MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-second Session
April 12, 2023

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 12:03 p.m. on Wednesday, April 12, 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 James Ohrenschall
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Senator Pat Spearman, Senatorial District No. 1

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Doug Billings, William S. Boyd School of Law, University of Nevada, Las Vegas
Veronika Denisova, William S. Boyd School of Law, University of Nevada, Las Vegas
Mike Brooks, William S. Boyd School of Law, University of Nevada, Las Vegas

Jeff Bollers, William S. Boyd School of Law, University of Nevada, Las Vegas
Michael Alonso, Association of Gaming Equipment Manufacturers; Caesars Entertainment
Kirk Hendrick, Chair, Nevada Gaming Control Board
Ian Epstein, Founder, PropSwap
Virginia Valentine, Nevada Resort Association
Idalis Figueroa
Leisa Moseley Sales, Fines and Fees Justice Center
Max Carter-Oberstone, Vice President, San Francisco Police Commission
Joshua Cole, Former Member, Virginia General Assembly
John J. Piro, Clark County Public Defender's Office
Lilith Baran, American Civil Liberties Union of Nevada
Erica Roth, Washoe County Public Defender's Office
Wiselet Rouzard, Deputy State Director, Americans for Prosperity Nevada
Tonja Brown, Advocates for the Inmates and the Innocent
Val Thomason
Annmarie Grant
Denise Bolanos, Return Strong!
A'Esha Goins, NAACP Las Vegas
Jesse Cruz
Will Pregman, Battle Born Progress
Shaun Navarro
Unidentified Testifier No. 1
Beth Schmidt, Las Vegas Metropolitan Police Department
Greg Herrera, Nevada Sheriffs' and Chiefs' Association
Troyce Krumme, Vice Chair, Las Vegas Metro Police Managers and Supervisors Association; Public Safety Alliance of Nevada
John T. Jones, Jr., Clark County District Attorney's Office
Jeff Rogan, Clark County
Richard P. McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition
John Abel, Las Vegas Police Protective Association
Nick Shepack, Social Workers Against Solitary Confinement; Return Strong!
Lisa Foley
Ayanna Simmons
Karen Gedney, M.D.
William Connors
Jodi Hocking, Return Strong!
Christine Essex

Angela Copeland, Return Strong!
Chris Kovello, Return Strong!
Moises Cortez
Destiny Rich
Phillip Minor
Ashley Gaddis
Jamie Figueroa
Sabrina Torres, Return Strong!
Sonya Williams, Return Strong!
Holly Welborn
Yesenia Moya
Mark C. Bettencourt, Nevada Coalition Against the Death Penalty
Unidentified Testifier No. 2
Mercedes Maharis
Jovan Jackson
James Dzurenda, Director, Nevada Department of Corrections

CHAIR SCHEIBLE:
We will open the hearing on Senate Bill (S.B.) 379.

SENATE BILL 379: Revises provisions relating to gaming. (BDR 41-1016)

SENATOR MARILYN DONDERO LOOP (Senatorial District No. 8):
Senate Bill 379 provides for the licensure and regulation of secondary sports pool wagering brokers. Sports betting has been growing exponentially over the last several years, which is fantastic for our gaming industry and thus our State. However, as is always true when innovation comes, for Nevada to remain the gold standard of the industry, we must ensure that our regulatory framework not only keeps pace but also sets the standard for other jurisdictions to meet. This is what S.B. 379 is designed to do in the secondary sports betting arena. With me today is the William S. Boyd School of Law, University of Nevada, Las Vegas, gaming law and policy group to discuss the technical elements of the bill and answer your questions. This bill comes from their endeavors. The three concepts contained within the bill are: a new definition for gaming employees, the restructure of foreign gaming reporting and the registration process for secondary ticket brokers.

Section 2 of S.B. 379 defines a secondary sports wagering pool broker as "a person who, for a fee, facilitates the sale from one person to another of an

existing wager originally placed with a person who operates a sports pool." Section 3 then requires the Nevada Gaming Commission to adopt regulations governing these brokers to include the requirement that they be registered with the Nevada Gaming Control Board (NGCB) and that their employees be registered in the same manner as other gaming employees. This section also requires the Commission establish the fee structure for these registrations. Other sections of the bill make it illegal to operate one of these businesses without proper registration and require the adoption of regulations specifying duties relating to the manufacturer and repair of any equipment or interactive gaming systems used in the business. Finally, section 7 requires quarterly and annual reporting on various subjects related to foreign gaming manufacturers, which is defined to mean a licensee that receives recurring revenue from gaming devices that are located outside the State.

DOUG BILLINGS (William S. Boyd School of Law, University of Nevada, Las Vegas):
I will be discussing section 7 of S.B. 379 which proposes to make changes to Nevada's foreign gaming statutes. The intent of section 7 is to modernize the statute that has outgrown its original purpose and to align statute with the modern way the Nevada Gaming Control Board practices in this respect.

The foreign gaming reporting statutes were first adopted in 1977 after New Jersey first implemented legalized gambling. There was concern at the time among Nevada regulators that a Nevada licensee might go into New Jersey or another jurisdiction, begin to operate and have problems. That would have some negative impact on Nevada and its reputation. In response, the Legislature passed and adopted the foreign gaming statutes which initially required a Nevada licensee to obtain permission from the NGCB before the concern could operate foreign gaming.

In 1993, the Legislature amended the statute, deleted the permission structure and replaced it with a robust reporting requirement. Under the revised statutes, licensees participating in foreign gaming were required to file various annual and quarterly reports as well as reports each time they left or came into a new jurisdiction. Reporting requirements are set forth in *Nevada Revised Statutes* (NRS) 463.710. Despite the rapid expansion of gaming across the globe in the last 30 years and even though multijurisdictional gaming companies are now commonplace throughout the industry, statute requirements remain essentially unchanged since 1993. As a result, compliance for the industry has become

more and more burdensome as has the collection of data on the part of the NGCB.

It is worth noting the law applies equally to all licensees, whether they are operators of casinos or slot machine manufacturers. When we began to look at S.B. 379, we focused on the manufacturers that have some unique issues because reporting requirements are particularly burdensome for them. They are in thousands of locations. They have slot machines throughout the world operating in hundreds of jurisdictions.

We submitted the bill draft request (BDR) that resulted in section 7 of S.B. 379. The bill draws a distinction between manufacturers and operators, expecting different reporting requirements for each group. However, as we reached out to stakeholders—including importantly, the NGCB—over the past few weeks, we learned some things. There was broad agreement among stakeholders that the statute needed to be modernized. We learned there was a shared appetite to expand the scope of section 7 to include not only manufacturers but operators. To that end, I have been collaborating with the Investigations Division, NGCB, over the past few weeks to understand its wants and needs with respect to foreign gaming. That has resulted in a conceptual amendment.

The conceptual amendment (Exhibit C) replaces section 7 of S.B. 379. It removes the distinction between operators and manufacturers and would continue to have one set of reporting requirements continue to apply to all licensees. However, those reporting requirements would be substantially reduced and simplified for all licensees. The conceptual amendment under NRS 463.710, subsection 1, basically requires that any Nevada licensee file a notice when it begins participating in foreign gaming. Under NRS 463.710, subsection 3, the requirement is for the licensee to file a notice if it exits gaming.

The conceptual amendment is still too broad. The intent is to have a single notice filed when a licensee begins or ends foreign gaming rather than a notice each time the licensee enters or accesses a new jurisdiction. It is something we can continue to improve upon approval of S.B. 379.

Returning to Exhibit C, a requirement would be placed on licensees in NRS 463.710, subsection 2 that contains a number of specific items regarding foreign gaming information such as changes in ownership and management or

regulatory fines imposed by a foreign jurisdiction. These carryovers from statute are things the NGCB wants and needs to continue to receive from their licensees. This amendment would eliminate annual reports required under the existing statute and also eliminate quarterly reports where licensees have been required to identify every location in which they participate—a burden for everyone, especially manufacturers.

Cumulatively, these changes would result in a significant reduction in the regulatory burden on licensees and in the amount of unnecessary paperwork submitted to the NGCB. It would continue to ensure the Board has all the foreign gaming information it requires to continue to monitor out-of-state business practices of its licensees.

The gaming landscape is different than in 1977 or 1993. While Nevada continues to be the gold standard when it comes to gaming regulation, other states and other countries have themselves developed robust regulatory systems that help to ensure the integrity of gaming worldwide. Concerns present in 1977 and in 1993 do not exist anymore. Statute should reflect the changes. For these reasons, I ask your support of S.B. 379, including the conceptual amendment to section 7.

VERONIKA DENISOVA (William S. Boyd School of Law, University of Nevada, Las Vegas):
I am testifying on a suggested change to the definition of gaming employee described in NRS 463.0157 as outlined in the proposed amendment (Exhibit D) and my remarks.

MIKE BROOKS (William S. Boyd School of Law, University of Nevada, Las Vegas):
I support S.B. 379. During the late 1990s and early 2000s, the Internet revolutionized many industries; among these were secondary sports pool wagering brokers. Companies like StubHub, Ticketmaster and others created a marketplace for the buying and reselling of purchased tickets. When the United States Supreme Court repealed the Professional and Amateur Sports Protection Act, it was no surprise that this model found its way in the sports world. Nevada law only contemplates secondary brokering as it relates to dubious or deceptive practices and primarily deals with scalping. No other regulations exist. As we saw with the Taylor Swift ticket fiasco, regulation is appropriate and often needed in this area and in this context.

Across the Country, secondary ticket brokers are operating in many jurisdictions. They are not considered gambling enterprises, and states often do not have a position on whether they should be regulated. Nevada should lead the way and regulate this industry. Throughout the drafting process, we have had an opportunity to reach out to stakeholders. Some of the feedback supporting the registration of these ticket brokers includes concerns about money laundering and the character of the types of people placing these wagers. Self-imposed integrity standards in the industry have led the way, but it is important to have these standards reflected in our regulations. We ask for your support for S.B. 379 to provide for the regulation and operation of secondary ticket brokers that provide a marketplace for individuals to purchase a legal sports betting ticket for resale.

JEFF BOLLERS (William S. Boyd School of Law, University of Nevada, Las Vegas): I support S.B. 379. The BDR that ultimately became S.B. 379 was original work produced in our capacities as students at the William S. Boyd School of Law. While each of us did reach out to stakeholders for feedback, the language we ultimately submitted to the Legislative Counsel Bureau was the culmination of our individual independent research and drafting on issues of a personal interest that we considered important to the gaming industry in Nevada.

The secondary sports pool wagering broker component of S.B. 379 is important because the current statutory and regulatory scheme in Nevada does not contemplate the existence of a secondary market for sports wagers. The bill does not offer preferential treatment to secondary sports wager brokers. It proposes recognition that this business is distinct from operating a sports book and therefore warrants a different kind of regulatory treatment. Secondary wager brokers neither pose nor are exposed to the same risks as sports book operators.

The fundamental differences in the nature of the business warrant a different regulatory scheme. Trying to make sports book regulations applicable to sports wager brokers is impractical if not largely inapplicable. For example, regulations that concern maintaining cash reserves to pay winning wagers and regulations concerning the posting of odds do not apply to sports wagering ticket brokers because it is not an aspect of their business. It would be akin to applying the same set of regulations to Priceline and United Airlines. It is true that you can purchase a plane ticket through either of those entities, but the fundamental differences in those businesses warrant a different kind of regulatory treatment.

No one would accuse Priceline of operating an airline without a license because it facilitates the purchase of airline tickets.

