MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-second Session
March 31, 2023

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:02 p.m. on Friday, March 31, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Dallas Harris, Vice Chair
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Lisa Krasner
Senator Jeff Stone

COMMITTEE MEMBERS ABSENT:

Senator James Ohrenschall (Excused)
Senator Ira Hansen

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Karly O'Krent, Counsel
Jan Brase, Committee Secretary

OTHERS PRESENT:

Steven Johnson, Director, Forensic Science Division, Washoe County Sheriff's Office
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence
Barry Cole
Maria-Teresa Liebermann-Parraga, Battle Born Progress
Erica Roth, Washoe County Public Defender's Office

Lilith Baran, American Civil Liberties Union Nevada
Drew Franklin, Nevada Sheriffs' and Chiefs' Association
John J. Piro, Clark County Public Defender's Office
Carlos Hernandez, Nevada State AFL-CIO
Chris Ries, Las Vegas Metropolitan Police Department
Jason Walker, Washoe County Sheriff's Office
Jennifer Noble, Nevada District Attorneys Association
Tonja Brown, Advocates for the Inmates and the Innocent
Ashley Spence, DNA Justice Project
Vivian Jones
William Connors
Sylvia Reyes
Jodi Hocking, Return Strong!
Tressa Kenyatta
Sonya Williams, Return Strong!
Pamela Browning
Melissa Duna
TaShika Lawson
Chris Kovello
Crystal Voight
Margoth Tello
Jamie Figueroa
Nick Shepack, Return Strong!; Social Workers Against Solitary Confinement
Nicole Williams
Mark Bettencourt, Nevada Coalition Against the Death Penalty
Caursea Baugh
James Dzurenda, Director, Nevada Department of Corrections
Elliot Malin
Rost Olsen
Chris Giunchigliani
Erika Castro
Donna Armenta
Richard Glasson, Justice of the Peace, Tahoe Township Justice Court, Douglas County; Nevada Judges of Limited Jurisdiction
John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court
Victor Miller, Justice of the Peace, Boulder Township Justice Court, Clark County

Eileen F. Herrington, Justice of the Peace, Virginia Township Justice Court, Storey County
Regan Comis

CHAIR SCHEIBLE:
We will begin the meeting with Senate Bill (S.B.) 321.

SENATE BILL 321: Revises provisions relating to crimes. (BDR 14-550)

SENATOR LISA KRASNER (Senatorial District No. 16):
Senate Bill 321 expands protections for survivors of sexual assault in relation to DNA evidence gathered from a victim's rape kit or part of an investigation of a sexual assault. Sadly, many rapes and other forms of sexual assault go unreported. It is estimated that only one-third of all rapes in the United States are reported. Various reasons for this include fear of reprisal from the offender, fear of not being believed, fear of being blamed or victim shamed and fear of having to relive the trauma of a rape in court. The list goes on. Another reason a victim may not come forward to report a sexual assault is fear of how that personal DNA from the sexual assault or rape kit will be used without his or her knowledge or consent. Victims fear having one's personal DNA information shared by law enforcement with another agency or entity once it is stored in a laboratory or database as part of a rape kit created when a victim reports a sexual assault. According to the Federal Bureau of Investigation in 2019, Nevada ranked fifth in the Nation in reported rapes per capita. Since 2019, we have seen a small but steady decline in reported rapes in our State. According to Nevada crime statistics there were 1,884 rapes reported to law enforcement in 2021. We wonder whether it means victims and survivors are choosing not to come forward and report the rapes to law enforcement.

It is especially troubling to note in 2022, that the clearance rate for reported rapes in Nevada was under 20 percent. That means only one in five rapes reported in Nevada resulted in an arrest. We must do better; collecting and properly processing rape kits is vital to that effort. We must do everything we can to help victims feel safe in coming forward and reporting rape. The way to move in that direction is to guarantee rape victims their DNA will not be used for any purpose except to solve the crime or apprehend the perpetrator. Their DNA will be safely stored and not shared unless that sharing assists in arresting the perpetrator of their assault.

Section 3 of S.B. 321 provides that unless required by State or federal law, no law enforcement agency or forensic laboratory will store a survivor's DNA profile in any database that allows for the storage or exchange of such records. This includes but is not limited to the State DNA database, the Combined DNA Index System (CODIS) and any other similar database. Nor may law enforcement agencies share or disclose to any other agency or entity a survivor's DNA profile or other forensic evidence identifying the survivor except pursuant to a court order, or if sharing this information is necessary to identify or prosecute the perpetrator of the survivor's sexual assault.

Section 6 expands the rights of a survivor by prohibiting a law enforcement agency from using the DNA forensic evidence taken from the survivor of sexual assault and the rape kit to prosecute the survivor for any crime to search for evidence of any other crime the survivor may have committed or for any other purpose not directly related to the sexual assault of the survivor unless doing so is required by State or federal law.

Finally, section 7 of the bill provides that to the extent money is available, the Central Repository for Nevada Records of Criminal History, the state DNA database and each forensic laboratory will conduct an audit of the DNA information they store or maintain to analyze their compliance with State law on preservation of such evidence and to identify the number of DNA profiles that should have been collected in the year 2021 but were not. The results of these audits are to be submitted to the Joint Interim Standing Committee on Judiciary by January 1, 2024.

I thank the Washoe County Sheriff's Office, the Las Vegas Metropolitan Police Department, the Nevada District Attorneys Association, the Washoe and Clark Counties Public Defenders' Offices, the Nevada Coalition to End Sexual and Domestic Violence and American Civil Liberties Union (ACLU) Nevada as well as all those who helped with this bill and are here to testify in support. Today, we have a solemn responsibility to do everything we can to protect victims and ensure that sexual assault victims feel safe coming forward to report sexual assault. A sexual assault victim's DNA from the rape kit should only be used for two purposes: one, to solve the crime and two, to apprehend the perpetrator.

STEVEN JOHNSON (Director, Forensic Science Division, Washoe County Sheriff's Office):
We support S.B. 321. The bill will help expand protections for victims' DNA evidence stored in any database.

SERENA EVANS (Nevada Coalition to End Domestic and Sexual Violence):
The Nevada Coalition to End Domestic and Sexual Violence represents 13 direct service providers Statewide. All support S.B. 321 and the impact it will have on victim survivors.

Many read news articles about a case in San Francisco. The case was horrendous, and we fear this story making national headlines will have a chilling effect on victim survivors and prevent them from coming forward and seeking justice in the future.

Enduring a sexual assault is extremely painful. We need a process that does not further traumatize or alienate victims. When victim survivors consent to receiving the examination by a sexual assault nurse examiner, commonly known as SANE, they do so with the trust and belief that their DNA will be used to seek justice in their case and other sexual assault crimes. Any other use of evidence collected from a victim survivor's body goes against the spirit and intent of A.B. No. 176 of the 80th Session, the Sexual Assault Survivors' Bill of Rights.

We know that sexual assault is one of the most underreported crimes. If victim survivors are fearful that their DNA will be used for other purposes, they may be dissuaded from reporting or receiving the exam at all. This piece of legislation is important, not only for ensuring that victim survivors feel safe in coming forward and reporting a crime but that they feel safe to receive a SANE exam. A SANE exam offers more than evidence collection. It allows victim survivors to receive prophylactic medications, emergency contraception, sexual transmitted disease testing and connections to critical resources and follow-up care. Fear of their DNA being used elsewhere, and the lack of privacy may leave victim survivors without the necessary care they need.

