

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Eighth Session  
May 12, 2015**

The Committee on Legislative Operations and Elections was called to order by Chair Lynn D. Stewart at 4:02 p.m. on Tuesday, May 12, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Lynn D. Stewart, Chair  
Assemblywoman Shelly M. Shelton, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblywoman Michele Fiore  
Assemblyman John Moore  
Assemblyman Harvey J. Munford  
Assemblyman James Ohrenschall  
Assemblywoman Victoria Seaman  
Assemblyman Tyrone Thompson  
Assemblyman Glenn E. Trowbridge

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Michael Roberson, Senate District No. 20  
Assemblyman Jim Wheeler, Assembly District No. 39

Minutes ID: 1078



**STAFF MEMBERS PRESENT:**

Carol M. Stonefield, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Patricia Hartman, Committee Secretary  
Olivia Lloyd, Committee Assistant  
Jamie Tierney, Committee Assistant

**OTHERS PRESENT:**

Mark Hutchison, Lieutenant Governor, Office of Lieutenant Governor  
Ryan Cherry, Chief of Staff, Office of Lieutenant Governor  
Robert Gaudet, Private Citizen, Las Vegas, Nevada  
Janine Hansen, representing Nevada Families  
Lynn Chapman, representing Nevada Eagle Forum  
John Wagner, representing Independent American Party  
Patrick T. Sanderson, Private Citizen, Carson City, Nevada  
Meg Garvin, Executive Director, National Crime Victim Law Institute  
Jon Fleischman, Marsy's Law For All  
Jennifer Bishop-Jenkins, Director, Marsy's Law for Illinois  
Kristy Oriol, Policy Specialist, Nevada Network Against Domestic Violence  
Carolyn Muscari, Advocate Supervisor, S.A.F.E. House  
John T. Jones, Jr., representing Nevada District Attorneys Association  
Stan Olsen, representing Nevada Association of Public Safety Officers  
Kasey La Foon, Sexual Assault Program Coordinator, Safe Embrace,  
Sparks, Nevada  
Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department  
Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's  
Office  
Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association  
Sean B. Sullivan, Deputy Public Defender, Washoe County Public  
Defender  
Steve Yeager, representing Clark County Public Defender's Office  
Vanessa Spinazola, representing American Civil Liberties Union of Nevada  
Ron Pierini, Sheriff, Douglas County  
Regan J. Comis, representing Nevada Judges of Limited Jurisdiction  
Andres Moses, representing Nevada District Judges Association  
Lindsay Anderson, Government Affairs Director, Washoe County School  
District  
Tray Abney, Director of Government Relations, The Chamber,  
Reno-Sparks-Northern Nevada

Jessica Ferrato, representing Nevada Association of School Boards  
Mary Pierczynski, representing Nevada Association of School  
Superintendents

**Chair Stewart:**

[Roll was called. Meeting protocol was reviewed.] We will open with part of the work session beginning with Senate Bill 248 (1st Reprint).

**Senate Bill 248 (1st Reprint): Revises provisions relating to the provision of assistance to certain voters. (BDR 24-982)**

**Carol M. Stonefield, Committee Policy Analyst:**

Senate Bill 248 (1st Reprint) was heard in Committee on May 5, 2015, and was presented by Senator Hardy. This bill revises provisions regarding assistance in casting a ballot to a person with a disability or a person with an inability to read or write English. Specifically, the measure provides that such a person is entitled to assistance in casting a ballot if the need for such assistance is apparent or known to the election board and that the person may request assistance in voting in any manner. [Continued to read from work session document ([Exhibit C](#)).]

**Chair Stewart:**

I will entertain a motion to do pass S.B. 248 (R1).

ASSEMBLYMAN THOMPSON MADE A MOTION TO DO PASS  
SENATE BILL 248 (1ST REPRINT).

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblyman Trowbridge. We will now open the hearing for Senate Joint Resolution 3 (1st Reprint). Welcome to Lieutenant Governor Hutchison, who will present the resolution.

**Senate Joint Resolution 3 (1st Reprint): Proposes to amend the Nevada Constitution to provide for the Lieutenant Governor to be elected jointly with the Governor. (BDR C-486)**

**Mark Hutchison, Lieutenant Governor, Office of Lieutenant Governor:**

I have with me today Ryan Cherry, who is my Chief of Staff. We are here to present Senate Joint Resolution 3 (1st Reprint) which, in my view, is a broad, bipartisan approach to the question of the governor and lieutenant governor

running jointly. Senate Joint Resolution 3 (1st Reprint) speaks directly to the role of the lieutenant governor in his or her election. Specifically, S.J.R. 3 (R1) proposes an amendment to the *Nevada Constitution* to provide for the lieutenant governor to be elected jointly with the governor. The resolution addresses the designation of the candidate for lieutenant governor by the candidate for governor following the primary election and the joint receipt and reporting of campaign contributions and expenses.

Let me address why, in my view, the joint election of the governor and lieutenant governor is important. Voters typically support a vision, particularly for a chief executive officer like the governor. When the voters do this, they expect that vision will be continued. Should the occasion arise where the governor could not continue to serve in that capacity, for any reason, the lieutenant governor would then be expected to serve as an acting governor. If they are elected on a joint ticket, if they run together jointly, they can and will share a similar vision and certainly political philosophy. If the transition is ever made, it is more seamless, is less controversial, and better reflects the will of the people.

This practice is not new. Many states across the nation elect their governor and lieutenant governor on a joint ticket through various processes. In fact, according to the National Lieutenant Governors Association, 26 states elect their governor and lieutenant governor jointly, with 4 of these states adding this process in the last 12 years. There seems to be a trend toward joint election, and it brings consistency to the vital process of selecting a state's chief executive.

Finally, and this is true for all state races, the lieutenant governor's race in Nevada has grown more and more expensive in recent history. During the 2014 campaign cycle, my campaign raised \$2.8 million and, as you recall, the race was extremely high profile. The money spent in this campaign far eclipsed the total spending in the lieutenant governor races in previous elections. It is my hope that S.J.R. 3 (R1) will help keep such spending in check. [Continued to read from prepared testimony ([Exhibit D](#)).]

When S.J.R. 3 (R1) was heard in the Senate, there was testimony from Republican and Democratic governors. Former Governor Robert List and Governor Bob Miller both testified in support. They felt that they were able to do their job better and more efficiently with a lieutenant governor sharing the same political view. The Senate approved this measure unanimously, and I hope you will support this important constitutional amendment so it can be

brought back during the 2017 Session for its second round of legislative approval before going to the voters for final approval at the 2018 general election.

**Assemblyman Elliot T. Anderson:**

What would your choice be for how to pick the lieutenant governor? I know the obvious example is the President and Vice President. Also, how do other states make the selection? Federally, it is done through the party convention so that more than just one person is selecting the Vice President. This seems like a lot of power for just one person. Will you describe how the other states go about selecting the lieutenant governor?

**Lieutenant Governor Hutchison:**

There are various ways in which the selection happens. There are constitutions that require the governor and lieutenant governor be selected jointly through a convention process and through an election process. There are also processes that allow for a variety of measures to provide for the selection of the lieutenant governor.

**Ryan Cherry, Chief of Staff, Office of Lieutenant Governor:**

There are four major processes that are being used throughout the nation. One is the process that we have determined to use. Colorado is using this program and recently adopted this method of selecting a lieutenant governor. Candidates for governor and lieutenant governor in other states are selected separately in a primary and then run together in the general. Other processes include a petition that is circulated where there are enough signatures after the choices are made, and are then ratified before the selection can be made. A gubernatorial candidate must nominate a lieutenant governor candidate in other states within 30 days of their own nomination. I believe that four states specifically use the direct nomination of lieutenant governor by the candidate for governor within 7 days or 30 days.

**Assemblyman Thompson:**

You mentioned there are 26 states that have adopted this. How many are in the Western states?

**Ryan Cherry:**

I will provide that information to the Committee.

**Assemblyman Ohrenschall:**

Back in the 1980s and 1990s, in Washington, D.C., much of the time we had a President from one party and Congress was controlled by the other party.

Many pundits complained that nothing could get done with the divided government. Then many political scientists said that our constituencies were voting that way, not by design, but because they felt that the different parties kept an eye on each other, and they wanted that tension. I am wondering what your thoughts are on the rare occasions where we have had a governor from one party and the lieutenant governor from the other party. Perhaps the voters wanted that tension and the watchdog effect. I wonder if this may be taking something away from voters that they want.

**Lieutenant Governor Hutchison:**

I think your observation is a good one, and one I am comfortable with. Ultimately, if this passes both houses this session, it will go to both houses next session, and then it will go to the voters. The voters can make that ultimate decision themselves. I do think that voters sometimes want to have a little tension, and they will be able to decide whether they want that tension in the Executive Branch.

