MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-second Session
April 13, 2023

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:36 p.m. on Thursday, April 13, 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 Heidi Seevers Gansert, Senatorial District No. 15

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Karly O'Krent, Counsel
Blain Jensen, Committee Secretary

OTHERS PRESENT:

Sunny Bailey, District Judge, Department I, Eighth Judicial District
John Abel, Las Vegas Police Protective Association
Brigid Duffy, Nevada District Attorneys Association
Jonathan Norman, Nevada Coalition of Legal Service Providers
Bailey Unruh, Autism Coalition of Nevada

Erica Roth, Washoe County Public Defender's Office
John J. Piro, Clark County Public Defender's Office
Barry Cole
Chris Ries, Las Vegas Metropolitan Police Department
Julie Ostrovsky
Steven Cohen
William Ledford, Director, Lutheran Engagement and Advocacy in Nevada
Luke Dumaran
James Dzurenda, Director, Nevada Department of Corrections
Jennifer Fraser, Clark County Public Defender's Office
David Beltran Barajas, Progressive Leadership Alliance of Nevada
Elizabeth Florez, Director, Department of Juvenile Services, Washoe County
Jeff Rogan, Department of Juvenile Justice Service, Clark County
Jason Walker, Washoe County Sheriff's Office
Kasey Rogers
Yesenia Moya
Richard McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition
Tonja Brown, Advocates for the Inmates and the Innocent
Matthew Richardson
Ernie Adler
Regan Comis, Awaken
Jennifer Noble, Nevada District Attorneys Association
Michael Willoughby, El Faro Consulting
Annemarie Grant, Advocates for the Inmates and the Innocent

VICE CHAIR HARRIS:
I will open the hearing on Senate Bill (S.B.) 411.

SENATE BILL 411: Makes various changes related to services provided to persons with autism spectrum disorders. (BDR 5-248)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):
District Judge Sunny Bailey from the Eighth Judicial District Family Court is the reason for S.B. 411 given the amazing, therapeutic diversion court she initiated and fostered while serving as Clark County's Juvenile Delinquency Hearing Master. My day job is as a deputy public defender in juvenile court where I represent children who have gotten into trouble with the law. Many of those

children themselves are victims of abuse, neglect and tough upbringings that got them there.

District Judge Bailey found many kids getting arrested or cited who either were on the autism spectrum or had never been diagnosed. These children were never able to receive the treatment they needed with applied behavior analysis therapy. District Judge Bailey formed a specialty court in southern Nevada to help these children get treatment and therapy. If kids were not diagnosed, she would work with community partners to arrange for the children to get a neuropsychology examination to see if they were on the spectrum.

Many children have benefited from this specialty court, and it has been a collaborative effort with the district attorney, public defenders, private defense attorneys and juvenile probation to help and, hopefully, prevent these kids from ending up in trouble again and having to go through the juvenile justice system. This specialty court that is not being used in other parts of the State has an excellent success rate. By working with Michelle Scott-Lewing of the Autism Coalition of Nevada and other stakeholders, we asked ourselves,

> Gosh, it's wonderful that Judge Bailey came up with this idea in southern Nevada. It would be so great if kids around the State who are on the autism spectrum—who maybe have been diagnosed, have not been diagnosed—could be eligible for this help if they get arrested or find themselves in juvenile delinquency court.

That is S.B. 411 in a nutshell. A section at the end deals with the Nevada Commission on Autism Spectrum Disorders, trying to solve a problem the Commission was having with quorum. The heart of S.B. 411 deals with this therapeutic diversion court for children on the autism spectrum and becomes something not to help just the children in Clark County but to help children across the State.

SUNNY BAILEY (District Judge, Department I, Eighth Judicial District):
The Centers for Disease Control and Prevention (CDC) estimates 1 in 36 children have been diagnosed with autism spectrum disorder. The CDC uses the term neurodivergent, but I am going to use autism spectrum disorder (ASD) because that is specific to S.B. 411 and the amendment (Exhibit C).

Autism does not discriminate against race, ethnicity or any socioeconomic group, but it is nearly four times more common in boys than girls. Youth with ASD often display inappropriate behaviors in various situations. When trying to determine why someone with ASD has these behaviors, we look to what we call the function of those inappropriate behaviors. Are they seeking attention, are they trying to access something, escape avoidance or to seek sensory relief? Although aggression is not a symptom of autism, youth with autism sometimes behave aggressively toward themselves or other people. This can lead to charges for battery on protected persons, battery domestic violence, threats to cause bodily injury and other charges in our criminal justice system.

These behaviors create dangerous situations for family members, other students, teachers, first responders, medical personnel and the public. Senate Bill 411 allows the juvenile justice system to create a program addressing the needs for these youth. In Clark County since 2018, the Detention Alternative for Autistic Youth (DAAY) Court is a program for youth involved in the juvenile justice system with the primary diagnosis of autism, and it is the only program of its kind in the Country. The goal and function of the DAAY Court is to increase skills in appropriate behaviors in youth with autism. As the appropriate skills and behavior increase, the excess behaviors will decrease.

The program is designed to address the lack of services by implementing proper programs and services to prevent future illegal behaviors, especially aggressive violent behaviors. Almost all the youth in the program who come in are not in any services to address their needs; many have not been diagnosed with ASD. Often parents are told that their children have behavioral problems but are not told how to address them.

Parents go to emergency services or seek residential treatment centers, and these children are given diagnosis—attention deficit hyperactivity disorder, oppositional defiant disorder, obsessive-compulsive disorder, conduct disorder, bipolar, anxiety and post-traumatic stress disorder—but are not told how to handle these behaviors, and medication is not the solution. We have youth with all those diagnoses come into our delinquency system, and our staff will arrange for a neuropsychological evaluation to completely rule out whether the youth is on the spectrum. Since the inception of DAAY Court, approximately 65 percent of those neuropsychological tests have resulted in an ASD diagnosis. This also includes youth who have been charged for a juvenile sex offense that was a

result of their autism spectrum disorder, not deviant behavior. Once a formal diagnosis is obtained or if the youth has a formal diagnosis, our team begins the process of obtaining necessary services for that youth. The DAAY Court is made up of a district attorney, a public defender, juvenile probation and community partners who all volunteer their time to ensure the success of this program.

Detention Alternative for Autistic Youth Court was not formed in an organized fashion with everything outlined. It was accidently formed on a Thursday afternoon when we had an autistic youth come through detention under a special calendar, so the child did not get overstimulated. Then probation came into the court and said we have an autistic calendar for these youth, and we did not.

The next thing we know, two youth are on that calendar, and then someone showed up saying, we heard you had a calendar and I want to help. We had DAAY Court once a month then, and someone else said, my friend told me about the special autism court, and I want to help. I always remember that hair commercial from the seventies where they told two friends, and those friends told two other friends. More volunteers showed up saying we want to be part of this specialty court because we want to help ASD youth obtain services.

As of now, the volunteers include representatives from the Autism Treatment Assistance Program to get youth the actual applications and shortcut our families into its program, receiving the services they need. Desert Regional Center sends a representative so that youth can get a case manager. Legal Aid Center of Southern Nevada sends somebody to look at the individual education programs to make sure it appropriately address behaviors, so youth are not getting expelled for behaviors that should be addressed because of the function of their autism. The applied behavior analysis (ABA) provider Project MIND sends a board-certified behavior analyst who volunteers time every week to address behaviors because DAAY Court is now weekly.

Families for Effective Autism Treatment not only sends someone to volunteer, but it also gives us scholarships to allow for social programs. The Collaboration Center Foundation recently arranged for The Smith Center for the Performing Arts to give us 20 tickets so that youth due an award who are in foster care could attend the sensory-friendly program for Disney's *Frozen*. The Ackerman Autism Center helps us with assessments, as well as Dr. Brian Davis for sports,

social inclusion and fusion; and HardKnox helps us with social programs. Moving Mountains Bx and The Lovaas Center for Behavior Intervention help with parent training and ABA services. Clark County Department of Family Services, Children's Attorneys Project and Court Appointed Special Advocates help with our awards.

The end goal for all our participants is to obtain ABA services for the youth before they turn 18 years old. If we do not get them diagnosed and into an ABA program prior to the age of 18, the likelihood of them qualifying for a program is almost none. Applied behavioral analysis service can help increase communication, social skills and decrease problem behaviors. When I describe ABA, it adopts the B.F. Skinner method of behavioral modifications through reinforcement. When I describe this, I talk about *The Big Bang Theory* television show, especially on an episode where Sheldon wants to get Penny to be quiet during one of his favorite episodes. Whenever she is quiet, he always gives her a piece of chocolate, and that is positive reinforcement.

What we do for DAAY Court is use chips because kids love chips, and it works well. We also teach the parents the skill because parents have been reinforcing the wrong behaviors; we work to retrain the parents and their kids on modifying behaviors to decrease those aggressive behaviors.