All victim survivors of sexual assault should feel safe in pursuing justice and know their privacy and autonomy are protected and respected. Healing is about restoring power and agency after it has been taken during a sexual assault. Senate Bill 321 will do that.

BARRY COLE:
I am a psychiatrist in northern Nevada. It is common in the psychiatric community for our patients to have been assaulted in the past. You have heard 30 percent of sexual assaults are reported. This may be an optimistic number. I have seen statistics as low as 10 percent, one in 5 women and one in 70 men. For the women and men who I have treated for sexual assault, being able to prosecute the perpetrator is something that often comes up in their therapy. The DNA structure was found on this day in 1953. It is auspicious that on the Seventieth anniversary, we can use this evidence in a constructive way and protect victims from the misuse of their DNA evidence.

MARIA-TERESA LIEBERMANN-PARRAGA (Battle Born Progress):
We support S.B. 321. It is important. Sexual assault is one of the least-reported crimes, and the fear of what could happen to the evidence collected from a victim's body can play into that fear. Anything we can do to make sure people are not experiencing intimidation and fear is vital.

ERICA ROTH (Washoe County Public Defender's Office):
We support S.B. 321. This bill sends the correct message to ensure protections from government overreach and keeps law enforcement accountable.

LILITH BARAN (American Civil Liberties Union Nevada):
We support S.B. 321.

DREW FRANKLIN (Nevada Sheriffs' and Chiefs' Association):
We support S.B. 321.

JOHN J. PIRO (Clark County Public Defender's Office):
We support S.B. 321 with the proposed amendment (Exhibit C). This bill strikes the right balance with the amendment and will go a long way toward protecting victims.

CARLOS HERNANDEZ (Nevada State AFL-CIO):
On behalf of over 150,000 members in more than 120 unions, we support S.B. 321.

CHRIS RIES (Las Vegas Metropolitan Police Department):
We are in support of S.B. 321.The Las Vegas Metropolitan Police Department does not put DNA samples of known victims into CODIS.

JASON WALKER (Washoe County Sheriff's Office):
We support S.B. 321 as amended.

JENNIFER NOBLE (Nevada District Attorneys Association):
We support S.B. 321. The amendment assures the ability to further the policy of this bill without compromising our ability to solve cases on behalf of victims with respect to mixed samples.

CHAIR SCHEIBLE:
I want to clarify this is a friendly amendment.

SENATOR KRASNER:
Yes.

TONJA BROWN (Advocates for the Inmates and the Innocent):
We support S.B. 321 as amended.

ASHLEY SPENCE (DNA Justice Project):
I have not had a chance to review the amendment but am in support of a collection of all DNA offender samples. I was a 19-year-old victim of a brutal home invasion in Arizona. I was violently raped for hours throughout the night. The man got away, and I never saw his face. There were no leads. The fear was paralyzing. Seven years later, I received the shocking news there was a DNA match. The offender was arrested in California for an unrelated offense and resisted arrest. Thankfully, 18 states require a DNA test upon all felony arrests. The results are uploaded into CODIS. In my case, the offender was a serial rapist with a home full of women's underwear and ID cards from all over the world.

We went to trial, and he is now in prison for 138 years. I was fortunate. I have justice, but all victims deserve justice. According to a study by the Rape, Abuse & Incest National Network, 97 percent of rapists go free. This must change.

Many victims will continue to have justice withheld because of loopholes in the system. We must have DNA databases operable to provide matches. Our Country is facing a crisis of uncollected offender DNA samples that are required under the state law. There is a systemic problem of failing to collect and upload them. The U.S. Department of Justice estimates are between 40,000 to 50,000 per state. At a national level, this would mean up to 2 million missing offender

DNA profiles for qualifying arrests and convictions. Regardless of the reason, this is terrifying, and this must change because missed collections mean missed opportunities to match these offenders to their unsolved crimes in the database. We need to uncover the scale and the scope of problems, so we can work to create solutions and shut down the loopholes in the future. When we enhance the DNA database, we will not only provide justice, but we will exonerate the innocent and prevent crimes in the future.

SENATOR KRASNER:
I do accept the amendment, Exhibit C, submitted by the working group, including the Washoe County Sheriff, Nevada District Attorneys Association, the Public Defenders from both Clark County and Washoe County, ACLU Nevada and the Nevada Coalition to End Sexual and Domestic Violence.

CHAIR SCHEIBLE:
I will close the hearing on S.B. 321 and open the hearing on S.B. 351.

SENATE BILL 351: Revises provisions relating to communications with offenders. (BDR 16-659)

SENATOR DALLAS HARRIS (Senatorial District No. 11):
Last week, Nevada Youth Legislator Max Grinstein, Senatorial District No. 15, testified to the importance of communication between inmates and their families. That fact is on the record and well established. We want people to succeed when released. Family communication is an essential part of success. Please keep that discussion in your mind as we go through this hearing today.

Senate Bill 351 provides that the Director of the Department of Corrections should make sure that people with felony convictions go through the same approval process for visitation as people without them. That does not mean automatic approval, but the expectation is the bill will reduce the number of automatic denials. The bill requires written notice of denial to prospective visitors. How do you appeal these decisions if you have no understanding of the reasons for denial?

This commonsense bill will impact families like Vivian Jones's, who will speak soon. Before I introduce her, I want to call Committee members' attention to a packet at your desk that contains confidential information and provides a sense of the trying process people must go through to obtain approved visitations and

have appeals heard. Organizations like Return Strong! work on behalf of these families each day. It is frustrating.

VIVIAN JONES:
I am speaking in support of S.B. 351. My son has been incarcerated since the age of 16. He is now 36 years of age. In 20 years, I have not been able to see my son. A physical touch from a mother is important. Those with children can understand. I have not heard from him in almost two years. His mental state has deteriorated, and I am only now allowed to hear from him. I am an ex-felon: that is the reason for my denials. That is not me anymore. I have not had a traffic in 13 years. I am a law-abiding citizen. I work with the elderly and am active in my church. I worked with prison ministry in my church. I am the president of our prison ministry and hospitality. I am asking to have a chance to see my son before it is too late. I am speaking not only on behalf of my son but for all parents who have incarcerated children.

SENATOR NGUYEN:
Senate Bill 351 brings some fairness to a situation when families are being doubly punished. They are not the ones who committed the crimes.

SENATOR STONE:
It is alarming you have not been able to touch or talk to your son. Were you able to see him through videoconferencing? Was there no communication?

MS. JONES:
I have not been able to see my son in 20 years. He used to call twice a week. Something happened to my son during the pandemic. I do not know what happened, but he is mentally ill. I was not notified. I pleaded and cried but was given no information. Inmates told me what happened to my son. Now he is back in the emergency care unit for six months after release and readmission. I never give up as a parent. Now, I barely hear from my son because he is so heavily sedated. I am asking to see my son.