The challenge is the tension within the Executive Branch itself. For example, there was a Supreme Court of Nevada case, *Sawyer v. First Judicial District Court*, 82 Nev. 53, 410 P.2d 748 (1966), which involved Governor Grant Sawyer and Lieutenant Governor Paul Laxalt. There was a dispute where the Nevada State Department of Highways was involved in some sort of alleged misdoing. The Republicans were calling for the appointment of a grand jury; Governor Sawyer resisted that. One day the Governor left the state and while he was gone, Lieutenant Governor Laxalt, under state law, went to a judge who agreed and requested a grand jury. When Governor Sawyer got back, he denied the request. There was a bit of a crisis in terms of what was going to happen with the Executive Branch of government. The case went to the Supreme Court. The Supreme Court's decision said that Governor Sawyer was not absent from the state long enough—he was in California for a few hours. For that reason, the application for subpoenas did not apply, and Lieutenant Governor Laxalt's directive was reversed. This underscores the point we are discussing about tension within the Executive Branch of government. I think there is a vision, a political philosophy that the majority of the people are voting for.

**Assemblyman Ohrenschall:**

I think there is a similar anecdote under the Miller Administration with Lieutenant Governor Lonnie Hammargren and I am sure Governor Miller would have preferred to have had a Democratic lieutenant governor, but Lieutenant Governor Hammargren certainly made things interesting.

**Assemblyman Thompson:**

I have a real-case scenario from the last election where one party did not have a clear candidate for governor, but we had a strong and sure lieutenant governor candidate. Is there anywhere in the bill that would address that type of situation? As I recall, the winner for governor in the primary was "none of the above."

**Lieutenant Governor Hutchison:**

The bill does not address the specific situation where there is a perception that there is a stronger and a weaker gubernatorial candidate. In that situation, in a real-world scenario, the gubernatorial candidate who would have been declared as such would have seven days to identify who his or her lieutenant governor would be.

**Chair Stewart:**

Governor Miller's and Governor List's letters of support are available on the Nevada Electronic Legislative Information System [([Exhibit E](#)) and ([Exhibit F](#))]. Is there anyone here in support of S.J.R. 3 (R1)? Seeing no one, is there anyone in opposition?

**Robert Gaudet, Private Citizen, Las Vegas, Nevada:**

I have lived here for 45 years and have voted in every election. This bill will take away my right to vote for lieutenant governor. If you use the same analogy of 26 states that Lieutenant Governor Hutchison used, that is a majority. Let us look at the opinion poll on the legislative website. There are 96 votes; 89 voted against this bill, only 7 were in support. Let us not pass this bill.

**Janine Hansen, representing Nevada Families:**

A good example of why this bill is bad is the political story of conservative Republican Paul Laxalt. Paul Laxalt was elected District Attorney of Ormsby County in 1950. The first time he ran statewide was in 1962 when he ran for Lieutenant Governor against former Congressman Berkeley L. Bunker. Laxalt was elected as Lieutenant Governor and served from 1963 to 1967 under Democratic Governor Grant Sawyer. If S.J.R. 3 (R1) was adopted then, it would not have allowed us to elect a Republican lieutenant governor and a Democratic governor or vice versa.

While serving as Lieutenant Governor, Laxalt ran against Democratic Senator Howard Cannon and lost by 48 votes in a controversial election. Laxalt then ran against two-term Governor Grant Sawyer and defeated him by a substantial margin. Later Paul Laxalt became a U.S. Senator from Nevada and was good friends with Ronald Reagan. It is hard to imagine how changed

Nevada's political landscape would have been had Paul Laxalt never been elected Lieutenant Governor. Our current Republican Attorney General, Adam Laxalt, is Paul Laxalt's grandson.

This resolution is one more way for big guys to establish and maintain a political monopoly. It will harm any Republican and Democratic challengers who are not anointed by the powers that be. In addition, it will hurt minority parties and eliminate the chance of electing a lieutenant governor who could go on to higher office. There is no vetting in this bill for the lieutenant governor, who could become the governor, is the President of the State Senate, and very well could run for higher office. The people have no say. This process is undemocratic. Tension in government is not a bad thing. Our founding fathers designed it that way in order to be a check on the power of government and to protect the rights of the people. We oppose this bill.

**Lynn Chapman, representing Nevada Eagle Forum:**

We are against this bill, and it has a lot to do with power. The governor has a lot of power, and the second in command would have a lot of power if something happened to the governor, yet he would be someone who was not elected by the people. That is a very scary thought. This bill deprives the voter of the opportunity to vote for the person rather than a party, and a single-ticket process places too much power in the hands of the governor through the election process and continuity of agenda. Also, we like the fact that we have checks and balances and that people can vote for who they would like to have in that particular office. We have to worry about someone being chosen for political or personal reasons to become second in command.

**John Wagner, representing Independent American Party:**

We oppose Senate Joint Resolution 3 (1st Reprint), with no disrespect to Lieutenant Governor Hutchison. There are situations where the candidate for governor might be someone who is popular, and if he selects a running mate, he may select a clone of himself. It would be nicer to have a primary where two or more from each party would run. The one who is the most respected would win versus the choice the governor would have. We oppose this bill and hope you will vote against it.

**Patrick T. Sanderson, Private Citizen, Carson City, Nevada:**

I have lived here all my life. They like to say leaders are born, but leaders are made. We have had some great lieutenant governors over the years who have proven themselves by being elected. We had Bob Cashell, who ran as a Democrat. To run for governor he switched parties and ran as a Republican. He did not win. That is because he switched horses in the middle of the stream. I like our Lieutenant Governor; he does a great job.



You have to find out what someone is made of, if they stand for their principles, and what you really think about a person. How does that happen? By becoming a lieutenant governor on his or her own, by doing a good job, and by helping the people of the state. Nevada has a very small majority either way; it has always been that way. I am saying, leave it to the people. I have respect for the people of the state of Nevada. I know they are smart enough to vote for the person they think is the best. If the next election comes up and they did a bad job, they will not be elected again. I hope that we leave it the way it is. Maybe it makes it more convenient for the governor and lieutenant governor to run together, but it does not make it better for the state of Nevada. We like individuals who become leaders that we can vote for in the future.

**Chair Stewart:**

Is there anyone here to testify in the neutral position? Seeing no one, Lieutenant Governor, would you like to make a final statement?

**Lieutenant Governor Hutchison:**

I have tremendous respect for my friends who just testified in opposition. I understand their very legitimate viewpoints. They stated we are taking this away from the people and their ability to decide. We are doing exactly the opposite. We are going to ask the people of the state of Nevada in 2018 if this is a good idea. The people of the state of Nevada, who we all have tremendous respect for and confidence in, will make a decision in 2018. We will not make that decision. The people of the state of Nevada should be heard in regard to amending the *Constitution*. In terms of whether this will work, fortunately, this is nothing new. This is exactly the way we select the vice president of the United States, and it is the way that 26 states select lieutenant governors. Those models are solid models. We see vice presidents and lieutenant governors campaign jointly and rise up as leaders after they have served as lieutenant governor or vice president. I think those concerns can be alleviated by looking at our past experience with the states as well as with the country.

**Chair Stewart:**

I will now close the hearing on S.J.R. 3 (R1) and go back to the work session, presented by Carol Stonefield, our Committee Policy Analyst.

**Senate Joint Resolution 1 (1st Reprint): Urges Congress to enact legislation transferring title to certain public lands to the State of Nevada in accordance with the report prepared by the Nevada Land Management Task Force. (BDR R-451)**

**Carol M. Stonefield, Committee Policy Analyst:**

Senate Joint Resolution 1 (1st Reprint) was heard in this Committee on May 7, and was presented by Senator Goicoechea. This resolution urges Congress to enact legislation transferring title to certain public lands to the state of Nevada in accordance with the report prepared by the Nevada Land Management Task Force. There are six types of Bureau of Land Management (BLM) land that the request to transfer to the state would include. [Continued to read from work session document ([Exhibit G](#)).]

**Chair Stewart:**

I will entertain a motion to do pass S.J.R. 1 (R1).

ASSEMBLYWOMAN SEAMAN MADE A MOTION TO DO PASS  
SENATE JOINT RESOLUTION 1 (1ST REPRINT).

ASSEMBLYWOMAN SHELTON SECONDED THE MOTION.

**Assemblyman Ohrenschall:**

Last session there were a handful of Democrats who supported the study, and I was one of them. Unfortunately, I am concerned about S.J.R. 1 (R1). I am concerned about the questions that I feel were not answered during the hearing in terms of unrecorded property rights, water rights, mineral rights, the issues with the wild horses and burros that are on both federal and state lands, and how we are going to manage them. You and I have been here enough sessions that we have seen special sessions with fiscal crisis after fiscal crisis where we have had to sweep accounts, discussed closing state parks, and even talked about selling state-owned buildings and renting them back. That all really worries me. I think a more narrow resolution might have been something I could have voted for, something that looked at rights-of-way and encouraged more cooperation, but I cannot support this measure.

**Assemblyman Trowbridge:**

I have a question for legal counsel. One of the largest concerns with this bill is the retention of public access to some of the backcountry. Is there anywhere in this resolution where we have an assurance that these public easements will be retained?