Applied behavior analysis has shown to be incredibly successful for youth on the spectrum, and my personal experience with ABA is why I am such a huge advocate. I know about ABA because I have a youth turning 25 years old who is on the spectrum. I moved to Nevada to get this program for my child; it has changed my and my family's life, and we are thankful.

Prior to moving to Nevada, my daughter had over 250 aggressive episodes per day. After having the ABA program for over 15 years, I am a trained behaviorist. Now my daughter is down to about one aggressive episode every four months or so, and it is nothing. Without the ABA program, she was so aggressive at five years old that doctors thought she was going to kill me at some point. Both my daughter and I had broken bones because of this behavior. I had four herniated discs in my neck, dislocated and broken fingers; my foot has been broken. My daughter has broken every finger and toe as well as her nose.

I know the benefits of ABA and what it can do for families. I sit before you having a career because of it and being able to function, and we do that for other families who participate in the program. One of the reasons why we feel so strongly about being involved in the juvenile justice system with the DAAY Court is because we do not know how many youth in our juvenile justice system are on the autism spectrum. There are no statistical numbers; even since we started testing these juveniles through DAAY Court with 65 percent coming back on the spectrum, we have no idea who is undiagnosed. It is even more difficult to gauge how many adults are in the criminal justice system or in the prison system with ASD.

A 2012 study of 431 prisoners found 4.4 percent with ASD prevalence—double those in the general population because many are undiagnosed. More recently, it was estimated that this number could be as many as 100,000 adults in U.S. prison systems with autism. Many states are attempting to address the issues of those adults with ASD in the prison system; however, it is a little too late.

Senate Bill 411 aims to prevent children from ever getting incarcerated in the first place. The success of the DAAY Court program speaks for itself; since 2018, we have graduated 65 youth, and only 5 youth came back. Of those five, only one stayed in the ABA program, and none of them were sex offenders. We have zero recidivism for the juvenile sex offender cases.

Legislators always hear about what Nevada does not have. I would like to highlight what we do have; Nevada has strength, resiliency and a commitment to our community. We flat out care about ourselves, communities and kids. I am here today to request the Committee takes this opportunity to show the rest of the Nation that we as Nevadans take care of our youth. By passing S.B. 411, Nevada will become the first State in the Nation to recognize a juvenile justice program for youth by allowing them to divert out of the criminal justice system.

SENATOR OHRENSCHALL:
If anyone ever has time to come view the Detention Alternative for Autistic Youth Court, you will see a group of people who all care so much: prosecutors, defense attorney, probation officer and all the stakeholders trying to see these kids succeed by getting the help they need and, hopefully, not ending up back in the system. District Judge Bailey mentioned Desert Regional Center, that is within the Aging and Disability Service Division, Nevada Department of Health

and Human Services, where children who need assistance into their adult years can get that. Then being at the autism court can cut through a lot of red tape in terms of kids getting that help. Although most kids who go through District Judge Bailey's program eventually can live their lives independently and do not need that help, the Desert Regional Center is there for those who do.

VICE CHAIR HARRIS:
Section 1, subsection 1, paragraph (c) says, "Is not ineligible for assignment to the program pursuant to any other provision of law." What might make someone ineligible to participate in this program? What provision of law?

DISTRICT JUDGE BAILEY:
We have accepted anyone who has an autism diagnosis.

VICE CHAIR HARRIS:
What is the purpose of paragraph (c)? Who are we trying to keep out?

SENATOR OHRENSCHALL:
That language may cover a child subject to a certification hearing where the State seeks to certify the child as an adult. Then the program may not be available to that child. This could be limited; there might be other instances, but that one comes to mind.

DISTRICT JUDGE BAILEY:
It is there in case of a direct file, someone who may not end up in our juvenile system or as a caveat catchall.

VICE CHAIR HARRIS:
Throughout *Nevada Revised Statutes* (NRS), certain sections say if you are charged with this or under this scenario, direct file or whatever it may be, you are not eligible for any type of diversion program.

DISTRICT JUDGE BAILEY:
We would lose jurisdiction over the youth at that time.

SENATOR STONE:
I appreciate this program and did not know it existed. My oldest grandchild is severely autistic, and your experiences resonate with me. If anyone has not had close contact with a severely disabled or autistic child, when you do, you will

love them more. I am crazy about my granddaughter even though she is nonverbal. As many people know who deal with autistic children, they are sensory sensitive. One of the challenges my son has with my granddaughter is when she comes home from school, the first thing she wants to do is take her clothes off. The DAAY Court probably has seen autistic children who are brought in for indecent exposure, and it is not because they are getting a sexual thrill. This exposing of themselves is because it is a sensory release for them to take their clothes off. Diverting them into a program able to help them with their behavioral health is beneficial. It would be criminal to put these autistic children through the criminal justice system. To me, S.B. 411 is an exemplary piece of legislation from a compassionate and caring State when most states do not have effective, comprehensive services for autistic children.

SENATOR OHRENSCHALL:
I hope this therapeutic diversion court will be implemented throughout the State because as you said, it would be criminal to put a child on the spectrum through the criminal justice system. More can be done. We are seeing that in Clark County through District Judge Bailey's work and everybody who has partnered with her on this DAAY Court.

CHAIR SCHEIBLE:
Section 1 subsection 1, is a "shall" as opposed to "may." Are you expecting that other jurisdictions will develop these DAAY Courts utilized in Clark County or something else?

DISTRICT JUDGE BAILEY:
An amendment corrects "shall" to "may." We are aware that it should be more discretionary.

SENATOR OHRENSCHALL:
"Shall" becomes a "may" in the amendment, Exhibit C, by Andres Moses. There are some other changes in consultation with the District Attorneys Association and other groups working to make sure we provide the framework. Hopefully, we will see it in all the different judicial districts and counties.

JOHN ABEL (Las Vegas Police Protective Association):
I was a patrol officer for most of my career and had interactions with autistic children, some of whom have been violent. Luckily, I have never had to use force. One thing that my mentors outside of law enforcement have taught me is

that policing cannot solve every problem. The last thing we want to do is have these autistic kids in this revolving door of getting arrested, going to jail, going to court, then back home, and their parents do not know how to deal with them. Programs like this limit the interactions that law enforcement have with these children and get them the help they need. A lot of my law enforcement brothers and sisters have had to use force on autistic children, and it is terrible. We support S.B. 411.

BRIGID DUFFY (Nevada District Attorneys Association):
We support S.B. 411. My attorneys in Clark County go to the DAAY Court, and I cannot emphasize enough the difference that I have seen District Judge Bailey make in the lives of these children dealing with autism. They have been in this revolving door of getting in trouble, going into juvenile detention, and they do not usually stay in juvenile detention for long. There is one case of an autistic child where we did not know what to do because of the lack of services in our community for children who have autism, and this child kept lashing out, hurting other people. Since this specialty court, that child has been so successful because of being placed into this program. We have not had any occurrences, and I directly say that is because of District Judge Bailey.

JONATHAN NORMAN (Nevada Coalition of Legal Service Providers):
I had the pleasure of working in District Judge Bailey's DAAY Court as the legal aid representative. It is a wonderful chaos there because all these community providers are present in the courtroom as District Judge Bailey assesses what that kid needs to move forward like, "What is going on with this kid's individual education program?" The parents answer, "we do not know," then District Judge Bailey says, "The child needs legal aid," and the referrals are made right there. There is no referral where somebody has to show up to the legal services office. We are getting the contact information in that moment, reaching out and bringing them in as a client to make sure the individual educational program is dialed in. That is how it is for all those service providers present in this specialty court, cutting through a lot of red tape for the most vulnerable kids in our community.

The power of ABA therapy for those kids is a game changer. In six months of intensive ABA, I have seen kids go from not tending to basic hygiene to doing chores and crossing the street to buy a soda and getting proper change. I cannot speak highly enough for the work they are doing for those kids. We support S.B. 411.

BAILEY UNRUH (Autism Coalition of Nevada):
We support S.B. 411. The DAAY Court is truly one of the most incredible things that has ever happened to families in Nevada. Due to the nature of autism, some individuals on the spectrum have severe fight-or-flight response that is no fault of their own. Many of these individuals will react in fear and flail their arms or sometimes even strike out in terror. These are not premeditated behaviors, and the individuals may not realize their actions are wrong or even question that after the fact because they have no control over their responses.

The amygdala, the fight-or-flight center of the brain, is scientifically proven to be inflamed in brains of people with autism. Dr. Temple Grandin said, "My fear is the main emotion of my autism. My amygdala is three times larger than anyone else's." She is one of the most famous autistic individuals in the world. We get calls from all over the State from parents of autistic children who have entered the court system due to a situation where the child striking out in fear was interpreted as violence or anger. These kids end up in juvenile detention, which is a sad situation and terrible for those who are clearly misunderstood. The DAAY Court is vital to keeping kids out of the juvenile detention system and giving them a chance to get needed therapy and care.

ERICA ROTH (Washoe County Public Defender's Office):
We support S.B. 411 because this is an opportunity for Nevada to be a leader in therapeutic diversion courts.