SENATOR STONE:
Tell me the process required to see your son. How many attempts have you made? You are unable to see him, not because of his crimes but because of a crime you committed almost a decade ago. You have straightened yourself out and become a model citizen, and you want to see your son. This is disturbing.

Does the warden say no, you are not going to see him? I just do not understand how that can happen.

MS. JONES:
I am not sure either. I filled out an application form and I was denied. I completed another application form which was denied. I filed an appeal, and it was denied. I reached out to the warden, Jeremy Bean, but have since learned my son is mentally ill, and I have not heard from him. I was begging and pleading; he told me to submit character letters. I have done all that. It has been over 60 days, and I still have not been contacted. At this point, I do not know what else to do.

SENATOR STONE:
I am interested in learning more about S.B. 351 because it is inhuman when a child is denied the embrace of his mother, especially in a lonely place like prison. People commit crimes. They go to prison, but nurturing by family members can put people back on track to getting the help they need. I cannot imagine not being able to speak to a loved one while isolated in prison for as many years as your son. It is not surprising he has mental health issues.

WILLIAM CONNORS:
I was incarcerated at Lovelock Correctional Center for 22 years. I was released on January 27, 2001. I have been doing well. I married a man I met in prison, and I love him dearly. I would like to hug and kiss him. I am only allowed telephone calls. Much is lost without tactile touch and the ability to look your loved one in the eyes. I support S.B. 351 because it will allow me to see and touch him and will get me in touch with him.

I am a veteran and am helping other people. I went to a halfway house and people helped me there. People in Reno have been supportive. It is good to get back into the swing of things and be a good person.

SYLVIA REYES:
I have a son who is incarcerated in Northern Nevada Correctional Center. He has been there for years. I was incarcerated as well until my release in 2015. I have paid my debt to society. I have changed my life. I have a nonprofit organization. I work with Return Strong! I work with the community. I help the homeless. I advocate for men coming out of prison, and I have seen the toll incarceration has taken on my son. He is not happy anymore. He wants to see his mom.

I have done what I was supposed to do. I just want to hug my son, see him and tell him he will be alright. I want to tell him that if I could do it, he can too.

JODI HOCKING (Return Strong!):
We support S.B. 351. Many of the families you will hear from today are part of our organization. One of the thoughts I want to leave you with today is that prison families exist and continue to build connections in the most limited ways possible. The Committee will see families like Vivian's and Sylvia's who still managed to build connections against all odds. Those moments of being able to sit down and hold hands across the table are sometimes lifesaving for people who are still inside. The process is difficult. The packets you have been provided include correspondence with wardens who blatantly block our emails when we are requesting help for families. Senate Bill 351 would provide improvement in the existing system, which is unfair.

MS. LIEBERMANN-PARRAGA:
Battle Born Progress supports S.B. 351. There is lengthy research into the positive effects of family visitation, including improved behavior and lowered recidivism. The studies show that prisoners who did not have family visitations are six times more likely to be reincarcerated than people with three or more visitors. Additional studies demonstrate each additional visit lowers recidivism rates. Most importantly, visitation will maintain those bonds and help people who are released to strengthen their bonds rather than building them from scratch.

TRESSA KENYATTA:
I have a son who was sentenced, at the age of 18, to 42 years to life with the possibility of parole. I have been denied visitation because I have a past charge for possession of marijuana. At the time my son went to prison, my life was not model. Now I am a behavioral health technician and have obtained my fingerprint clearance card. I changed my life because I knew my son needed my support. I know that I can provide an example and encouragement to him. I have not been able to see my son. He went to prison when he was 18 years of age and is now 34 years of age. I want to hug my son. I am a mother. I do not think anyone should have the right to take that away from me. I have submitted applications and been denied. I have appealed and been denied.

I support S.B. 351 for myself and for other mothers who do not know about organizations like Return Strong! or have the capabilities to find help. I am

55 years old. My end story should not be that I never had a chance to see my son. My life is not the same and it will not be until I see him. I cannot imagine the effect that it has had on him. He is sad and is not the same person.

The only way to explain the sense of loss a mother feels is to equate it to the pain of losing someone you love. When they are gone, we cannot touch them or see them.

SONYA WILLIAMS (Return Strong!):
I have submitted testimony (Exhibit D) in support of S.B. 351. I am a community organizer with Return Strong! I help families with visitation appeals. Most of our families are denied visitation due to prior felony charges and convictions. Felony charges are defined as arrests and do not consider convictions. Charges include shoplifting and drunk and disorderly. It explains how those with decades old felony charges and convictions are repeatedly being denied visitation. They submit the documents and are still denied. It takes months, even years for an appeal to be read. One warden has blocked my emails, and I cannot submit appeals on behalf of the families.

PAMELA BROWNING:
I support S.B. 351 not only because in-person connection between family members while one is incarcerated is important but because I have been affected. More than 20 years ago, I was incarcerated. I can honestly say not one of us is the same person we were 20 years ago. Those in-person visits were important to me when I was incarcerated. From your child, there is nothing like seeing the smile, hearing the laughter or just listening to what is going on in school. Most of all, parents appreciate a hug when their child is happy to see them. It really makes a person feel part of their lives and of the family.

It was important to my family to see me when I was incarcerated. They appreciated being able to look in my eyes and see that I was alright. I had an elderly mother, and I needed to look in her eyes and see that she was alright. I have been through extensive background screenings for employment and have never been denied because of my criminal history. I have become an active member of society with a great career and own my own small business. The way I changed my life did not matter to the Nevada Department of Corrections (NDOC). I submitted a visitation request and was denied. I submitted an appeal with a full FBI background check and was still denied. The connection between

people and their loved ones should continue throughout their incarceration. Some people will never see their families on the outside again. It tears people down.

MELISSA DUNA:
My son is incarcerated at High Desert State Prison. I am fortunate. I can visit my son, but I am close to all these women testifying today. There is no happiness so great for an offender and the family as an in-person visit. An inmate can experience expressions of support, love and encouragement—encouragement to have faith that the loved one can turn his or her life around. These women are living proof it is possible to change their lives. The family should not be punished. They are not serving time for the crimes of their loved ones. I support S.B. 351 because families can express the voices not heard behind prison walls.

TASHIKA LAWSON:
I am speaking for a mother who is in the audience. She cannot speak with you today because she is recovering from surgery. Visitations are important, especially when you have young children who are incarcerated. They need to see familiar faces in a strange place. She has not seen her son since he was 19 years of age. He has been in prison a year and a half.

Can you put yourself in her shoes? She has not been able to see her son in a year, much less give him a hug. This is cruel. That he is behind bars in a prison environment is punishment enough for a 19-year-old adult. She is active in the community and is there at a drop of the hat when anybody needs help. She is being punished. No one among her family or her pastor's friends has received approval to see this young man. She has a grandson, the happiest one-year-old child anyone has seen. Since her son was sentenced, her grandson has stopped talking. When it was time for his father to hang up the telephone, the little boy spoke for the first time in a long time. He said "No, no" because he did not want the call to end.

Not allowing visitation influences mental, emotional and physical health. My friend has suffered physically, and she is suffering in the audience now. She is here for a chance to speak on behalf of other mothers in the same situation. She is from the East Coast where visitation requires only an ID.