**Kevin Powers, Committee Counsel:**

Although it is not expressly mentioned in the resolution, the resolve clause provides that the following principles will guide the state of Nevada in the management of the transferred lands; subsection 2 provides that all transferred land will be subject to valid existing federal, state, and local government permits, land use authorizations, existing authorized multiple uses, rights-of-access, and property rights. If the type of easements you are referring to can fit under that category, they would be addressed by the resolution.

**Chair Stewart:**

In your opinion, there would still be access?

**Kevin Powers:**

Ultimately, this is asking Congress to take federal legislative action, so it would be determined on what the terms of the federal legislation were. This resolution, however, is asking Congress to ensure that the state of Nevada takes steps to protect those kinds of access easements.

**Assemblyman Elliot T. Anderson:**

Do most recreational users have full-on easements that would be contemplated by what you just mentioned?

**Kevin Powers:**

I can only speak to that question in general. Each easement would have specific terms of the easement, but if the federal government is providing access to land through a recreational easement, it is usually based on a federal statute, so the terms of that statute would guide the scope and permits and the type of access provided by that easement.

**Assemblyman Elliot T. Anderson:**

My concern is that we could lose public access. I do not think most recreational users have a full-on legal document that gives them rights on land; they would have to go to an attorney to get use under that contemplated provision. My concerns with this have to do with the financial impact of managing federal lands. I think it would necessitate playing this out into the future and raising taxes to manage the land. I do not know if we have the capacity to do that. I do not think we have the tax base to manage all of those lands.

In addition, I think people are under the impression that somehow all of these federal mandates go away if we manage the land. I still think we have to deal with all of the applicable federal and environmental mandates, but we would be in charge of complying with those rather than the BLM taking care of it. Because of those concerns, I am going to have to vote no on this measure.

**Assemblyman Thompson:**

I will be a no on this. As I mentioned in the hearing, I have serious concerns. I know it is good for a state to have forecasting in place, but from my understanding, it would take about 10 to 15 years to potentially get the resolution passed, if it were to pass. We cannot predict what the landscape of our state will be at that point, such as whether we will be able to fiscally take on the demands and whether it will be an asset or a liability for our state.

**Chair Stewart:**

We will now vote on S.J.R. 1 (R1).

THE MOTION PASSED. (ASSEMBLYMEN ELLIOT T. ANDERSON, MUNFORD, OHRENSCHALL, AND THOMPSON VOTED NO.)

I will assign the floor statement to Assemblywoman Fiore. We will now go to the next work session document, Senate Joint Resolution 5 (1st Reprint).

**Senate Joint Resolution 5 (1st Reprint): Expresses support for the 2014 Nevada Greater Sage-Grouse Conservation Plan developed by the Sagebrush Ecosystem Council and urges the United States Fish and Wildlife Service not to list the greater sage-grouse as endangered or threatened under the Endangered Species Act of 1973. (BDR R-480)**

**Carol M. Stonefield, Committee Policy Analyst:**

Senate Joint Resolution 5 (1st Reprint) was heard in this Committee on May 7, and was requested by the Legislative Committee on Public Lands. This resolution expresses the Nevada Legislature's support of the 2014 Nevada Greater Sage-Grouse Conservation Plan prepared by the Sagebrush Ecosystem Council and confirms the Legislature's confidence in the ability of the State of Nevada to conserve the greater sage-grouse and the sagebrush ecosystem. [Continued to read from work session document ([Exhibit H](#)).]

**Chair Stewart:**

I will entertain a motion to do pass S.J.R. 5 (R1).

ASSEMBLYWOMAN FIORE MADE A MOTION TO DO PASS  
SENATE JOINT RESOLUTION 5 (1ST REPRINT).

ASSEMBLYWOMAN SHELTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ELLIOTT T. ANDERSON,  
MUNFORD, OHRENSCHALL, AND THOMPSON VOTED NO.)

I will assign the floor statement to Assemblywoman Shelton. Next we have  
Senate Joint Resolution 21 (1st Reprint).

[Senate Joint Resolution 21 \(1st Reprint\)](#): Urges Congress to enact  
comprehensive immigration reform. (BDR R-1266)

**Carol M. Stonefield, Committee Policy Analyst:**

Senate Joint Resolution 21 (1st Reprint) was heard in this Committee on May 7,  
and it was presented by Senator Denis. This resolution urges Congress to enact  
comprehensive immigration reform that addresses earned legal residency with  
a clear path to citizenship, future immigration issues, improved enforcement  
and border security, and the fiscal impact of immigration on State government.  
[Referred to work session document ([Exhibit I](#)).]

**Chair Stewart:**

I will entertain a motion on S.J.R. 21 (R1).

ASSEMBLYMAN THOMPSON MADE A MOTION TO DO PASS  
SENATE JOINT RESOLUTION 21 (1ST REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

**Assemblywoman Shelton:**

Although I do believe we need to have some type of reform, I do not believe  
this is the right avenue to take, so I am going to be a no.

**Assemblyman Moore:**

I would like to echo Assemblywoman Shelton's remarks. I will be a no on this.

**Assemblyman Elliot T. Anderson:**

I want to proudly say that I am going to be voting for this measure. I think  
Congress really needs to get on this. It is a big issue for a lot of families here in  
Nevada. I think the beauty of comprehensive immigration reform, which is what  
this seeks, is that it is dealing with all the issues. It is not just one part of

the equation. I know comprehensive immigration reform means border security, it means more enforcement, and it also means keeping families together. For those reasons, I will be voting yes.

**Chair Stewart:**

We will now vote on S.J.R. 21 (R1).

THE MOTION PASSED. (ASSEMBLYMEN MOORE AND SHELTON VOTED NO.)

I will assign the floor statement to Assemblyman Thompson.

**Assemblyman Trowbridge:**

I do not want to leave any erroneous impressions in regard to Senate Joint Resolution 1 (1st Reprint). I should have mentioned it at the time of the vote, but I reserve my right to vote my conscience when it comes to the floor.

**Chair Stewart:**

I will now close the work session and open the hearing on Senate Joint Resolution 17 (1st Reprint).

**Senate Joint Resolution 17 (1st Reprint): Proposes to amend the Nevada Constitution to expand the rights guaranteed to victims of crime. (BDR C-952)**

**Senator Michael Roberson, Senate District No. 20:**

I am here to present Senate Joint Resolution 17 (1st Reprint), Marsy's Law. I am proud to offer this bill to improve the language in the *Nevada Constitution* in a way that guarantees crime victims the same standing as the accused and convicted.

The rights outlined in this bill, commonly referred to as Marsy's Law, are becoming the model across the country as lawmakers seek to level the playing field by guaranteeing victims the voice that they have often been denied. Marsy's Law is named after Marsy Nicholas. Marsy was a senior at the University of California, Santa Barbara, when an ex-boyfriend murdered her. On the way home from her funeral, Marsy's mother and brother stopped by a market for groceries where they were shocked to see the man who had murdered Marsy. The family had not been notified that he had made bail. Eventually, he was convicted and died in prison.

The Nicholas family has been fighting ever since to guarantee stronger protections for other victims. Similar language to what is presented in this bill was recently added to the *Illinois Constitution*. The legislation enjoyed bipartisan support and was overwhelmingly passed in November by a vote of the people with more than 78 percent of the popular vote.

In Nevada, we have tireless victim advocates committed to doing all they can. We have law enforcement agencies that go above and beyond to help. We have district attorneys and first responders across the state willing to invest time and resources to provide as much assistance as they can. What we do not have is enough clarity in our *Constitution* to guarantee crime victims the rights and protections they deserve.

This bill has strong bipartisan support from members of this Committee. It also has the support of victim advocates, law enforcement, district attorneys, and others. I understand a number of those individuals and groups are here to testify today. We are also fortunate to have one of the country's true victim rights experts, Meg Garvin, Executive Director of the National Crime Victim Law Institute, who is here to testify on behalf of this bill. Ms. Garvin is prepared to testify on the provisions of the measure as well as three friendly amendments that have been offered to put Nevada's crime victims' bill of rights on par with others across the country.

I am proud to introduce this bill and proud that this bill enjoys strong bipartisan support. Victims of crime and their families have been through so much, and the most important thing we can do for them right now is to guarantee them standing, notification, and a voice in the process. I strongly recommend passage of this bill.

**Meg Garvin, Executive Director, National Crime Victim Law Institute:**

I am pleased to be here to testify in support of the proposed resolution. I am the Executive Director of the National Crime Victim Law Institute, and I am a clinical professor of law at Lewis & Clark Law School in Portland, Oregon. My work in those two roles has taken me to almost every state in this country to work either on cases through litigation or on legislation. I have also worked on federal legislation to afford victims' rights. Victims' rights are a nonpartisan issue, not simply a bipartisan issue. It is true because no matter what lens one uses when looking at the criminal justice system, it is clear from the literature and research that the system functions best when the victims are integrated into it, and that integration is only achieved when victims are afforded enforceable constitutional rights.