Registration requirements in S.B. 379 reflect and balance Nevada's public policy priorities of encouraging innovation through free market competition and maintaining integrity in the gaming industry by excluding bad actors. Requiring secondary wager brokers and their employees to register with the NGCB will deter bad actors from attempting to enter the market.

Section 3, subsections 4 and 5 of S.B. 379 empower the Gaming Control Commission to require the owner, operator or employee of any secondary sports pool wagering broker to file an application for a finding of suitability and to exclude any person the Commission deems unsuitable. Maintaining the status quo in Nevada and requiring secondary wager brokers to obtain an unrestricted gaming license will continue to operate as a de facto prohibition of these businesses such as those secondary brokers that generate revenue through transaction fees rather than gaming activities and amenities. For them, the cost of obtaining a nonrestricted gaming license in Nevada is simply untenable. Senate Bill 379 does not allow secondary wager brokers to evade regulation. It provides for the appropriate type of regulation proportional to the nature and scope of their businesses. Senate Bill 379 also furthers Nevada's public policy by empowering regulators to exclude persons found unsuitable and ultimately allows the market to determine whether those persons or those businesses are viable. We respectfully ask for Committee support of S.B. 379.

CHAIR SCHEIBLE:
Can you clarify language in S.B. 379 defining gaming employees?

MS. DENISOVA:
We provide for the Commission to adopt provisions, definitions and responsibilities for gaming employees.

CHAIR SCHEIBLE:
Where would the language of the proposed amendment, Exhibit D, be included in S.B. 379?

MS. DENISOVA:
It is section 4 which reads:

> The Commission shall adopt regulations specifying the duties relating to the manufacture or repair of gaming devices, associated equipment, cashless wagering systems or interactive gaming systems that an employer must have for that employee to constitute a gaming employee pursuant to paragraph (j) of subsection 1 of NRS 463.0157.

CHAIR SCHEIBLE:
You are not proposing an amendment to add the definition to statute. You propose the statute require the Commission to create this definition regulation.

SENATOR NGUYEN:
Could you elaborate on the proposal to require secondary wager brokers to register with the Commission as opposed to obtain a gaming license?

MR. BROOKS:
Obtaining a full gaming license when you do not conduct the same business model as sports pools proves to be untenable because of the associated costs and fees. These secondary sports ticket brokers facilitate the transaction of the ticket itself. They do not set betting odds. They do not pay out winning wagers or collect money on wagers. Regulating them in the same way as a sports book proves unworkable for their business model.

SENATOR NGUYEN:
Is there an option for another level of gaming license with requirements beyond those of registration? In the industry, is there anything between registration and licensure?

MR. BOLLERS:
There are nonrestricted gaming licenses and registration. Licensure still is a much greater burden on regulators and operators relative to registration.

SENATOR OHRENSCHALL:
I commend the Boyd Law School students for their efforts on S.B. 379.

MICHAEL ALONSO (Association of Gaming Equipment Manufacturers; Caesars Entertainment):
Section 4 is important to the Association of Gaming Equipment Manufacturers. We would like to work with the Commission to clarify the definition of a manufacturing gaming employee.

I am here on behalf of both organizations regarding section 7. I am looking at the proposed amendment, Exhibit C, which would include the operators and help Caesars Entertainment, Inc., as well. Over a period, foreign gaming requirements have changed, and it is important to reevaluate what is necessary for the manufacturers and the operators to report on a regular basis. It can be burdensome, and the changes are good. Neither of my clients takes a position on secondary sports pool wagering brokers.

SENATOR HANSEN:
What is lacking in NRS preventing the Commission from making these regulatory changes? The Gaming Commission is allowed flexibility under statute. Is this something they have overlooked or just failed to do? What is the reason for bringing S.B. 379?

MR. ALONSO:
I do not know if it has been overlooked. The Commission and the Board look for guidance from the Legislature on policy. It is likely an issue that has not come up. Because the manufacturers have concerns about the lack of a clear definition of a gaming employee, it may be the time for change has come. These companies are all over the world. They have employees who do not touch a machine or have duties involving wagering. The Gaming Control Board is holding a workshop to review some outdated regulations. From this standpoint, S.B. 379 is probably guidance to the Commission from the policy-making Body for looking at the issue.

SENATOR HANSEN:
I understand, but this may be an issue best handled administratively.

KIRK HENDRICK (Chair, Nevada Gaming Control Board):
Mr. Alonso addressed the question well. It probably is time for the Commission to review regulations. As standard practice, because this is not the NGCB's bill, the Board can neither support nor oppose. We have been working with the

students to craft suitable language for presentation to the Commission in the event the statute is changed.

SENATOR HANSEN:
I wanted to make sure the Board is included in the process and members agree a change to NRS is preferable to the regulatory process.

MR. HENDRICK:
We are aware of the bill, and the industry is aware as well. We will be working with both the students and the industry to be sure the language is comfortable for the Board and the Commission. We will be presenting our concerns during neutral testimony.

IAN EPSTEIN (Founder, PropSwap):
I support S.B. 379. I have submitted written remarks (Exhibit E) relating to secondary sportsbook ticket markets and a presentation (Exhibit F contains copyrighted material. Original is available upon request of the Research Library.) outlining how the selling process works.

The NGCB will say S.B. 379 is not feasible because it will result in exorbitant costs to the Board and bring severe harm to the industry.

CHAIR SCHEIBLE:
It was my impression that the Board is neutral on this bill.

MR. HENDRICK:
Pursuant to executive policy, the Board remains neutral on any bill it does not present.

MR. EPSTEIN:
I urge you to support S.B. 379 not so Nevada can lead the charge on this matter but rather so Nevada can catch up to other states.

SENATOR NGUYEN:
How do you differentiate between a concert ticket and a gaming wager in the secondary market? They are different.

MR. EPSTEIN:
We use a baseball card analogy. If you want to buy a rookie card today, you are buying it because you think it may go up in value with the expectation of selling it. The same is true of a sports wager. It may increase in value, it may not.

SENATOR NGUYEN:
This is gaming. You claim you are just selling a piece of paper, but some of the protections we have in place for problem gamblers or restrictions we have on gaming licensees are obligations your industry may not answer to. Registration without licensing may create issues.

Would this apply to only sports betting? What about lottery tickets?

MR. EPSTEIN:
Sellers make wagers at licensed sports books. Any sort of anti-money laundering or problem gambler protections are addressed at the time of purchase. If a person decides to list a wager for sale through our company, we send winning tickets to the buyer, and it is the buyer's responsibility to redeem the ticket. We are the middlemen in transferring of ownership. In terms of placing or redeeming a wager, it is the customer's responsibility.

SENATOR NGUYEN:
A problem gambler who is purchasing numerous wagers on the secondary market would not be alerted to programs that help those with gambling addictions unless that person goes to a sports book to redeem a winning ticket. Is that correct?

MR. EPSTEIN:
In other states, we have talked to regulators and operators about sharing excluded gamblers lists which we are happy to incorporate into our system. We are considering developing our own independent, excluded list.

Concerning the question on lotteries, we only deal in sports wagers. Some international companies are middlemen for lottery tickets. It is a growing industry.

SENATOR HANSEN:
Rather than buying a previously purchased ticket, can a gambler simply go to a sports book and buy his or her own ticket?

MR. EPSTEIN:
The reason buyers purchase tickets in a secondary market is that sellers can offer a better deal than is available at the sports book. For example, a seller purchases a ticket for the Vegas Golden Knights to win the Stanley Cup at 20-to-1 odds. Later when the odds have fallen to 5 to 1 at Caesars Palace, there is still no guarantee the Golden Knights will win, but the seller may find a buyer willing to pay more than the original purchase price. Discounts are available through our website by buying from another individual versus going to a casino.

MR. HENDRICK:
We are neutral to S.B. 379. We applaud the law students who presented their respective sections of the bill. The Board encourages student participation in the legislative process; however, we would be remiss if the record did not reflect concerns regarding sections 2, 3 and 6 of S.B. 379 pursuant to secondary sports pool wagering brokers. Specifically, if the proposed secondary sports pool wagering brokers are only registered with the Board rather than being licensed by the Board, it would create an entirely new category of gaming regulation in what we all know is a highly regulated industry in the State. Additionally, while Board members and staff enjoyed meeting with the law students a couple of weeks ago, the Board still has multiple unanswered questions regarding how many regulations the Commission would need to pass for compliance with all federal, State and local laws and regulations which licensed race and sports book pools adhere to. Those would include anti-money laundering (AML), know your customer (KYC), cash transaction reports, IRS W-2 gaming and other tax reporting requirements, patron disputes, suspicious activity reports and responsible wagering, just to name a few. By law, it should be noted that a licensed race book and sports pool can refuse to cash a ticket from a person not known to have actually placed the wager.

Finally, it is important for the Committee to be aware that secondary sports wagering pool broker activity is the subject matter of a legal action filed in 2021 by PropSwap against the Board that is on appeal to the Nevada Supreme Court based on a favorable district court ruling on behalf of the State. Regarding other sections of S.B. 379, Board staff has reviewed the language. While the Board remains neutral, it wishes to work with the students and the gaming industry to be sure those sections are appropriately worded to effectuate effective regulation for the industry.

VIRGINIA VALENTINE (Nevada Resort Association):
We are here to support the foreign gaming sections in S.B. 379. We are neutral on the employee sections that deal with manufacturers. We are opposed to the section that deals with the secondary ticket market. Unlike concert or sports ticket sales, secondary sports pool wagering presents scenarios that pose significant challenges for Nevada's licensed sports books to comply with federal and State AML and KYC protocols. For example, in a secondary sports pool wager, a licensed sports book will only interact with the patron making the initial wager and the patron presenting the winning ticket for payment. In this scenario, at no point will the sports book interact with the secondary broker nor have the ability to verify the identity or status of such broker. A patron designated as a high AML risk could also potentially use a broker to place and redeem wagers without our knowledge and thus evade AML controls. While the bill is silent on the issue, an obligation that sports books track, confirm and report whether a sports wagering ticket was part of a secondary sports bill wagering transaction would impose an unworkable administrative burden upon Nevada's licensed sports books.

Additionally, S.B. 379 would pose challenges from a risk management standpoint. The bill would essentially authorize messenger betting, a situation where a person is paid to place wagers on behalf of the patron and give rise to a situation where a sports betting ticket is potentially sold on the secondary market multiple times to patrons to whom the sports book would not sell the wager in the first place for AML, KYC or risk management decisions. Risk rating customers and conducting customer due diligence would be impossible for sports books as they would not know the ultimate beneficiary of a wager at the time the wager was initially made. This looks a lot like gaming.

We thank the students who reached out to us, presented white papers and answered our questions.

CHAIR SCHEIBLE:
We will close the hearing on S.B. 379 and open the work session on S.B. 222.

SENATE BILL 222: Revises provisions relating to juries. (BDR 1-192)

PATRICK GUINAN (Policy Analyst):
I will read a bill summary of S.B. 222 in the work session document (Exhibit G).

An amendment, Exhibit G, proposed by Senator Harris adds a new section to clarify that parties may challenge a prospective juror, and courts may remove a prospective juror based on actual, implied or inferred bias. It amends the effective date of the bill to allow for implementation.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 222.

SENATOR NGUYEN SECONDED THE MOTION.

SENATOR HANSEN:
I am uncomfortable. It is ironic that we just had a bill where we are going to take away a person's Second Amendment rights for ten years on a gross misdemeanor charge, but S.B. 222 will allow recently released individuals to serve on juries dealing with criminal law. There should be a reasonable time between those things. Existing law allows a six-year window, which seems reasonable. I am also uncomfortable with requiring the Department of Health and Human Services to provide a list of people on public assistance for a potential jury selection process. I do not see where we are going with that. We are creating unnecessary burdens. I will vote no.

