Sheriffs' and Chiefs' Association
Jill Goodman, Director, Nursing, The Pavilion at Southern Hills Hospital and Medical Center
Kenny Monkel, Private Citizen, Las Vegas, Nevada

Chair Miller:

[Roll was called. Committee rules and protocol were explained.] Good morning, everyone. Welcome to Assembly Judiciary. We have two bills scheduled today; the first one we will hear is Senate Bill 410 (1st Reprint), presented by Senator Ohrenschall. I also see that we

have Mr. McCann and Mr. Rogan coming up as copresenters. With that, the hearing on S.B. 410 (R1) is officially open.

**Senate Bill 410 (1st Reprint): Revises provisions relating to juvenile justice.
(BDR 5-1026)**

Senator James Ohrenschall, Senate District No. 21:

It is always great to be here. I served on this Committee each session I served in the Assembly, and I was a former vice chair. I have great memories serving on this Committee and serving with you, Chair. Senate Bill 410 (1st Reprint) is the result of a lot of collaboration between Mr. McCann, Mr. Rogan, and me and has to do with what I believe is essential fairness in the workplace. Any one of us can be accused of a crime or of wrongdoing, but it is not always the case that a person is guilty. In many cases, charges may never be filed, or the person may fight the charges and prevail. Senate Bill 410 (1st Reprint) has to do with someone having the opportunity to clear their record, not have their career ruined, and clear their name.

I am reminded of a case I had when I first started out as a public defender. Many years ago, there was a case involving an undercover car theft sting, where a car had been set to look abandoned, but it was full of cameras and microphones to try to catch someone stealing it. Someone eventually looked at this car and said, You know that car is just sitting there, I am going to try and steal this car. Well, the officers did not catch the person in the act, but they had tons of video of the person, and I ended up representing the client who was arrested. The officers were one hundred percent sure this was their man: the person who went in that car and took the stereo out. My client was adamant, "No, absolutely not, I did not do that. I was not the person." On the video, there were a lot of similarities; this person looked very similar to my client. There was one thing though—in the video the gentleman who went in the car to take out the stereo was wearing a shirt with no sleeves, and he had tattoos all up and down his arms. Well, I am talking with my client in the office—he was out of custody—and he was wearing a long sleeve shirt that covered up his arms and he said, "Yes, I know that looks like me. Yes, he has long hair and the same kind of build." He then unbuttons his shirt, and there were no tattoos on any of his arms. So, even though police prosecutors were one hundred percent sure that this was their man, they made a mistake. When I was able to show that to the prosecutor, eventually the charges were dismissed. If you think about that scenario and think about someone's career possibly being ruined, that is why S.B. 410 (R1) is so important.

This bill only applies to the Department of Juvenile Justice Services (DJJS) in Clark County. I have been very lucky to work side by side with a lot of the officers in the DJJS as a public defender in the juvenile division, and many of those officers work with children who have just been arrested. If you can imagine back to your teenage years of being 14 or 15 years old and being arrested, being in a juvenile detention center, and how scary that would be. Well, I have been so impressed by how so many of the detention staff and probation officers are like mentors; trying to be like an uncle, like a parent, like an aunt to these children; reassuring them they are going to get home, they are going to get through this, and they are

going to be all right. There really are some wonderful men and women who work with these children.

I think S.B. 410 (R1) is important for any employee; however, this bill is specific to the DJJS to try to correct an issue that was brought to my attention to give those employees the time they need to clear their name; to make sure that charges are not filed, or if they fight the charges and prevail, that their career will not be ruined. This is a reprint. We worked on an amendment together with Clark County, Mr. Rogan, and Mr. McCann, and this is a product of that collaboration. With your permission, I would like to turn it over to Mr. McCann and Mr. Rogan; then I am happy to try to answer any questions.

Richard P. McCann, representing Nevada Association of Public Safety Officers; and representing Nevada Law Enforcement Coalition:

First, I wish to thank Senator Ohrenschall for sponsoring this bill. Senator Ohrenschall, as many of us know, has always been a champion for juvenile justice issues and the hard-working women and men who work in that environment. Existing law, which is in our *Nevada Revised Statutes* (NRS) 62G.223 states that a department of juvenile justice services shall secure appropriate law enforcement agencies' information, background, and personal history on people who are applicants for that particular department or if they are, in fact, working at that department. *Nevada Revised Statutes* 62G.223 goes on to list about 14 or so criminal acts they are looking to see if people have committed or been charged with. This investigation is supposed to be performed about every five years, and quite frankly, it is a cool thing because we are dealing with kids; therefore, we should be looking at this on a routine basis. We have no problems with that, as that is existing law.

Furthermore, existing law in NRS 62G.225 states that if an applicant or an employee has been convicted of one of those crimes or has had a substantiated report of child abuse or neglect made against them, the DJJS shall deny employment to the applicant or terminate the employment of someone who is already employed thereafter allowing the applicant or the employee time to correct their file. This is because, quite frankly, some of the information that comes forward on these background checks may be inaccurate, and that gives them a chance to do that. The same statute, NRS 62G.225, further states that if an applicant or an employee has charges pending—not a conviction, but charges pending against them for one of those enumerated crimes—the DJJS may deny employment to the applicant or may terminate the employee after allowing the person time as set forth in the statute to be able to correct the record if they can do so. Furthermore, NRS 62G.225 states that if an employee has pending charges against them for one of those listed crimes, the DJJS shall allow the employee a reasonable time of not more than 180 calendar days after the arrest to resolve the pending charges and to correct that process if they can. The DJJS may allow the employee additional time; they have the discretion to include additional time to resolve those pending charges if they see fit.

Now, the problem and the issue that this bill seeks to remedy is that sometimes it takes an arraignment on a misdemeanor matter many months, sometimes many more than the 180 days in the current statute, to be filed, which means the statutory opportunity to clear

their record by concluding their charges is meaningless if they cannot even start the process until a misdemeanor arraignment has concluded, and that may take more than 180 days. In all fairness to the county, I am personally aware of many times when they have in fact exercised their discretion to extend that time, and they deserve some applause for that; but there are times when they do not. In section 1, subsection 4 of S.B. 410 (R1), it keeps the current time at 180 calendar days from the date of the arrest to clear their record, and that is not changing; but subsection 4 now requires the department to extend that time if the charge is a misdemeanor and, through no fault of the employee, the charges or the arraignment have not yet been filed. Section 1, subsection 5 also states that the employee may use his or her accrued leave, which would be sick leave, vacation, comp time, whatever it may be, to keep getting a paycheck while they are working to correct their file because they may be put on administrative leave.

Therefore, everything is working well. We have kids that are our concern and because there may be a criminal charge out there, we have to give these people time under the current law to be able to correct that process. However, the problem is, if we are going to give people an opportunity to do so as the statute requires they be given that opportunity, we have to give them enough time to do it. If there has been a substantiated report of child abuse or neglect from an administrative agency, we are, by this bill, not starting that time to run until after the appeals are exhausted. In other words, we have already recognized for many years that you have that time; this bill is not giving that time; that is already there. We are just saying that if situations come about which prevent you from being able to fix your record or conclude your file, like an arraignment that does not come for many months, that should not be your fault. This is simply giving that extension an opportunity to work.