I want to share a few points and will then walk you through the provisions. The first issue is why enforceable victims' rights and why constitutional rights? Research is very clear that while participation in the criminal justice system can be beneficial for some victims, for many victims it results in additional victimization beyond the original crime. This is known in the literature as secondary victimization. What the literature and social science and psychological studies are showing is that whether or not one incurs additional trauma impacts from the criminal justice system is attributable at least in part to whether victims have rights and whether those rights are enforceable. This has been recognized for quite a while, including back in the early 1980s, when President Ronald Reagan started to analyze the criminal justice system and put together a task force. That task force made recommendations to change the criminal justice system. In many states those changes have been implemented. In more than 30 states, including Nevada, constitutional amendments were put in place from the early 1980s through the early 1990s. Since that time, however, what we have found out of this movement is that the initial rights afforded to victims were deficient. In fact, many of the rights, because they were either less than clear or lacked enforceability, have actually contributed to revictimization of victims in this country.

We can amend this and fix it by adopting the constitutional provision in front of you. Nevada can certainly move to the fore of protecting victims' rights. One of the questions before you may be why this should involve a constitutional right as opposed to a statutory fix. I would love to say that I am the most brilliant mind on constitutional rights versus statutory rights, but I rely on Harvard Law School Professor Laurence H. Tribe, who is perhaps the premier constitutional law scholar in the country. When speaking about whether victims' rights should be embedded in statute or constitution, Professor Tribe said that "there is a tendency to ignore or underenforce such rights whenever they appear to rub up against either the rights of the criminally accused or the needs or wishes of the prosecution." Professor Tribe articulated well what those of us in the field know, which is that constitutional rights are required to ensure the victims' place in the criminal justice system.

The second point is perhaps the largest elephant in the room whenever speaking about victims' rights and that is, what about defendants' rights? Do victims' rights eviscerate defendants' rights? Many practitioners, jurists, and legislators across the country have posed this question fearing that if you expand or clarify victims' rights, defendants' rights will necessarily be diminished. I am a proponent of individual rights for defendants and victims, having worked on defense cases in the past. Again, perhaps I am not the best voice to allay these fears, as I am here as a victims' advocate, but Human Rights Watch, one of the most well-respected, nongovernmental organizations in this country that seeks



to protect all persons' rights, noted in a recent report on crime victims' rights in America, "While there can be tensions between the legitimate interests of victims and defendants, a criminal justice system based on human rights standards can safeguard the rights of both while advancing justice and the rule of law."

The fear of erosion of defendant's rights is a mischaracterization of the criminal justice system as a zero-sum game. Courts in this country routinely look at complex situations where multiple persons have interests at stake. In fact, during the time I have been testifying, I would guess a court in Nevada has had to figure out whose rights take priority at the moment. With that, I believe the constitutional amendment before you would make the justice system in Nevada more just, more equal, and more fair for everyone impacted by crime. With the Chairman's permission, I will walk through some of the language.

The bill begins with the resolution that a new section, section 23, be added to Article 1 of the *Nevada Constitution*. Section 23, subsection 1, paragraph (a), is the right to be treated with fairness and respect. This is really the foundational paragraph for the provisions. It establishes foundational rights that are necessary to avoid revictimization in criminal or juvenile justice systems. As we know, victims have to navigate one or both of those at times, and these rights to be treated with fairness and respect are simply foundational to ensure we do not revictimize victims as they go through the process.

Section 23, subsection 1, paragraph (b): "To be reasonably protected from the defendant and persons acting on behalf of the defendant." What we know from the literature is the victims will simply not access the justice system if they are afraid for their own safety. They will not report the crime, and if they do report the crime but continue to fear for their safety, they will not continue with the process, and the system will become dysfunctional. This paragraph ensures that victims have protection. Notably, it is cabined, or restrained, by the term reasonably, meaning that this right will certainly not derail the entire criminal justice system by being overly broad. It simply ensures that victims can and will feel safe as they access justice.

Section 23, subsection 1, paragraph (c): "To have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant." This is certainly related to paragraph (b), but what we know is that historically, when it comes to bail and release assessments, the focus has been far narrower than this on simply whether a defendant will appear at a subsequent proceeding and whether there is a generalized risk of harm to the community. This provision ensures specific court consideration of victims.

Section 23, subsection 1, paragraph (d): "To prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim's family." Again, this is utterly critical to ensure that victims feel safe when accessing justice.

Section 23, subsection 1, paragraph (e): "To refuse an interview or deposition request, unless under court order or subpoena, and to set reasonable conditions on the conduct of any such interview to which the victim consents." This is one of the friendly amendments that has been introduced ([Exhibit J](#)). The amendment is the deletion of the words "or subpoena." The language that is left is "under court order" and is adequately protective of folks in the system. There was agreement in reaching this language.

Section 23, subsection 1, paragraph (f): "To reasonably confer with the prosecuting agency, upon request, regarding the case." This ensures that victims know what is happening in the case, and that the people who are most in the know, the prosecuting attorney and his or her office, afford victims the opportunity to know what is happening with regard to the prosecution of the person that they believe committed the crime. While good prosecutors may already be doing this—and I know there are prosecutors in Nevada who are already doing this—the provision ensures that all prosecutors take the time to pause and do it.

Section 23, subsection 1, paragraph (g): "To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings." This is the right for victims to witness justice in action. It allows them to know when things are happening and to be present if they choose to witness justice happening. It is a very critical right to victims as they move toward surviving.

Section 23, subsection 1, paragraph (h), is part of the friendly amendment ([Exhibit J](#)). The proposed language is "To be reasonably heard, upon request, at any public proceeding, including any delinquency proceedings, in the district court involving release, sentencing, or any parole proceeding." This goes to the core of why Marsy's Law exists in any place in this country, which is the victim's voice matters. The person most recognized as harmed by crime is the individual victim. Ensuring that they have a time and place for their voice to be heard before a release decision is made, before sentence is finalized, and before parole decisions are finalized is utterly critical. The right notably is constrained by the term reasonable, which ensures that courts in this state will

be able to enforce reasonable constraints on courtroom decorum, control for prejudicial statements that are made, or could be made, and allow them to adequately manage their courtrooms. The right is critical for victims but also utterly manageable for courts in this state.

Section 23, subsection 1, paragraph (i): "To the timely disposition of the case following the arrest of the defendant." Victims across the country, including Nevada, sometimes wait not just days or months but years to have justice, often pausing their lives while the system is grinding through. Justice simply should not be delayed without good cause. This provision ensures that it moves forward, but as we have seen in states across the country with provisions similar to this, it does not infringe on the defendant because the defendant must constitutionally, under federal law, have time to prepare for trial.

Section 23, subsection 1, paragraph (j): "To provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant." This ensures that the presentence author knows the full and true story of the victimization and the impact it has had on the victim. This is utterly critical to crafting a presentence investigation report that gives the court enough information to impose a just and fair sentence.

Section 23, subsection 1, paragraph (k): "To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody." This is about ensuring that victims are not left in the dark. The crime happened to them, and knowing what happens to their perpetrator is critical to moving toward surviving.

Section 23, subsection 1, paragraph (l): "To full and timely restitution." Fundamentally, this is about who should bear the financial burden of crime. Should it be the victim, or should it be a convicted offender? This says it should be a convicted offender, and the victims should not have to finance their own victimization.

Section 23, subsection 1, paragraph (m): "To the prompt return of legal property when no longer needed as evidence." There simply is no reason not to return the property after a certain point in a case when it is no longer needed. Sadly, it too often falls through the cracks, and victims have to jump through hoops to get back the most basic items that are necessary to them moving forward. This provision guides law enforcement and others to ensure that items are returned.

Section 23, subsection 1, paragraph (n): "To be informed of all postconviction proceedings, to participate and provide information to the parole authority to be considered before the parole of the offender and to be notified, upon request, of the parole or other release of the offender." Knowing the status and providing information to decision makers at every point during the criminal justice process is absolutely critical. This provision ensures that decision makers hear from victims.

Section 23, subsection 1, paragraph (o): "To have the safety of the victim, the victim's family and the general public considered before any parole or other postjudgment release decision is made." Again, this ensures that decision makers hear from those most impacted.

Section 23, subsection 1, paragraph (p): "To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim." This is related to the restitution provision and ensures that victims do not have to finance their own victimization.

Section 23, subsection 1, paragraph (q): "To be specifically informed of the rights enumerated in this section, and to have information concerning those rights be made available to the general public." This is foundational. The first step in activating one's rights is knowing that they exist. If you do not know they exist, you cannot do it. We know this from Miranda rights, we know it from defendant's rights beyond Miranda, and we know it from every rights movement that has ever happened in this country. Those are the delineated rights.