CHRIS KOVELLO:
I support S.B. 351. My son was recently released from prison. I was fortunate in being able to visit my son. I visited as often as possible. However, my husband was never permitted because he has a 39-year-old felony conviction. He has an FBI number. He was in the federal penitentiary. His was not a violent crime. There was no weapon involved. My husband applied with the U.S. Department of Homeland Security for a TSA Known Traveler Number. He was denied but given the opportunity to appeal. His appeal was granted because he provided records demonstrating his conviction was 39 years ago. If Homeland Security can work with us, why not NDOC?

CRYSTAL VOIGHT:
I am here to show that people who make mistakes can change and deserve a second chance. I had a traumatic childhood and made wrong choices. I have battled addiction since I was 12 years of age. After years of sobriety, I relapsed in 2013. I hit rock bottom, but I am thankful that it happened because it led me to where I am today. I was sentenced to drug court and probation. I completed drug court and the terms of my probation. During the past six years, I have progressed from entry level flagger to senior engineer at a large construction company.

Last year, I purchased my first home. Three years into my journey to rehabilitation, I met my fiancé through a mutual friend. He has been incarcerated for four years. We filled a void in each other that we did not know we had. When we first started talking, he did not have any hope or guidance that could lead him on a crime-free path. Now, he is looking for work and planning vacations. He appreciates my help in demonstrating a different and healthy way of living. Unfortunately, because of my past, I am unable to visit him. We want to continue our relationship and focus on preparing him for success when he is released. Without an ability to visit, we are being held back.

I am proof that people can change their lives, no matter their past. My past should not be held against me, especially when I can help my fiancé become a successful citizen. I have completed all that has been required of me and have turned my life around. Please consider the positive impact visitation will have on my fiancé's success. I support S.B. 351.

MARGOTH TELLO:
I am a member of Return Strong! and have worked in the criminal justice field for over five years. Research has confirmed the importance of family support in reducing recidivism. I have seen evidence of the importance of family support in my years working with individuals involved in the criminal justice system. Having a loved one incarcerated is traumatic enough for families; separating families hurts everyone. Allowing families to visit will help individuals during incarceration and will allow them to be more successful when released. I support S.B. 351.

JAMIE FIGUEROA:
I support S.B. 351. Family support connections are important for anybody to succeed following release. My son is incarcerated at High Desert State Prison. I am also a felon. I was convicted in 2014 and was released in 2020. I am employed and am a productive member of society. We can help our incarcerated loved ones, show them what they need for success and assure them they are still loved and not forgotten.

I am caring for my son's two-year-old daughter. Because I am denied visitation, I cannot take her to see her father and build a connection. Those of us who are convicted felons are ex-felons. We did our time and paid our dues. We should be able to leave our pasts behind. Why are we continuing to be punished? Our loved ones are being punished for what they did, but we should not be also.

NICK SHEPACK (Return Strong!; Social Workers Against Solitary Confinement):
In this State, we call our prison system a correctional system with the stated goal of rehabilitation. The goal is a hypocrisy and absurdity when we are denying visitation rights to someone who has successfully gone through the system, successfully reentered society, been rehabilitated and is probably the best resource for a loved one who is incarcerated. If we believe our system works and we want to use this system, then we should treat people who successfully go through the system with the same standard applied to the rest of us.

MS. ROTH:
It is important to remember, we are not the sum of our worst decisions. I urge passage of S.B. 351 on behalf of the Washoe County Public Defender's Office.

MR. PIRO:
When we represent a client and time is an issue, we want to be certain he or she maintains contacts with the family. The stories of mothers who cannot be with their sons and the man who cannot be with his husband are heartbreaking. It is time to tear down these walls. I remain hopeful based on the comments of this Committee; we can reach a place where family connections can happen again. The Clark County Public Defender's Office supports S.B. 351.

NICOLE WILLIAMS:
I am fortunate and can visit my loved one, but his mother who is 77 years of age has been denied without explanation. If she receives notification, she is not going to know how to navigate the process. It is a fact that visits, human interaction and building family bonds reduce recidivism rates. I support S.B. 351.

MS. BARAN:
Senate Bill 351 is an opportunity to consider how we as a State determine when punishment ends. Is it after someone has served time or is it forever? It is heartbreaking that people who are impacted by this must come and tell their stories over and over in order to receive justice of any kind.

MS. BROWN:
Advocates for the Inmates and the Innocent agree with all previous comments and support S.B. 351. It is heartbreaking to hear families share their stories of visitation denial because of crimes committed decades ago. They have served their time. They have become hardworking, productive members of society. Connection between inmates and their loved ones is crucial to their mental health and well-being. Recent legislation allows ex-felons to vote. Can we now allow them to see incarcerated loved ones?

MARK BETTENCOURT (Nevada Coalition Against the Death Penalty):
We support S.B. 351.

CAURSEA BAUGH:
I have a significant other who is incarcerated. I support S.B. 351 because, though I served my time in prison and have completed the requirements of my parole, I am not allowed to visit my loved one. I am the only person who is willing to go there. I am willing to make the trip. I am willing to be a part of his life. I am willing to be the support system he needs. Because I am unable to see

him, we only speak by telephone. I would like to bring our daughter to see him. She is four years old, and she has not seen her daddy since he was incarcerated.

I have asked for forgiveness. I have changed my life. I am not the person I used to be. When I am denied visitation, it is as though I am being told I am still the person I was when I was incarcerated. They do not see the new me. We are told rehabilitation is important, but my past continues to follow me regardless of the progress I have made since leaving prison.

JAMES DZURENDA (Director, Nevada Department of Corrections):
The language of S.B. 351 is appropriate. However, it will not resolve the issues. The NDOC administrative regulation under Administrative Regulation (AR) 719, the NDOC Visitation Manual, needs to change. Felony convictions should not be a reason to deny visitations. However, there are some legitimate restrictions for those with felony arrests. Family members with felony arrests may have victimized the inmate. Other considerations behind visitation denial—court orders, separation issues, protective and restraining orders—are outside the purview of NDOC. Another factor is parole. Under parole stipulations, those who have been previously convicted as a felon and are under parole cannot visit NDOC facilities. These issues need to be addressed. I am in a process of updating AR 719 to allow ex-felons to visit individuals within NDOC facilities. However, exceptions and exigent circumstances will apply as I discussed earlier.

We have been in constant communication with Vivian Jones through email. Ms. Jones was approved for visitation last week. Her denials have been overridden, and she is able to visit on Sunday and Monday of this coming week.

Administrative Regulation 719 needs to remove automatic denial for ex-felons absent exigent circumstances. However, parole stipulations issues do not fall under NDOC jurisdiction.

SENATOR HARRIS:
I agree with Director Dzurenda. Senate Bill 351 does not solve all these important issues. I trust him to implement the regulations as necessary, so he can accommodate for different scenarios. This bill will put a framework in place and allow him to continue and complete the process of creating a fair playing field for family members to connect once again.

SENATOR STONE:
We all understand that people make mistakes, and some people make serious mistakes. They pay a price for their crimes in accordance with the law and our judicial system in the State. Our laws comply with the U.S. Constitution. In 1791, 231 years ago, we passed the Eighth Amendment to the Constitution which forbids cruel and unusual punishment. Cruel and unusual punishment is inflicted on families that cannot see their loved ones, possibly for their entire lives. It is outrageous. A mother has unconditional love for her child, whether that child has done something heinous or not. If these prisoners cannot feel their families' love, it is only going to enrage them, when they are released; they may act on their anger and the cycle continues.