Finally, the well-being of the child is of utmost importance for everyone, so please be aware that the following issue came up on the Senate side. It was an excellent question by one of the Senators, and I want to address it during this hearing. During this period when an employee seeks to correct information or to resolve their pending charges, the employee shall not have contact with a child, a relative, or guardian of a child while performing any duties. If you want to look at this provision, it happens to be in section 1, subsection 5, paragraph (a) of the bill. It is already there, but we think it is important for you to know that going in. I can also inform you that we have had Clark County work with us to come up with this reprint. We thank Mr. Rogan and the county for their professionalism and their understanding of our needs in coming to this resolution. With those reasons, we ask that you and your Committee support S.B. 410 (R1).

Chair Miller:

Thank you. Mr. Rogan, are you here to support in answering questions or did you have any comments?

Jeffrey S. Rogan, representing Clark County:

I am here to answer any questions that may arise.

Assemblywoman La Rue Hatch:

My question is if this is about workforce fairness and fairness for our employees to be able to correct their record, which I completely understand, why are we applying it only to this one department? Would not this be something that we would want for other employees as well?

Senator Ohrenschall:

I do not disagree with you, but S.B. 410 (R1) is a product of conversations I have had with Mr. McCann and representatives there in the Clark County DJJS. I think that this is specific to a certain group of employees where an issue arose, and different employers may not have the same kind of policies and may not be governed by these statutes. In principle, every employee should be able to clear their record if they are accused of a crime such as child abuse or elder abuse, and if there is a finding of substantiation, they should appeal that. Again, I believe everybody should have a chance to clear their record; however, this bill is specific to a problem that was brought to me regarding the Clark County Department of Juvenile Justice Services.

Rick McCann:

To offer some additional information, there is a population cap. When this came around in about 2011 or near there, they put in a population cap of 700,000 people. I can be a smart-mouth and say, Apparently, we do not care about our Washoe County kids, but that would be dumb. I was not involved at that point in time, so I cannot answer why they put that population cap in. Nonetheless, we are dealing with NRS Chapter 62G which does only deal with Clark County. I do not disagree with you that the premise upon which this bill is built, perhaps in the future, should be looked upon in other areas; however, I am not going to make any comment upon that because people will want to take me out to the woodshed if I do, but I do not disagree with you. Therefore, as I understand it, there is a population cap in place, which limits it to Clark County at this moment.

Chair Miller:

I have the same concerns about this; I do not understand why there is a population cap on this. We have professionals in these types of situations everywhere throughout our state regardless of population; furthermore, additional professions that would stretch, not just to law enforcement, but to teachers, nurses, counselors, social workers, et cetera as well. People working in their profession are vulnerable to accusations, and there are many accusations out there; but I understand, based on this NRS chapter and based on this instance, that is why it is specific to this bill.

Senator Ohrenschall:

I agree with you on that. I am certainly not averse to the idea that these protections should extend to all employees. If there is an appetite for that from the Committee and other stakeholders, I am certainly open to listen. So far, no one from any other counties has approached me about wanting to be included in this bill in terms of other associations of employees who work in various departments. However, if that is the appetite of the Committee, I am happy to entertain it and see if that is possible.

Chair Miller:

We can also have those discussions afterwards, as well, because it would depend on the NRS chapter, germaneness, and many other elements. I think the bigger point is that the position of the Committee is that we understand this should be extended to other professions because of the same vulnerability to other professionals as well.

Senator Ohrenschall:

I agree. I think anyone who is accused of wrongdoing should have a chance to clear their name and not have their career ruined. Like my former client, everybody thought it was he because it looked just like him in the video, and it was not; everybody was wrong, and luckily, the charges were dismissed. Therefore, these situations can happen, and I believe everybody should have that protection.

Chair Miller:

It does happen, and sometimes the narrative is worse; once that narrative is out there, it does not matter when your name has been cleared, that narrative is out there.

Assemblywoman Mosca:

Thank you for answering the question about why this is limited to Clark County. My question is, what is the frequency at which this is happening? Could you talk about the context so we have other examples on the record?

Rick McCann:

We have someone who is going to be testifying here momentarily in support, Mr. Richardson, who happens to be a juvenile justice probation supervisor who may give some additional facts relative to the number of times this happens. In my experience in representing these people for decades before I retired at the end of 2021, there were a few, but they are not every day. These are good people, but sometimes someone might have or get a misdemeanor DUI or something of that nature, which is on that list that would be a misdemeanor. It happens occasionally, not frequently, but occasionally. I could not give you a specific number, but if it was that frequent, I think we would have a whole different discussion about who these people are. These are good people, these are well-meaning people, but sometimes people make mistakes, and this is giving them an opportunity to correct the record if they have to. I do not want to dodge your question, ma'am, but Mr. Richardson may give you some additional feedback on that. I do not think it is a large quantity, but it does happen on occasion.

Assemblywoman Gallant:

I am curious about when there is an accusation and a person has to wind their way through the legal system; it states here in section 1, subsection 5, paragraph (b), "May use his or her accrued leave or be placed on leave without pay." Are there any back office-type positions in which somebody could temporarily be placed so that they are not losing pay but also not having interactions with youth? If somebody is innocent, I would not feel good about making them use their vacation time or preventing them from having an income for 180 days because that can put somebody in a really tough position.

Rick McCann:

It depends upon the needs of the employer, as well as the opportunities they have available. I am confident that the county would do something like that if they were able to; that is, place you somewhere behind the scenes to continue to make a contribution to the department. Remember, they cannot have contact with the kids, and most of these people have contact with the kids because that is what they do. Furthermore, it is not like a police department where they have evidence vaults and other jobs where you can answer the phones and whatnot; it is not quite that way. I would not suggest to you that that is something that is available to the county often, but I am confident in my relationships in the county that they would do that if they could; however, I just do not know if they can. Once again, I would defer to Mr. Richardson, who is actually an employee in that capacity, to come up here in a moment and maybe address that.

Chair Miller:

That also brings additional questions regarding collective bargaining. Where does that come in, because if they are still a county employee, there should be some place in the county that they could be placed, correct?

Rick McCann:

I would love that, with the county being as big of an organization and employer as it is, it could find a place for everybody, but that is not the way it happens. Usually, they do not want to take people out of their bargaining units, or they do not want to take people out of their normal routines. Quite frankly, there is also an issue of competence to do a job. This idea would suggest that people can be placed anywhere, and people are good at their jobs because they are trained at what they are doing.

Chair Miller:

So, they can with the police department, but not with the county?

Rick McCann:

Well, police departments I do not think are necessarily known to suddenly take police officers and put them into other county positions.

Chair Miller:

No, but you said that there were other positions in the police department that they could be placed in; as you mentioned, they could be put into records, they could be put into communications, they could be put into the evidence vault. I am curious what the difference would be.

Rick McCann:

If there is availability. We also have that with people who are hurt on the job. People who may be on light duty who go to different capacities. For those of you on the dais here who have worked with cities or counties or whatnot, you know that is going to be up to whatever availability there would be. In terms of saying the county is one big employer, therefore, we can put people in certain specialized capacities anywhere in the county—which

I do not think that is what you are saying—that is harder than you may think, and from a collective bargaining standpoint, usually you do not want to be working outside of your class anyway.