Going on to section 23, subsection 2: "A victim has standing to assert the rights enumerated in this section in any court with jurisdiction over the case." This provision is absolutely critical and fills the gap that has existed in victims' rights across the country for a long time. It ensures that the victims are not parties of the proceedings but they have independent legal standing to ask the court for their rights. This is what separates meaningless rights from meaningful rights. Dating back to *Marbury v. Madison*, 5 U.S. 137 (1803), one of the first U.S. Supreme Court cases, we know that for every right there has to be a remedy, and that the person to whom the right attaches has to have standing to ask for the right. This provision makes clear that Nevada victims have standing to ask for their rights.

Section 23, subsection 3: "Except as otherwise provided in subsection 4...." This constrains the remedies available under this proposed measure. It preserves double jeopardy so you cannot undo a trial but it allows certain remedies.

Section 23, subsection 4: "A person may maintain an action to compel a public officer or employee to carry out any duty...." Again, as *Marbury* said, if you have a right, you have to have a remedy. This provision constrains what remedies are available. It sets forth what device a victim should go to the court with. This language is already in your *Constitution* under the current victims' rights provisions and has not been changed.

Section 23, subsection 5 states that the rights "must not be construed to deny or disparage" any rights already existing. It would be utterly preposterous to propose a victims' rights amendment to your *Constitution* which then disparaged or took away rights that are already in existence.

Section 23, subsection 6: "The Legislature shall by law provide any other measure necessary or useful." That leaves you to do additional work down the road as things emerge.

Section 23, subsection 7 defines "victim."

Section 23, subsection 8 is part of the friendly amendment ([Exhibit J](#)), which is to remove this subsection. As it currently reads, it hierarchicalizes rights in your *Constitution*, which is a very strange provision to say the least, when thinking about constitutional rights. The history in this country, and the practice across the country, is that constitutional rights do not get hierarchicalized within it. If they are constitutional rights, we leave it to the courts on a daily basis to figure out how to navigate if rights actually conflict. Again, Laurence Tribe, the constitutional scholar, simply noted that these types of provisions are unnecessary.

**Assemblyman Elliot T. Anderson:**

Since it is a constitutional amendment that could be litigated and interpreted, I want to ensure we have a very clear and clean record on this. I want to talk about that last provision of section 23, subsection 8, the hierarchy of rights as you call it. I do not know if that is making it a hierarchy. If this were not interpreted that way, would it not be unconstitutional? For example, if you have a confrontation right under the Sixth Amendment, if it infringes on that right and gets in the way, then it is unconstitutional. So how could a federal court not interpret it that way?

**Meg Garvin:**

I apologize for being less than clear in my initial statement. There is simply no way that a state constitutional amendment can trump a federal constitutional right. That is well established in case law, which is making this language superfluous. No court would, or could, interpret with any legitimacy a state constitution provision to trump a federal constitution provision. In other victims' rights litigation and legislation across the country it has been articulated, but it is really superfluous language in a state constitution. The hierarchicalizing I was referencing was hierarchicalizing the Nevada constitutional rights rather than just leaving it as victims have constitutional rights and defendants have constitutional rights under Nevada law.

**Assemblyman Elliot T. Anderson:**

We are not putting the victim in jail. When you use state power against an individual, those protections are in there because of well-worn experiences where innocent people were railroaded in the past by the founding fathers. Many of these rights were put in for having well-worn experience. Would we really want to say that we are going to ignore that history? For example, what about the issue with not having to testify unless ordered? Right now, the prosecution has the power to do a material witness warrant to say you have to come in to testify. The way I read this bill, that could make that provision unconstitutional. In fact, would that not be letting the defendant off because if you cannot make your case, if you cannot have the victim testify, I think that will have the opposite effect of what you are looking for. In the spirit of this, we are saying we want to stop the victim from being revictimized, but if the prosecutors cannot make their case and they cannot bring the witness in to testify, then the defendant is let off and free to victimize again.

**Meg Garvin:**

No, I do not believe it could happen with this proposal. This would not touch the powers of the prosecution or alter the traditional criminal justice system with regard to when to bring charges, what charges to bring, or how to compel witnesses. These are relatively discreet rights in the process. For instance, material witness warrants, in every jurisdiction that has victims' rights, are still enforceable, and victims are still being compelled and being incarcerated prior to testimony. I do not support that in any way, shape, or form, except to ensure just systems.

With regard to history, here is an interesting footnote for everyone on the Committee. When this country was founded, including through the drafting, adoption, and ratification of the *U.S. Constitution* and into the early 1900s, victims were in fact the prosecutor, and these rights were afforded in large part because the office of the public prosecutor was not in existence.

Victims' rights were not constitutionalized in the original *U.S. Constitution*, because to say in the *U.S. Constitution* that you have to notify victims in order for them to be present would have been nonsensical because they were present. The original structure of our criminal justice system actually had victims and perpetrators and accused all in the room at the same time, all with rights to be notified, present, heard, and protected. We certainly moved away from that, and this is not advocating for victims to take over prosecution again, but it is an important point historically.

Finally, we honor and respect the job of the courts who literally, on a daily basis, are looking at multiple rights that are at issue and saying, which one in this moment takes priority? A good example is we all know that the media and the public have rights in the criminal justice process. Those are of a federal constitutional magnitude. Courts have to always consider when the media makes a request to open the courtroom, to have cameras in the courtroom, and the defendant's fair trial rights are at stake. The court looks at both of those and says, how do I analyze this? I do not strip anyone of their rights, but I might say to the media person, you are not going to get a camera in this courtroom because that would infringe on the defendant's fair trial rights. The court may say, you can have a sketch artist in the courtroom because that is a balance of the rights. So it is utterly possible to do it, and courts do it routinely.

**Assemblyman Thompson:**

In section 23, subsection 1, paragraph (d), because of social media, I feel there should be something that states that the victim and the victim's family has to do some things on their end as well to ensure that they are not locatable. We know Facebook is an easy way to find out where a person is. I would like to see some wordsmithing to create that balance of what the defendant cannot have access to and what the victim and family has to do to ensure their privacy.

**Meg Garvin:**

I believe the word confidential helps to achieve that. For instance, Facebook would not be deemed, by law, to be confidential. The confidential information helps to ensure the protection and balance that you were just articulating.

**Assemblywoman Fiore:**

I am under the impression that the actual Marsy's Law organization is opposed to this language, and I am wondering how it found its way into the bill? I am speaking about section 23, subsection 8.

**Meg Garvin:**

For clarity's sake, I am not a Marsy's Law employee. I know when I testified in the Senate, that portion was not there. It was put in after I testified.

**Assemblywoman Fiore:**

Just to be clear, we are looking at a Marsy's Law resolution that the Marsy's Law organization is opposed to. Do you think you might want to contact them again and revisit that?

**Meg Garvin:**

Once these friendly amendments are put in, it is Marsy's Law again. With the three friendly amendments ([Exhibit J](#)), it is returned to the original Marsy's Law.

**Assemblywoman Fiore:**

I have an email from that organization saying they are opposed to the language. I am asking how it found its way here, and maybe you can contact them.

**Meg Garvin:**

I believe there may be some folks here who can testify to that.

**Jon Fleischman, Marsy's Law For All:**

We absolutely support this legislation. We want it to move forward. We are in full support of Senator Roberson's original document and with the friendly amendment. Prior to the amendment, further discussions took place because, as you know, the legislative process is filled with give and take. The conclusion that we have come to is this resolution before you today, with the friendly amendment. This is a bill that we would absolutely love to see passed, and we are prepared to bring it to the voters and fund the campaign to ensure it is passed and put into the *Constitution*.

**Jennifer Bishop-Jenkins, Director, Marsy's Law for Illinois:**

I am a murder victim's family member, and I am very honored to address this Committee. Twenty-five years ago, my sister, her husband, and their baby were murdered. I hope no one in this room has had an experience even close to that, but it is the most staggering and horrific thing to be a victim of a violent crime. I have also been working with rape victims, domestic violence victims, and victims of child abuse. To be a victim of a violent crime is utterly life changing and completely staggering. It really does become the most important thing in your life.

In our case, we went through an exhaustive investigation. At first we did not know who did it. Then they caught the guy and we went through a long trial process, very agonizing, in which he tried to blame someone else.



He was convicted, and he was definitely guilty. He received three life without parole sentences, which is mandatory under Illinois law at the time because he committed a multiple murder. After two years of going through the agony of this, we got our conviction and were able to make our victim impact statements. Finally, he would hear from us. We would have our voices be heard, our story on the record, and the story of my sister Nancy, her husband, and baby included in the official record of the case. We were very much looking forward to making victim impact statements; however, we received a call from the court saying that because the sentences were mandatory and they were in too much of a hurry, they were not going to bother taking the victim impact statements and for us not to come. At the time, we were trying to be cooperative with the whole proceedings; we wanted the conviction and we wanted the defendant sentenced. In hindsight, I can tell you that was a great disappointment and to this day still nags at all of us family members. It is agonizing to go through a violent crime and then have the very criminal justice system that you count on, to protect you and bring justice to the case, turn around and revictimize you. That is how our family experienced that as a revictimization—that we were marginalized, that our voice was not included in the case in any way. The whole trial and everything surrounding it was all about the offender.