I would appreciate the opportunity to work with Director Dzurenda and the bill sponsor to move S.B. 351 forward. I would like to be added as a cosponsor on the bill.

SENATOR NGUYEN MOVED TO DO PASS S.B. 351.

SENATOR STONE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HANSEN WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR SCHEIBLE:
We have received a letter (Exhibit E) from Ashley Gaddis in support of S.B. 351. I will close the hearing on S.B. 351.

VICE CHAIR HARRIS:
I will open the hearing on S.B. 354.

SENATE BILL 354: Revises provisions relating to justices of the peace. (BDR 1-809)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):
Senate Bill 354 requires justices of the peace to pass an exam called the Multistate Professional Responsibility Examination (MPRE); an outline (Exhibit F) has been provided. In Nevada, we have justice courts within the district court system. Justice courts handle small claims, misdemeanors and various hearings

for felony cases. All criminal cases of a felony nature go through a justice court, and the judge who presides is a justice of the peace (JP). A JP represents the township where he or she lives. In Nevada, a township is not necessarily a town as commonly understood. A township is a legal designation or region within a county. A JP presides over the justice court and felony cases at the initial arraignment and preliminary hearing stage before they are bound over to district court. Defendants are tried in district court. Justices of the peace oversee misdemeanor violations including bench trials for misdemeanors, small claims courts, certain eviction courts and other proceedings depending on the township location. For example, in an area with a municipal court, the court might handle certain proceedings which would fall to a justice of the peace in other jurisdictions. In Nevada, unless you live in a heavily populated township with more than 100,000 residents, a law degree is not required of a justice of the peace.

It is important to clarify S.B. 354 is not intended to require all justices of the peace to be attorneys. I brought this bill because I represent clients in criminal proceedings throughout Clark County and throughout our 11 justice courts. My clients are surprised to learn the justice of the peace is not necessarily an attorney. They assume the person presiding over their criminal case has demonstrated some level of knowledge of the law and needed qualifications to sit on the bench.

In Clark County, all our justices of the peace are well qualified. This is not an indictment of any justice of the peace. It is a recognition that as we move forward, justices of the peace will retire, and new justices will be elected. It is difficult to be confident in their qualifications.

Through conversations with clients and Senate and law firm colleagues, I considered options for a practical qualification system for justices of the peace. Working with Elliot Malin, we reasoned that a new system should neither be onerous nor a significant departure from existing practices.

To join the State Bar of Nevada, an individual must attend law school, pass a three-day, multiple-choice and essay examination, and pass a character and fitness test. The character and fitness test is like a criminal background check. Employers and members of an individual's family are contacted and asked whether the candidate is a good person who can be relied upon to uphold the law and other questions of that nature. The State Bar of Nevada administers the

character and fitness investigation only for people who are applying to join the Nevada Bar. The last requirement for admittance to the bar is a passing score on the MPRE. The MPRE covers all legal areas and reviews professional responsibilities of every attorney, whether it be duty to the client or duty of candor. The exam includes court rules regarding handling clients, money or finances. An individual does not need to be an attorney, present a law school transcript or provide proof of completion of law school courses to sit for the MPRE. There is no reason people who seek to become justices of the peace in Nevada could not also sit for the MPRE.

In preparing for this hearing, I reached out to the National Conference of Bar Examiners (NCBE), the organization that administers the MPRE. I learned they generally require candidates for MPRE to also be seeking admission to a bar association. However, that is just a policy and can be revisited. There is no legal reason to exclude people who do not intend to become lawyers from sitting for the MPRE. I am engaged in an ongoing conversation with NCBE to ensure if S.B. 354 is enacted, its policy will provide individuals in Nevada seeking to become justices of the peace to sit for the MPRE.

A proposed amendment (Exhibit G) is based on a nuance regarding our most-seasoned justices of the peace. The MPRE was not required for admission to the Bar in Nevada until sometime in the mid-1980s. A few sitting JPs who joined the Nevada Bar before 1980 have not passed the MPRE but are members of the Bar. Subsection 6 of the proposed amendment allows those JPs to continue to serve in their roles here in Nevada.

I have submitted a table (Exhibit H) of judicial education requirements in Nevada.

ELLIOT MALIN:
I have submitted written remarks (Exhibit I). The proposed amendment, Exhibit F, would not require justices of the peace to pass the bar examination. We are not setting that standard. Senate Bill 354 requires the MPRE, not a law degree. We are working with NCBE. We have had multiple conversations and they have been gracious in answering our questions. As Senator Scheible stated, the amendment will essentially waive those who passed the bar prior to 1980 but have not sat for the MPRE. This is a step forward in helping protect Nevadans.

SENATOR SCHEIBLE:
I am open to discussions and amendments on this bill. Senate Bill 354 is a response to requests from my constituents and colleagues to require higher standards for our justices of the peace.

SENATOR STONE:
Will this affect existing justices of the peace when their terms are completed and they are standing for re-election? Will they be required to sit for the MPRE exam if they are re-elected?

Other states allow for judicial officers without a law degree. Some states require stringent qualifications. How can somebody with a high school education adjudicate legal issues without having formal knowledge of judicial procedures and the laws of the State?

SENATOR SCHEIBLE:
It is important to note we do have requirements for district court judges; they must have been practicing attorneys for ten years. Part of the other issue we are trying to address in this bill is an issue of parity within the justice of the peace system. Justices of the peace in urban areas of the State are required to be practicing attorneys for five years. We are not talking about a small difference in qualifications in certain Nevada cities as opposed to others. We are talking about four years of school and five years of practice. I am not sure I can answer your second question.

SENATOR NGUYEN:
I agree with concerns about people who have not gone to law school making important life-changing decisions. However, this is existing law.

I have concerns about standardized multiple-choice tests. Some of the smartest people have taken this exam and the bar exam multiple times. I am hesitant to tie that knowledge and that gauge of ethics to a standardized test.

Senate Bill 354 requires a passing MPRE score. In speaking with NCBE, I have noticed that one state requires this examination. Passing scores vary among states. What is the passing score in Nevada?

SENATOR SCHEIBLE:
The intention is that the passing score for justices of the peace and those applying to the State Bar of Nevada to be the same, which is 85. If the State Bar of Nevada were to make modifications, this statute is intended to follow suit. As I have stated, I am open to options.

We settled on the MPRE as opposed to a character and fitness investigation. The examination is standardized, while the investigation would place an onerous task on the State Bar of Nevada. Without a law degree requirement, we need an objective measure of the qualification of a justice of the peace. The MPRE does not test legal knowledge, reasoning or capabilities, but a successful candidate would need to review and understand a wide range of legal issues. This accomplishes the goal of ensuring that people have invested time and thought into understanding our legal system.

SENATOR NGUYEN:
Statute requires all judges, whether elected or appointed, to attend The National Judicial College and study judicial ethics among other topics. Is this issue addressed in S.B. 354?