THE MOTION CARRIED. (SENATORS HANSEN AND STONE VOTED NO.)

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CHAIR SCHEIBLE:
We will close the work session on S.B. 222 and open the work session on S.B. 252.

SENATE BILL 252: Revises provisions governing civil actions. (BDR 2-852)

MR. GUINAN:
I will read the bill summary of S.B. 252 in the work session document (Exhibit H).

CHAIR SCHEIBLE:
Hearing no discussion, I will accept a vote on S.B. 252.

SENATOR OHRENSCHALL MOVED TO DO PASS S.B. 252.

SENATOR NGUYEN SECONDED THE MOTION.

SENATOR HANSEN:
I had a lengthy discussion with the attorney who presented S.B. 252 with Senator Edgar Flores. The focus of the types of groups addressed in the bill was typically in the range of millions of dollars. It makes sense to have these sorts of focus groups, but it may add an additional burden for groups with fewer resources. Under statute, a judge does have an opportunity to include those costs, but to make those costs mandatory is a problem. While the idea is excellent, it should not be mandatory since we already have a level of discretion that should remain in place in State law.

THE MOTION CARRIED. (SENATORS HANSEN, KRASNER AND STONE VOTED NO.)

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CHAIR SCHEIBLE:
I will close the work session on S.B. 252 and open the work session on S.B. 309.

SENATE BILL 309: Makes various changes relating to health care. (BDR 15-498)

MR. GUINAN:
I will read the bill summary of S.B. 309 in the work session document (Exhibit I).

CHAIR SCHEIBLE:
Hearing no discussion, I will accept a vote on S.B. 309.

SENATOR NGUYEN MOVED TO DO PASS S.B. 309.

SENATOR STONE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 309 and open the work session on S.B. 321.

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

MR. GUINAN:
I will read the bill summary of S.B. 321 in the work session document (Exhibit J) which includes an amendment adding language providing that a law enforcement agency may include a DNA profile in a database if required to do so by federal law, and that law enforcement may share biological evidence of a survivor if obligated to do so as part of the discovery for a trial.

CHAIR SCHEIBLE:
Hearing no discussion, I will accept a vote on S.B. 321.

> SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 321.
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> SENATOR HARRIS SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 321 and open the work session on S.B. 354.

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

MR. GUINAN:
I will read the bill summary of S.B. 354 in the work session document (Exhibit K) and an amendment.

CHAIR SCHEIBLE:
The amendment provides that the judiciary will develop a test for justices of the peace to take and pass within 18 months of being appointed or elected to that

position. We have agreement to the language from the Nevada Supreme Court and the Nevada Judges of Limited Jurisdiction.

SENATOR HANSEN:
Does the amendment allow newly elected justices of the peace who fail a test 18 months to pass?

CHAIR SCHEIBLE:
As the amendment is drafted, if a justice of the peace fails that exam, he or she would have an opportunity to take it again. An individual who fails to pass within 18 months would not be eligible to take office. That seat would be vacated.

The amendment was drafted so the test could either be freestanding or incorporated into the National Judicial College as a type of final examination, which I think is the direction that the stakeholders plan to go with this. We wanted to leave it open so that when we start to develop the test, we can determine whether it makes sense.

SENATOR STONE:
Could you articulate the direction of the test format? Will it encompass judicial ethics and judicial procedures? Mainly, the goal is to make sure a justice of the peace has a solid foundation to be a judge.

CHAIR SCHEIBLE:
The amendment does not prescribe the format of the test in terms of essays or multiple-choice questions, but it does prescribe the inclusion of judicial decorum, civil and criminal procedure as relevant to their jurisdiction, orders of protection and accounting standards for a justice of the peace.

SENATOR HARRIS:
Is there any guidance in the bill as amended as to a standard passing score?

CHAIR SCHEIBLE:
It does not prescribe a passing score. I will accept a vote on S.B. 354.

> SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 354.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 354 and open the work session on S.B. 401.

SENATE BILL 401: Revises provisions relating to punitive damages. (BDR 3-686)

MR. GUINAN:
I will read the bill summary of S.B. 401 in the work session document (Exhibit L).

CHAIR SCHEIBLE:
Hearing no discussion, I will accept a vote on S.B. 401.

SENATOR NGUYEN MOVED TO DO PASS S.B. 401.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SCHEIBLE:
I will close the work session on S.B. 401 and open the work session on S.B. 413.

SENATE BILL 413: Revises provisions relating to credits to reduce the sentence of an offender. (BDR 16-313)

MR. GUINAN:
I will read the bill summary of S.B. 413 in the work session document (Exhibit M).

SENATOR HARRIS:
After discussions with the Attorney General's Office, I would also like to submit a conceptual amendment where we strike the term irrevocable. It will not read "irrevocable election." It will read "election."

CHAIR SCHEIBLE:
I will accept a vote on S.B. 413.

> SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 413 INCLUDING STRIKING THE TERM IRREVOCABLE.
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> SENATOR OHRENSCHALL SECONDED THE MOTION.
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> THE MOTION CARRIED. (SENATOR DONDERO LOOP WAS EXCUSED FOR THE VOTE.)

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CHAIR SCHEIBLE:
I will close the work session on S.B. 413 and open the work session on S.B. 417.

SENATE BILL 417: Revises provisions governing common-interest communities. (BDR 10-970)

MR. GUINAN:
I will read the bill summary of S.B. 417 in the work session document (Exhibit N).

CHAIR SCHEIBLE:
I will accept a vote on S.B. 417.

> SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 417.
>
> SENATOR NGUYEN SECONDED THE MOTION.

SENATOR STONE:
Homeowners' associations are powerful in Nevada, and I worry about stifling free speech. Language could be subjectively viewed as hostile or misleading and lead to a ten-year prohibition for running for a seat on a board or to be the beneficiary of a lawsuit which would recover compensatory damages. For those reasons, I respectfully will vote no.

SENATOR OHRENSCHALL:
I am supporting the bill. I need time to consider the amendment language. I reserve my right to change my vote on the Floor.

SENATOR HANSEN:
Senator Stone has raised some points prior to the hearing that I had not considered. I do want to have an opportunity to vet this more. I support the bill today but reserve the right to change my vote on the Floor.

THE MOTION CARRIED. (SENATOR DONDERO LOOP WAS EXCUSED FOR THE VOTE. SENATORS KRASNER AND STONE VOTED NO.)

* * * * *

CHAIR SCHEIBLE:
I will close the work session and open the hearing on S.B. 296.

SENATE BILL 296: Revises provisions related to traffic stops. (BDR 43-196)

SENATOR HARRIS:
A strong libertarian streak runs through this State. We are a leave-us-alone type people. That is why not wearing your seatbelt is a secondary offense. If you are not wearing your seatbelt in this State, police officers cannot pull you over for that violation. Senator Bill 296 gets at the gist of this philosophy and prohibits a peace officer from stopping a motor vehicle for the sole purpose of determining whether the driver is committing a low-level traffic violation or issuing a citation for such a violation.

I will draw the Committee's attention to Proposed Amendment 3582 (Exhibit O) which deletes language throughout the bill. Section 9.1 reduces a number of violations to secondary offenses. The first is vehicle registration. Unless a driver's registration is expired for more than 60 days, he or she has not broken

a law. We are going to allow officers to give the driver a break. We do not want to make registration a law enforcement officer's job. The Department of Motor Vehicles will levy fees.
In Nevada, new residents are required to register their vehicle within 30 days. We propose that those violations are a secondary offense.

Section 9.3 addresses the display of license plates. The most important issue with license plates is that they be visible. Section 9.4 addresses placement of moving tags that must be visible; if so, a driver cannot be cited for improper placement. Section 9.5 addresses tail lamps. In consultation with the law enforcement community, we agree that officers can offer a public service by informing drivers when they notice their taillights are out. Section 9.9 concerns brake lights, which are addressed in the same manner as tail lamps.

This bill makes a lot of sense. Let us allow people to go on with their day as long as they are driving safely. We want zero fatalities on our roads. We should not be disrupting drivers and law enforcement with violations which should be secondary offenses.

IDALIS FIGUEROA:
I am an intern with Senator Dallas Harris's office. Senate Bill 296 prohibits a peace officer from issuing a citation for certain violations relating to motor vehicles. This bill is brought to tackle the issue of pretextual stops when peace officers use minor offenses to perform traffic stops and then use these stops as a basis or a pretext to conduct a search for other crimes. While we understand safety is a concern when dealing with traffic stops, the proposed amendment addresses concerns expressed by stakeholders. The intent of this bill is to eliminate or reduce pretextual stops and to let people be on their way.

LEISA MOSELEY SALES (Fines and Fees Justice Center):
Traffic stops are the most common reasons for contact with the police in the United States. Research shows that these traffic stops are not always for moving violations; instead, they are for what we would consider administrative offenses. They are infractions completely unrelated to a motorist driving. These infractions include broken taillights, missing reflectors and brake lights, illuminated brake lights or license plates not displayed in proper positions. A 2020 University of Nevada, Las Vegas, study that we used in developing A.B. No. 116 of the 81st Session found of all the traffic tickets converted to warrants in Clark County, 58.6 percent were for administrative infractions; only

16 percent were for moving violations or anything directly related to a motorist's driving. Based on nationwide research and data, these traffic stops impact communities of color, poor communities and particularly the Black community.

The risks traffic stops pose to law enforcement officers are not often discussed. According to a U.S. Department of Justice study conducted about the fatalities of law enforcement officers in 2017, the most common policing activity that leads to officer fatality is an officer-initiated traffic stop. This issue needs to be addressed. A handful of places such as Philadelphia, Pittsburgh, San Francisco and Virginia prioritize their communities and law enforcement officers by taking steps to limit some of these traffic stops. I am asking that Nevada become one of those states. We should be one of those places that prioritizes officer safety and the safety of our community. Doing so frees up our officers to focus on more serious crimes that directly impact public safety. It will preserve our State's already limited resources.

MAX CARTER-OBERSTONE (Vice President, San Francisco Police Commission):
I will discuss a policy we recently enacted to curtail the use of pretext stops in San Francisco. I will cover three items: identifying the problem, identifying policy endeavors to address the problem and public outreach processes that informed the policy.

The problem was the police department was making thousands of traffic stops every year for low-level traffic infractions which did not do anything to make San Franciscans safer. These infractions were not leading to deaths, injuries or crashes on our roadways. Officers were not finding contraband, guns, or drugs. They were not arresting anyone but were expending time and money that could be rerouted to other proven crime prevention law enforcement strategies. This situation called for a policy solution; but additionally, the strategy did not provide return on investment because the traffic stops were disproportionately carried out against people of color. We questioned our moral and constitutional obligation to accord every citizen equal treatment under the law.

The policy needed to address the problem identified in nine categories of low-level traffic offenses such as registration, license plate offenses and illuminated vehicle lights. These offenses can no longer be the sole reason for initiating a traffic stop while at the same time leaving open avenues for enforcement. Policy limits traffic stops but not enforcement. It limits what

officers can do when initiating a pretext stop. Before the policy was adopted, traffic stops allowed the officer an opportunity to search the vehicle without probable cause. Our policy states, that to request consent to search a car, officers need reasonable suspicion of criminal activity. Under the new policy, absent any shred of evidence, the officer can no longer ask investigatory questions unrelated to the stop.