Chair Miller:

I am just wondering where the collective bargaining units are pertaining to this bill.

Rick McCann:

Well, regarding the collective bargaining units pertaining to this bill, I am not sure what their relationship would be. This bill is a statutory requirement under NRS Chapter 62G to give these time frames to these people who are juvenile justice probation officers within the DJJS. The collective bargaining agreements may give them certain rights under NRS Chapter 289, known as the "Peace Officer Bill of Rights," and things of that nature. There are rights given to them in that process if they happen to be under here. There are also certain time frames that we would observe under that as well.

Chair Miller:

Yes, I understand that, but the Assemblywoman's question was the availability to be in another position to be able to continue to work instead of having to burn through all their personal and vacation time, especially if they are found to be not guilty. Therefore, it is not fair to that person who was accused. We are trying to see what the employer can do. Perhaps, the employer can replenish the vacation and accrued time. I see heads nodding, and that would go back to a collective bargaining agreement. We are just considering and focused on the employee right now which, again, brings in collective bargaining.

Rick McCann:

Excellent point regarding that latter part. There is a statute right now under NRS Chapter 289 that says, if in fact you are found to not have been guilty of accusations leveled against you and there was no disciplinary action pending and whatnot, you will get this stuff back. There is that pending, and it is not a collective bargaining process. That is where the NRS statute currently stands. That is why I was not looking at it as a collective bargaining issue. We have law that provides for that protection, actually from the last session, in 2021, I believe.

Assemblywoman Newby:

I had a question on section 1, subsection 3, paragraph (b) regarding the substantiation of a report of child abuse or neglect pursuant to NRS 432B.317. Looking at NRS Chapter 62G and the list of all the different crimes they would be looking at, I am wondering, why does the bill specify this particular offense for additional time versus any of the others that are already listed? That is part one; part two, in NRS Chapter 62G, I do not see NRS Chapter 432B referenced in terms of one of those crimes that they are looking for. Could you address both of those concerns?

Senator Ohrenschall:

As I look at NRS 432B.317, there is the appeals process, and if there is a substantiation of an allegation of child abuse or neglect, which at this point would not necessarily be a criminal allegation, this would be an allegation made through the Department of Family Services (DFS). The appeals timeline provides you have 15 days to file your appeal, but as I am looking through NRS 432B.317, I do not see a time at which the decision has to be made. That is where I think the employee who is fighting their charge may really be waiting for a while to get that result of the appeal: did they win or did they not. Therefore, I believe that is why we refer to that statute in this bill, for someone who is trying to fight that. Again, that may not be a criminal charge; that may be an allegation of abuse and neglect that is a civil matter through DFS.

Rick McCann:

For further clarification, look at this as criminal elements under NRS 62G.223. We also have administrative charges that can come through DFS that could be substantiated and provide a different appeal process. The reason why we put it in the statute was for it not to be lost; we understand that our folks may very well suffer one or the other, and to just make it about the criminal stuff—this is the stuff under NRS Chapter 62G—but there are, in fact, the administrative charges as well that could be substantiated criminal charges and require, under NRS Chapter 432B, a separate process, a separate appeal process, and a separate determination. Once again, Mr. Richardson will be coming up here shortly, and he may be able to address that because he was, in fact, involved in that at one point in time.

Assemblywoman Summers-Armstrong:

I would like to continue on the questions that have arisen about other employees. If I am reading this correctly, the law applies to anyone who works with children, that they have a background check and if there is any kind of a charge, they are removed. Does this suggested legislation only apply to the probation officers in this department? For example, other people work in parole and probation with young people, but this only seems to be for officers. Am I reading that correctly?

Rick McCann:

Yes, the NRS statute itself under 62G.223, which talks about the background investigations, deals specifically with DJJS employees. Now, from my perspective, having represented the probation officers and probation supervisors, that is largely what we have dealt with. However, I can probably state, and perhaps the county can correct me if I am wrong, that it would be any individual who works within the DJJS. Questions have come up sometimes about whether this deals with the Department of Family Services. I do not know whether they are members of the Department of Juvenile Justice Services and therefore it may not apply to them. The statute, as it was written a decade or so ago, does deal with the Department of Juvenile Justice Services and the people who work within it, and most of those people, from my perspective, have been probation officers and supervisors.

Assemblywoman Summers-Armstrong:

I am going to paint you a little picture, and I would like you to help me understand it within the context of this bill. I am an employee of the DJJS, and I am a secretary or an administrative person. Does this apply to me?

Rick McCann:

Standing corrected if I am wrong, I believe it would because you would be an employee of the Department of Juvenile Justice Services. My focus being on probation officers does not necessarily make it not applicable to other groups. I could be wrong, but that is my view, ma'am.

Chair Miller:

This is where I believe we are having some confusion because if you are saying it applies to all employees in the department, but with the Assemblywoman's question specifically about a secretary, for example, that secretary does not necessarily have contact with the youth. There are positions that do not have contact, so they are not under the same vulnerabilities as say, a probation officer, a counselor, a therapist, or someone that is actively working with the youth. A secretary may not even see any of the youth who come into DJJS, so that is what we are trying to clarify. We may need Legal Counsel to weigh in on this. We are trying to get clarity on who is protected and why? Is it just professionals that come in contact with youth, or is it everyone in the department, although we know not everyone in that department would have contact with youth?

Senator Ohrenschall:

As I read the plain language of NRS 62G.223, I believe that the current statutes apply to every employee of the DJJS in a county with a population over 700,000. These proposed additional protections would also apply to every employee of the DJJS in a county with a population over 700,000, which is Clark. Certainly, I think that the language that Mr. McCann referred to on page 4 of the bill, the existing statute in subsection 5, paragraph (a) about someone who is trying to clear their name not having contact with a child or relative would be redundant in the point of an employee who may be a clerical employee and does not have contact anyway. However, I think it is there for the employees who would normally have contact to make sure that while there is something pending, they are not having contact. Nonetheless, unless I am incorrect, I believe that it applies to every employee of that department.

Chair Miller:

Assemblywoman, does that answer your question?

Assemblywoman Summers-Armstrong:

It does not because on page 4, subsection 10, it says "peace officer." I am concerned that this is carved out and possibly might not apply to all the folks because now we have a specific reference to peace officers. Again, this does give me some concern.

Senator Ohrenschall:

Certainly, that is not my intent, and if there needs to be a correction, I can consult with the Legislative Counsel Bureau on that. My intent is this would be applicable to anyone within DJJS.

Rick McCann:

I would also encourage you to take a look at section 1, subsection 6, where it states, "If the department of juvenile justice services places an employee who is a peace officer on leave without pay pending the outcome of a criminal prosecution." Then we do in fact define a peace officer at the bottom as often our statutes do when we deal with peace officers because there is an array of statutes that like to define them. Again, there is a reference there in subsection 6, "If the department of juvenile justice services places an employee who is a peace officer on leave." In fact, further language in this subsection also gets back to an earlier question regarding the potential award of back pay for the duration of unpaid leave, and then it goes into required elements for that to happen.