MR. MALIN:
Rather than statute, Judicial College attendance is required by court rules. The Judicial College requires legal ethics studies, though there is no test or objective standard to the course. Senate Bill 354 provides an objective standard.

SENATOR SCHEIBLE:
If the Judicial College wanted to develop an end-of-course examination, I would be happy to work with them on crafting language.

SENATOR NGUYEN:
Generally, those taking the MPRE have attended three or four years of law school. Those who are elected justice of the peace and have earned a high school degree may find the examination challenging. Is legal training required to pass this type of test?

MR. MALIN:
Those sitting for the MPRE are typically law students, though there is no legal training requirement.

SENATOR NGUYEN:
Is there a time frame contemplated for sitting for the MPRE following election?

SENATOR SCHEIBLE:
It is not contemplated in the bill, but I would be open to clarifying.

MS. LIEBERMANN-PARRAGA:
We can bring some professionalism to the important office of the justice of the peace. I have learned how a justice of the peace affects people's lives. We need to make certain capable people are on the bench. We support S.B. 354.

MS. BARAN:
We are in support of S.B. 354. Consistency within the judicial system is welcomed and supported by ACLU Nevada.

ROST OLSEN:
I am an attorney in Nevada, but I am not here on behalf of any client, and the views I present are my own. We have had justices of the peace presiding in limited jurisdiction courts in Nevada since at least 1866. Then it was impractical to mandate limited jurisdiction jurists to be attorneys.

First for perspective, Nevada's territorial census in 1860 revealed a total population of roughly half of the 12,000 attorneys in the State today. Travel between areas like Yerington and Hawthorne was exceedingly treacherous. However, the laws of our State, the nature of justice courts, the nature of the legal profession and the technological means available to Nevadans have evolved significantly. We live in a time when justices of the peace must not only make factual findings, but they must make legal decisions that are increasingly complex. Justices of the peace may be required to conduct jury trials, make complex evidentiary rulings and craft jury instructions that can pose challenges to even the most seasoned jurists. Further, travel between areas like Yerington and Hawthorne or Tonopah and Goldfield is infinitely safer than it was in the 1860s. Travelers faced situations when their rights and freedoms were on the line in justice courts.

All Nevadans deserve to have their cases heard by jurists with sufficient training and experience in the law to make legal decisions without having to rely on a potentially expensive appeals process to correct avoidable errors. As someone passionate about ensuring our judiciary is equipped to properly protect

Nevadans from overreach, whether by our government or our neighbors, I support S.B. 354.

Unlike 1866, we live in a time when properly trained and experienced attorneys can readily access every county seat in the State. I would also support an amendment that would require a law degree and five years of legal experience for all justices of the peace in Nevada.

CHRIS GIUNCHIGLIANI:
I support S.B. 354. It is a good start, though we should require a legal license of justices of the peace.

I request a change to section 1, subsection 1, replacing "A person may not be a candidate for or be eligible to the office of justice of the peace" with "A person may not be an appointee." Because the term appointee does not exist in some statutes, some appointees have taken the position that they are not subject to anything in statute.

We might consider requiring background checks of a justice of the peace who is not a licensed attorney. Background checks are required of school board members. Training and completed course work is also required.

Finally, though it may not be appropriate for S.B. 354, the Administrative Office of the Courts (AOC) should establish a standardized application for all judicial appointments. There is no uniform system in Nevada. In my county, those appointed submit a letter of interest. There is no background investigation to determine whether individuals are qualified electors. There is no address check for proof of residency. The AOC, for the purposes of justice, should be consistent across the State. I agree with the suggestion to develop an ethics test within the Judicial College in lieu of requiring a law license for justices of the peace.

ERIKA CASTRO:
I am the organizing director with the Progressive Leadership Alliance in Nevada. We support S.B. 354. Regardless of where you live in the State, you deserve the same level of justice. Anyone who stands before a judge should trust being heard by someone who has legal knowledge, is responsible and ethical. Senate Bill 354 is a step toward this goal.

DONNA ARMENTA:
The Creditor Rights Attorneys Association of Nevada, Inc., is a trade group of attorneys who represent creditors in all Nevada courts from Main Street to Wall Street, from Justice Court to the Nevada Supreme Court. Our work takes us to all jurisdictions for civil hearings. We support S.B. 354.

The purpose of the MPRE is not to gauge individuals' personal ethics but to measure the test takers knowledge and understanding of already established standards of professional conduct in courtrooms. Passing this test will provide public confidence that all judges in Nevada have the required knowledge of standard professional conduct and that the rulings will be based upon ethical standards.

RICHARD GLASSON (Justice of the Peace, Tahoe Township Justice Court, Douglas County; Nevada Judges of Limited Jurisdiction):
I oppose S.B. 354 because the MPRE is irrelevant to most of the work done by our judges. I do so out of respect of the separation of powers, respect for the Judicial Branch and access to justice for all.

I am appearing on behalf of my association, the Nevada Judges of Limited Jurisdiction (NJLJ). We represent all municipal court judges and justice court judges in the State. This includes justices of the peace in Clark County townships where there are many nonattorney judges, including Laughlin, Moapa and Searchlight among others. I am a member of the Nevada and California Bars. I sit on the Character and Fitness Subcommittee of the Nevada State Bar Association Admissions Department. I am an alternate member of the Nevada Commission on Judicial Discipline. I am past president of our Association. I have been recognized as judge of the year, and I have received a lifetime achievement award from the NJLJ. I recently received the Judicial Education Distinguished Faculty certificate from the Nevada Supreme Court. I have instructed on judicial ethics and judicial conduct for judges and court staff for 18 years.

Many of us serve in rural communities where not a single lawyer wants to run for our job. Many of us are not members of the bar. We have not taken the lawyers' MPRE, which is not an ethics examination. It is an examination on the rules of professional conduct for lawyers. This is a book of the *Annotated Model Code of Judicial Conduct* by which we abide. We are not supposed to be

lawyers, we are supposed to be acting as judges. Attorney ethics are largely not relevant to judicial ethics.

Constitutionally, since 1864, the education, training and qualification of municipal court judges and justices of the peace have been directed by the Nevada Supreme Court and, for the last half century, the Nevada Commission on Judicial Discipline. Out of respect for our Supreme Court and the Judicial Branch, this Legislature has set minimum standards for municipal judges and justice court judges. Municipal judges are only asked to live in the court's jurisdiction and be registered to vote. A justice of the peace is required to hold a high school diploma.

After appointment or election, the Supreme Court and the Commission on Judicial Discipline take over judges' education and discipline. The Nevada Supreme Court's Judicial Education Unit notes the task of maintaining judicial competence depends on the willingness of the judiciary itself to assure that its members are knowledgeable and skilled in the study of law and its development. Judges are trained in the application of legal principles and the art of judging to provide accurate and timely services to the public. Proper administration of justice accomplished through education increases efficiency, innovation and effectiveness for the benefit of the people of Nevada. Judicial education is a primary means of advancing judicial competency and building public trust and confidence in our judiciary. Continuing judicial education requirements are mandated by statute and Supreme Court order for all Nevada judges, including some requirements approved by the Judicial Council of the State of Nevada. Additionally, there are continuing legal education requirements for attorney judges to maintain the Nevada bar license. Those separate requirements are managed by the State Bar of Nevada.