The public outreach strategy is successful because the chief of police and the community are supportive. Early in the process, we publicized a draft version of the policy providing a concrete document to view and comment upon. We received thousands of letters and emails, all of which we published to our website. We formed a working group of 15 to 20 subject matter experts from diverse backgrounds in law enforcement and the legal community. We held a series of four meetings where the experts outlined the policy line by line and offered feedback and comments. We held about a dozen community listening sessions after working hours in various parts of the city. Average citizens attended and offered comment and feedback. We held closed-door sessions specifically with officers integral to the process for feedback on the policy. Our goal was to enact a policy that would work and be effectively implemented. As a final step in the outreach process, we invited speakers from policy think tanks and the chief of police of a jurisdiction in North Carolina where a similar policy was implemented.

JOSHUA COLE (Former Member, Virginia General Assembly):
I support S.B. 296. In 2020, the Virginia General Assembly was called into a special session by former Governor Ralph Northam to create legislation to curb police brutality. Introduced during that special session, Virginia House Bill 5058 is like S.B. 296.

We halted pretextual stops to make sure our citizens and law enforcement agents are protected. We created another bill in 2020 dealing with community policing reports. We found out through the community policing report that Black Virginians bore the brunt of roadside traffic enforcement. Black Virginians accounted for 30 percent of traffic stops despite only representing 19 percent of the state. Latino and Latina drivers accounted for 9 percent of stops about equal proportion to the population they represent. Taking these facts into consideration, we passed House Bill 5058 with the support of law enforcement organizations and many other people.

I urge the Committee to support S.B. 296 and consider the work we have done in Virginia.

SENATOR HARRIS:
The importance of the law enforcement community's engagement in this process is paramount. I have had many conversations with law enforcement, and this amendment reflects their valuable input. In Nevada, while we have started traffic stop collection data, we do not have data to suggest disparities in traffic stops. We need to ensure law enforcement officers putting themselves in dangerous situations do so only when unsafe individuals need to be confronted.

SENATOR HANSEN:
I appreciate the amended version of S.B. 296. We have decriminalized all traffic citations so protections under criminal law do not exist. Is that correct? Under criminal law, officers must prove guilt beyond reasonable doubt and have probable cause. Can you outline protections available under S.B. 296?

SENATOR HARRIS:
We did not decriminalize all traffic infractions. This bill would not alter enforcement of traffic infractions. The question is whether there is probable cause to make the stop for a civil or criminal violation in the first place.

SENATOR HANSEN:
Normally, protections fall under criminal law. Decriminalizing civil procedures leads to a loss of civil legal protections. I agree with your goals. You are trying to eliminate potential probable causes that lead to selective prosecution of people of color.

Under the amended version of S.B. 296, a driver stopped for one violation can be prosecuted for violations discovered following the stop. Is that correct?

SENATOR HARRIS:
Under both versions of the bill, drivers can be prosecuted for violations discovered by the officer following a stop. This is complicated in respect to search and seizure law. Under both bills, any stop made without probable cause is a bad stop, risking all evidence gathered in the process. If an officer discovers a dead body in the backseat, nothing in the bill prevents a driver's arrest and further investigation.

SENATOR HANSEN:
We agree that in the absence of probable cause, no matter what the circumstances, citizens should be protected by Fourth and Fifth Amendment rights. Citizens have a reasonable expectation of privacy. I look forward to hearing from the law enforcement community.

SENATOR HARRIS:
Senate Bill 296 does not put constraints on consent searches. I encourage my law enforcement friends to think seriously about adopting a policy for when those consent searches are appropriate and link it to additional probable cause or reasonable suspicion. Officers should not be searching for additional violations when a driver is stopped for a low-level offense.

SENATOR STONE:
If an officer identifies a vehicle with expired registration, would this bill preclude running the license plate as a possible stolen vehicle or for other concerns?

SENATOR HARRIS:
No, it would not prevent law enforcement officers from running plates. It is my understanding officers run plates on vehicles with valid registration.

SENATOR STONE:
In the past three years, San Francisco has experienced a 111 percent increase in crime over the national average of 7.5 percent. Property crimes have increased 20 percent, and homicides have increased 17 percent. Is there any nexus between their policy and an increase in these criminal activities?

SENATOR HARRIS:
I can confidently tell you the answer is no. The San Francisco policy passed in January 2023 has not yet gone into effect.

MR. CARTER-OBERSTONE:
There can be no causality between any change in policy and crime rates in San Francisco because the policy has not yet been implemented. The experience of other jurisdictions as well as thoroughly researched studies confirm no correlation between limiting low-level stops and crime rates. A Stanford study of Nashville's policy change looked at block-by-block crime rates and the prevalence of low-level traffic stops. The study revealed no correlation.

SENATOR STONE:
I would appreciate details on these studies and research.

SENATOR OHRENSCHALL:
Some low-level stops, including those for expired registration, can be handled administratively through the Department of Motor Vehicles. Officers would be available to focus on serious crimes. I would appreciate hearing more from the experience in San Francisco once the policy is implemented.

SENATOR HARRIS:
I want the police to keep on policing, but these types of minor infractions are not where they should be devoting their focus. Most officers are electing to look the other way when observing low-level offenses because they understand they have bigger fish to fry.

JOHN J. PIRO (Clark County Public Defender's Office):
Senate Bill 296 builds on legislation introduced in previous sessions. The bill will reduce tense situations between law enforcement and drivers.

LILITH BARAN (American Civil Liberties Union of Nevada):
We support S.B. 296.

ERICA ROTH (Washoe County Public Defender's Office):
We support S.B. 296

WISELET ROUZARD (Deputy State Director, Americans for Prosperity Nevada):
We support S.B. 296. It builds on an important foundation developed over the last couple Legislative Sessions. It is important to rebuild trust with the law enforcement community. The State must first assess law enforcement responsibilities. This bill ensures that law enforcement resources address violations making our community less safe rather than low-level infractions that divert resources.

TONJA BROWN (Advocates for the Inmates and the Innocent):
We support S.B. 296. The bill provides several benefits including reduction of racial profiling in traffic stops and the potential for domestic violence when we consider the stress involved when a person is issued a traffic ticket.

Concerning forfeiture law, a veteran traveling through Nevada who was stopped by Nevada Highway Patrol that seized $87,000 found in his vehicle is in litigation against the State. The bill will address this type of issue.

VAL THOMASON:
I support S.B. 296. My six-year-old son was in the car when his father was stopped for an expired registration. The incident became violent, and his father's head was shoved into a glass window. It has been over a year and my son has not recovered from the trauma. In the 6 years I have known his father, a Black man, he has been stopped approximately 40 times. Every time he was pulled over, it was for a minor citation. Once, officers checked to see whether he had stolen my car. Every time he was pulled over, he went to jail. This does not happen for most people. As someone who was formerly incarcerated, the penalty for anything you do on the road can lead to jail time. In the time it takes to have a case dismissed, a person could lose his or her house or job. In some cases, I have seen people lose custody of their children.

ANNMARIE GRANT:
My brother, Thomas Purdy, was murdered by Reno police in the Washoe County Sheriff's office during a mental health crisis. I am calling in support of S.B. 296. Any time we can prevent contact with law enforcement over petty issues is one less opportunity for a person to lose his or her life, either a community member or law enforcement officer.

DENISE BOLANOS (Return Strong!):
We support S.B. 296.

A'ESHA GOINS (NAACP Las Vegas):
Minor traffic infractions should not be used as a pretext for police to stop individuals. This practice has led to far too many instances of racial profiling and harassment. It undermines trust between law enforcement officers and the communities they serve. As civil rights leader Martin Luther King Jr. once said, "Injustice anywhere is a threat to justice everywhere." It is our duty to fight against all forms of injustice. This bill is an important step in the right direction. We must work together to ensure that our communities are safe and free from discriminatory policing practices. I support S.B. 296.

JESSE CRUZ:
I am a North Las Vegas citizen. I support S.B. 296 as a young driver. I am 19 years old. I am hesitant to drive in areas when I do not know whether my brake light is out. I would be nervous when questioned by police officers about issues not related to the traffic stop. Allowing police officers to get to the point when pulling over young people will be helpful, especially Latino individuals.

WILL PREGMAN (Battle Born Progress Nevada):
We are in support of S.B. 296 and have submitted written remarks (Exhibit P).

SHAUN NAVARRO:
Senate Bill 296 affects people who are trying their best to get by. I was one of these people when I first moved to Las Vegas. I did not have my vehicle registration. It was stressful when I was driving and trying to go to work and go through the day without being stopped by a police officer. The issue for most people is they do not have money for vehicle registration. Traffic stops and citations exacerbate the problem. I support S.B. 296.

UNIDENTIFIED TESTIFIER NO. 1:
I support S.B. 296. Assembly Bill No. 116 of the 81st Session was passed to decriminalize minor traffic citations. Police officers will let you know they do not handle civil issues. The issues we are discussing, broken taillights and not having a license place in the right place, sound like civil rather than criminal issues.

BETH SCHMIDT (Las Vegas Metropolitan Police Department):
We are in neutral on S.B. 296. To clarify, the Las Vegas Metropolitan Police Department did not ask for the right to stop and warn drivers for burned out rear or brake lights or missing reflectors. We did not ask to stop and warn.

GREG HERRERA (Nevada Sheriffs' and Chiefs' Association):
We are neutral on S.B. 296. I want to thank Senator Harris for her communication, listening to our concerns and, ultimately, amending the bill. As a result of A.B. No. 116 of the 81st Session, agencies across the State have begun collecting statistics that will show the demographic makeup of traffic stops occurring from jurisdiction to jurisdiction. The Nevada Sheriffs' and Chiefs' Association is a professional organization of elected sheriffs, police chiefs and other leaders of public safety organizations in the State. We look forward to compiling that data and assuring consistency with our core

values of compassion, integrity, accountability, fairness, professionalism, innovation, continuous improvement and diversity inclusion.

TROYCE KRUMME (Vice Chair, Las Vegas Police Metro Managers and Supervisors Association; Public Safety Alliance of Nevada):
We are neutral on S.B. 296. When a critical incident ends badly and I am asked why the officer stopped a vehicle for a low-level offense, my answer is because it is against the law.

I have been asking, how do we fix this problem? My message to Legislators is that if they do not want us to make those stops, make those things not against the law. That will simplify the process.

I often think of the phrase "the consent of the governed." As government agents, we can only enforce laws when people are willing to abide by them. A wise person once told me that the community should have a say in how it is policed. The police do not make these decisions. We cannot make something legal. We cannot make something against the law. As leaders in the Las Vegas Metropolitan Police Department, we take pride in enforcing the law. Supervisors take pride in motivating officers to enforce the law. While there are laws on the books, officers are going to enforce them. It is incumbent on this Body to decide whether laws need to be changed.

JOHN T. JONES, JR. (Clark County District Attorney's Office):
We are neutral on S.B. 296.

JEFF ROGAN (Clark County):
The concern of the Clark County Office of Traffic Safety is primarily ensuring the safety of all types of road users from drivers and pedestrians to bicyclists. When we first saw S.B. 296, our concerns included in the list of offenses were those that would affect the safety of pedestrians. Thanks go to Senator Harris for working with us to remove those provisions from this bill to get us to a point where we could be neutral.

RICHARD P. MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):
We are neutral on S.B. 296. Neutral is not the ideal position because we need to legislate that these violations should not be used as a sole reason to effect a

traffic stop, and this is a positive effort. Members of our organizations have various opinions, so we are neutral.