Assemblywoman Summers-Armstrong:

Does the awarding of back pay for the duration of the leave without pay not apply to any other employee that loses it under the circumstances, or is it just a peace officer who gets their back pay?

Rick McCann:

I think that is a very good question. I think that may very well be the case, and I would certainly defer to Legal, but my belief would be that when it does say that if they are a peace officer, these things apply, one could certainly argue that they do not apply to a non-peace officer. Which I do not know is necessarily fair, but that is the way the current statute is.

Assemblywoman Gallant:

I am just trying to wrap my head around this because I do think that kids need to be protected, and I am concerned that everything has become unclear since my first question. In my original question, I had asked if there was another position in which they could be placed where they are not in contact with kids or family and if that would be possible. Now, we are kind of getting into this mucky area of say, a secretary or somebody in the back office, and how this could possibly apply to them; but, if they are not having any contact with kids or family, I would think it should not apply to them and that there should be time for innocence to be found or not. Then once the final verdict on criminal charges or misdemeanor charges is decided, there could be action taken for somebody in the back office that is not in contact with kids and family.

Rick McCann:

I do not disagree with you. I do believe we have opened up some good cans of worms here that I think are important. Does it apply to non-probation officers? Probably. If you are a probation officer, do you get your back pay? Yes, but what if you are not a probation officer? Should you not get your back pay as well? I think we have identified certain areas

that certainly can be worked upon; I do not have a quarrel with that. I know that is part of the original language of the statute that has been around for a long time, but I think we are identifying some areas that need to be addressed in order to give equity to all individuals who are working in that environment. If this does apply to all employees, should not all employees have the same protections? I do not have a quarrel with that, personally.

Assemblywoman Gallant:

Senator, would you be willing to work on some changes and addenda through this bill so we can clarify this and make sure this is all very black and white?

Senator Ohrenschall:

I certainly would. As I read the existing statute, it seems like the potential award of back pay applies to the employees who are just peace officers, and that is existing statute. Certainly, I think that should apply to everyone, and if all the stakeholders are on board and if there is appetite in the Committee, I would be open to try to correct that.

Jeff Rogan:

A couple of things I want to point out is that even within the DJJS, we have members of different bargaining units. For example, our juvenile probation officers have one collective bargaining agreement, and our secretaries are probably with Service Employees International Union (SEIU), and they would have a separate collective bargaining agreement which may address the return of back pay in a situation like this. I am not sure; I would have to go back and look at the current contracts to verify that.

Also, to help answer another question, under section 1, subsection 5, paragraph (a), it is not required that a person be placed on leave; therefore, if a secretary does not have contact with a child in the course and conduct of their employment, they could still possibly continue to work without being placed on leave and without having to use their accrued leave. They could continue to perform their job and receive their paycheck. If there are questions that need to be answered in this bill, Clark County is happy to work with Senator Ohrenschall and Mr. McCann to resolve those.

Assemblywoman Hansen:

This may be more of a request: I think it was said that somebody from Clark County Juvenile Justice Services was here that was going to maybe testify in support. If we could ask some questions of somebody who actually works in that juvenile justice system, we may be able to get a little more information.

Chair Miller:

Well, he is going to testify about a certain scenario that he is aware of, so we are not going to have the ability to ask questions of him. He is representing his own experience, as I understand, and just standing in testimony. In fact, we have the county here, so they should be able to respond to these questions.

Senator Ohrenschall:

I appreciate the robust discussion, and I am happy to answer any questions. It certainly looks like the existing statute does limit that back pay awards statutorily to the peace officers, but I am open to trying to extend it to every employee in the department, assuming there is the appetite and the stakeholders are onboard with it.

Chair Miller:

We appreciate that, Senator, and we know you are willing and will be accessible after the hearing for any additional requests from members. With that, I do not see any more questions, so I will go ahead and open it up for testimony in support of S.B. 410 (R1).

Matthew Richardson, President, Juvenile Justice Supervisors Association; and Vice President, Nevada Association of Public Safety Officers:

Thank you, Chair, Assembly Committee on Judiciary, and Senator Ohrenschall for sponsoring this bill and being a champion for youth and officer rights, as well as Mr. McCann for his tireless work. I am a juvenile probation supervisor, and I support S.B. 410 (R1). I currently work every day in a locked facility with the state's most violent and troubled youth awaiting court hearings, awaiting placements, awaiting assessments, and/or certification to the adult court system. We are constantly understaffed and overcrowded. I personally have been affected by this very problem we are trying to address by this bill. I was running out of time waiting to get a fair hearing for an incident that happened on the job. When I finally received a fair hearing after five months and a few days of being placed into the leave without pay status, I was cleared of all wrongdoing within a few hours of an impartial hearing master reviewing the case; however, the time was very close to running out. If the hearing master would have returned the decision in the normal course, which is 30 days, I would have run out of time and lost my career, even though I was cleared of any wrongdoing. I was lucky enough to be granted an expedited decision, which is not in the normal course.

The problem we are trying to fix here by this bill is ensuring the time allotted to receive a fair hearing and a decision be adequate. The current language is not enough, and this bill will fix the issue. For statistical purposes, within the last three years, there have been three juvenile probation supervisors who were placed into the leave without pay status awaiting administrative hearings for incidents that happened on the job. Hearing some of the questions that the Committee had, I just want to address that we have been trying to work on this bill to include all employees over the last few sessions. The county narrowed it down to the officers, seeing as how the officers are the frontline direct staff. I hope that helps. I want to thank the Committee for your time and attention on S.B. 410 (R1).

Kevin Eppenger, President, Juvenile Justice Probation Officers' Association:

I currently work as a juvenile probation officer with the Department of Juvenile Justice Services. Throughout the years of having this NRS Chapter 62G in effect, there have unfortunately been an average of two or three officers per year that have had to navigate through the process. One of the officers unfortunately ran out of time due to the backlogs in processing. Sometimes the Nevada Highway Patrol does not get around to filing charges,

and sometimes we have had a similar experience with law enforcement in North Las Vegas. This unfortunately puts the officers up against it in regard to the time because of the legal process, through no fault of their own, but it has cost one officer their career. What we are trying to do is hope that we can recognize some of the flaws in the bill and garner the support from the Committee with providing the additional time that is needed for those officers. We would appreciate it if you could support this bill.

Hernan Arroyo, Private Citizen, Las Vegas, Nevada:

I am a juvenile probation officer with the Department of Juvenile Justice Services, and I support S.B. 410 (R1) in regard to everything that has transpired and been said today with Senator Ohrenschall, Mr. McCann, Mr. Richardson, and now Kevin Eppenger. I am the vice president of the Juvenile Justice Probation Officers' Association. With my 25 years of experience in seeing my fellow officers, whether they made a mistake or not, by having the due process and due rights come to them, I would gladly support and hope that you all will give us the opportunity to pass this bill. Many situations could have been overturned through the courts but were not because of delays that were not anyone's fault. Just the fact of having that additional time could save that person's job, career, and the money that supports them and their families. Again, I ask you to please support and do what you can to help pass the amendments to this bill.