JOHN J. PIRO (Clark County Public Defender's Office):
This bill provides a treatment pathway for our neurodivergent children who have been brought into the juvenile justice system. I do wish that the bill would have kept section 1, subsection 2, paragraph (c). If the whole family works all the way through a program, the child should get a dismissal at the end. We support S.B. 411.

BARRY COLE:
I am totally impressed with this bill because it takes a block of patients for whom we have poor resources in psychiatry and comes up with a functional way to manage them. If you are not familiar with the term Skinnerian, then you might know it by its other name operant conditioning. This is the most elegant form of behavioral modification we have ever had. In fact, it is used routinely for chronic pain. That is how we get people off opioids and restored to, hopefully, gainful employment with operant behavioral techniques. It is the

opposite of a guy named Pavlov who was ringing bells to get dogs to salivate. That was classical respondent behavioral modification. This is an elegant application of one of our most effective forms of behavioral modification. I support S.B. 411.

CHRIS RIES (Las Vegas Metropolitan Police Department):
We support S.B. 411.

JULIE OSTROVSKY:
I am a former commissioner on the Nevada Commission on Autism Spectrum Disorders and currently a parent of a 25-year-old who had the opportunity to have ABA beginning at a young age. I support S.B. 411. What I have witnessed through the remarkable efforts and passion of District Judge Bailey and all the volunteers who work with her is it changed lives and made our community a safer and better place to live. Undiagnosed autism is not a crime but rather an unfortunate circumstance. By identifying what is causing criminal or violent behaviors, then offering the opportunity to intervene and change those behaviors is life-changing and lifesaving. Intervention over incarceration is the most ethical thing to do, and having the opportunity to evaluate the accused in our court system is remarkable. The Commission on Autism Spectrum Disorders has always been an incredibly strong commission. If it was still working and running, that Commission would support efforts of the District Judge. Unfortunately, when the Commission was enacted under statute in 2019, school districts were offered the opportunity to appoint commissioners.

In the end, they were unable to vote representing their school districts because outstanding advisers could not vote. The Commission could never make a quorum. It is an important Commission because programs like District Judge Bailey's and others throughout the State deserve to be recognized, supported and created. I support S.B. 411 and submitted more of my support testimony (Exhibit D).

STEVEN COHEN:
Ditto.

WILLIAM LEDFORD (Director, Lutheran Engagement and Advocacy in Nevada):
Ditto to all the testimony. We do not have justice unless there is justice for all. This is a fantastic step in that direction. We support S.B. 411.

LUKE DUMARAN:
I am neutral on S.B. 411.

SENATOR OHRENSCHALL:
This can help so many kids in the State. I would like to see the Detention Alternative for Autistic Youth Courts Statewide.

CHAIR SCHEIBLE:
I will close the hearing on S.B. 411 and go into the Committee work session. I entertain a motion to amend and do pass S.B. 411.

> SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 411.
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> SENATOR STONE SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

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PATRICK GUINAN (Policy Analyst):
Senate Bill 235 was heard by the Committee on March 24, 2023, and is summarized on the work session document (Exhibit E). An amendment, Senator Harris proposed Exhibit E, adds a new section 2 to allow a court to impose additional conditions of release if a person fails to comply with release conditions.

SENATE BILL 235: Revises provisions relating to pretrial release. (BDR 14-310)

> SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 235.
>
> SENATOR HARRIS SECONDED THE MOTION.

SENATOR STONE:
I almost support S.B. 235. There was some opposition by the District Attorneys Association, and it is working with Senator Harris. I would like to vote yea today but reserve to change my vote on the Floor.

SENATOR KRASNER:
I spoke with the John Jones, Jr., who said he was working with you on an amendment to exempt four holidays. How is that coming along?

CHAIR SCHEIBLE:
We are talking about the possibility of making additional amendments to S.B. 235. At this point, we have not come to an agreement. I am hoping we can still move the language we have.

THE MOTION PASSED UNANIMOUSLY.

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MR. GUINAN:
Senate Bill 296 was heard by the Committee on April 12, 2023, and is summarized on the work session document (Exhibit F). Senator Harris proposed an amendment, Exhibit F, that was offered at the hearing. The amendment limits the provisions of S.B. 296 to prohibit a peace officer from issuing a citation for certain violations relating to registration, license plates, permits for unregistered vehicles and equipment unless the violation is discovered when the vehicle is halted or its driver is arrested for another alleged violation or offense.

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

SENATOR DONDERO LOOP:
I appreciate the work on S.B. 296, but I will vote nay today.

SENATOR STONE:
I have been the victim of this activity in my hometown Temecula, California, which gets up to about 114 degrees during the day like southern Nevada. I got a ticket for having tinted glass on my car that protected me from getting blinded by the sun and kept my car cool. But my concern with S.B. 296 is that we empower our police departments to follow the law and cite people. If we do not want to cite people, then we need to go back to the law and make provisions in statute to be clear with our law enforcement as to what they should be doing and should not be doing. While I was a County Supervisor in Riverside County, we had an employee named William Suff who was pulled over for one of these random stops and arrested. Convicted as one of California's largest serial killers,

he was referred to as the Riverside Prostitute Killer, murdering over 20 women. There is some utility to these stops.

SENATOR HANSEN:
I support S.B. 296 because the intent is correct, and I agree with Senator Stone. One of the officers testified and said, legislators pass all these laws and then you restrict our ability to enforce the law; I have complete sympathy with that. I do notice that in the amendment, police officers still have the ability to pull over for warnings. This bill is stopping their ability to issue a citation. As we have learned, a lot of these seemingly not significant stops often evolve into something significant as Senator Stone mentioned. Nevertheless, I support the concept of needing some level of probable cause before you start stopping people, looking toward criminal citations. The one question I never got answered, though, with Legal and Senator Nguyen: Since we have decriminalized traffic citations, is this particular type of citation still considered criminal in nature or is it whatever traffic citations are considered?

CHAIR SCHEIBLE:
The registration is still a criminal violation, but the taillights would be a civil violation. The lawyer answer is it depends.

SENATOR HANSEN:
I was curious because we have been trying to decriminalize traffic violations, and I thought it would probably fall into that anyway. Law enforcement has a legitimate concern, though, because we do give them the assignment of enforcing laws, but then we kind of tie their hands on certain laws. I can see their rising level of frustration if we pass a law like this. We should probably also pass something that essentially removes headlights, taillights and things like that from any criminal possible parts of the law.

> SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 296.
>
> SENATOR NGUYEN SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS DONDERO LOOP AND STONE VOTED NO).

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MR. GUINAN:
Senate Bill 307 was heard by the Committee on April 12, 2023, and is summarized on the work session document (Exhibit G). The amendment, Exhibit G, comes from Senator Pat Spearman and other folks.

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

CHAIR SCHEIBLE:
The only hesitation on S.B. 307 was from Director James Dzurenda at the Nevada Department of Corrections who explained some provisions were missing in the amendments. Those provisions have been added to sections 14 and 15 that address the concerns with having clinical interventions and other special cases.

SENATOR HANSEN:
I did have a fascinating conversation with Karen Gedney who testified, having been in the prison system for 30 years and written a book on her experiences. I talked to her about S.B. 307 because I did not hear Mr. Dzurenda's thoughts. I was going to vote no because there is a lack of balance. It seems to me we are rushing something that is significant. What is your take?

JAMES DZURENDA (Director, Nevada Department of Corrections):
There are some concerns of mine, but the issues I had were around solitary confinement. It is not black and white when you have offenders who will not say why they misbehave. We have a lot of situations where offenders come in who had violence on the streets which resulted in killing a gang member. Now their lives are in danger, and those people do not want to tell us because they do not want to be identified as a snitch, a slang word for someone who is a tattletale or reported someone. The offender results to violence to be separated from the other offenders. It is hard for us to find the root of those problems when offenders get into solitary confinement, their time is up to get released back, and they refuse. They result to threatening or violent behavior so they can stay in solitary. Such behaviors are like that with those types of individuals because it is a way for them to say I am in solitary confinement because I am

violent, not because I am scared or my life is on the line. Nevada Department of Corrections has issues like that I thought needed to be addressed, so we are not forcing individuals out of solitary as S.B. 307 was originally written, having to force individuals off segregation status after 15 days. There are certain situations where if we force someone off, we are going to be in trouble. Either that individual's life goes on the line or someone else's. There must be a system in place to go after the root of the issue and determine whether there are other options. The amendment corrects that in the bill to give us those options.

Clinical advisers many times have said other inmates who are either refusing or possibly paranoid, schizophrenic, or should be on psychotropic medication demonstrate antisocial behavior and are afraid to come out or be near anybody else. They threaten by saying if you are letting me out, I am going to either assault you, stab you or stab somebody else so I can get back in solitary confinement. We also have something that some clinicians identify as homicidal behavior. When a clinician told me individuals are homicidal, if I force them out after 15 days to come into population, we are in trouble. Things like that had to be addressed where clinical advisors can make a recommendation to remain on segregation or solitary past 15 days.