Here are some of the things that victims' families go through in terms of revictimization: stress, inability to sleep, anxiety, depression, loss of ability to focus at work, or to work at all. Sometimes victims may turn to alcohol or have an inability to concentrate, health problems, financial problems, or relationship problems, all over the stress of the trauma of the violent crime and the subsequent difficulties in the criminal justice system. These can go on for years after the original violent crime occurs.

Most victims never expect to be a victim of violent crime. This is the most universal demographic you will probably ever vote on in a constitutional amendment because anyone could be a victim of a violent crime, at any time, and nobody ever expects to be. Many victims are stunned to find out they even have rights, or that there is a question of their rights, or that there is no standing for them in their case, or that they do not even have the ability to let the court know of their schedule, or if the court sets a hearing and the victim is not given advance notice about it. There are many issues that victims struggle with during the course of the process. I have conversations with victims all the time about how difficult and frustrating it is for them.

I am so proud to be a part of the movement to get enforceable victims' rights. Here in Nevada, this is such a proud moment for your state to do this for people who are the most vulnerable in their life, who are hurting the most. When we

worked on this in Illinois, and got Marsy's Law passed this last year, I can tell you that almost 80 percent of the voters in every single demographic, every party, every geographic region, gender, race, and class, supported this. Victims know no class. Victims are going to be people of every persuasion. They are hurt by the crime, and the criminal justice system should not exclude them. They should have rights to participate in their own case. I am very grateful to you all for considering this incredibly important measure. On behalf of victims of violent crime who are often too retraumatized to speak out, I am grateful for anyone who would support this measure.

**Chair Stewart:**

Thank you for speaking out. I hope this is a sense of relief being able to testify in both Illinois and here.

**Assemblyman Ohrenschall:**

What are your feelings as to why the current language regarding protecting victims in Article 1, Section 8 of the *Nevada Constitution* is inadequate and why the proposed new language is better. I also have a question on section 23, subsection 1, paragraph (i), regarding the timely disposition of the case following the arrest of the defendant. I wonder what the experience has been in other states that have that language in their constitution. If a continuance is needed on the defense side to retest something, or further investigate, I am concerned that our judiciary reading this may be less likely to grant such a continuance. Even though we need to absolutely have swift justice for offenders, all one needs to do is look at the Innocence Project's website and see how many convictions have been overturned. We know that rushing to judgment can lead to false convictions.

**Meg Garvin:**

To the speedy disposition point, you are absolutely in line with victims' rights folks across the country that no one wants to rush to judgment. When you have a conviction that has to be overturned, you now have two victims. You have the original victim of the original crime, and then you have the person who was falsely accused and convicted. No one wants that to happen. This language as it has been applied elsewhere has been balanced, meaning courts have done a reasonable analysis of whether the defendant and/or the state needs a continuance, and if so, how long? Generally speaking, the courts will need to determine how long that continuance should be. Does it give them six months, or do they have a check-in hearing in 30 days? What this does is ensure that progress continues. It does not, nor has it ever in any jurisdiction, resulted in a trial the next day or the next week.

**Assemblyman Ohrenschaal:**

Is there any data in terms of jurisdictions that have adopted an amendment like this as to how many convictions have been sustained versus overturned? Also, there is the horrible story we heard about victims not being allowed to speak by the judge in an effort to speed things up. Is there data that this is happening less in jurisdictions that have adopted this? That is very concerning. I have not seen it happen in Nevada, and obviously that should not happen.

**Meg Garvin:**

In terms of data, the articulation that you have before you, Marsy's Law is relatively new; 2008 was the first adoptions of Marsy's Law in California, and Illinois has followed suit. With that said, a handful of states have similar provisions, Arizona being the one of longest standing. I am unaware of specific data in response to your question, but I can certainly see if there is some and submit it.

**Chair Stewart:**

Is there anyone here in support of S.J.R. 17 (R1)?

**Kristy Oriol, Policy Specialist, Nevada Network Against Domestic Violence:**

We represent all the statewide organizations serving domestic violence victims in Nevada. I want to begin by expressing our support for the stated amendment. I think the proponents, by deleting section 23, subsection 8, has made this a victim-centered bill. As you have already heard, navigating the legal system for victims is, to say the least, a very overwhelming and confusing process. If a victim does decide to engage the legal system after their abuse, the process is very confusing. We have wonderful victim advocates in Nevada, but many victims do not even reach the point where they are willing to prosecute because of their fear and their lack of understanding of the legal process. Victims who report the abuse commonly end up changing their minds or recanting statements and are very confused when they find out the prosecution can move forward without their consent. We feel this is an avoidable reality in prosecuting domestic violence crimes, but we can and we should do more for victims to give them a voice during that time of prosecution. I feel that by expanding these constitutional protections, perhaps more victims will feel comfortable prosecuting their abusers.

In addition to the benefits that S.J.R. 17 (R1) offers victims, it also guarantees these constitutional protections for families. Nevada has the sixth highest homicide rate in the United States for women killed by men. We have ranged in the top ten for the past decade. This is a horrifying statistic. People in Nevada already have to face the loss of a daughter, a mother, or a sister at the hands of an intimate partner. Allowing them to have some constitutional protections

would help in the healing process. We are very grateful to Senator Roberson for bringing this resolution forward, and I urge your support. [Also provided written testimony ([Exhibit K](#)).]

**Assemblyman Ohrenschall:**

From what I know about our existing statutory language, it seems that we have some robust statutes in terms of trying to ensure victims have a voice in courts and that they are notified. I think we even have a statute for sex offenders that grandparents of a victim are notified when the offender comes up for parole. We have many statutes already in place. Do you have specific examples in Nevada where our statutes have fallen short, where a victim has not been allowed to be heard in court, to be heard during sentencing, or to be notified about a possible parole hearing? Are there examples where our statutory framework is failing and we do need a constitutional change?

**Kristy Oriol:**

I cannot disclose specific details on cases I have worked on due to confidentiality, but I can tell you that, yes, we have seen this in many cases. Things as simple as victims getting their clothing back after a sexual assault examination are small details that are not currently protected in our constitutional system, but victims do need those items back. Things as simple as that can be pivotal to the healing process. I have heard from many victims that they do not feel knowledgeable about the prosecution, they do not feel they are included in the process, and I do feel this would provide those additional protections.

**Assemblyman Elliot T. Anderson:**

Maybe we cannot talk about specific details of specific cases, but the Clark County District Attorney's Office has a huge victims advocate office. Have there been problems at that office? I think judges can follow statutes. I think the district attorney's offices can follow statutes. The problem I am seeing is that to change the *Constitution*, it takes four years and a ballot campaign to fix. We do not know how this will be interpreted in the future, which takes away our flexibility as a legislator to respond. I need something specific on how the current system has failed the victims.

**Kristy Oriol:**

I agree, the victim advocates offices in both Clark County and Washoe County are doing a superb job. That would be assuming the victim even gets to that point of the prosecution. I think without these constitutional rights, a victim may not feel that support. I would be happy to look for some publicly available examples that I can share with you. What you also need to remember is that victims going through the district attorney's office do not have the confidentially

protections because they are system advocates. Our programs in Nevada are providing wonderful services, but I strongly feel that we need to expand the constitutional protections.

**Carolyn Muscari, Advocate Supervisor, S.A.F.E. House:**

I am a domestic violence victims' advocate supervisor at Stop Abuse in the Family Environment (S.A.F.E. House). I have been working with victims for the past 17 years. Perhaps the biggest problem I see for victims is that they feel disrespected and left out of the process. I have had cases where the district attorney's office asked me to work with the client because she had refused to come to court. I was confused because they have their own advocates. I called the victim, and the reason she would not come to court was because the district attorney's office would not answer her questions. She did not feel safe; she wanted to know if they had received the 911 tape. All she was being told was, do not worry about it, we will take care of it. She was not going to go to court because she figured, if he walks, I am dead. I was able to get the answers she was looking for and provide the safety she wanted; she did testify, and he was convicted.

I have had other clients who stated they felt left out of the process. They did not even know when a deal was being made. I have had clients show up at court only to find out that an agreement had been made five days prior. The defendant knew about it, but the victim did not. I think what the victims feel is a disrespect at being left out of the process. I think passing this bill will aid the district attorneys and the courts. They will be able to get better convictions with more cooperative witnesses. I have had cases that have dragged on for three to five years, and the victims get tired of it controlling their lives. We have to include the victims in this. They have a right to be heard, to have their say, and to understand what is going on.

**Assemblyman Thompson:**

Based on your testimony, do you feel this is more of a systems issue versus a constitutional fix?

**Carolyn Muscari:**

I think it is probably both. I think we need the constitutional fix in order for the system to work better. If we do not have the guidelines, there is nothing to follow.