Tina Kohl, Private Citizen, Las Vegas, Nevada:

I am the vice president of the Juvenile Justice Supervisors Association, and I am a juvenile probation supervisor for the Clark County Department of Juvenile Justice Services. I am speaking in support of S.B. 410 (R1).

Darren Dimaya, Private Citizen, Las Vegas, Nevada:

I am a member of the Juvenile Justice Supervisors Association as well as a juvenile justice probation supervisor in Clark County, and I would like to provide testimony today in support of Senate Bill 410 (1st Reprint) to the Chair, please. I would just like to say that I am in support of the revisions to NRS Chapter 62G represented here on S.B. 410 (R1). Many thanks to the Committee for hearing my testimony and to Senator Ohrenschall, Mr. Richardson, and Mr. McCann too.

Marlene Lockard, representing Service Employees International Union Local 1107:

We are calling in support of this bill. Listening to the testimony, I am endeavoring to check to see if our SEIU members are covered for the back pay and the questions that were raised. We do experience, quite often, our employees being injured in the scenarios that have been identified in testimony. We look forward to working with the sponsor and the other interested individuals in providing clarification.

Tyrone Roberson, Private Citizen, Las Vegas, Nevada:

I am calling to support the bill. I would like to thank you for taking the time to listen to hear us out and take these things into consideration. A lot of information has been provided, and I have heard a lot of questions about this. Please revisit everything in support of the bill.

Edgar Ortiz, Private Citizen, Las Vegas, Nevada:

I am a juvenile probation officer with the county here to provide testimony of my own. I would say it was November 2021 and I had a pending charge. My court case was not ready to be heard by the court until March; however, they were not prepared, so they extended my time for a total of 180 days, which passed the initial 180 days for them to finally file my case formally to the court. During that time, I had been with the county for five years as a part-time [unintelligible] youth camp, part-time in the detention center, and full-time as a probation officer, recently. So, I did not really have a lot of time and I had to be on leave without pay to the point where I got terminated.

However, thanks to the help of the Juvenile Justice Probation Officers' Association, they helped me get my job back because after, I want to say close to a year, the charges were dropped and everything was good. They were able to get my job back. However, I was not getting paid during this whole year. Right now, I have my job back, but I am not getting any back pay or anything like that, so it has been tough but, [unintelligible] things happen for a reason. I appreciate your hearing my testimony, and I hope this helps in some way. I am in full support of the bill.

Chair Miller:

With that, I will now open it up for testimony in opposition to Senate Bill 410 (1st Reprint). [There was none.] Is there anyone that would like to testify in neutral to Senate Bill 410 (1st Reprint)? [There was no one.] Then I welcome the Senator back up for any final remarks.

Senator Ohrenschall:

Thank you for the robust discussion. This reminds me of my good old days serving on this Committee when we had some very robust discussions under Chair Bernie Anderson, Chair Jason Frierson, Chair William Horne, and Chair Steve Yeager. I appreciate all the good suggestions on the bill. I just wanted to comment on one of the callers, Officer Edgar Ortiz, who called in and talked about the time expiring before he could beat the charges, clear his name, and the union being able to help him. He is one of the lucky ones. Officer Kevin Eppenger, who called earlier, I have had discussions with him about officers whose time expired and were not able to get that done in time, and they walked away from their career.

With many of these officers, you would not know that they are officers when you look at them in their day-to-day work. You would think they were social workers; they take kids to go do their GED [General Education Development] test, try to get a copy of their birth certificates, help them get a license, or try to help them get their ServSafe certification so they can work in the culinary industry. They really go the extra mile to try to help kids succeed and not end up arrested again and back on juvenile probation. Therefore, I think these protections are important to try to help people get their due process and not have their career be torpedoed due to an allegation that is not true. As to whether this policy should be extended, I am certainly open to that idea, and I think we are going to have some discussions after this hearing. Thank you for the opportunity to present today.

Chair Miller:

Thank you so much, Senator. We appreciate as well that he was still dedicated and committed to this profession and wanted to return after such a trauma. With that, it was good to have you back here in the Assembly Committee on Judiciary, and I will go ahead and close the hearing on Senate Bill 410 (1st Reprint). Our next bill today is Senate Bill 289 (1st Reprint). It is sponsored and presented by Senator Nguyen, also someone we are happy to welcome back to Assembly Judiciary. With that, the hearing for Senate Bill 289 (1st Reprint) is officially open.

Senate Bill 289 (1st Reprint): Revises provisions relating to crimes against providers of health care. (BDR 15-996)

Senator Rochelle T. Nguyen, Senate District No. 3:

Senate Bill 289 (1st Reprint) does a couple of things, and I want to give you some background. I know several of you sit on the health care committee as well, so this will not be new information to you. Health care workers are five times more likely to experience workplace violence than other employees in all other industries. Health care workers accounted for 73 percent of all nonfatal workplace injuries and illnesses due to workplace violence in 2018, and unfortunately, with the COVID-19 pandemic and the aftermath, this has only exacerbated the problem. A study in the September 2022 issue of *Workplace Health & Safety* showed that a significant number of hospital nurses reported facing increased physical violence and verbal abuse from patients, loved ones, and visitors compared with pre-pandemic levels.

The Nevada Legislature first codified protections for health care workers in 2003 in Assembly Bill 53 of the 72nd Session. As the health care industry has evolved, the legislation has also been expanded and amended multiple times in previous sessions in consideration of additional health care workers. For example, in 2013, the law was amended to include medical students, dental students, dental hygienist students, and pharmacy students for purposes of enhancing penalties for the crimes of assault and battery to include such people. Mindful of those developments in the health care workforce in the last ten years and increasing incidents of violence against health care workers, Senate Bill 289 (1st Reprint) and the proposed amendment updates the current law to reflect the modern health care workforce and intends to extend those same protections afforded to other health care workers, including behavioral health technicians and aides, students of emergency medical services, and hospital-based volunteers and public safety officers.

The bill also clarifies that the protection should extend to the full hospital premises, including those parking lots. Unfortunately, you have heard many times in stories on the news about how instances of violence start in lobbies with those lobby and health care workers that are on the front lines—the true front lines—who are not currently protected. This bill seeks to include those people and show them that we also intend to protect them as well.

Senate Bill 289 (1st Reprint) came out of efforts from the Southern Nevada Forum on ways to support and invest in our health care workforce. This legislation will protect health care

workers and enable hospitals to work with public safety and law enforcement teams to expand violence prevention and response strategies throughout the premises and to all of the staff who work in hospitals, not just those that are doctors, medical students, or physician assistants. This concludes my remarks, and I am open for any questions you might have regarding this bill.

Assemblywoman Considine:

I have a couple of questions. My first one deals with section 1, subsection 1, paragraph (c) where it carves out a health care facility but adds "other than a residence." What about a group home or a licensed group home? Does it count if it is not a licensed group home? Furthermore, for the home health care workers that are going house to house to help people who are at home, are they carved out completely from this bill?