However, there should be some type of intervention, by a disciplinary team that involves mental health, custody and officers to look at the root of these issues involving inmates who refuse or make threats to avoid coming out of solitary. We do not want to push those people into population and then have a worse problem than staying in. Those were all addressed in the amendment since yesterday. With accountability, I saw the amendment and am okay with reporting every time someone refuses and tracking the problem, so we understand how many of these events happen, what we are doing about it, how long it goes past those 15 days and why they are still in there to determine what is happening and the next step.

SENATOR HANSEN:
I am going to vote for S.B. 307. In watching the Department of Corrections for seven sessions, Director Dzurenda, you are a tremendous breath of fresh air; I was disappointed when you left, glad to get you back. We expect miracles out of the Nevada Department of Corrections despite underfunding and lack of staffing; all this stuff takes resources. When we demand all these services from Nevada Department of Corrections, the Legislature does not provide the resources to get it done. Then we are mad when things do not work out the

way we want and would love to see them happen. I would hope that Nevada Department of Corrections can get a few extra bucks to do some of these things, especially the stuff that Dr. Gedney described to me after 30 years in the system.

SENATOR STONE:
I have worked with a number of wardens before in a large criminal justice system in another state. Do you have certain healthcare professionals required by S.B. 307 to intervene? I think it was like every 15 days to assess the health of the inmate, and you made it clear that you do not routinely hire this cadre of healthcare professionals. How do you mitigate, or have you mitigated it yet? Are you able to use telehealth to make sure these people are getting the appropriate oversight and not suffering any physical ailments as a result of their incarceration?

MR. DZURENDA:
At issue is neither having the resources to have the staff nor having the approved staffing levels. Interdisciplinary reviews by telemedicine or videoconferencing is appropriate if a clinician has inmate contact and understands the history, following up on medical or mental health, so we can have an appropriate outcome.

SENATOR STONE:
Can you put that program together effectively to accomplish the goals of this legislation?

MR. DZURENDA:
Yes.

SENATOR HARRIS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 307.

SENATOR KRASNER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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MR. GUINAN:
Senate Bill 322 was heard by the Committee on April 11, 2023, and is summarized on the work session document (Exhibit H). Senator Stone offered an amendment, Exhibit H, that strikes sections 1 and 2 from S.B. 322, retains the current one-to-six-year penalty for a reckless driving case except those involving a speed of 50 or more miles an hour over the speed limit or that occur in a school zone or pedestrian safety zone. The amendment also allows judicial discretion regarding parole eligibility. Senator Stone has requested the bill be referred to as Rex's Law. I have been told by our legal counsel that will happen; I am happy to refer to S.B. 322 as Rex's Law from here on.

SENATE BILL 322: Revises provisions relating to reckless driving. (BDR 43-934)

SENATOR STONE:
I thank the Patchett family for flying up here to give tremendous value to their son's life to ensure that no other family has to endure the crisis and the horrible issue of losing a child to a heinous crime like this. Today would have been Rex Patchett's fifteenth birthday. I do not know if this is by coincidence or divine intervention.

> SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 322.
>
> SENATOR KRASNER SECONDED THE MOTION.

VICE CHAIR HARRIS:
The amendment has brought S.B. 322 a long way and answered a few of my concerns. I will support it out of Committee today, but I reserve my right to change my vote on the Floor.

> THE MOTION PASSED UNANIMOUSLY.

* * * * *

MR. GUINAN:
Senate Bill 359 was heard by the Committee on March 28, 2023, and is summarized on the work session document (Exhibit I). The friendly amendment, Exhibit I, discussed in the initial hearing from the Clark County District Attorney's Office expands the definition of community service to conform with guidance from the Office of Juvenile Justice and Delinquency Prevention

regarding providing meaningful community service while holding a child accountable. It strikes from the bill the reductions in community service hours, adds job skills and employability components to community service and removes the fine for a first offense of truancy.

SENATE BILL 359: Revises provisions governing juvenile justice. (BDR 5-56)

SENATOR DONDERO LOOP:
Would it be permissible to have the district attorney come and clarify the amendment?

MS. DUFFY:
The Nevada District Attorneys Association submitted an amendment after our last hearing to address some continued concerns. That amendment would put the initial firearms charge up to 200 hours of community service. It would also verify that school districts could be used for community service for activities within the school. We removed the portion that the court could require a child to talk about what they did in community service and how that connects to the goals of the community service.

SENATOR OHRENSCHALL:
This will open a lot of opportunities for kids on probation who have difficulty completing community service when ordered by the court. The version in Exhibit I, may not be the latest version because at the end of section 4, I still see the language about the court may require the child "to inform the juvenile court which of the goals in section 1, subsection 1 the participation in the community service has assisted in helping the child achieve." I believe we agreed to delete that language.

MS. DUFFY:
Yes, I did send that additional amendment out last night to strike that specific subsection.

SENATOR OHRENSCHALL:
That was the only substantive change between this amendment and the last final version.

MS. DUFFY:
That is correct.

CHAIR SCHEIBLE:
I will accept a motion to amend utilizing the amendment in the work session document plus a conceptual amendment to strike language in section 4, subsection 2 of the amendment, indicating the child can be required to come back to court and talk about the goals achieved or made progress toward.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 359 WITH CONCEPTUAL AMENDMENT.

SENATOR STONE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

MR. GUINAN:
Senate Bill 418 was heard by the Committee on March 30, 2023, and is summarized on the work session document (Exhibit J). Senator Scheible offered an amendment, Exhibit J, in consultation with the courts that strikes the original content of S.B. 418 and provides a replacement.

SENATE BILL 418: Revises provisions relating to candidates to the office of district judge. (BDR 1-803)

CHAIR SCHEIBLE:
To clarify, I did work with the Nevada Supreme Court and court administrators on this amendment, Exhibit J. It essentially requires a questionnaire to be filled out like we discussed in the hearing, instead of utilizing the one in place for appointment candidates. The judiciary or Supreme Court may be interested in developing a separate questionnaire, so it can either utilize the existing one or develop a new one as long as there is something for judicial candidates to fill out that the elections official will then post on the website for interested voters.

SENATOR KRASNER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 418.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR SCHEIBLE:
I will close the work session and open the hearing on S.B. 408.

SENATE BILL 408: Revises provisions regarding juvenile justice. (BDR 5-1014)

SENATOR OHRENSCHALL (Senatorial District No. 21):
Committee members, look at the amendment (Exhibit K) to S.B. 408, rather than the original bill. Senate Bill 408 arises out of my experience as a deputy public defender in juvenile court, working with children who have found themselves cited or arrested and in delinquency proceedings that sometimes lead to adult criminal court. Senate Bill 408 and the amendment look at changing the laws in a few different ways by revising: the age and conditions under which a juvenile may be certified to be tried as an adult, and provisions concerning certain sex offender registration for a person who committed a sexual offense as a child and has now reached the age of 21.

In section 1, the amendment Exhibit K creates a uniform age of 14 for potential certification to adult criminal court. Under Nevada law, 14 is that age; however, there is the exception for murder and attempted murder which goes down to the age of 13 and is an extremely rare case. But the premise behind raising that age to 14 is for services that can be provided if, heaven forbid, anything like that ever happened. We see cases like that happen around the Country. Nevada juvenile court would have jurisdiction over this, rather than a potential transfer of the case to adult court because juvenile courts will provide those services.

Section 2 of S.B. 408 provides a court is to relieve a child who turns 21 years old from sexual offender registration community notification requirements unless the prosecution proves by clear and convincing evidence the child continues to pose a threat. The Committee will hear from other copresenters that children who are on what is called the juvenile sex offender calendar have a lower recidivism rate. Court-ordered treatment for those juvenile sex offenders produces a low recidivism rate.

JENNIFER FRASER (Clark County Public Defender's Office):
The amendment for section 1 simply increases the threshold from 13 to 14 years of age for the one offense of murder. This is a small portion of the delinquency cases we see and would not have a significant impact, but it is incredibly important for those rare cases that come up with the recognition that a 13-year-old—no matter how serious the offense he or she commits—is not appropriate to be transferred to the adult system. This Committee will hear another bill regarding probation time limits, but that would be carved-out murder and attempted murder offenses. A 13-year-old would still have eight years of jurisdiction in the juvenile system, allowing an appropriate time to get rehabilitation and services. This is a rare instance but still important to keep as many kids as possible out of the adult system.

Section 2 is an important piece on what we do in the juvenile system. I want to point out that amending NRS 62F.340, which allows the court to hold the hearing for a child on or about the defendant's twenty-first birthday, does not change the presence of juvenile registration. If they have certain statutory sexual offenses, the court has to have a hearing to determine if they should register as adult sex offenders based on an offense committed when they were 14 years old or older. This amendment simply would shift the burden from the juvenile to the State. It is our position that the State should have the burden to show to the court that child or now adult is no longer a safety risk. This is important because of the negative consequences surrounding registration; we know it affects a child and an adult's mental health through harassment, and unfair treatment results in problems at school and an increased suicide risk. Shifting that burden from the juvenile to show offender rehabilitation versus putting that burden on the State—because it is a significant ask—is important to rid any erroneous findings of putting too many people on the sex offender registry which, in fact, reduces community safety.