Initially upon appointment or election, two weeks of concentrated judicial code of conduct and judicial education from the National Judicial College in Reno are required. A second judicial ethics course is required within the first two years on the bench. We all undergo annual continuing judicial education for everything from ethics to evidence, but always on ethics. In addition, we have education in other subject areas. We have subject areas tailored for justices of the peace, including orders of protection. We do not need to know about the ethics for divorce. We study the confrontation clause, not corporations. We test on protection orders against domestic violence, not probate.

I see lawyers in court every session who know little or nothing about the Nevada Code of Judicial Conduct. This bill requiring passage of the MPRE designed for lawyers is an intrusion on the traditional oversight of judicial education by the Judicial Branch.

Questions on the MPRE are not for judges. They are for law students who want to work for judges. The MPRE is designed as one part of the professional legal licensing process. It is not intended to be taken by people who are not planning to use the score to apply for admission to the bar. Beginning in 2020, policies of the National Conference of Bar Examiners require candidates to certify they are taking the MPRE for the sole purpose of admission, readmission to or retaining status as a member of the bar of a participating jurisdiction.

In the last 20 years, only 15 nonattorney judges have been cited by the Nevada Commission on Judicial Discipline as compared to 55 lawyer-judges.

I do not want to work for a judge. I am a judge. I teach judges. I have never taken the MPRE, neither did Chief Justice James Hardesty or Chief Judge Mark Gibbons of the Nevada Supreme Court. As of this afternoon, the MPRE is not open to nonlaw students, but maybe the MPRE approvals are just a phone call away.

We are not going to find competent citizens to sit in our small townships and rural townships with this type of burden. This intrusion into the way we have been running our State judiciary for the last 250 years is going to create chaos.

JOHN R. MCCORMICK (Assistant Court Administrator, Administrative Office of the Courts, Nevada Supreme Court):
Our concerns with S.B. 354 are that we are not certain the bill is the correct instrument to gauge justice of the peace qualifications. We have some concern about maintaining adequate access to justice in rural jurisdictions. There are several rural jurisdictions without a large population of attorneys or attorneys who have interest in running for a judgeship.

VICTOR MILLER (Justice of the Peace, Boulder Township Justice Court, Clark County):
I am a 42-year member of the State Bar of Nevada. I am a municipal judge and justice of the peace in Boulder City in Boulder Township. I have been a limited jurisdiction judge for 39 years. I am president of the Nevada Judges of Limited

Jurisdiction. Of that association, approximately 40 percent are nonlaw-trained judges. In Clark County, of the 11 justice courts, 5 are presided by nonlawyer judges. In those townships, where I sit in those courts as a substitute judge when the JPs are not available, there is not an attorney in those five townships who would want to run for the position.

This experience has led me to see these nonlawyer judges are capable and professional. Senator Scheible acknowledges sitting justices of the peace are not at issue. It begs the question, if there is not a problem, why are we trying to find a solution?

This measure would adversely affect access to justice throughout the State. There are many places in the State for a victim of domestic violence to obtain a protective order, but if a local judge is not available, they would have to go a long way to find protection. To obtain a protective order from Boulder City, an individual would need to travel 30 miles to the nearest district court. Many times, a victim of domestic violence finds the perpetrator has control of the car. They must ask the perpetrator to borrow the car to get a protective order. Having justice in the community is important.

Senate Bill 354 does not clarify how the measure would affect pro tempore judges who cover courts when the judge is not available. Would they be required to sit for the MPRE? Access to justice would be affected. We sit as judges and review pretrial custody status within 48 hours. We need qualified pro tempore judges to sit for us.

Finally, why was the MPRE chosen? In my investigation into the examination, I found 2 percent to 8 percent of the test concerns judicial ethics as understood by lawyers. There must be a better way. We would appreciate the opportunity to work with Senator Scheible. I do not believe the MPRE is a solution, hence we are in opposition to this bill.

EILEEN F. HERRINGTON: (Justice of the Peace, Virginia Township Justice Court, Storey County):

I oppose S.B. 354. I am a nonlawyer judge. I have been on the bench for 11 years. I was initially elected in 2012. Before my election, I had over 30 years of experience in the legal field. I worked for three district attorneys and several attorneys. I won awards for victim units in Storey County. Since taking office, I have developed a pretrial and alternative sentencing unit. I have been the

recipient of the 2020 Certificate of Advanced Achievement of Judicial Education. It is important to hold discussions concerning incumbent judges who have demonstrated professionalism and ethical behavior on the bench.

VICE CHAIR HARRIS:
I will close the hearing on S.B. 354 and open the hearing on S.B. 382.

SENATE BILL 382: Revises provisions relating to juveniles. (BDR 1-795)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):
Senate Bill 382 addresses unintended consequences of legislation enacted during the Eighty-first Session. In 2021, when we were working to ensure juveniles in the criminal justice system were treated fairly, we added a provision to statute requiring that if a child was the adverse party in a protective order (TPO) hearing, that child would be afforded an attorney for representation. The unintended consequence was that we created a power imbalance between people seeking TPOs and people who were the adverse parties in TPOs when those people are minors. It is most important to have a focus on victims and to protect their rights and ensure a fair playing field when we are talking about children.

At the table with me today is Regan Comis, who has a personal story of how this unintended consequence can have some serious and lasting effects on our children. When two children are involved in an incident like Regan's and the time comes for a TPO hearing in front of a judge, the child against whom the TPO is being sought is represented by a lawyer, but the other child—the victim of the crime—who is seeking that order does not have a lawyer.

I have worked with the Nevada Coalition to End Sexual and Domestic Violence, the Nevada District Attorneys Association and public defenders to come up with a solution. The solution was to change the decision we made last session so that children in TPO hearings are no longer guaranteed an attorney. We are also providing in statute, starting on page 2, line 44 of S.B. 382, anything said in a TPO hearing cannot be used in a criminal proceeding. This strikes a balance between ensuring parity between the parties during a TPO hearing without opening a child up to additional criminal liability based on what he or she may say during a TPO hearing.

REGAN COMIS:
I am here in my own capacity and want to share why I think this legislation is so important. My daughter was the victim of a crime at the hands of another minor. We sought a protection order for her safety and were told she would only need to inform the court of a pending criminal proceeding and that an extended protection order would be granted. Leading up to the hearing, knowing she would have to see him on Zoom, her anxiety began to increase. As the hearing started, we were asked whether our attorney was present. I informed the court I did not know an attorney was necessary. The court master said it was not. Then the public defender assigned to the adverse party announced herself. My daughter grew tense and was afraid. He had an attorney, and we did not. The court master swore us in and began to interrogate my daughter. She was asked question after question and required to provide graphic details about what happened to her far beyond what she was prepared for or expected. The other minor never had to say a word because his public defender spoke on his behalf.

While the order was granted, this had much broader effects on my daughter. For days, she was unable to sleep because her nightmares returned. She was unable to eat, and her anxiety was so severe she was not able to go to school. The lesson that she took from that day was that the system cared more about protecting her attacker than making sure that she had protection. He had someone to speak for him. My 14-year-old daughter had to stand alone in a protection order hearing. Because she was afraid to testify in the criminal proceedings, he pled to a lesser charge.