Senator Nguyen:

It was our intention to include those, and as I am looking at that right now, I know that is the definition for "health care facility." Part of the reason we tried to expand this is because I did not want to have to come back repeatedly to, as you can see, add more people to this ever-expanding list of those who are being targeted and need added protections because they are in the health care field. When you look at section 1, subsection 1, paragraph (e), subparagraph (2), it talks about an employee of or volunteer for a health care facility who interacts with the public, performs tasks related to providing health care, and wears an identifying uniform. It was our intention to include them in that, but if we need to go back and look at that because I have been working with Service Employees International Union to make sure that our home health care workers were also covered under these protections. Therefore, if that is not the case, I will work with staff to make sure that is the intent going forward.

Assemblywoman Considine:

Then the second question is to have clarification on a potential situation. In the digest, it says, "the perpetrator knows or should know that the victim is a provider of health care." However, in going over this originally, what came to my mind is someone who is suffering from Alzheimer's or dementia, and as a typical part of that health issue, they are violent. Therefore, in these situations I would think they cannot form the intent to be violent, and I am wondering if these punishments would apply to someone who, but for the medical issue they have, does not have that intent. I just want to have that clearly articulated.

Senator Nguyen:

I worked in the criminal defense field, and I think some of you may know that. This is my twenty-first year, and I have done a lot of work with indigent services and that part of the criminal justice system. Unfortunately, in my line of work, you see how it often goes hand in hand with mental health and behavioral health issues, and they are so intertwined that it is sometimes difficult to see whether you are in a mental health facility, a medical facility, or you are at the Clark County Detention Center. Therefore, that is definitely something that I was aware of.

This does not change the law when it comes to the ability to form that intent and be able to charge someone with a crime. If you have someone who does not have the competency to make a decision, like you had suggested with an Alzheimer's patient that does not have the ability to form general intent to commit a battery or an assault, they will still have those same protections under the law where they would not be able to be charged. I know there are several prosecutors in the room, and they may be able to answer those questions, as well, regarding the case moving through the criminal justice system and whether or not they would be able to even charge those individuals with that crime.

To further clarify, I know that our health care providers, our hospital providers, and our staff do not see this as a situation where they will be calling on every person who is in a mental health crisis that is seeking treatment in their hospitals. We have had these protections in place for doctors and other medical professionals, and we have not seen an overabundance or an abuse of their reporting people who are genuinely coming to the hospital to seek mental health care in an emergency or a crisis. Therefore, I do not anticipate that adding these additional people would negatively affect that trend; but I think it is important to have that consistency and protect, not just our licensed professionals, but all professionals that are working in the health care space.

Chair Miller:

Thank you for that clarification. We appreciate that it is not only coming from patients either, and I think that is a reality we need to be honest about. It is not just coming from patients going through an episode, withdrawals, or whatever they may be going through. My mom was a registered nurse, and it is not just coming from patients. Similar to how I am an educator, it is not just coming from students. Therefore, we need to be fully aware of those realities.

Assemblywoman Mosca:

How do we make sure that individuals know this is a policy so that it also prevents them from acting in such a way, hopefully?

Senator Nguyen:

I think you see a good partnership between the employees and the hospitals. If we are being honest, most of these issues are taking place in traditional hospital or emergency room-type settings. I think the partnership between those two agencies, whom I have been working with during the formation of the language in this bill, they will do their best to make sure they are working to educate all employees and are working with their security to ensure they have safety in the workplace.

Assemblywoman Gallant:

I appreciate the distinction for Alzheimer's or dementia-type incidents; as somebody who has worked in a psychiatric facility for adolescents and the first day on the job was the first fight I ever got into, we definitely do not want those patients being punished while they are going through these treatments. However, in my experience, which was a long time ago, so things have changed, it was only my interactions with patients that I experienced aggressive or

violent actions. Can you give me some examples of what is actually happening currently, because I do believe that all health care workers need to be protected. I am curious what the actual problem is, and I want to make sure it is not really just the patients that we are looking at.

Senator Nguyen:

I do not want to misstate some of the examples, and I appreciate your question so I am probably in a better position if I can call someone up to help explain a couple of the examples.

Catherine O'Mara, Vice President, Government Relations, HCA Healthcare:

We represent Southern Hills Hospital, which has the behavioral health Pavilion, MountainView Hospital, Sunrise Hospital, and Sunrise Children's Hospital. To answer the question, in most cases we are not calling on patients; the vast majority of cases are actually not patient-related. When the violence is a result of the disease state, we do not call the Las Vegas Metropolitan Police Department (Metro) for that. Usually the custom is, if it is a patient and it is coming from true violence—because that does happen—we call Metro, and then there is a consultation with that person's physician to ensure that it is not the disease state before anything further happens.

I will tell you that instances of violence have increased over the last several years, which the Senator well stated in her testimony. It was tough in 2019, and it is even tougher today. We have seen that increase even in our behavioral health setting. To your point in your experience, many times it is violence that is a result of mental health or the disease state, but the small percentages of calls that we make, and I am looking for my numbers here, I think it was one in six in the last couple of years that we have called on. Those have been determined to be true violence and not from Alzheimer's or other mental health issues.

Assemblywoman Gallant:

Is it the patient that is not having some comorbidity in terms of these breakdowns, or is it family members, friends, or spouses? I am wondering who is perpetrating these.

Catherine O'Mara:

It is all the above, but when it is a patient, that extra consideration does take place to make sure that it is not coming from an illness. It is family members also, though. I know we have two members from the Southern Hills Hospital Pavilion planning to testify who can share some of the specific examples, but it is all the above. These are not huge numbers, but it is a culture of protecting our health care workers and ensuring that all our health care workers are engaged in that. The other update the Senator well stated was, we now have behavioral health technicians and behavioral health aides that we did not have ten years ago.

I know you may be looking for specific examples of when a person was followed out to their car in the parking lot, and in those cases, those are never patients; those are always a family member, or sometimes it is someone who returns afterwards in a timeline unrelated to when they were a patient or a family member of one, and they come back because they are still

mad. Any of those incidents can happen on the premises, such as in the cafeteria. I know I am going a little beyond your question, but there are protections in the bill to ensure that someone must be identifiable as a health care worker; however, right now you can have a behavioral health technician eating lunch with a physician, and if they are both assaulted in the cafeteria, one is protected and one is not. We are happy to follow up with additional specifics if you would like to know more of the cases if our colleagues in Las Vegas are not able to provide that detail.

Senator Nguyen:

I definitely have concerns about that, and I do believe there are protections internally. I imagine when you were working in that industry, your utmost attention was to those patients because they were in crisis, they were in care, and sometimes they were not acting out of violence but they were acting out due to whatever condition they were facing—be it needing medication or any one of those kinds of circumstances. I see this as multiple areas of protection for patients under these circumstances that go hand in hand to what Assemblywoman Considine had also alluded to. That is, we have those protections internally with hospitals, care centers, nurses, doctors, care facilities, who have the interest of the patient and treating them at the very core of what their philosophy is. I think we also have the same due process protections if it does escalate into a situation where someone is, in fact, arrested; for example, if someone is arrested in that situation for a battery and they cannot form the intent to commit that crime and they are found to be incompetent when that crime was committed, they will not be charged under the criminal process.

Again, there are two levels of protection that I see, and that is why I felt comfortable adding these workers. The fact of the matter is these protections already exist for everyone else. I think that was a perfect example to highlight what this bill accomplishes; if you are in the cafeteria and there is a physician and a behavioral health technician, one is protected and one is not. I think it is a good policy of this legislative body to say that we protect both of those individuals equally.