JOHN ABEL (Las Vegas Police Protective Association):
I thank Senator Harris for including us in this bill from the beginning. We are neutral on S.B. 296.

SENATOR HARRIS:
I will clarify the record. The bill includes a request to allow officers to stop for those equipment infractions and provide a warning as a choice of the sponsor. We have done a lot of work on this bill and have gotten to a place where most of those involved think this policy makes sense. I am hoping we can bring the Committee and this Body along with us.

MS. MOSELEY SALES:
This legislation makes sense for the path Nevada is on, particularly with the reforms included in A.B. No. 116 of the 81st Session. It makes sense for protecting our communities and protecting our officers. I urge the Committee to support S.B. 296.

CHAIR SCHEIBLE:
We have two letters (Exhibit Q) submitted in support of S.B. 296. We will close the hearing on S.B. 296 and open the hearing on S.B. 307.

SENATE BILL 307: Revises provisions relating to human rights. (BDR 16-881)

SENATOR PAT SPEARMAN (Senatorial District No. 1):
Senate Bill 307 requires the Director of the Nevada Department of Corrections to adopt regulations governing the use of solitary confinement and to bring Nevada in line with the Nelson Mandela Rules. The spirit of the bill is based on the rules named in honor of the South African President who spent 27 years in prison because of his fight against apartheid. The rules were created in 2015 by the United Nations Commission on Crime Prevention and Criminal Justice.

Rule No. 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states:

> In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhumane or degrading treatment or punishment.
>
> The following practices in particular should be prohibited:
>
> Indefinite solitary confinement;
> Prolonged solitary confinement;
> Placement of a prisoner in a dark or constantly lit cell;
> Corporal punishment or the reduction of a prisoner's diet or drinking water;
> Collective punishment.

We are here to make certain Nevada statutes fall in line with the Mandela Rules. The bill requires that solitary confinement may only be used as a last resort when the offender must be separated from the general population in a secure environment, in the least restrictive manner and for the shortest period of time possible. The bill also requires new regulations be adopted prohibiting use of disciplinary segregation for vulnerable offenders. Vulnerable offenders are prisoners with a serious mental illness or mental impairment.

As Chair of the Senate Committee on Health and Human Services several sessions ago, Nevada Department of Corrections (NDOC) Director James Dzurenda stated as many as five severely mentally ill patients had been in solitary confinement for an extended amount of time. This type of segregation of prisoners is especially detrimental to those with mental illnesses. We are not doing justice by forcing inmates into this situation. We are virtually ensuring that inmates' mental health will suffer from this treatment.

In addition, S.B. 307 creates new regulations, reviews and certain evaluations relating to the use of solitary confinement, providing access to programming for offenders in solitary confinement, requiring certain training for staff who are placed in solitary confinement environments and providing for established minimum requirements, reviews and various procedures. Lastly, the bill removes the provisions relating to the length of stay in disciplinary segregation and instead establishes a maximum of 15 consecutive days in confinement.

NICK SHEPACK (Social Workers Against Solitary Confinement; Return Strong!)
Over the years, I have become intimately acquainted with solitary confinement and many solitary survivors. The amendment (Exhibit R) was created in conjunction with Director Dzurenda. During his testimony, he will explain S.B. 307 can be enacted at no cost to the State.

In the past, Director Dzurenda requested recommendations from the Vera Institute of Justice. Unfortunately, they were not implemented. During the Eightieth Session, Frank De Palma, who spent 22 years and 36 consecutive days in solitary confinement in NDOC, shared his story with the Legislature. Now a resident of Reno, Mr. De Palma is a friend, and the impact of solitary confinement is clear. While he is an extreme example, it is not as unique as one may think.

The amendment is a huge step for Nevada to move toward following the Mandela Rules and to ensure that nobody spends excessive time in solitary confinement. Section 2 of the amendment defines solitary confinement as any time somebody is in a cell for 22 or more hours. Section 3 requires solitary confinement to be used only as a last resort and in the least restrictive manner, meaning for the shortest period possible. Section 4 sets out a limit of 15 consecutive days. Section 5 explains that on the fifteenth day, the inmate must be removed from solitary, a review performed and recommendations for programming, housing and mental health referrals submitted. Section 6 implements a multidisciplinary team consisting of a psychologist, social worker, correctional supervisor and associate warden to assess the individual. Section 7 creates provisions that allow the disciplinary team under specific circumstances to make a recommendation to return the inmate to solitary for a period if necessary for his or her safety. Section 8 ensures nobody is placed in solitary confinement within 90 days of release.

A major problem across the Country is that inmates go straight from solitary confinement to the community. This transition is often nearly impossible. Section 9 ensures that offenders with severe mental illness are not placed in solitary confinement unless ordered by a mental health clinician. There is a saying in the solitary survivor community that if you did not have a mental illness when you go in, you came out with one. When we place people with severe mental illness in solitary confinement, studies show it exacerbates their mental illness and hinders rehabilitation. Section 10 requires a medical or mental

health clinician to tour all housing areas at least every 24 hours for wellness checks.

In 2018, I had the opportunity to visit the solitary confinement unit at the State prison. I heard screams, banging and begging for help. The noise was overwhelming. One can only imagine the effect on an inmate there for a long period of time. Section 11 requires all staff who work in solitary units to have training in effective communication, crisis intervention and de-escalation techniques. Section 12 ensures telephone and/or in-person communication with family is not completely removed for individuals who are held in these conditions. Section 13 ensures mail is never denied as a disciplinary sanction even for those in solitary confinement. Finally, at the request of Director Dzurenda, we have moved the effective date to January 1, 2024, to allow for effective implementation.

This is not a unique movement in Nevada. Across the Country, 46 states have introduced 956 bills addressing the issue. In 41 states, 176 measures have been enacted. A similar bill passed out of Committee unanimously with bipartisan support during the Eighty-first Session. The bill carried an insurmountable fiscal note which is not the case this Session.

MS. BARAN:
The American Civil Liberties Union of Nevada spent resources and time on S.B. 307 as have many others. The bill is important because solitary confinement is one of the most consistently researched prison policies and practices. This is excessively researched because of the effects on the community. The research has overwhelmingly found that solitary confinement takes an immense toll on a person's mental, emotional and physical well-being. It causes irreversible neurological damage. Human beings must have meaningful connections to survive and thrive. None of us can live completely alone without any meaningful connection. Those confined in solitary are far more likely to suffer from heart disease, heart attacks, strokes and loneliness even after returning to the outside community. Time spent in solitary leads people to higher rates of death from suicide, homicide and drug overdose. After release, people who spend even a few days in solitary confinement are also more likely to die by accident, suicide or violence, and the recidivism rates are horrific.

The Liman Center at Yale Law School published a report entitled *Time-in-Cell*: *A 2021 Snapshot of Restrictive Housing based on a Nationwide Survey of*

U.S. Prison Systems. The report provides an update of bills, resolutions and executive orders introduced and enacted across the Country. According to the study, 1,059 inmates in Nevada were in restrictive housing, accounting for 10.1 percent of the incarcerated population at NDOC. Of this number, 193 inmates had been in restricted housing for more than a year, 23 inmates for 3 to 6 years, 16 inmates for 6 to 10 years and 57 inmates for more than 10 years.

According to self-reported data from NDOC, 387 inmates are in restrictive housing for administrative reasons, 230 for safety, 99 for punishment and 274 for personal choice. To expand on personal choice, the effects of solitary sometimes will cause the individual to feel uncomfortable around other individuals. After such an extreme period of isolation, individuals fear the sound of keys and slamming doors. Of transgender-identified prisoners, 40 percent are in restrictive housing or solitary confinement, and 146 people in restrictive housing are over 50 years old.

I appreciate the opportunity to contribute to this effort to improve our standards to those deemed appropriate by the United Nations Standard Minimum Rules. In spending time with those who have lived in solitary confinement, I think how incredible a person must be to endure such torture. Once he or she is finally released, it must be difficult to live a normal life. No one would blame them. This experience is so horrific to some that they have dedicated the rest of their lives to helping. It is a testament to how important this issue is to people, both survivors and those who work with survivors.

SENATOR SPEARMAN:
The Committee may remember Kalief Browder. He was a young man who was accused of stealing a backpack. Though he was never tried, he spent three years, from 2010 to 2013, in Rikers Island jail complex. During his imprisonment, Mr. Browder was in solitary confinement for—hang onto your wig; girls, grab your pearls—700 days. Soon after his release, he committed suicide. This is a dangerous practice not just for people who are in solitary confinement. It is dangerous for us as a society because it demonstrates our inhumanity to humanity.

SENATOR HARRIS:
Solitary confinement is terrible. Through COVID-19, we were stir crazy in our own homes. The experience should provide some sympathy and insight into an inmate's feelings in solitary confinement.

SENATOR OHRENSCHALL:
It is hard to imagine we need legislation like this in 2023. I remember hearing about prison conditions in the Soviet Union. We have made strides thanks to hard work of the American Civil Liberties Union (ACLU) and other organizations. Senate Bill 307 continues the process of changing solitary confinement policy.

SENATOR HANSEN:
Is S.B. 307 based on federal law?

MR. SHEPACK:
Federal law does not meet the Mandela standards. How much of S.B. 307 is based on federal law? I do not have a good answer though other states have addressed the issue.

SENATOR HANSEN:
I ask the question because of a recent federal case. Are you familiar with Jacob Chansley? You might know him as QAnon Shaman. He was accused in relation to the January 6 riot and spent 11 months in solitary confinement. He was released after exculpatory video evidence was released.

While I am supportive of the concept behind S.B. 307, we need to recognize people here in America are denied access to exculpatory evidence. When the Country saw that Mr. Chansley was escorted into the Capitol by the police, he was removed from solitary confinement and released after 11 months in America, not the Soviet Union. I agree, it is inhumane, but it is not occurring 2,000 years ago. It is occurring right now under the present administration.

LISA FOLEY:
In a book titled *What's Prison For* author Bill Keller states "Human kindness plays a big part in rehabilitation." It is meaningful to put extra kindness in my life by corresponding regularly with a stranger. I have been writing to a woman in Florence McClure Women's Correctional Center (FMWCC). When she was assigned to correctional solitary confinement, she was segregated for 110 days. Her letters over that period have shown mental deterioration. She dwelled on

suicide and mentioned that other women nearby had succeeded in committing suicide. She wrote letters to me about devils taking over her body. I am going to read a short excerpt she wrote two years ago when the ACLU was soliciting testimony for an online book.

> Feeling alone in prison, hopeless and helpless is a way of life. I was brought to solitary confinement and charged with a major infraction, possession of a piece of paper containing numbers on it. It was said to be paraphernalia. I asked them to test it and was told they did not have the proper equipment to test the substance. I told them to drug test me. And without doubt, I passed. The administrative regs state that they have 30 days maximum to sanction us. However, I sat in solitary confinement for 92 days before I was sanctioned. Then as my punishment, I was given an additional 30 days in the hole. Depression is real when you are locked in a room 24 hours a day, 7 days a week; and there's no library. All you can do to is worry and stress until your mind cannot take it. So, you try to sleep the days away.

Solitary confinement is not meant to be used as a form of punishment, but it is in every way.

AYANNA SIMMONS:
I agree with earlier testimony. I have experience of someone being released from solitary confinement. My brother Zach did four years in solitary confinement in Ely. He has been released several times. In our conversations, he accused our second-grade teacher of being our biological mother. He said he was in the car when President Kennedy was shot. He has a lot of things going on in his mind, but he did not go to prison in that condition. The urgent necessity for this is because as a community, we see people talking to themselves and automatically assume they are on drugs. We do not understand or realize they have been mentally tortured, abused and purposely turned into a monster. They are then released into society and expected to function and do well.