I am asking this Committee for the support of this bill to restore balance in these proceedings. A child petitioning for protection from another child should have equal standing in these civil cases.

SENATOR SCHEIBLE:
A friendly amendment (Exhibit J) reflects that the prohibition on utilizing anything said in the hearing applies to both parties.

SENATOR DONDERO LOOP:
As a mother of daughters, I find this concerning. Was there consideration given to providing an attorney to both parties?

SENATOR SCHEIBLE:
The solution was considered. The issue is that a protective order hearing is a civil proceeding, not a criminal proceeding. There is not a constitutional right to the appointment of an attorney in a civil proceeding. The stakeholders could not identify a pool of attorneys for appointment to the party seeking a TPO.

In the criminal justice system where a person is being prosecuted, we often look to the prosecutors as the representative of the victims, but legally, they do not represent victims in a court proceeding. They represent the State. They cannot provide victims with legal advice. The district attorney's office can tell a child and his or her parents how to apply for a protective order but cannot represent him or her in the proceeding. The stakeholders also agreed it would be ideal to provide an attorney for the victim in the proceeding at the expense of the State. We cannot appoint the district attorney. We cannot appoint public defenders because they are representing the adverse party. It would be necessary to develop a new system of volunteer or conflict attorneys for people seeking temporary protective orders. It was not a viable option.

SENATOR DONDERO LOOP:
Would anyone in a family court setting be able to assist?

SENATOR SCHEIBLE:
There are qualified attorneys in a family court setting. When individuals file for divorce, they are not appointed an attorney. It is up to each side to hire their own attorney and each one has the right to an attorney, but attorneys are neither employed by nor paid by the State in divorce proceedings or custody cases.

SENATOR DONDERO LOOP:
The idea of providing attorneys for both parties warrants further conversation not for the legal system, family court, the perpetrator or the victim but for the kids because they are kids.

VICE CHAIR HARRIS:
Legal aid often provides counsel, although legal aid agencies are handling heavy caseloads and would need substantial resources to provide a guaranteed attorney for every victim seeking a TPO. That is an avenue to explore in the future.

MS. COMIS:
I was also concerned that counsel was not made available for my daughter while the adverse party had a public defender. Once my family became aware, fortunately, we had resources to retain an attorney. What about other children whose families do not have the means or the ability to obtain an attorney for representation? We are trying to find that balance by removing the attorney requirement for the adverse parties.

SENATOR SCHEIBLE:
I would welcome a continued discussion on developing a system to appoint attorneys for all parties. In the meantime, it is important that we fix the power balance immediately. Senate Bill 382 will achieve that goal.

MS. EVANS:
I am the policy director for the Nevada Coalition to End Domestic and Sexual Violence. We support S.B. 382.

VICE CHAIR HARRIS:
I will close the hearing on S.B. 382 and open the hearing on S.B. 414.

SENATE BILL 414: Revises provisions relating to offenders. (BDR 16-314)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):
Senate Bill 414 requires that all calls to incarcerated people within the Nevada Department of Corrections be free of charge. Throughout the Interim, as I have engaged in conversations with formerly incarcerated people and people with incarcerated loved ones, we have not come to a consensus on an ideal policy. We brought a policy option to utilize proceeds from the calls we do charge for toward free calls between parents and their children. An alternative is S.B. 414, which proposes an appropriation to cover the costs of all telephone calls within the NDOC. It is a worthwhile use of State funds to ensure people who are incarcerated and are unable to work and make money can still have contact with their families who are living outside of an incarcerated setting. I do not need to belabor the importance of being able to talk to not only your child but your parent, sibling, spouse, stepsibling, friend, business partner or anybody else. Other people outside of prison may be important in the lives of incarcerated persons. Inmates should be able to speak to them without charge.

MR. SHEPACK:
Return Strong! believes essential services the government provides, especially ones such as telephone calls which lead to a good outcome, should be funded through the General Fund and not through user fees, especially by families. Senate Bill 414 addresses communications. My concern is email, text messages and tablet systems. In some states, inmates are charged for each electronic transaction, and costs can be excessive.

MR. PIRO:
The Clark County Public Defender's Office supports S.B. 414 and reducing the cost of inmate connections.

MS. BROWNING:
I spend approximately $450 a month on telephone calls, and I support S.B. 414.

MS. DUNA:
I support S.B. 414. Offenders should be able to make a phone call on holidays to any member of their family.

MS. TELLO:
I support S.B. 414. These charges can add up, and it affects those with limited means. This is an opportunity to continue communications with loved ones.

MS. BROWN:
Advocates for the Inmates and the Innocent supports S.B. 414. When my daughter and her friends found themselves in a horrific situation in Washoe Valley about 20 years ago, there was nothing anyone could do to help. They were under pressure by the community and the District Attorney's Office. They suffered from anxiety, depression, post-traumatic stress disorder and suicidal tendencies. It was the help of an incarcerated loved one who was able to get them through. Communication doors should be open for all family members because one never knows who is struggling from suicide or depression. One person who is incarcerated can make a difference in another person's life.

MR. DZURENDA:
The Nevada Department of Corrections has two concerns with S.B. 414. Appropriations will be needed to support the program. Revenues from telephone communications pay for 28 Statewide staff in addition to service programs and

other programs that would not exist if not for communication revenues. I am concerned offenders would not be getting appropriate services if the money was not there for them.

The second concern is communication infrastructure. Most facilities accommodate three 15-minute telephone calls each day. Free telephone calls would result in a need for additional telephones and infrastructure. With adequate resources and appropriations, we could expand the system.

We are working to develop legislation addressing wireless devices. The goal is to allow a single free wireless 15-minute call each day to each inmate, though we have concerns about competition for telephone time.

VICE CHAIR HARRIS:
We have one letter (Exhibit K) submitted by Mercedes Maharis in support of S.B. 414.

Remainder of page intentionally left blank; signature page to follow

CHAIR SCHEIBLE:
Seeing no further business before the Committee, the meeting is adjourned at 3:36 p.m.

RESPECTFULLY SUBMITTED:

____
Jan Brase,
Committee Secretary

APPROVED BY:

____
Senator Melanie Scheible, Chair

DATE:______________________________

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Introduced on Minute Report Page No.**	**Witness / Entity**	**Description**
	A	1		Agenda
	B	1		Attendance Roster
S.B. 321	C	6	Washoe County Sheriff's Office / Las Vegas Metropolitan Police Department / Nevada District Attorneys Association	Proposed Amendment
S.B. 351	D	12	Sonya Williams	Support Testimony
S.B. 351	E	18	Senator Melanie Scheible	Letter of Support / Ashley Gaddis
S.B. 354	F	18	Senator Melanie Scheible	Outline / Multistate Professional Responsibility Examination
S.B. 354	G	20	Senator Melanie Scheible	Proposed Amendment
S.B. 354	H	20	Senator Melanie Scheible	Table / Judicial Education Requirements of Nevada
S.B. 354	I	20	Elliot Malin	Written Testimony
S.B. 382	J	30	Senator Melanie Scheible	Proposed Amendment / Serena Evans
S.B. 414	K	34	Senator Dallas Harris	Letter outlining Prison Resident Expenses / Mercedes Maharis