Assemblyman Gray:

Senator, great bill. I hear these stories literally every day from friends and family who work at Carson Tahoe Health. They had actually brought this to me just after the session started and if I had a bill draft request left available, I was going to put one together. One thing that I noticed that may or may not be lacking, and I think it more goes to intent, is, what about third-party providers of security guards? They are not peace officers, many of them do not have peace officer authority conveyed on them, and they do not work for the hospital. I am thinking about a very specific incident that happened with a patient's family member against a security guard at Carson Tahoe Health. I think those guys deserve as much protection as the staff since they are there to protect the staff. I would just like to know what the intent was with them and if they would be covered.

Senator Nguyen:

If you look at section 1, subsection 1, paragraph (e), subparagraph (1), we did change this to "a public safety officer" in the reprint that came over, and that was intended to include them. Also, I believe they are captured in that new subparagraph (2) within paragraph (e), which emulates the subparagraphs regarding civilian employees or volunteers of law enforcement, firefighting agencies, and political subdivisions within that same statute. We had essentially cut and pasted paragraph (d), subparagraphs (8), (9), and (10). I believe they would be included under there as, "An employee of or volunteer for a health care facility who: (I) Interacts with the public; (II) Performs tasks related to providing health care; and (III) Wears identification, clothing." If they are not, I am open to having those conversations to make sure that other contractors are covered. We did have contractor language that was initially included in the drafting; however, Legal Division on the Senate side had indicated a belief they were included under this, and contractor language was not necessary. Nonetheless, I am open to looking at that further.

Assemblyman Gray:

I went through each one of those and tried to figure it out, but when I went through paragraph (d), the "officer" portion specifically, they did not meet that because they have no peace officer authority conveyed on them nor are they law enforcement; and I do not think Carson Tahoe Security, since they are a third-party contractor, has anything that identifies them as part of the hospital staff. That is why I brought it up; I think there might be a loophole there for a savvy lawyer to wiggle through. Again, why I bring it up is because there was a security guard that was hurt pretty badly up there with a head injury.

Senator Nguyen:

I will take a look at it.

Chair Miller:

Thank you for that question, because it is important to clarify such instances on the record because hospitals and health care facilities do have a lot of contractual employees that are often there.

Assemblywoman Hardy:

I just wanted to put it on the record for clarification, and Ms. O'Mara alluded to this already, but it does say, "on the premises." Therefore, that would include, as she said, cafeterias, parking lots, garages, grounds, anything like that. It is not just inside a room or inside the hospital—it is all those areas, correct?

Senator Nguyen:

That is correct. We wanted to make sure that we included all those premises that are part of those health care facilities. As Ms. O'Mara mentioned before, unfortunately, we have situations where people are being followed out to their cars in the parking lot, which is still on the property, albeit outside the physical structure of the facility.

Assemblywoman La Rue Hatch:

I really appreciate that you are trying to basically close the loophole of these individuals that are getting missed in protections that we clearly intended for all of our health care workers. My colleagues touched on the heart of my question. I just wanted to confirm with you, with this new language, hopefully, the goal is we will not have to keep coming back and adding people. According to Legal or according to your understanding of the bill, should this pretty much cover everyone in the building as far as health care facilities? Will we need to come back in two or four years and add someone else to this list?

Senator Nguyen:

I would hope so, but I am not naive enough to think that that is not the case. I will say that should anyone in this Committee be looking at this, you will realize there are so many exceptions now, that perhaps it is time to reconsider what we determine to be a battery. Unfortunately, I think the reason that we have a lot of these extra added protections is because a battery is a simple misdemeanor, a trespass is a simple misdemeanor, contributing alcohol to a minor is a simple misdemeanor, and I think there is some intention to make sure we show that a petty larceny is not the same as battering one of our health care workers. Therefore, I would encourage all of you to look at this battery statute further in upcoming legislative sessions, as I know I will be as well; but it is my intention that this captures most of our health care workers.

Chair Miller:

As well as people in a health care facility, correct?

Senator Nguyen:

That is correct.

Chair Miller:

Thank you. I appreciate the fact that whether you are a custodian, a third-party security guard, doing laundry, or whether you are simply answering phones, you are protected. Again, where we are at, and our reality is you just may catch it because you are there in that building. Therefore, wanting to make sure that all our employees are protected is essential. Not seeing any additional questions, I will now open it up for testimony in support of Senate Bill 289 (1st Reprint).

George Ross, representing HCA Healthcare:

In case it was not clear when Ms. O'Mara was up here, HCA [Hospital Corporation of America] is strongly in favor of this bill. We thank Senator Nguyen for bringing this bill and for your consideration of it. I just want to add a couple of statistics that relate to some of the questions that were asked. At the end of March, the Pavilion at Southern Hills Hospital with its 80 beds had, since its opening in 2019, 54 cases of assault by patients; of them, only 9 required Metro to be called to take the patient away. It had been determined that these people were cognitive enough to understand where they were and who they had assaulted; that was not the case with the others. Another piece of data I would like to give, which really

addresses why this bill is so important, is there have been 35 cases in the last two years and of those, 18 were against mental health technicians, and that is exactly who this bill is designed to help protect. We appreciate your attention, and I urge you to support this bill.

Dylan Keith, Assistant Director, Government Affairs, Vegas Chamber; and representing Southern Nevada Forum:

The goal of the forum is to find bills that are bipartisan and commonsense that solve the problems for southern Nevada but also Nevada as a whole. We would like to thank the sponsor for her work during the forum as it is a monthslong process, but we do believe that this bill is a perfect example of what we are aiming to do. We see the problem of increased violence towards our health care workers leading to burnout, when they are truly going to help Nevadans, which is their sole goal. We believe that these protections are absolutely necessary, and we kindly ask for your support.

Jesse A. Wadhams, representing Nevada Hospital Association:

In deference to all the great testimony you have heard, we are standing in support for all the reasons you have heard.

Blayne Osborn, President, Nevada Rural Hospital Partners:

We too really appreciate the sponsors for bringing this bill, and we are thrilled to be here in support.

Donna Laffey, representing Dignity Health-St. Rose Dominican:

St. Rose Dominican is the largest nonprofit hospital in southern Nevada with seven acute care hospitals across the Las Vegas Valley. We supported this measure in the Senate and are proud to be here today to support it again. We thank the bill sponsor for bringing this forward, and we urge your support.

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

The Nevada District Attorneys Association is in support of S.B. 289 (R1). We want to thank Senator Nguyen for bringing the bill.

Barry Cole, Private Citizen, Reno, Nevada:

I think I am one of the only physicians in the room, so let me give you my perspective. I am completely in support of S.B. 289 (R1). Thank you to Senator Nguyen. She really has done something good. My mental health technicians at the state hospitals have been whomped on. I mean seriously beaten up, and when I used to have to do the staffing, it was tragic that I could look at where we had injuries, and it was always the frontline staff. I wish I could say it had been some of the psychiatrists, but they had enough sense to go hide in their offices when anything bad was happening. I do not mean that as an indictment—it is just the way it worked out.