Treatment of these people is at the officers' discretion. When inmates go into solitary confinement, officers can treat them humanely or punish them. Because they are already considered criminals, they may be treated even worse than criminals. You chain a dog; you go to jail. You mistreat an animal; you go to jail. Yet, it is ethical for us to treat other human beings in this matter.

My brother is one of many in my community. I will be 50 years old next month, and everyone I know has been in prison. My eldest brother was arrested when he was 17 years old, and I was 9 years old. He served in Indian Springs. He came home alright, but he is one of the few. Everyone else comes out changed. They are back into our communities, and then they go back in prison. It is a revolving door. When officers drop off released inmates who have been in solitary confinement at Parole and Probation, they say "see you when you get back." They know they are coming back because they are destroyed. They are not always on drugs.

The feces on the wall, the screaming, the inability to communicate properly effectively happens in that darkness because they are not just in the cell for 22 hours a day. This is consistent and around the clock. They do not get a break. They do not get fresh air.

We are Nevada strong, and we are battle born. We have a moral and ethical obligation to all Nevadans. If you do not believe us, go look for yourselves. We have a different NDOC director and things are changing, but go see it for yourself. It is horrific. It is monstrous. Mental health treatment should be mandated, but that is another fight. I rest my case. I urge the Committee to support S.B. 307.

KAREN GEDNEY, M.D.:
I was the senior physician for NDOC for 30 years, and I am an internal medicine specialist. I also had the ability to watch inmates for 30 years, and I saw the dilemma of solitary confinement, which I was never trained for in medical school. Most individuals ending up in solitary have psychological problems. Problems with anger control are not socialized; they are the ones who do not have the wherewithal to keep themselves out of trouble. They are put into solitary confinement which breaks down their mind. I left the prison in 2017 and am still concerned. We have to move our State into the new century.

WILLIAM CONNORS:
I spent 22 years in NDOC. I spent five months in solitary confinement because they thought I did something wrong though I did not. They put me in solitary confinement and took blood. Over the five months, they did not care about my rights. After five months, I was let back into general population like nothing happened. I wanted you to understand this goes on all the time. They do not care at all about you because you are a prisoner and have no rights. There

should be a process for evaluating inmates' offenses and find a way to mitigate before we resort to solitary confinement. Let us see. I do not know what can be done, but I am hoping that this bill will pass. I do not want anybody else to go through it.

JODI HOCKING (Return Strong!):
We work with incarcerated people and their families. A group of people who are solitary survivors will speak from Las Vegas. Those people are not the worst of the worst. Some were 16 or 17 years old when they went to prison and spent the first 5 years of their incarceration in solitary confinement because they were rebellious. They were sent into an adult system and expected to comply. These people are the heart and soul of why we are speaking today. The preconceived notions of solitary confinement have an impact on the way the public responds to the conversation. We are not talking about Hannibal Lecter or Jeffrey Dahmer. Those in solitary confinement in Nevada are trying to put their lives back together. They are the people who were kept in cages, in urine-soaked rooms without blankets or cleaning supplies. Some were teenagers when they were locked in cages, strip-searched, shackled and handcuffed before going to showers. They were removed from prison populations for minor offenses such as having butter from the dinner hall or having a pair of a former inmate's blue jeans. As a community, we assume some people need more restriction, but that is not most people.

I will read a statement from a person who spent decades in solitary confinement in a prison in Nevada:

> I was in a cell for 23 to 24 hours a day. After only a few months, I cut off everyone that I know: family, friends, lawyers. I even became unresponsive to prison staff. I crawled into myself because isolation can do this. I quit showering, shaving, caring about any hygiene, including brushing my teeth. Nothing mattered anymore. I lost all track of time. I was disoriented, and all that I was offered was medication or I was asked if I was feeling suicidal. Most definitely a play that would permit the confiscation of the rest of my clothes and leave me naked in the freezing cage or cell. I wasn't interested in that. Each passing day pushed me deeper and deeper into that abysmal pit. When you are on the brink of sanity leaving you, there's no true self-awareness to what's happening. Autopilot rules the days as they arrive. I was vulnerable

> beyond measure, agonizingly paranoid and it is an understatement to what I became. Simplistically, the effects of solitary confinement psychologically are real, and they generally last for a lifetime, especially when the effects are slowly and constantly being fed the conditions that created them.

Do we care enough about humanity to either fight the tip of the iceberg or fight the root of the problem? This Session is an opportunity to start fighting the root of the problem and stop fighting the tip of the iceberg.

MS. ROTH:
A Senator on this Committee said, "Love is the answer." It is true, but in the case of solitary confinement, compassion is the answer. We are not the sum of our worst decisions, and no one deserves to be treated in this manner.

MR. PIRO:
The Clark County Public Defender's Office supports S.B. 307. The way we treat a person while in custody will directly affect the outcome. The better they are treated, the less they are treated like animals, the more easily they can be reintegrated into society. Successful rehabilitation means savings for our community and improved public safety.

CHRISTINE ESSEX:
I support S.B. 307. Extensive solitary confinement is inhumane and diminishes hope and certainty. Inmates question when they will get out. They ask what is happening outside with their families. Mental capacity becomes unstable, and they are fearful about asking for help.

My son, Adam, stopped caring about his future and his music when sentenced to solitary confinement. He stopped creating songs. He lost interest in his goals and passions. His limited ability to make contact while in solitary left him distant and isolated from all of us. We were unable to support and encourage him when he needed it. Shortening terms would help a person and family stay connected. Please consider making the solitary sentences appropriate to the violations.

I have two sons who are incarcerated. My other son who has brain damage and is disabled would not do well in solitary, and I hope it never happens. He was incarcerated in 2017. Since then, I have been his voice, his caregiver and his legal guardian. He is dependent on proper guidance and understanding. He does

not have mental illness. He has anoxic brain damage. Please consider the cognitive abilities, challenges to social interaction and medical needs of those placed in solitary confinement.

ANGELA COPELAND (Return Strong!):
I would like to read a letter submitted by a formerly incarcerated person. I will be reading his statement and expressing support for this important legislation.

> I'm John Williams—formerly incarcerated. I started my sentence as a juvenile and spent a lot of time in solitary confinement for mostly minor infractions. Two years is the most I did at a single time. For me, the most disturbing aspect of prolonged isolation is the impairment of my social skills, which still affect me to this day. Since my return to society, I have drawn a direct link between my social readjustment and solitary confinement. Whenever I'd get out of the hole, I had to readjust to the general population. I have gone through the same social process in society.

Prolonged isolation is counterproductive to rehabilitation and reentry. According to statistics published by Unlock the Box, a national coalition of organizations working to end the practice of solitary confinement, 85 percent of people in solitary confinement are there for nonviolent disciplinary violations as Mr. Williams mentions. Offenses like talking back to an officer, having contraband defined as butter from the cafeteria or misuse of a phone could lead to solitary confinement. I always thought solitary confinement was for the worst of the worst violent offenses and not for minors who entered an adult system as teenagers—those dealing with incarceration as young adults when all the normal angst is amplified by being in prison. Now, they are back in society and living as survivors of harm inflicted by our prison system.

We must do better. Mr. Williams and I support S.B. 307.

CHRIS KOVELLO (Return Strong!):
I am an activist and parent of a formerly incarcerated person. I read letters submitted to our organization and have written to women who are incarcerated. Reading these letters would be instructive. I believed prison was about helping people get their lives on track and being accountable for the mistakes they made. I do not believe that anymore. I would like to share part of a letter from one of the women we work with at FMWCC. She was in solitary confinement

for her first write-up after doing a significant amount of time in prison. The violation was holding contraband, a tool that she had made to be used for a hobby craft project. It was confiscated during COVID-19.

> I am writing about the extensive punishment I am still going through here at Florence McClure Women's Correctional Center. On May 15, 2021, I was taken to segregation and I stayed in segregation until July 7th, 2021. After 53 days I was finally sanctioned and sentenced to an additional 60 days. I ended up doing a total of 83 days in segregation. I was literally losing my mind. We have no library. The phones are even broken, windows are tinted so dark that we cannot see outside at all. We showered every other day for ten minutes. The correctional officer (CO) in that unit was rude to me. I am a strong woman, but I thought about killing myself many times, locked in that cell alone with only my mattress and my white clothes. When they rolled me up they unauthorized all my hygiene because they said they had no room to fit in my box. I was given State shampoo and a bar of lye soap. The AR states there is a maximum stay of 30 days in BMU today. Seven months later, I am still here waiting to take a class as required to go back to the general population. I have not gotten into any trouble at all. I sent a kite to the caseworker and got no response. It has been nine days and a few days total and I am being punished for my first write-up. I am losing days. I am losing my mind. The experience is the worst thing I have very experienced in my life. In segregation in a women's prison we do not receive canteen at all. We can't get access or buy food or hygiene. We are only allowed to get toothpaste, paper, deodorant and tampons.
>
> Also, a girl in psychiatric housing hung herself, and the CO did not even find her until eight hours later. Rigor mortis had already kicked in. I was witness to two other women attempting to kill themselves. Women should not be locked in a room like that for long. Please help us. Sincerely, B.C.

I am in support of S.B. 307.

MOISES CORTEZ:
I was formerly incarcerated and a survivor of solitary confinement. For 8 out of 11 and a half years, I was in solitary confinement from the time I was 18 to 23 years old. It affected my mental development. Even though it helped me a lot to grow as a man, I do not realize how much it affected me until I got out and my family told me they noticed a difference. I support S.B. 307.

DESTINY RICH:
I am a former inmate at FMWCC and a survivor of solitary confinement. When you are isolated, you find comfort in being alone, which means socializing with other people becomes uncomfortable. When people feel uncomfortable, they are more alert, more prone to aggressive behavior, less receptive and less acceptive of feedback. As a result, other inmates are reluctant to communicate.

I still struggle to find comfort around people. I tend to isolate when I need to communicate and keep my emotions to myself. Solitary confinement undermines a healthy lifestyle. At FMWCC when you hear a call for institutional lockdown, it means to go to your bed. It means no shower, no phone calls, no programming, no going outside and no microwaves. This is a form of solitary confinement but justified by their inability to run the facility. Institutional lockdown applies to every inmate at the facility regardless of behavior. I support S.B. 307.

PHILLIP MINOR:
I spent 37 years in prison from the time I was 19 years old until I was 56 years old. Of those years, I spent about 12 years in solitary confinement for various reasons and for as long as 3 and a half years at a time. From firsthand experience as an inmate, I can say I was dealing with a sense of failure and helplessness, loss of freedom and ability to control any part of my life. Adding solitary confinement to the prison experience means an inmate has no choice but to sit and dwell on problems for 24 hours a day. An inmate focuses on depression and the inability to help family members who are struggling. Solitary confinement interferes with the ability to do anything constructive. There is no positive reinforcement for any idea that an inmate may have. Support, encouragement and reinforcement are essential to personal progress and improvement.

A person may be released from solitary confinement, but the depression, anger and darkness remain and follow him or her into the community. I support S.B. 307.

ASHLEY GADDIS:
I was formerly incarcerated in Nevada, and I support S.B. 307. I agree with the need for oversight of the disciplinary process including the use of solitary confinement. Solitary confinement has been used and abused historically by COs and lieutenants. I am not a problematic offender, let alone violent or combative. I always had a job or was in some sort of program while incarcerated. When I was placed in solitary confinement, I had been incarcerated for one and a half years with no write-ups. I was in a program of seeking safety and taking college courses. One day, I was called to the gymnasium at 5 a.m. for a random drug test. I provided a small amount of urine, but the CO discarded my sample and said it was not enough. I tried again but could not produce anymore. I was immediately taken to solitary confinement for refusing to provide a sample, which was not true. I waited two weeks for my write-up to be read to me, another three weeks to plea and then another two weeks to be sanctioned. I was given a 30-day sanction and a week of commissary restriction.