SENATOR OHRENSCHALL:
The amendment considers stakeholders concerns. I am still working with them to see if other concerns can be addressed. Senate Bill 408 is still a work in progress.

MR PIRO:
The Clark County Public Defender's Office supports S.B. 408. This is a good first step and a good measure when looking out for children who have been

involved in this. It puts the burden where it should be when it comes to whether to keep a kid on the sex offender registry.

MS. ROTH:
The Washoe County Public Defender's Office supports S.B. 408 as a good first step, especially regarding the shift of burden in line with caselaw and looking at the rest of our statutes.

DAVID BELTRAN BARAJAS (Progressive Leadership Alliance of Nevada):
We support S.B. 408 to increase the age of certifying a juvenile into adult court from 14 to 16 years old. The certification file disproportionately affects and impacts youths of color. From 2012 to 2017, 140 of 147 youths directly filed into adult court in Clark County were youths of color. Of the 147 youth directly filed into adult court, 69 percent were Black youths which hovered around 10 percent of the Clark County youth population during the period. As a Brown male, one of my parents' worries while raising me was to ensure that I never had any contact with the criminal justice system, mainly because of my undocumented status while growing up. They recognized that entanglements with the law for young Brown boys often means getting sucked into the prison pipeline. My own mother grew up without a dad. Carmelo was his name, and he was in and out of the prison system from a young age, and would miss my mother's entire life. Refraining from certifying youths as adults until 16 years old, we create one more backstop and keep our youth of color out of the prison pipeline. This provides our communities with the ability to take a restorative approach on to how we deal with crime and forgiveness. If we show our youth that there is no room for forgiveness, what hope do they have for rehabilitating?

MS. DUFFY:
Senator Ohrenschall and I have not come to an agreement yet despite such good communication about working on these juvenile justice bills. On behalf of the Nevada District Attorneys Association, we oppose S.B. 408. I want to make sure this Committee understands what a certification is. A certification is not an automatic bypass of juvenile justice to the adult system. It is a process before a juvenile judge. Over the course of Legislative Sessions going back to 2013 when the age of 13 was put into statute for murder and attempted murder, we have been moving away from certain things, one of them being presumptive certifications. No longer do we presume in certain occasions that certifications occur. Everything is discretionary on the part of the court. In that process, the State or any office of the prosecutor would file a motion and the attorney for

the juvenile files an opposition, then there are evaluations of the juvenile. A judge in his or her discretion would weigh factors to decide if the case warrants transfer to the adult system upon the serious nature of the offense and past adjudication if the child has been through the system and has received services before or if the court believes the juvenile can be rehabilitated in the juvenile system. There are protections in place.

In Clark County, we have not had a 13-year-old offender yet. We have had a 14-year-old offender, though. But I am not sure for a 13-year-old because when we look at the world we are living in today, I cannot imagine now, sadly, a world where 13-year-old takes a firearm to a mall and kills other children. I am not saying that a 13-year-old would be necessarily appropriate for the adult system, but that is the court's discretion to make that call. With those protections in place, we do not need to change anymore of what we have for certifications.

In section 2, the District Attorneys Association is opposed to that burden shifting to the State to prove the child poses a threat because, sometimes, we do not see these children for years after they leave, and they have to come back at the age of 21 to determine sex offender registration. We would have to have evaluations to review the last few years and have that individual tell the court what has been going on. The better way to handle it is in statute.

SENATOR HARRIS:
You mentioned a 13-year-old may be committing a heinous crime. Is it your opinion it changes the fact that the child is 13 years old? Are we supposed to feel that a child who did something horrible deserves to be treated as an adult as opposed to still being a 13-year-old?

MS. DUFFY:
That is a factor for consideration of the court when determining whether the crime was enough for the child to serve in the adult system. In the juvenile system, we do not have anything and have been asking session after session to create programs to help us treat violent offenders in the juvenile system until they turn adult age. Well, there is nothing in the adult system, but that would be a court's decision. I cannot tell you that I would motion the court at that point because I do not know the facts of the case. I can imagine we will get one case that prosecutors should be able to weigh, making that decision and undergo the court’s discretion to see whatever treatment we create for these

children in the juvenile system. Right now, we have nothing, and residential treatment facilities will not take violent offenders to treat mental health.

SENATOR NGUYEN:
Is the age of 13 acceptable? You are talking about the facts of the case and not the fact that is a child. When we talk about how brains have not developed until 27 years old, what kind of factors might the court take into consideration? Or would you consider determining whether that is a low enough number?

MS. DUFFY:
We would take into consideration the heinous and egregious nature of the offense, age, maturity and whether the child has received treatment in the juvenile system in the past. Most likely, we would probably weigh in favor of not moving to certify that child because we do not often get 13-year-old offenders in the system. We have had 13-year-old offenders just a month or two away from turning aged 14 who have taken stolen vehicles and driven them through intersections at 100 or so miles per hour, killing an innocent person in their car who is on the way home from work. It is discretionary and not mandatory.

SENATOR NGUYEN:
Looking at states around the Country, we have an unfortunate situation where a ten-year-old kid had access to an unsecured firearm and killed multiple kids. That child is still ten years old, and an egregious act occurred. I just get concerned that we are creeping down further and not looking at the science of brain development and emotional maturity. You are talking about children who potentially have not even gone through puberty yet. You could have a 13-year-old girl who has not had her first menstrual cycle. We are talking about not just children; we are talking about babies.

MS. DUFFY:
We are not creeping down; the age of 13 is the current age, and I am not asking for it to be lower. I am asking for the age to remain at 13. We have had conversations on the Assembly side, talking about a six-year-old who brought a gun to school. Now, people want to have all these children kicked out of school and into the streets because they are violent offenders. So, everyone is okay with kicking a kid out of school because he or she is 6 years old. We cannot reconcile all of this; how do we reconcile? Schools are not safe because a kid acts out at school, so put them into the street with no education. I can

guarantee you, I know where they are going to go. I hope that in consideration of all these things coming for this Body, you reconcile it because we cannot. We are working in a system where the court has discretion, and that is a good thing because it is not fully in the prosecutor's hands, and it does not bypass us altogether. We have people who consider these things and make the best determination for public safety and the interest of the child.

SENATOR NGUYEN:
You are interested in what you have strived your entire career—to protect children and make sure they are in the best situation possible. I get frustrated when we have conversations about moving the age even minimally for our young people at 13 or 14 years old when not even in high school. You give an example about joyriding at 14 years old, and someone cannot even drive at that age. I have concerns about that.

MR. RIES:
The Las Vegas Metropolitan Police Department echoes Ms. Duffy and opposes S.B. 408.

ELIZABETH FLOREZ (Director, Department of Juvenile Services, Washoe County):
I echo the concerns expressed by Ms. Duffy. Senate Bill 356 of the 81st Session required a study be conducted on the housing of youthful offenders. This report is due to the Legislative Body before June 30, 2023. We support the belief that certified youthful offenders should be in a setting that provides for their unique needs based on their development. We also believe making changes to the certification laws prior to analysis of the S.B. No. 356 of the 81st Session report is premature. For this reason, we oppose S.B. 408. To respond to previous questions about Washoe County, we have had a 13-year-old who we charged with murder and certified as an adult a few decades ago.

JEFF ROGAN (Department of Juvenile Justice Services, Clark County):
Given the question brought up about raising the age for certification, I want to draw to your attention that S.B. 408 as drafted would have placed significant burdens on our juvenile justice system because we simply do not have appropriate facilities for children aged 16 and under who commit violent offenses. If this bill were to pass as drafted, Clark County would need two additional facilities to house those children as well as approximately 26 new staff. Whenever we are talking about changing those age ranges, we

must talk about the facilities and personnel needed to ensure that those children remain safe in those facilities. Some of this amendment will address those concerns we originally had since it does revert back to the age of 14. I do want to make it clear that if you are considering changing those ages, there are repercussions on the local level.

JASON WALKER (Washoe County Sheriff's Office):
We oppose S.B. 408.

KASEY ROGERS:
I oppose S.B. 408.

YESENIA MOYA:
I came here initially to support S.B. 408 as written with this amendment. Yet I am concerned about what the opposition has said. Our youth deserve multiple chances in different ways. They deserve every single alternative and opportunity because I have seen too many family members and friends end up in prison who started out in juvenile detention. It hurts my heart to hear people dehumanize a 13-year-old, to think that a child has the ability to do what the opposition has said. Our youth deserve better.

SENATOR OHRENSCHALL:
This is a difficult issue. One of the best things I heard today was the testimony from the prosecutors as to how rare it is to see a 13-year-old charged with murder or attempted murder.