**Assemblyman Ohrenschall:**

How much of a problem might be remedied by this language versus the manpower, the funding, and the victims' advocates that we need in place in all of our prosecutor's offices but we cannot afford to hire? I am wondering if perhaps we need a dollars remedy rather than new language in the *Constitution*.

**Carolyn Muscari:**

There could be a partial systems problem. Obviously, money is an issue, but the issue in many of the cases I have seen is just a refusal to cooperate and answer the questions. I have had clients come to court four and five times and finally say, I am not going to go anymore; I am going to lose my job. I think much of this has to do with the focus on the prosecution, which is great, but the victims are being left out.

**John T. Jones, Jr., representing Nevada District Attorneys Association:**

We are here in support of this resolution and would like to thank Senator Roberson and the other proponents of the resolution for working with us on some of our concerns. As you have heard, it is extremely difficult for victims to go through the system. We try to balance the rights of the victims with our job to do justice. Unfortunately, sometimes they do collide. This resolution elevates the rights of the victims from statutory rights to constitutional rights.

**Assemblywoman Fiore:**

Why would we not put this in statute instead of the *Constitution*?

**John Jones:**

When you talk to the proponents of the bill, they want to elevate the rights of victims to constitutional rights, and I think that is a pretty compelling argument.

**Stan Olsen, representing Nevada Association of Public Safety Officers:**

We stand in support of this bill. I have over 36 years in law enforcement and have been coming here, working on different crime bills, for more than two decades. The vast majority of them are for criminal rights. Rarely do we have a bill that worries about the victim's rights. I think this resolution is good and right to do. Many times the only person who can speak for the victim is the criminal justice system. This is an example where Marsy is speaking for the victims.

**Kasey La Foon, Sexual Assault Program Coordinator, Safe Embrace, Sparks, Nevada:**

Safe Embrace is a local domestic violence intervention and sexual assault prevention program in Sparks. I am here in support of S.J.R. 17 (R1). It will

basically parallel the victims' rights already afforded to the accused and convicted criminals. Our job as victim advocates is to empower victims, and giving them additional constitutional rights is going to give them the power that the accused took away from them when he committed that crime against them. It will also give surviving family members a voice in the criminal justice system and, more importantly, equal rights and constitutional protections that they deserve.

Our present law provides criminals more rights than victims. I currently give one sheet of paper with 11 rights on it to victims of domestic violence or any type of power-based personal violence type crime. Criminals get the entire *Constitution*. This is very important to victims to be able to empower them. I have been an advocate for 3 1/2 years, and I often find myself telling my frustrated victims that it is a criminal justice system, not a victim justice system. Marsy's Law would ensure that victims have coequal rights as the accused and convicted, nothing more and nothing less.

I recall assisting a victim who had been strangled by her boyfriend to the point where she lost consciousness. He was arrested and charged with domestic battery by strangulation, which is a felony. The court never contacted that victim. She was never contacted about any proceedings or plea deal. They pled that case down to disturbing the peace, which is a misdemeanor. That person walked; he received a slap on the wrist. Now my victim is worried every day about that person reoffending her. She does not feel safe because the criminal justice system failed her. When we attempted to reach out to the district attorney, the decision had already been made and there was nothing we could do. There are advocates at our district attorney's office that I work with. They stand behind our victims and are the middleman between the victim and the prosecutors, but when something has already been done, it is hard to go back. I cannot imagine anyone being against granting additional rights to victims of crime, and we should all embrace that.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department:**

We are in support of the resolution.

**Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:**

I am here in support of the resolution.

**Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association:**

We are also in support of this resolution.

**Chair Stewart:**

Is there anyone else in support of this resolution? Seeing no one, is there anyone in opposition?

**Sean B. Sullivan, Deputy Public Defender, Washoe County Public Defender:**

We are in opposition to S.J.R. 17 (R1). To be clear, when this measure was heard on the Senate side, the Washoe County Public Defender's Office was neutral, with concerns. We certainly appreciate working with all of the stakeholders involved in this legislative process. We were attempting to create language that would satisfy all of the stakeholders. We are concerned specifically with removing section 23, subsection 8: "This section is not intended and shall not be interpreted to infringe upon a right guaranteed to the defendant by the *United States Constitution* or the *Nevada Constitution*." We would like to see that stay in S.J.R. 17 (R1). If it did, we would be able to remain neutral. Because it is being amended out, we are now opposing this resolution.

In Nevada we do have a robust system. We have rights for the victims that are already codified in statute; the victim impact statement is one of the strongest that I am aware of. When I see it in practice, as a criminal practitioner, the victim not only has a right to be heard at sentencing, she has the right to have the last word. She must be heard last, and all the parties in the room must respect that.

Other rights that are codified are the bail amounts. Community safety is always a consideration when setting bail or a release on recognizance; they always take into consideration the victim's safety. I know at times the victim's rights and the rights of the accused will bump up against each other and there may be a conflict. Our concern is this conflict when it does happen and how it is resolved within the district courts and the justice courts system. I appreciate the comments when talking about the Sixth Amendment rights, to confront the accused or have a speedy trial. Who wins when there is a conflict? These are our concerns that I think were addressed adequately in section 23, subsection 8, and we would like to see that language remain within S.J.R. 17 (R1).

**Steve Yeager, representing Clark County Public Defender's Office:**

The Clark County Public Defender's Office is opposed to removing section 23, subsection 8. We were also neutral on the resolution on the Senate side. If this section were to remain in the resolution, we would still be neutral. We believe section 23, subsection 8, gives the court guidance in the remote chance that there is a conflict under the *Nevada Constitution* between the victim and the defendant.



**Vanessa Spinazola, representing American Civil Liberties Union of Nevada:**

We are opposed to this resolution, in particular section 23, subsection 8. The rights of the accused have been of paramount importance in America since the founding of this country. They are protected by the Fourth, Fifth, Sixth, and Eighth Amendments. All of those amendments have stood the test of time. At a time when we are not even adequately funding our rural community indigent defense systems, we should not be interjecting additional obstacles for the innocent accused when they are trying to protect their liberty.

This resolution creates a false dichotomy between survivors of crime and those convicted of crime. Some people who are abused as children turn around and abuse other people. Some survivors turn to alcohol and drugs as a way to numb the pain, and their addiction leads them to crime. By adding layers against which the accused must fight, we may very well be revictimizing people who are victims and involved in the criminal justice system.

We should promote policies and programs that help survivors, the accused, and the convicted rebuild their lives so that cycles of violence for all people can end and everyone can live a healthy and productive life. Permitting survivors to have standing in the criminal process will, by definition, extend the criminal proceedings. This means more jail time for people, more loss of liberty, and more costs to the State of Nevada. We heard today about a 30-day check-in hearing. That is a hearing where potentially there will be a loss of liberty involved. These are additional tax dollars that should be spent on resources for survivors, trauma counseling, prevention of crime, and other programs of that nature instead of spending more money on incarcerating our way out of problems. We should be looking at preventing crime. I have not heard anything today that we will get more or find more accused people. All the stories I have heard said that everyone was convicted and spent time in prison. I am not hearing how this bill will prevent future crime and increase more public safety. I urge you to vote against it.

**Chair Stewart:**

Is there anyone else in opposition? Seeing no one, is there anyone in the neutral position? [There was no one.] Ms. Garvin, would you like to make a final statement?

**Meg Garvin:**

The section that seems to be most contentious is, with regard to the U.S. constitutional rights, superfluous and absolutely unnecessary in this bill. With regard to the *Nevada Constitution*, it is the job of the courts to figure out

which rights take precedent in a particular moment. They are experts at it; they do it daily. This provision has not existed in any victims' rights provisions across the country, so I urge you to accept the amendment.

**Chair Stewart:**

I will close the hearing on Senate Joint Resolution 17 (1st Reprint) and open the hearing on Senate Bill 5 (1st Reprint).

**Senate Bill 5 (1st Reprint): Revises provisions governing elections for nonpartisan offices. (BDR 24-90)**

**Assemblyman Jim Wheeler, Assembly District No. 39:**

I am introducing Senate Bill 5 (1st Reprint) on behalf of Senator Settlemeyer. As you may remember, in many of the nonpartisan primary elections throughout the state, there will be three or four persons on the ballot, and one person will come out an obvious victor. Sitting next to me is one of those people, Ron Pierini, Sheriff of Douglas County, who won his primary race by 70 percent over two other candidates last year. He went on to win the general election over the second-place primary candidate by 70 percent also. We see this happen often.

That is what S.B. 5 (R1) fixes. This bill seems rather lengthy, but it affects many different city charters. Section 1 is existing *Nevada Revised Statutes*. Section 2 deletes language that is no longer necessary to the changes in section 1. Section 3 makes necessary changes to Carson City's charter. I just found out that there is a problem with the bill. The Committee Counsel will explain that issue.