I had to wait for the behavioral unit to allow me to take a required class to complete my sanction. I lost my college courses and other programming as well. This process took from 75 to 80 days. I did not do anything to have been treated like an animal. The staff assigned to these units are anything but professional. I was told by an officer because they do not work in a professional environment, they do not need to act professionally. That may well be true. However, I am sure it is in their job description to disrespect, demoralize and deprive offenders.

I also want to be honest about this experience. It did not make me sad. It caused me to be resentful and bitter. I had a different attitude when I was released from solitary confinement. It was an attitude and belief I carried for a long time. Things became difficult for me because I no longer trusted the process and theory that as long as you do nothing wrong, you have nothing to worry about. I lost my earned points. During the COVID-19 lockdown, we came out of our cells 15 minutes every 3 days. If enacted, S.B. 307 would provide the oversight needed to address abuse that is happening with solitary confinement. I encourage the training of all staff but especially for those

assigned to disciplinary units. I am confident Director Dzurenda will be responsible in enforcing this bill.

JAMIE FIGUEROA:
I support S.B. 307. I would like to read a letter written by Marianne Espinoza:

> I am writing this in support of S.B. 307. I currently have a husband and two sons incarcerated in Nevada Department of Corrections. My husband is currently serving 60 days in disciplinary segregation. This segregation has affected his mental health issues. Prior to this time, both my husband and sons were affected by all the lockdowns, not being allowed to go out to rec yard, shower or use the phones, being stuck in their cells for days, sometimes weeks at a time. All of that affects even a person that doesn't have mental health issues. Even though they are incarcerated doesn't mean they need to be locked in a cell 24 hours a day, not getting a vitamin D from the sun or being around others. They need to be around others in order to be able to come home and not have fear of being in places with large crowds as I have seen in my oldest son in 2019 when he came home from prison and had an anxiety attack from all the people at the DMV. When we went to get his driver's license, he had an anxiety attack. I know that you may think it's nothing, but it is hurting all our loved ones who have been in any segregation for long periods of time. This needs to change for the better of not only our loved ones but the staff of each facility because all the segregation makes them act out towards the officers.
> Thank you for your time. Sincerely, Marianne Espinoza

SABRINA TORRES (Return Strong!):
I support S.B. 307 and would like to read a letter written by Tina Turentine:

> My loved one is located at High Desert State Prison. I have seen firsthand the effects of long-term solitary confinement on our loved ones. My loved one has consistently been locked down for numerous days at a time regularly at the facility he is currently located. It is disheartening and ridiculous that these lockdowns occur, let alone the length of the solitary confinement. The lack of food, sunlight and human communication are just a few of the

> things they endure during that time. Not only does it take a toll on him, but it takes a toll on us families, constantly worrying about his well-being and having to question if they are okay. When we are not as well, due to the lack of communication. Questions as, did he eat today? Did he get to shower today? Did he get some fresh air and enjoy the sunlight instead of being in a dark room with no human contact? The State is always talking about how they want reform. How is this going to make things better? This is going to make things worse. We have to do better for our loved ones. I am in full support S.B. 307. Thank you, Tina Turentine

I also support S.B. 307.

SONYA WILLIAMS (Return Strong!):
I am here today to read a letter from one of our families:

> My name is Este Padgett. My loved one is located at Southern Desert Correction Center. I have seen firsthand the effects of long-term solitary confinement on our loved ones. Being locked in a room by yourself for 23 hours a day for longer than 15 days is honestly ludicrous. The lack of food, sunlight and human communication are just a few of the things they endured during that time. Not only does it take a toll on him, but it takes a toll on us, the families. Did they eat today? Did he get out of the get out for a shower today? Did he get some fresh air and enjoy the sunlight today? Did he get out and stretch his legs instead of being in a dark room by himself with nothing but his thoughts. Worrying for his well-being. That is what I am most concerned about for our loved ones. Post-traumatic stress disorder (PTSD) is a real thing. My father is a retired Navy Seal who served our Country in Vietnam. My dad often explains to me what it is like to be in solitary confinement and the PTSD caused from it. Because, let's face it, I'll never really understand it, but my father does. He feels so sorry for our loved ones who have to endure any of this. His mental state is not well. I can hear it in his voice when I do get the calls. Everyone needs human interaction and to take that away blows my mind. The State has always talked about how they want to reform. How is this going to make things better? This is making things worse. Please, we have to do better. I am in full support of

S.B. 307 and reduce the number of days people can be held in solitary.

HOLLY WELBORN:
I am speaking as someone whose family member died in an isolation unit and as a longtime advocate for solitary reform in Nevada. I thank Senator Spearman for her tireless leadership and for stepping up when no one else would.

Nelson Mandela said that solitary confinement is "the most forbidding aspect of prison life. There was no end and no beginning; there's only one mind which can begin to play tricks." For decades, prison officials insisted solitary confinement did not exist in NDOC. In 2017, I was a contributing writer on a report entitled "Unlocking Solitary Confinement, Ending Extreme Isolation in Nevada State Prisons" which blew the lid on the Nevada use of extreme isolation. The report tells the stories of hundreds of men and women who lived in solitary conditions without any meaningful human interaction for weeks, years and even decades. This issue is fully vetted by the ACLU, the Vera Institute of Justice, the Nevada Disability Advocacy and Law Center (NDALC) and the Unlock the Box Campaign of Solitary Watch. All agree Nevada's use of isolation is inhumane. Most people in isolation units in NDOC will be released to the community. This practice harms not only the solitary survivors who struggle to succeed on the outside, but also the community. We developed a family of survivors and advocates and built a movement for change through our efforts and new leadership at the NDALC. This is the reason the bill is before you. I urge the Committee to move S.B. 307 through and to do it swiftly.

MS. GOINS:
On behalf of the NAACP Las Vegas, we support S.B. 307.

YESENIA MOYA:
I support S.B. 307 because as many folks have mentioned, solitary confinement is inhumane. Reducing the number of days somebody can be held is a step in the right direction. Many of my friends and community members have been held in solitary confinement. One of them was held a year and one month, all while he was waiting for a charge for something he did not do. I will read a letter from Marcus Kelly:

> In bringing us a step closer to the ultimate goal of seeing the whole person as a human being worthy of humane treatment, I refer … preliminary … issued by the U.S. District Judge Roslyn O. Silver of Arizona directing state officials to bring standards up to constitutional muster and the state will not weasel out of its constitutional obligations this time. During the 15-day trial in November and December 2021 which included evidence and testimony, the honorable judge concluded that the Arizona Department of Corrections, Rehabilitation and Reentry systematically violated the Eighth Amendment prohibition on cruel and unusual punishment by having a grossly inadequate medical and mental healthcare system and by depriving people in solitary confinement of basic human needs, including adequate nutrition, exercise and social interaction. Although we have a long way to go, this bill is a start to recognizing that incarceration does not make you less of a person and therefore not worthy or deserving of inhumane treatment. Rehabilitation begins with mental health care and this bill recognizes that need. I am therefore in full support of this bill.

MR. PREGMAN:
Battle Born Progress supports S.B. 307. I have submitted a letter of support (Exhibit S).

MARK C. BETTENCOURT (Nevada Coalition Against the Death Penalty):
We echo the statements of others who have spoken and thank survivors for sharing their stories. We support S.B. 307.

UNIDENTIFIED TESTIFIER NO. 2:
I support S.B. 307. It is in the American spirit to undo solitary confinement and all of it is abuse. It is torture. The Mandela Rules as supported by S.B. 307 were in part written by a Colorado Department of Corrections Director, Rick Raemisch. He assisted the U.S. delegation to the United Nations meeting in Cape Town and Vienna to rewrite prisoner care standards, which are known as the Mandela Rules. The American Law Institute endowed the world with the original human rights law draft in the 1940s. It is quintessentially American to undo this horrific torture from American prisons. In October 2021, a paper titled, "We just needed to open the door: a case study of the quest to end solitary confinement in North Dakota" noted that in 2012, prison expansion

nearly doubled the number of long-term solitary confinement cells at North Dakota State Penitentiary, and the median length of stay in solitary confinement increased from 109 to 136.5 days by the end of 2013. A warden noted, it was like the movie said, "If you build it, they will come." Incarcerated people and staff said that the expansion led to a sharp punitive turn in the culture. Violence and unrest increased with fights and chaos every day. The report noted group tension and actual hatred. Many staff and incarcerated persons interviewed about this period said the solitary confinement units were dehumanizing, volatile and traumatizing. A North Dakota psychologist said for years and years, there was trauma everywhere in the unit. Many people tried to kill themselves; a lot of self-harm, staff injuries and major and serious staff assaults left people disabled.

One clinician noted infighting. People were blaming others for things going wrong, and there was distrust among staff. The staff engaged in reactive decision-making, avoidance and other things that happen when people are saturated in chronic toxic stress. A psychologist remembered working conditions causing burnout and turnover among clinicians and security staff. This demanded change. North Dakota made changes following a visit to the Norwegian Correctional Service, incorporating its philosophy, policies and practices. In 2015, the changes instated after that visit resulted in a 74.28 percent reduction in the use of solitary confinement between 2016 and 2020.

A group of Western states beginning to do the right thing has set a good example for Nevada. I urge the Committee to pass S.B. 307.

MERCEDES MAHARIS:
I am a chaplain and member of the Silver Haired Legislative Forum, Senate District 3. I request the Committee view my film; details are provided in a letter (Exhibit T) which I have submitted. The film includes interviews with employees of NDOC who worked in solitary confinement units. Unfortunately, S.B. 307 does not include sanctions against NDOC officials who do not enforce law library access requirements. What about mental and physical health care in solitary which is much neglected based on our reports? A federal lawsuit regarding solitary confinement is in process. I support the bill but request oversight for this vulnerable population. Without oversight, this culture is not going to shift after decades of observation. The dream of ending physical and mental assault on human beings will only remain a nightmare unless you add

enforcement to end the human terror and horror. Please insist NDOC follow its own rules for all human beings.

JOVAN JACKSON:
I am a North Las Vegas resident. Solitary confinement is not rehabilitation. We think of solitary confinement as a tool of punishment, but it is used in jailhouses and prisons as a way of living. Most jailhouses are on 23-hour lockdown for people who have not been found guilty of anything within the prison. Anyone who has been to prison or worked in a prison knows about something called the "fish tank." Even the intake process, prisoners begin with solitary confinement. I support S.B. 307.

MS. GRANT:
I support S.B. 307.

MS. BROWN:
Advocates for the Inmates and the Innocent support S.B. 307. I along with other advocates have witnessed retaliatory behavior by NDOC staff against some of these inmates. For whatever reason, inmates are repeatedly placed in solitary confinement. Going back 25 years, we received calls and letters from inmates about another inmate who was losing his sanity. They kept throwing him back into solitary. He said he was not going to take it anymore and, true to his word, he killed himself.

JAMES DZURENDA (Director, Nevada Department of Corrections):
I have been in discussion with Senator Spearman since 2017 about improvements of these solitary confinement rules and regulations. I applaud her ethical treatment and passion for the offenders, for staff and those affected in the community.