Working in delinquency courts with judges, district attorneys, public defenders and probation officers, we see tragedy every day that affects children and families. If we get to the point where we have a 13-year-old who is charged with murder or attempted murder, it is not only a tragedy for the child, victim and society but the result of a lot of successive failures because so many things have failed for the child who got to the point of being charged. Leaving it open for a 13-year-old to be prosecuted as an adult and potentially sent into the Nevada Department of Corrections would be another failure.

We should make a change in the law for children who had juvenile sex offenses, are now 21 years old and seek to not be subject to community notification registration. As I said, the statistics as to recidivism rates for those children charged with juvenile sex offenses are extremely low; they usually do well, and

we often never see them again. It would be fair for the burden to be on the State to prove that those youth need to be on subject registration with community notification for sex offenders if another trouble surfaces that the courts overlooked when they turn 21 years old.

MS. FRASER:
Everyone understands the brain science and adolescent brain development science, especially when we are talking about a 13-year-old, no matter how serious the offenses. Some testimony regarded a bill studying the youthful offender housing within our State with the recognition of room for improvement. Moving 13-year-olds from getting escalated into the adult system is the right solution here.

Section 2 does not take any discretion away from the court to order registration if warranted. This is simply shifting the burden to the State. The State is prepared and has the tools to argue instances where it believes there is a continued risk to the safety based on subsequent criminal and sex offenses. The State is certainly in a position to make those arguments and is more in line with constitutional due process; having that burden on the State when asking for such a serious and significant collateral consequence for our children.

CHAIR SCHEIBLE:
We have one letter (Exhibit L) of support testimony. I close the hearing on S.B. 408 and open the hearing S.B. 410.

SENATE BILL 410: Revises provisions relating to juvenile justice. (BDR 5-1026)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):
Nevada law allows for an applicant or employee of a juvenile justice service entity—who has been charged with one or more of a list of serious crimes—180 calendar days after arrest to resolve pending charges before the entity is to deny the application or terminate the employee. Senate Bill 410 changes that window to 270 calendar days after arraignment to provide that employee or applicant adequate time to potentially clear his or her record. The bill defines a substantiated report of child abuse or neglect as one assigned a disposition of substantiation by a child welfare agency and not the subject of an administrative appeal. For the purposes of this bill, such a claim is one of the factors for which an employee or applicant can have the application denied or employment terminated.

Working in the juvenile courts, I had the opportunity to work with many juvenile probation officers and detention staff prior to court hearings. I have been impressed at how much the detention staff and probation officers care about the children. They try to fulfill the role of social worker, mentor, an extra parent, big brother or sister to many of the children they supervise and try to help. Senate Bill 410 tries to aim at a little more fairness in terms of some of the conditions of employment for those people. Mr. McCann and I have been working with Clark County on a proposed amendment to S.B. 410; it is not complete yet, but we are getting close.

RICHARD MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):
Senator Ohrenschall has always been a champion for juvenile justice. If we did not know it before, then we saw it today regarding issues and the hardworking men and women who work in that environment. Senate Bill 410 seeks to remedy a problem we are having with timing. An arraignment in misdemeanor cases often takes much more time than they have in the 180 days. It can be more than 180 calendar days from the time of arrest to get yourself to a position where the criminal justice system is starting to work. Therefore, a person can start to remedy the situation by getting the case resolved in some fashion and avoid being terminated at his or her job. Things do not start working until you get an arraignment or some form of a criminal charge officially filed.

Especially on misdemeanors, law enforcement will tell you, that it can take a lot longer than what we would expect in a criminal felony matter, for example. A portion of S.B. 410 gives the discretion to the director to extend that time, and in fairness, they have done so. I would be remiss if I did not give them credit for doing that, but they do not have to and, often they do not. People are sitting around going, well, we cannot do anything with our cases because they are not in the system. Meanwhile, time is running before they are going to be terminated. Simply put, these things in the criminal justice system do not start until after the arraignment at the initial appearance. That is the time when employees can act to clear their records.

Per statute, if we are to give an employee time to correct the record before suffering termination, we darn well need to give them enough time. We are working with the Clark County representative, Mr. Rogan, to work out a couple of proposed amendments.

SENATOR NGUYEN:
What was the origin of S.B. 410? Are many people who were officers being accused of child abuse and neglect?

SENATOR OHRENSCHALL:
I do not believe there were many; I do not have the numbers. There were concerns, and Mr. McCann reached out to me to seek this change for more fairness for the employees who work there.

MR. MCCANN:
Nevada Revised Statutes 62G.223 states that a department of juvenile justice services can secure information from appropriate law enforcement agencies. This information is on the background and personal history of every applicant for employment with the department and for each employee of the department to determine whether the applicant or the employee has been convicted of a list of about 14 categories of crimes. This investigation is supposed to be performed about every five years.

Nevada Revised Statutes 62G.225 states that if an applicant or employee has charges pending for one of those listed crimes, a department of juvenile justice may deny employment to the applicant or may terminate the employee after allowing that person time to correct the information or resolve the charges.

As Senator Ohrenschall referenced, the 180-day time frame under NRS 62G.225 states that if an employee has pending charges against him or her for 1 of those listed crimes, the department of juvenile justice shall allow the employee a reasonable time of not more than 180 calendar days after arrest to resolve the pending charges. The department of juvenile justice may allow the employee additional time to resolve the pending charges.

The department exercises discretion to extend the time frame but not always. We recognize that person may not have an arraignment within that 180-day time frame and recommend 270 days in S.B. 410. From the time of arraignment, at least give a person enough time to get this matter resolved until an arraignment and formal charges. We are asking for additional time to start from arrangement, not from arrest. That list of violations has many felonies and a couple of misdemeanors. Not all deal with child abuse. A variety of things include driving under the influence offenses and such.

SENATOR NGUYEN:
In S.B. 410 section 1, subsection 1, paragraph (b), you have deleted "has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactory cleared." Can you describe why that was deleted and new paragraph (c) is needed?

SENATOR OHRENSCHALL:
That is because of our recent changes to statute regarding whether an allegation of abuse or neglect of a child was either substantiated or unsubstantiated. Recently, a change to NRS 432B.305 to give some other options is why the language reappears there with the change.

SENATOR NGUYEN:
Legal might answer whether that is a conforming change because of other section changes or if that is a subsident part of S.B. 410.

SENATOR OHRENSCHALL:
Deleted language does not include granting time the employee has to correct the required information. New language at the top of page 3 of S.B. 410 considers if the employee believes there might be an error in the central registry. This gives the time to make sure that is correct, and his or her career in juvenile probation or juvenile detention would not be over if there is an error. The original language of the statute did not have that.

KARLY O'KRENT (Counsel):
I am happy to provide any additional information, but my general understanding of the need for paragraph (c) is that Senator Ohrenschall's explanation regarding the recent change and requiring the assignment of a disposition to these reports of abuse or neglect is correct. The language regarding the assignment of that disposition allows a report to be assigned a disposition of "substantiated" but still be under the appeal process. While an appeal is pending, S.B. 410 builds a time frame to allow someone that time so he or she does not get fired.

SENATOR NGUYEN:
The definition for substantiated report of child abuse and neglect appears to be new. Is that conforming or new language?

SENATOR OHRENSCHALL:
That new language references to NRS 432B.305 where the definition of "substantiation" in subsection 3, paragraph (b) "means that the agency which provides child welfare services has determined by a preponderance of the evidence that the alleged abuse or neglect occurred and was committed by the person named in the report as allegedly causing the abuse or neglect." It refers to the existing statute. Last Session, we made some changes to that statute because before there was only the option of substantiated or unsubstantiated. We did add "unable to locate or contact" and "administrative closure" dispositions for the person with a claim of abuse or neglect. This gives more specificity.

MR. MCCANN:
We are talking a bit about two different things because there is the list of criminal violations in NRS 62G.223. We are also talking about administrative proceedings that will result in a substantiated report of child abuse. Those administrative things are not necessarily yet criminal charges. We want to make sure those are included in the time frames we are talking about.

MR. ABEL:
We support S.B. 410. I can tell you what Las Vegas Metropolitan Police Department (LVMPD) does with people who are accused of crimes, whether felony or misdemeanor. If someone is accused of a felony crime, LVMPD puts that person on unpaid administrative leave. The Department does not terminate your employment, but you are not in a paid status. If he or she can prove innocence or charges are amended or dropped, that person can come back to the job. If a person is accused of a misdemeanor, then he or she is sometimes placed on administrative leave with pay, or LVMPD modifies duties.

SENATOR HANSEN:
If people have been accused of a felony and they get exonerated, do they get their back pay?

MR. ABEL:
It depends if they are exonerated. I have had officers who have been through this. If the charges are dropped or that person is acquitted, yes, he or she will get back pay. But if that person takes any kind of deal, the person does not get back pay.

TONJA BROWN (Advocates for the Inmates and the Innocent):
We support S.B. 410. In the past, we have come across allegations of child abuse or sexual child abuse primarily in divorce proceedings where one spouse will allege the other spouse conducted child abuse. Then it later turns out not true, but in the process, the allegation has destroyed the other person's life, job and relationship between the children and the parents.