We live in an era of cyclical violence. Before it used to be PCP, now it is methamphetamine, and God knows what else. Yes, there are people with delirium, dementia, or psychosis; however, I am most afraid of the intoxicated manic. That is my greatest fear. When to call the police was a great question because I faced this before where I have called the police and it is almost like, when they stop laughing, they say, Well, you work in a mental hospital. What do you think is supposed to happen? Well, wait a minute, there is a difference; violence in the context of mental illness is very understandable, but violence when it is not appropriate, that is a problem. One of my residents was coldcocked for no reason whatsoever. He held the door open for a patient after we had a treatment team meeting and was socked in the face. Another resident had her head beaten on the concrete floor to the point where she is now having permanent amnesia for that period of time.

Yes, we need to protect everybody in the hospital; I do not care who you are. If you are on the grounds and you have a badge, you need to be protected. Hospitals are dangerous enough. You have heard of the episodes where physicians and nurses have been shot in parking lots or in emergency rooms. We had a shooting up at Renown Regional Medical Center 20 years ago, where a urologist was shot in the office by a disgruntled patient. I had one of my psychologists at Northern Nevada Adult Mental Health Services shot by a disgruntled husband because we proved his wife was not mentally ill and he shot her because she was able to make that determination. Therefore, anything we can do to protect the people who work in mental health and work in hospitals is absolutely needed. I want to just give you the last tip of mental health; mental illness explains behavior, it does not excuse it, and that is a big difference.

Jeffrey S. Rogan, representing Clark County; and University Medical Center of Southern Nevada:

University Medical Center of Southern Nevada (UMC) and Clark County are in support of this bill. We do think, as Assemblywoman La Rue Hatch said, that this closes a loophole and makes clear that it is not just doctors, physicians, and people with "R.N." or "D.O." after their name who deserve the protections of our criminal code, but anyone who is working in a health care facility or on the premises of a health care facility. That would include security officers, and it would include what we call our "concierges" at UMC, and oftentimes, those are the people that have the first interactions with people when they come on to the hospital premises.

As you know, UMC does have the only Level 1 trauma center in southern Nevada. Thus, we get a certain category of patients, oftentimes resulting from criminal activity, and with that comes other people onto our premises who sometimes can be quite hostile, not just to medical health care providers, but to our staff and our volunteers. We do have incidents that result from those types of interactions. This bill would close that loophole, provide those protections for those employees and volunteers, and for that reason, we urge your support of this important bill.

Beth Schmidt, Director-Police Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; and representing Nevada Sheriffs' and Chiefs' Association:

We do support S.B. 289 (R1) wholeheartedly, and I want to say that I agree with everything my colleague, Mr. Rogan, has very eloquently stated, especially with what occurs at UMC. We truly appreciate you, Senator Nguyen, for bringing this forward. We support all efforts to protect the folks that do work in our health care facilities in the state of Nevada.

Jill Goodman, Director, Nursing, The Pavilion at Southern Hills Hospital and Medical Center:

I learned about the suggested statutes of S.B. 289 (R1) after a patient, without provocation, assaulted and injured a mental health technician. We did call Metro, but when they came, we were told that the mental health technician was not a protected person under the statute and that they can only do a report and a citation. If the patient had assaulted the nurse standing next to him or a physician, with the injuries that were sustained to this technician, the patient would have been charged. Any person working in health care and providing care to a patient should be protected under this statute. Mental health technicians are providing continuous monitoring for safety and assisting with the recovery of all our patients.

I know that you heard some of the statistics that were given earlier, but at Southern Hills Hospital we did have 86 employee assaults from March of 2019. These are all documented by our employee health department, and 54 of those assaults were from the Pavilion. Only 9 of them were removed from the facility with the assistance of Metro. The assault behaviors were not related to the mental health conditions or diagnoses, and these were reviewed by the psychiatrist prior to moving anything forward with the removal of these patients from our building.

Recently, we also had a patient who targeted one of our mental health technicians while they were here in our building. The patient returned to our facility after he was discharged and stood at the employee entrance of the Pavilion on the night shift to find that technician. Another staff member did recognize him as a patient who was recently in our building and called both security and Metro. The patient fled when security arrived, but we all know that this situation could have been very different if that patient had not left and had been seen by another employee. I ask this Committee to understand the necessity to expand the NRS statutes to include not only mental health technicians as a protected person, but to also extend the health care premises of the health care facilities to include our parking lots in which all of our workers come in and out of. I thank you for listening to me and considering this as an important matter.

Kenny Monkel, Private Citizen, Las Vegas, Nevada:

I work at the behavioral health facility at Southern Hills Hospital, also known as the Pavilion. I currently hold the position of a mental health technician and have been working as one for more than 20 years. I am here to talk to you about the importance of having statute NRS 200.471 changed. Within the current statute, I along with other mental health technicians are not protected if a patient at our facility under our care decides to become

violently aggressive and injures one of us. In all my years working as a mental health technician, I have seen many staff hurt, including myself. Some of the staff are attacked so severely that they can no longer perform their job duties and, unfortunately, must quit their jobs, making them unable to provide for their families.

As a mental health technician, we are the staff members that spend the most time with the patients while they are in the mental health facility. It is a 12-hour shift. We get to know the patients very well as we are asked to observe and report all behaviors, both good and bad. There are times that patients do not have their demands met and verbally state that they will become physically violent to get their demands met. Unfortunately, more times than wanted, the patient acts upon their threats and violently assaults a staff member.

In closing, all staff members should be protected along with the rest of the current licensed health care workers that are protected today. As a mental health technician, we are given the opportunity to truly make a difference in patients' lives that are going through some form of crisis. Thank you for your time and consideration, and I greatly appreciate you all.

Marlene Lockard, representing Service Employees International Union Local 1107:

We are very pleased to support this measure and thank Senator Nguyen for bringing it forward to expand the coverage. Service Employees International Union was proud to have similar legislation passed, I think about two years ago. Assembly Bill 348 of the 81st Session implemented workplace violence measures and protections for hospital staff and others. In that bill, it also included physical and facility protections like picking up chairs or throwing chairs, and that sort of thing. It was not just personal attacks but included physical safety from equipment. We also appreciate the willingness of Senator Nguyen to work with us to ensure that our home care workers are also covered under this measure, and we urge your support.

Chair Miller:

I will now open it up for testimony in opposition to Senate Bill 289 (1st Reprint). [There was none.] Then I will open it up for testimony in neutral to Senate Bill 289 (1st Reprint). [There was none.] Then I will welcome Senator Nguyen back for any final remarks.

Senator Nguyen:

I appreciate all the feedback. I will continue to work on this, and if anyone has any other thoughts on this after this Committee meeting, please reach out to me. I think it is always our intention in this building to try to get it right, and sometimes you need this vetting process more than others. I take into consideration all of your comments.

Chair Miller:

With that, I will go ahead and close the hearing on Senate Bill 289 (1st Reprint). Our final item on the agenda today is public comment.

[There was no public comment.]

With that, that concludes our business for the day. Everyone, enjoy your weekend, and I will see you back at 9 a.m. on Monday morning. This meeting is adjourned [at 10:41 a.m.].

RESPECTFULLY SUBMITTED:

Aaron Klatt
Committee Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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