In 2015, I was present at the United Nations testifying on behalf of the Association of State Correctional Administrators. I read testimony regarding Nelson Mandela. Before his death in 2013, he said solitary confinement may be necessary, but long-term solitary confinement is detrimental to the mental health and well-being of those affected.

With the amendment, we will have a bill we can agree upon for a work session. The issues I have are that there needs to be some type of a carveout for inpatient mental health and medical issues. When considering solitary

confinement 22 or more hours a day inside a cell, those who are inpatient medical or on respirators should not be forced out of the cell. We will need a carveout for individuals on their fifteenth day who are in a homicidal state. We do not want to take those individuals in the general population. A process needs to be in place for a clinical and interdisciplinary review that involves caseworkers and corrections officers to determine how to get these individuals out of solitary confinement. The agency should not be forcing individuals out, especially if the individuals are refusing to be around anyone else. There is a reason they want to remain in segregation. It could be clinical health situations or someone in fear for his or her life. It could be someone who killed another gang member on the street and knows if he steps foot into population, he will be killed. These situations are not hypothetical. We need a treatment plan for keeping individuals in segregation under certain circumstances. We are moving in the right direction, but certain pieces need to be carved out in an amendment.

SENATOR STONE:
What are the maximum days in a row a prisoner within NDOC can remain in solitary confinement?

MR. DZURENDA:
The maximum in disciplinary segregation is 30 days.

SENATOR STONE:
They are supposed to be removed for an hour each day for showering or other reasons. Are they in a cell 24 hours a day for 30 days?

MR. DZURENDA:
They are let out every day. Their status of being in segregation is for sanctions up to 30 days.

SENATOR STONE:
What is the observation responsibility of your staff throughout the day?

MR. DZURENDA:
Staff is required to tour the unit every 15 minutes. The tours are a site observation of every individual. There is no medical and mental health mandatory tour, though it is necessary. In a 24-hour period, every 15 minutes, somebody is required to observe inmates in disciplinary segregation.

SENATOR STONE:
Are officers who oversee this area of the prison trained especially for the unit?

MR. DZURENDA:
The training system should be refined. We need to have specific training for restrictive housing and solitary confinement.

SENATOR STONE:
In facilities with solitary confinement cells, you staff psychologists, social workers, physicians and nurses?

MR. DZURENDA:
We have facilities without full-time clinical staff psychologists or psychiatrists like Ely. There are avenues to do this such as an interdisciplinary team with video or long-distance access. We do not have the staff in those facilities to do the full-person compliance.

SENATOR STONE:
Would be fair to say if this bill was to be passed in its present form, you would have to hire a psychologist and a social worker in each of your facilities with solitary confinement?

MR. DZURENDA:
We do not have any social workers in the agency. We have caseworkers which is a different classification for interdisciplinary teams. We do not need to hire or add additional staff when work could be done by video or telephone or some other observation. For in-person observations, we would need to hire staff.

SENATOR STONE:
For inmates in solitary confinement, do you deliver mail every day? Do they have telephone privileges?

MR. DZURENDA:
They do get mail every day but not a daily telephone call. The telephone is restricted for certain times during the week. They still get telephones unless privileges have been suspended due to abuse of the right.

SENATOR STONE:
To separate myth from reality, in Alcatraz, a block was dedicated for solitary confinement. A subset of the block was called "the hole" where inmates were stripped and placed in a solid concrete square room. What are our solitary confinement cells like? Are there different types of solitary confinement cells?

MR. DZURENDA:
Individuals in solitary confinement or segregation status are fully clothed. They have certain property privileges and receive mail. They can turn their lights on and off. It is not like Alcatraz. They have access to legal counsel.

SENATOR STONE:
Can legal counsel demand to see an inmate in solitary confinement?

MR. DZURENDA:
Yes, but only for limited time frames. We do not have full access to staff to accomplish visits. Inmates can still send what we call kites or a message for assistance. When inmates have emergencies, they have access to medical and mental health staff and can talk with caseworkers, though not on all shifts.

SENATOR STONE:
I appreciate your concerns for the carveouts and hope that you will continue to work diligently with Senator Spearman. None of us on this Committee want to see people tortured. We do not want to see people punished to such a degree that it causes mental illness. I would like to support this legislation, but I also need clarification from you that what we pass is manageable, ethical, fair and healthy.

SENATOR SPEARMAN:
The testimony was tough to hear and even more uncomfortable when you think that some of these situations could have been avoided. Senate Bill 307 is a good bill, although not perfect. I started this effort in 2017 because of juveniles being incarcerated. How about that? In some instances, they are given psychotropic drugs without the permission or knowledge of a doctor. I had an opportunity to talk with several of the women who were part of Return Strong! who told stories of inhumane treatment.

MR. SHEPACK:
I am hoping we do not have to come back session after session and hear these stories. We talked to thousands of individuals who are incarcerated or recently released. While it is true a disciplinary sanction is a 30-day maximum violation, people will sit in solitary confinement while waiting for their disciplinary hearing. People will get one sanction followed by another, extending that 30-day time sometimes indefinitely. Frank De Palma may have been let out in 2014 from solitary, but for 22 years and 36 days he was held in solitary confinement in the NDOC. Senate Bill 307 caps confinement at 22 hours a day for 15 days. A cap would ensure we do not have people in prolonged solitary confinement. We are in talks with Director Dzurenda. We need to make a few changes so we can all agree on S.B. 307. We want to bring something for work session everyone can support.

I see myself moving forward in many different directions and leaving certain issues behind to go after different ones, but solitary confinement is something I will work on until the day I die. The people I have talked with who survived solitary confinement are the most inspirational people I ever met. It is my goal to make sure nobody else must meet one of them in the future.

MS. BARAN:
We call it a Department of Corrections not the Department of Punishment. We do not send people there to be punished. We are sending them to correct behaviors so they can become citizens of our society and help us all grow together. The Netherlands ended solitary confinement and adopted an adage that you send people to court to be punished and you send them to prison to become a better citizen. This should be our goal also. All criminal justice bills should aim to rehabilitate behavior. These people missed something along the way and need to be retaught how society works. We need to avoid calling something corrective and use it in a corrective manner. We can all agree that this prolonged torture is not helpful for anyone. I want to thank everyone for the time they took today. It would behoove all of us to take a field trip to both death row and a solitary unit. We need to have a picture when we hear these stories. We need to honor these stories with action. It can happen outside of this building as well.

SENATOR SPEARMAN:
Sometimes when we deal with matters such as this in the criminal justice system, there is a tendency for some to say we are being soft on crime. This is

not the case. We can get to a place to pass this measure and implement reforms. I may be accused of being a wild-eyed liberal, but I am probably in good company. A lot of other people read letters, and I will read just a portion of a letter from my mentor: Then he said to Jesus Lord, remember me when you come into your kingdom. And Jesus said to him, truly I tell you, today you will be with me in paradise.

That was a letter left to me and to anyone who follows the carpenter's son. It is not just about punishment; it is also about grace and mercy. When you mix those two together, you come up with a humane way to correct behavior of people that may have lost something along the way. I read to you from part of a letter left to me from my mentor, and I commend it to all. It is Luke 23:42.

CHAIR SCHEIBLE:
My intent is to include S.B. 307 on tomorrow's work session. I understand there may be some additional amendments to review. We have received nine letters (Exhibit U) in support of S.B. 307. I will close the hearing on S.B. 307 and open public comment.

MS. BROWN:
On February 22, 2023, Assembly Bill (A.B.) 49 was heard. Last Friday, the work session was completed, and it did not pass. During the initial hearing, the Chair would not allow our proposed amendment to establish a factual innocence posthumous petition to be heard. Assemblywoman Shannon Bilbray-Axelrod asked the Office of the Attorney General whether it supported the amendment. The answer was no. The Office does not want to change the intent of the language or alter the process. We are asking that you accept our proposed amendment.

ASSEMBLY BILL 49: Revises provisions relating to criminal procedure. (BDR 3-419)

I would like to read a letter from the hundredth person to be exonerated by DNA evidence. Although he was not convicted in Nevada, it was former Nevada State Senator Ray Rawson whose testimony as an expert in bite marks convicted him. He received the death penalty and life without parole.

> I don't ask you to imagine what those ten years in prison were like for me. I want you to imagine what it would be for you if it was

> your son or daughter serving that time for a crime they did not commit. At what point would you stop fighting to clear their names? How many times did they have to tell you, I didn't do it? Had I died in prison, not only would my family and friends have been denied justice, but the family of Kim and Conan would have been denied as well. Please support factual innocence cases being allowed to proceed to conclusion even if the person accused of the crime has died.

Consider his words and the testimony given in 2019 from those who have been wrongfully convicted. I was given the opportunity and honor to speak with him after the hearing. I asked him, specifically, if things have not turned out the way they did and he had died prior to being exonerated, would he want his family to continue working to clear his name? He said, yes. This would be true of any person in his situation. We ask that the Senate Committee on Judiciary sponsor our proposed amendment to A.B. 49. If you cannot do this as a Committee, maybe someone could sponsor the bill.

MS. GRANT:
I ask you to review our proposed amendment to A.B. 49 which adds posthumous exoneration language to the bill. We also ask for your support of the bill with our amendment. The Office of the Attorney General testified we do not need posthumous language because it changes the process. That is interesting because there are no other remedies for those wrongfully convicted who have died in prison in the State.

Bills begin with intent to clean up language. We want to change the language to protect all Nevadans. What if someone you represented died in prison and you find exculpatory evidence after the death. Would you tell the family? He is dead, it does not matter. I urge you to use this opportunity to fix injustices. There must be a mechanism to correct the ultimate injustice of dying wrongfully convicted in prison. You are now given this opportunity to correct the injustice so that in the future you will never have to tell a family that. This is between you and your conscience. Would we have said oh, well, if tomorrow Barry died in prison, Cathy would not know he was wrongfully convicted. In Nevada, you can set the legacy for yourself that you did the right thing. Please give the families of those who have been wrongfully convicted and died in prison a chance at justice and closure.

CHAIR SCHEIBLE:
We will adjourn the hearing at 3:56 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. 379	C	5	Douglas J. Billings / William S. Boyd School of Law, University of Nevada, Las Vegas	Proposed Amendment
S.B. 379	D	6	Veronika Denisova / William S. Boyd School of Law, University of Nevada, Las Vegas	Proposed Amendment
S.B. 379	E	11	Ian Epstein / PropSwap	Written Remarks
S.B. 379	F	11	Ian Epstein / PropSwap	Presentation
S.B. 222	G	14	Patrick Guinan	Work Session Document
S.B. 252	H	15	Patrick Guinan	Work Session Document
S.B. 309	I	16	Patrick Guinan	Work Session Document
S.B. 321	J	17	Patrick Guinan	Work Session Document
S.B. 354	K	17	Patrick Guinan	Work Session Document
S.B. 401	L	19	Patrick Guinan	Work Session Document
S.B. 413	M	19	Patrick Guinan	Work Session Document
S.B. 417	N	20	Patrick Guinan	Work Session Document

S.B. 296	O	21	Senator Dallas Harris	Proposed Amendment 3582
S.B. 296	P	29	Will Pregman	Letter of Support
S.B. 296	Q	31	Senator Melanie Scheible	Two Letters in Support
S.B. 307	R	33	Nick Shepack / Social Workers Against Solitary Confinement; Return Strong!	Proposed Amendment
S.B. 307	S	48	Will Pregman	Letter of Support
S.B. 307	T	49	Mercedes Maharis	Letter of Support
S.B. 307	U	55	Senator Melanie Scheible	Nine Letters of Support