MATTHEW RICHARDSON:
Senate Bill 410 allows time for due process to take its course before penalties are levied and just gives someone a fair shot at clearing oneself before being terminated or pushed out of his or her career. A Senator asked, how often this happens, or what is the frequency of a supervisor or officer being accused of child abuse? In the last three years, three supervisors were charged for child abuse, and they were all exonerated from any wrongdoing. The problem is the time to get that fair hearing, and that fair hearing takes about five months or longer. There is an administrative process through Child Protective Services and then the additional time to get or receive evidence. The timelines are skinny, and we are asking to widen them so people can get that due process and have a fair chance.

MR. ROGAN:
I speak on behalf of our Department of Juvenile Justice Services. Among those enumerated crimes, we are talking about is driving under the influence. A person arrested for DUI can either take a breath test or a blood test. If that person takes a blood test, it takes time for that blood to be analyzed to determine the blood alcohol content. That delays an arraignment perhaps by three to four months. Mr. McCann and I are working on an amendment to address that specific issue and the remaining types of crimes. Usually when the arrest is made, the arraignment happens quickly thereafter, and those other crimes are not an issue wherein an arraignment is delayed substantially. The other concern with the definition brought up the change of a substantiated child abuse or neglect. In S.B. 410, a person who has not obtained a fair hearing is not considered to have a substantiated child abuse, which means we cannot prohibit them from interacting with the children he or she supervises. That is our second area of concern.

SENATOR OHRENSCHALL:
The men and women who work with the children in detention or probation are some of the most dedicated people I have ever met. I want our statutes to give

them a fair chance to clear their names when there are accusations like this so their careers do not end when there is a chance their names will be cleared and these charges are not correct.

CHAIR SCHEIBLE:
I will close the hearing on S.B. 410 and turn the gavel over to Vice Chair Harris.

VICE CHAIR HARRIS:
I open the hearing on S.B. 389.

SENATE BILL 389: Revises provisions relating to crimes. (BDR 15-133)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):
To understand the purpose and structure of S.B. 389, I will give some background. Every year we come to the Legislature to work tirelessly to prevent and combat human trafficking in a myriad of ways through various provisions of services from the government, nonprofit agencies and law enforcement. Law enforcement has its own programs designed to address human trafficking by preventing people from engaging in human trafficking and serving survivors of human trafficking. Yet we continue to come back to the Legislature and harp on the problem of human trafficking. We do that because human trafficking continues to persist in the world and in Nevada.

This year was not the time to give up on human trafficking prevention but time to take a step back and ask ourselves, what have we been doing, what has been working, and what has not? I discovered no less than seven governmental bodies explicitly and exclusively committed to combating human trafficking. Some of those bodies have come to speak to us in the Judiciary Committee or Joint Interim Standing Committee on Judiciary. Some have functional websites with mission statements and what they do. This is not a way to complain about any of those agencies or suggest they are not doing their jobs, but I do not think they are coordinated. Last Session, we tried to facilitate coordination by developing a Statewide human trafficking task force. All that did was create yet another body that was supposed to coordinate all of this; it met twice that I know of, and the minutes have not yet been updated.

It is staffed by the same groups that staff the southern and northern Nevada human trafficking task forces. We have done an excellent job of creating committees and task forces but not of coordinating those committees and task

forces. Rather than create yet another one, S.B. 389 does a couple of different things.

The first piece takes one important part of the puzzle missing for actual enforcement, ensuring that people who are trying to buy sex from a child online are punished the same, whether they are interacting with the child, a member of law enforcement or somebody working with law enforcement, posing as a child. That last little section was missing before we contemplated that the law enforcement agency would partner with other people who are not law enforcement officers themselves but posing as children.

The second piece of S.B. 389 gets to that disjunctive, bureaucratic nightmare created of multiple agencies, nonprofits, task forces and committees that are supposed to be addressing human trafficking, and it directs them to issue one consolidated report to the Interim Judiciary Committee next year. It does not specify who is in charge of the reporting. It does not put one person at the top of the food chain. It does not declare that we appoint anybody new to work on this problem because we do have the best and brightest working on human trafficking issues in Nevada.

I do not doubt that there are dozens if not hundreds or thousands of people committed to preventing and fighting human trafficking in Nevada. In the time I have worked on this issue, I met dozens of people who do great work in this area, but we are not leveraging the resources that already exist to make the Northern Nevada Child Exploitation and Human Trafficking Task Force, the Southern Nevada Human Trafficking Task Force, the State of Nevada Human Trafficking Coalition and all of the other committees as effective as they can possibly be.

The purpose of requiring all agencies defined in section 4 of the bill is to ensure that anybody who receives money from the State to combat human trafficking or be part of a task force or committee established by statute to combat human trafficking, comes together to produce a report that details what they are doing and how they are involved in this process. Force them to the table together all at once and create a single document that will help the Legislature.

It is like an audit for the Legislature to understand what all the bills we have been passing over the last 15 years have done and what work has come out of that. This is going to be an encouraging project. It is not my goal and

anticipation that we will come up empty-handed. We will see ample resources, people and programs doing excellent work, and we should funnel money into those programs, utilizing our power here at the Legislature to support those programs, analyzing policies and sharing information across different jurisdictions within Nevada so every corner of the State can have the best possible response to human trafficking.

The third piece of S.B. 389 is contained in Proposed Amendment 3588 (Exhibit M), section 7.4 which challenges the Legislature to put our money where our mouth is and allocate $1 million from the State General Fund to the Contingency Account for Victims of Human Trafficking. That fund is administered by the Department of Health and Human Services (DHHS). The Department has a grant system that it utilizes to take requests from agencies or nonprofit organizations in the State that combat human trafficking, and they have to meet certain criteria that DHHS has set out. We do not have to reinvent the wheel here. This fund already exists with an application process that has requirements an organization has to meet to be eligible for funding. The DHHS has a process through which it awards grant funding from the Contingency Account for Victims of Human Trafficking to nonprofit and governmental organizations throughout the State doing the good work the Legislature has been asking them to do for the last 15 years. I am hopeful we will get this appropriation approved to ensure all those organizations that are coming to the table in the Interim also have the resources necessary to carry out the good work they do combating human trafficking.

SENATOR HEIDI SEEVERS GANSERT (Senatorial District No. 15):
Around 2007, I worked with U.S. Senator Catherine Cortez Masto on similar legislation, but it was online luring. Law enforcement or representatives of law enforcement wanted to make sure that folks who were luring children and confirmed they were luring children are prosecuted. This is a similar bill in that someone trying to traffic or solicit a person he or she believes is underage should be prosecuted as if that person is underage, and those two penalties are steeper.

Section 2 is about making sure those trying to solicit someone who they believe to be a minor, whether that is law enforcement or someone who is representing law enforcement, is prosecuted with the statutes related to minors.

There is an account for victims of sex trafficking crimes under the direction of the Attorney General's Office. Currently, victims of sex trafficking can only apply for up to 24 months; section 5 extends it up to 60 months for a victim to apply. We found individuals who are victims of sex trafficking take a while to recover and understand the needs they may have. This fund is specifically set up for victims of crime to help with housing, childcare, relocation and a variety of different things. These victims need more time to access those funds because it takes them a while to realize they want to get out of that life and make an application for those types of funds.

SENATOR SCHEIBLE:
I just received a conceptual amendment from the Attorney General's Office to change wording in the statute that makes it illegal to solicit a child for sex, making it consistent with S.B. 389 wording to include a child "or an adult posing as a child" to basically close that same enforcement gap.

ERNIE ADLER:
The Embracing Project is a group of women who are combating sex trafficking by helping the victims. It is essentially a drop-in center in Las Vegas which provides material resources, empowerment, support, adult education programs, mentoring programs, parenting programs, financial literacy training, employment readiness, counseling and trauma-informed care for women who were being sex trafficked. It has a caseload of about 100 girls or women in the program. The Project is losing a grant which paid for supportive housing for sex trafficked victims. Senate Bill 389 essentially allows The Embracing Project to apply to the State for additional funding to keep its supportive housing open for these women, which is of critical importance. We support S.B. 389.

REGAN COMIS (Awaken):
We support S.B. 389. Increased reporting is important for us to analyze what is happening in the State. My focus is on section 5, as noted victims of sex trafficking have extreme trauma that has happened over a long period of time, taking them longer to recognize they are victims in many situations. We had one survivor that needed some dental care but was not able to get it because she applied two months after the two-year deadline. Expanding that time frame is appropriate. Like many other nonprofits, access to funding is always a challenge, and we are in support of extended funding for the contingency fund.

MR. RIES:
The Las Vegas Metropolitan Police Department supports S.B. 389.

JENNIFER NOBLE (Nevada District Attorneys Association):
We support S.B. 389.

MR. WALKER:
The Washoe County Sherriff's Office supports S.B. 389.