**Kevin Powers, Committee Counsel:**

Our concerns are with three different types of bipartisan offices. That is, justices of the supreme court, court of appeals judges, and district court judges. Each of the constitutional provisions governing those offices provides that those judges and justices have to be elected at the general election. The technical amendment would be in section 1, subsection 6. We would deal with those three offices by providing if the candidate for one of those offices receives the majority at the primary, that candidate would still go to the general election, but only that candidate. So if a candidate receives the majority at the primary, only that candidate would go to the general, and would be selected if he received at least one vote. That would conform to the *Constitution* for providing those three offices to be elected at the general election.

**Ron Pierini, Sheriff, Douglas County:**

On my fifth campaign, which I ran last year, I had two people run against me. In the primary, I received 70 percent of the votes. I then had to run in the general election and again received 70 percent. I thought it was unique that many people in our community said, now you do not have to worry about the general election, because you received over 50 percent in the primary. I told them that was not true in Nevada.

One of the things I had talked to Senator Settelmeyer about was that for five months I still had to do the election process, which costs a lot of money and a lot of time. In my position, I have 125 employees and our county has a population of 50,000, and I have to run our organization. At the same time, I also have to do the political end of it. When I had 70 percent in the primary, I still had to take a lot of time away from the organization and what I should be doing as a police administrator. It would have been much easier if I could have gone into the general election by myself. I think most of the people in nonpartisan positions agree. We put in a lot of effort, time, and money, while still working in a lot of positions and trying to do the best for our community, but we are taking away from that because we still need to run in the general election. It does not make much sense. Everyone in the community says that it doesn't seem very fair. It is very hard to run for office; it takes a lot of time and energy.

**Assemblyman Wheeler:**

I do not want this bill to seem like it is about just one person and one position. Obviously this happens over and over again throughout the state. In my district I represent three different counties, and I saw it happen in all three counties in the last election cycle. In the primary, the top candidate received more than 50 percent, yet the top two candidates moved on to the general election. Had this been a partisan race, it would have been over. If the top candidate received more than 50 percent of the vote, and there was no one running on the other ticket, the candidate would not have to run in the general election.

**Robert Roshak, representing Nevada Sheriffs' and Chiefs' Association:**

We are in support of this bill. Even though we seem to be talking about the sheriffs, this also impacts the Board of Regents, school board trustees, recreational board, hospital districts, et cetera.

**Chair Stewart:**

Is there anyone here to testify in support of this bill?

**Regan J. Comis, representing Nevada Judges of Limited Jurisdiction:**

We are in support of S.B. 5 (R1).

**Andres Moses, representing Nevada District Judges Association:**

We are in support of this bill and the proposed amendment that Kevin Powers has recommended.

**Eric Spratley, Lieutenant, Legislative Services, Washoe County Sheriff's Office:**

I am representing Chuck Allen, Washoe County Sheriff, in support of this bill.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department:**

I am here in support.

**Assemblyman Trowbridge:**

Before I cast my vote in support of this, I have to ask Sheriff Pierini, how long have you been serving?

**Ron Pierini:**

In 1973 I started with the Carson City Sheriff's Office. Seventeen years ago I became Douglas County Sheriff. Four times I had no one run against me. I think this is a good bill and should be passed.

**Assemblyman Ohrenschall:**

I was looking at the Secretary of State's website, and statewide turnout at the primary election in 2014 was a very disappointing 19.27 percent. In the general election, the statewide turnout was 45.56 percent. In Carson City, numbers are stronger between the primary and general, but it is still almost double the turnout in the general than the primary. My concern is, historically, many of our constituents sit out the primary and then vote in the general. Those folks who are used to a runoff between the top two will not be included in the electoral process. I agree it would be great to get it over with in the primary for the candidates, but the voters who are going to come out in November will not be able to vote for an office that they could have before.

**Assemblyman Wheeler:**

I think you are answering your own question. If, for instance, a voter knows that there are three people in a race, and the winner is going to be the winner, we may see a higher turnout in the primary. Now there is a truly contested race. I would love to see that. The higher the turnout in the primaries, the better I like it.

**Chair Stewart:**

Is there anyone else in support? Seeing no one, is there anyone in opposition? [There was no one.] Is there anyone neutral? [There was no one.] I will close the hearing on S.B. 5 (R1) and open the hearing on Senate Bill 19 (1st Reprint).

**Senate Bill 19 (1st Reprint): Authorizes the board of trustees of a school district to place an advisory question on the ballot at a general election. (BDR 24-477)**

**Lindsay Anderson, Government Affairs Director, Washoe County School District:** Senate Bill 19 (1st Reprint) is on behalf of the Washoe County School District. Essentially this bill would allow school boards of trustees to pose one advisory question on general election ballots. The reason for the bill is that our school district makes a concerted effort to connect with our community. Historically, we do better with parents and people who are connected to schools, but not necessarily to voters, and those are not always the same people. With education being a primary focus of our community and our district's commitment, basically we want voter input on important issues facing our trustees. A current relevant example would be around school construction funding. We heard a lot from last session that we should have gone to the voters for their input. The way the current law is written, we do not have direct access to voters. This would allow us to pose an advisory question to get feedback from voters. I do not want to pigeonhole this as just school construction funding; it could be for any particular issue facing our community. For example, if the school district intended to do a massive change to the school calendars, or something to that effect, this would allow the school board to let voters weigh in.

We did hear concerns during the Senate presentation from those who run elections. There was confusion about who would be taking on the administrative responsibilities for crafting and following deadlines related to ballot questions. To be clear, the school district would take on that responsibility and be willing to take on the administrative burden of crafting the language and ensure we comply. We are not asking for any special treatment in terms of the statutory deadline. Essentially this bill would give the school board trustees, who are elected by the same people who elect the county commissioners, the authority to go to the voters with an advisory question on the general election ballot.

**Assemblyman Thompson:**

When you say one question per general election, would that be when we have the presidential election and the municipal elections?

**Lindsay Anderson:**

It would be in even-numbered years, and would not be in the municipal elections. The language is for any general election, making it clear that the state could not call a special election, for example, simply for a school board's advisory question.

**Kevin Powers, Committee Counsel:**

As the bill is drafted, in section 3, subsection 2, it provides that "The governing body of a school district may, at any general election...." That term "general election" is defined in both the *Nevada Constitution* and Chapter 293 of *Nevada Revised Statutes*, for the elections code, to mean the election that occurs in November of each even-numbered year.

**Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:**

We support this bill. We think it is a matter of parity. When cities and counties can do advisory questions, we think it makes sense that the other major local government in our community, the school board, should be able to do advisory questions as well. The school district is the largest employer and has the biggest building footprint, and we all say that education is the most important issue we deal with.

**Jessica Ferrato, representing Nevada Association of School Boards:**

I would like to echo the comments of Mr. Abney about parity between local governments. We also think this increases communication between the public and the boards. Lastly, all 17 school boards in Nevada voted to support this bill.

**Mary Pierczynski, representing Nevada Association of School Superintendents:**

Obviously the boards and the superintendents work very closely, and the superintendents are in support of this bill as well.

**Chair Stewart:**

Is there anyone else here to testify in support? [There was no one.] Is there anyone in opposition or neutral? [There was no one.]

**Assemblywoman Shelton:**

In theory, since this relates to each school district, could you have a question from Washoe County and one from Clark County during an election?

**Lindsay Anderson:**

My understanding is these would be specific to the county in which you reside. So, yes, Washoe County could pose one question, and Clark County could pose a different, unrelated question. They would be on different ballots.

**Chair Stewart:**

I will now close the hearing on S.B. 19 (R1). Are there any public comments?

**Assemblyman Ohrenschall:**

We had the newest inductee in the Assembly Wall of Distinction in your Committee tonight, former Assemblyman Alan Glover, and I would like to recognize that.

**Chair Stewart:**

Thank you, a point well taken. We are adjourned [at 6:12 p.m.].

RESPECTFULLY SUBMITTED:

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Patricia Hartman  
Recording Secretary

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Nancy Davis  
Transcribing Secretary

APPROVED BY:

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Assemblyman Lynn D. Stewart, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name: Assembly Committee on Legislative Operations and Elections**

**Date: May 12, 2015**

**Time of Meeting: 4:02 p.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 248 (R1)	C	Carol Stonefield, Committee Policy Analyst	Work Session Document
S.J.R. 3 (R1)	D	Lieutenant Governor Mark Hutchison	Written Testimony
S.J.R. 3 (R1)	E	Lieutenant Governor Mark Hutchison	Letter of Support by Former Governor Bob Miller
S.J.R. 3 (R1)	F	Lieutenant Governor Mark Hutchison	Letter of Support by Former Governor Robert List
S.J.R. 1 (R1)	G	Carol Stonefield, Committee Policy Analyst	Work Session Document
S.J.R. 5 (R1)	H	Carol Stonefield, Committee Policy Analyst	Work Session Document
S.J.R. 21 (R1)	I	Carol Stonefield, Committee Policy Analyst	Work Session Document
S.J.R. 17 (R1)	J	Meg Garvin, National Crime Victim Law Institute	Amendment from Jeff Kaye
S.J.R. 17 (R1)	K	Kristy Oriol, Nevada Network Against Domestic Violence	Written Testimony