MICHAEL WILLOUGHBY (El Faro Consulting):
We support S.B. 389. The best time to pass this bill would have been ten years ago. The second-best time to get this bill moving to help these victims and nonprofit organizations giving aid is today.

MR. LEDFORD:
We appreciate the wisdom of doing an audit on the work we have been doing and seeing the results of that work as well as the money going to the organizations aiding victims. Lutheran Engagement and Advocacy in Nevada supports S.B. 389.

VICE CHAIR HARRIS:
I will close the hearing on S.B. 389 and open the hearing on S.B. 415.

SENATE BILL 415: Revises provisions relating to juvenile probation. (BDR 5-317)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):
Senate Bill 415 came from when I served as the Chair of the Joint Interim Standing Committee on Judiciary. In the Interim Judiciary Committee, we heard a lot of presentations from different folks and had a day dedicated to juvenile justice, which was productive. We learned a lot about the juvenile justice system, and we all put our heads together toward ways that we could improve it as we do throughout the interim. One of the issues that arose was the passage of A.B. No. 236 of the 80th Session for adults; a system where when they are put on probation for any particular crime, they know when they will be off probation because we put in time limits on how long a person could be on probation. We did not do the same thing for juveniles, which makes sense because A.B. No. 236 of the 80th Session was not a juvenile justice bill, it pertained to adults.

In the Interim, we had a conversation about how can we do more in the juvenile justice system to address those evidence-based practices and the data-driven, crime-reduction policy that we addressed for adults in A.B. 236 of the 80th Session? One suggestion was to ensure that juveniles, just like adults, have certainty when they are put on probation about how long they will serve that probationary period. At the end of our Interim Judiciary Committee meetings, the Committee voted on several recommendations for juvenile justice and other kinds of justice.

One recommendation was to create that parity for adults and juveniles to ensure that juveniles have a fixed probationary period. The Committee voted to approve that recommendation. That is how we got to S.B. 415, which has evolved to provide that probationary period certainty. Through numerous stakeholders, an amendment (Exhibit N) extends the opportunity to do a lot of good work and use those evidence-based practices, utilizing reports created pursuant to NRS 62E.506 and ensuring the probationary period on juvenile cases is productive and serves its purpose to rehabilitate a juvenile.

MR. PIRO:
Increased sanctions do not necessarily reduce recidivism. Senate Bill 415 with the amendment goes a long way toward providing equity and due process for our children.

MS. FRASER:
Senate Bill 415 fixes a huge gap in the statute with regard to probation terms for our youth in the State. *Nevada Revised Statutes* 62B.410 indicates the juvenile court can have jurisdiction until the age of 21. That means when a child is placed on probation at the age of 10, 11, 12 and older for any offense in the juvenile system, the court can order probation until the twenty-first birthday or just place the child on probation, which happens in many jurisdictions within our State. Colleagues in Washoe County and Carson City said they are placed on probation. There is no fixed term. Essentially, attorneys have to explain to the child and his or her family a guesstimate of when the child will get off probation. With adolescent brain science, our kids need incentives and short-term goals. An indefinite term up until the age of 21 or who knows when is neither serving our youth nor our community. Longer probation terms are not more effective than shorter terms in preventing future offending behaviors and can increase the likelihood of revocation, which means incarceration for our

youth. That disconnects our youth from important, critical community-based support systems and interferes with their prosocial development.

All the stakeholders and I recognize the intent of juvenile court is a rehabilitative court by being focused on treatment. But even with that intent, putting indeterminant probation terms on our kids puts our youth at risk of further entrenchment in the system. This is the perfect fix, and the Committee will notice the difference between S.B. 415 and the adult probation terms that are offense-based. For example, someone convicted of a gross misdemeanor can get up to a certain amount of time; certain Category A, B or C felonies would mean different amounts of time because we recognize kids are different. Juvenile court is not just a minicriminal system, but we will look at the whole picture of the child, what risks and what needs warrant a response. That is why the amendment includes looking at the NRS 62E reports, risk assessments and other information probation has about the child, not just the offense, and that is critically important.

MS. DUFFY:
On behalf of the Nevada District Attorneys Association and the Department of Juvenile Justice Services for Clark County, we support S.B. 415.

MR. PIRO:
The Clark County Public Defender's Office supports S.B. 415.

MS. ROTH:
The Washoe County Public Defender's Office supports S.B. 415.

MS. BROWN:
Advocates for the Inmates and the Innocent supports S.B. 415.

VICE CHAIR HARRIS:
I will close the hearing on S.B. 415 and pass the gavel to Chair Scheible.

MS. BROWN:
Assembly Bill (A.B.) 49 is going to come into the Senate Judiciary Committee, and we are asking that you support our proposed amendment to establish a factual innocence, posthumous petition. Hopefully, the Judiciary Committee or a member will sponsor our proposed amendment. I want to touch on a couple of things as a reminder. Eyewitness is the No. 1 leading cause of a wrongful

conviction. If not for the Innocence Project throughout the Country, thousands of inmates who have been wrongfully convicted would still be behind bars, and some would have died while incarcerated. We do have this as a remedy for some people, but others will never see the light of day because either the DNA does not exist or for whatever reasons, they cannot take these cases.

Assembly Bill 49 (1st Reprint): Revises provisions relating to criminal procedure. (BDR 3-419)

We do not normally hear about a perpetrator of a crime who will corrupt an injustice done to someone else due to his or her own bad acts. A case took place about 33 years ago in California in 1990 where a woman was shot. The police contacted witnesses, and they had one eyewitness. She informed officers that she did not know the suspects and would not recognize them. Two weeks later, officers showed her a police spreadsheet lineup, and she was able to pick out the shooter. She identified one of her neighbors as the shooter, and he was convicted. Then 20 years later, the Innocence Project helped locate the real perpetrator of the crime. This perpetrator is a Nevada inmate. Through him and the Innocence Project, they declared the first suspect an innocent person. That inmate confessed he was the shooter of the woman in California. Based on the declaration by the Nevada inmate, after 20 years, the neighbor was finally exonerated in 2010. Although this is rare, we do not know what will happen in the future. The perpetrator of this crime somehow got a conscience and decided to do the right thing. If they do the right thing and the wrongfully convicted is dead, there is no exoneration for them. We ask you to support our A.B. 49 proposed amendment.

ANNEMARIE GRANT (Advocates for the Inmates and the Innocent):
Eyewitness identification is the No. 1 leading cause for a wrongful conviction. I want you to take a look across the street at the Bank Saloon when you leave the building today. Prior to becoming the Bank Saloon, it used to be Jack's Bar for decades. It is Tonya Brown's brother's alibi for the May 9, 1988, crime Mr. Klein was wrongfully convicted of committing. Mr. Klein had five alibi witnesses placing him in Jack's Bar hours before, during and after the crime being committed 30 miles away in Sparks. The description of the suspect given by the victims of this crime did not even come close to matching Mr. Klein. Two weeks after the crime occurred, Mr. Klein walked past the shoe store in Sparks, and one of the victims said he looks like the suspect. Based on that, Mr. Klein was picked up and detained for hours without Miranda rights. A photo

of him was used to put him in a tainted photo lineup array. Today, that photo lineup array used to get a positive identification by the victim is no longer used by law enforcement agencies because such photo lineup arrays have led to wrongful convictions. These five witnesses stand by their testimony that they were there with Mr. Klein during the entire night, yet, he got convicted. We understand that 20, 30 or 40 years ago, juries believed a victim would never forget what his or her attacker looked like. But we know now that is wrong. We ask that you support and possibly sponsor our proposed amendment to A.B. 49 to allow a petition to establish factual innocence to be heard posthumously. One of those witnesses who testified that Mr. Klein was at Jack's Bar with him the night of the crime would later go on to become a law enforcement officer with the Carson City Sheriff's Office, retire after 20 years as a sergeant and still stand by his testimony to this day that Mr. Klein was with them as a group when the crime was committed.

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CHAIR SCHEIBLE:
The Senate Committee on Judiciary is adjourned at 4:22 p.m.

RESPECTFULLY SUBMITTED:

Blain Jensen,
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. 411	C	3	Andres Moses / Civil Criminal Division, Eighth Judicial District Court	Proposed Amendment
S.B. 411	D	12	Julie Ostrovsky	Support Testimony
S.B. 235	E	13	Patrick Guinan	Work Session Document
S.B. 296	F	14	Patrick Guinan	Work Session Document
S.B. 307	G	16	Patrick Guinan	Work Session Document
S.B. 322	H	18	Patrick Guinan	Work Session Document
S.B. 359	I	19	Patrick Guinan	Work Session Document
S.B. 418	J	21	Patrick Guinan	Work Session Document
S.B. 408	K	22	Senator James Ohrenschall	Proposed Amendment
S.B. 408	L	29	Senator Melanie Scheible	One Letter in Support
S.B. 389	M	37	Senator Melanie Scheible	Proposed Amendment 3588
S.B. 415	N	40	Jeff Rogan / Clark County	Proposed Amendment