

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eightieth Session
May 29, 2019**

The Senate Committee on Judiciary was called to order by Chair Nicole J. Cannizzaro at 8:28 a.m. on Wednesday, May 29, 2019, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Nicole J. Cannizzaro, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Melanie Scheible
Senator Scott Hammond
Senator Ira Hansen
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Assemblywoman Sandra Jauregui (Assembly District No. 41)

STAFF MEMBERS PRESENT:

Patrick Guinan, Committee Policy Analyst
Nicolas Anthony, Committee Counsel
Eileen Church, Committee Secretary

OTHERS PRESENT:

Andrew Karwoski, Everytown for Gun Safety
John Ocegüera, Giffords Law Center to Prevent Gun Violence
Christiane Brown, Brady United Against Gun Violence
Chuck Callaway, Las Vegas Metropolitan Police Department
Sarah Dahl, Moms Demand Action for Gun Sense in America

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Alyson Gilles, Moms Demand Action for Gun Sense in America
John Saludes, Nevada Gun Safety Coalition
Corey Solferino, Washoe County Sheriff's Office
Diana Loring, Moms Demand Action for Gun Sense in America
John T. Jones, Jr., Clark County District Attorney's Office
Chip Evans, Indivisible Northern Nevada
Elaine Sanchez
Ellen Fumo
Erin Breen
Wendy Starkweather, Moms Demand Action for Gun Sense in America
Linda Cavazos
Teresa Crawford, Moms Demand Action for Gun Sense in America
Marlene Lockard, Nevada Women's Lobby
Daniel S. Reid, National Rifle Association of America
Darlene Cooley, Nevada Federation of Republican Women
Gregory Ross
Matt Hennager
Anthony Connolly
Jeff Watson
Jared Raman, Nevada Independent American Party
Janine Hansen, State President, Nevada Families for Freedom
Randi Thompson, Nevada Firearms Coalition
Tim Stoffel
Cody Cunningham
Mack Miller
Trenton Puckett
Gordon Utz, Stillwater Firearms Association
Scott Cooley
Bill Maggiora
Greg Quintana
Patti Jesinoski
Daphne Lee
D. James Hindle III, Nevada Republican Party
Shawn Meehan, Guard the Constitution
Melissa Clement
Linda Canno, NevadansCAN
Julie Hereford, NevadansCAN
Leonel Aguilar
Eric Spratley, Nevada Sheriffs' and Chiefs' Association

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Holly Welborn, American Civil Liberties Union of Nevada

CHAIR CANNIZZARO:

I will open the hearing of the Senate Committee on Judiciary with Assembly Bill (A.B.) 291.

ASSEMBLY BILL 291 (1st Reprint): Revises provisions relating to public safety.
(BDR 15-759)

SENATOR HANSEN:

We have a 34-page amendment on an exceptionally important bill we literally received less than an hour before the start of this hearing. I protest as it is bad protocol to drop that size of an amendment on us at the last minute.

CHAIR CANNIZZARO:

The substance of most of what is contained in these amendments has been contained in other bills, including those we have heard as part of the hearing on A.B. 291.

SENATOR HANSEN:

We have not heard anything on the red flag issue at all.

CHAIR CANNIZZARO:

This language has been available in a similar substance in Senate Bill (S.B.) 120.

SENATE BILL 120: Provides for the issuance of orders of protection relating to high-risk behavior. (BDR 3-112)

I will give ample time for the Committee to answer questions.

ASSEMBLYWOMAN SANDRA JAUREGUI (Assembly District No. 41):

I am here to present Proposed Amendment 6000 (Exhibit C) to A.B. 291. You have heard my story and why this issue is important to me. This policy can save lives. This new iteration of A.B. 291 will enact policies that create an immediate impact on public safety in Nevada.

The Exhibit C amendment removes section 23 dealing with preemption and adds measures relating to extreme risk protection orders (ERPO) and safe storage. With these changes, we are enacting a Statewide policy that will set a new

floor for gun safety in Nevada and allow us to come back and work on preemption during the Interim. Extreme risk protection orders help prevent school shootings, mass shootings and suicides.

ANDREW KARWOSKI (Everytown for Gun Safety):

The [Exhibit C](#) amendment would create an extreme risk law in Nevada. Fifteen states have enacted this policy, and it has proven to save lives. It has already been used with great success in Florida and Maryland to help prevent mass shootings and gun violence. Strong research shows these laws can work to help prevent the largest cause of gun violence in this Country—firearm suicide.

Extreme risk laws are civil protection orders that allow family members or law enforcement to petition a court for a civil protection order against persons who are a serious threat to themselves or others. [Assembly Bill 291](#) allows close family members to petition a court for an order that prevents a person from buying or having guns, and requires him or her to turn in his or her guns to be held by law enforcement or a court-approved third party while the order is in effect.

The process starts with either law enforcement or family members filing a petition with the court. The petition must outline the reason a person has shown to be a threat to himself or herself or others or has exhibited high-risk behavior. A court can then take one of two steps. At the initial state, if there is an imminent threat to self or others, it can issue an ex parte temporary ERPO. This order will only last seven days until a full hearing can be held. Once that order is entered, if requested, one proceeds to a full order hearing. This whole process is akin to a domestic violence restraining order.

The full order is an adversarial hearing with the party whom the order is requested against. The petitioner will have to prove the person is a serious threat to himself or herself or others and has access to firearms. If a judge is satisfied by that strict clear and convincing evidentiary standard at the extended order stage, that person will be prohibited from having guns for a period not to exceed one year.

Once those orders are entered, a process is initiated for law enforcement to take temporary possession of the firearms, which are held either by law enforcement or a court-approved third party until the order expires.

On the back end, [A.B. 291](#) and the [Exhibit C](#) amendment have strong protections allowing firearms to be held only as long as necessary to make sure a person can get the help he or she needs.

The bill has drawn protections for due process for the adversarial party to ensure the records put into the background check system are removed when the order is no longer in effect. While the order is in effect, the person cannot buy or access firearms.

[Assembly Bill 291](#) contains provisions preventing the process from being abused. It contains criminal penalties preventing people from using the process to harass or falsify information to get an ERPO.

These laws are extremely effective. They have a strong research and evidentiary backing and can be used to prevent mass shootings and school shootings; over 90 percent of gun violence incidents in schools had warning signs. These laws only target those people who are shown to be a threat to themselves or others.

JOHN OCEGUERA (Giffords Law Center to Prevent Gun Violence):

My written testimony ([Exhibit D](#) contains copyrighted material. Original is available upon request of the Research Library.) specifically states our support for addition of the orders of protection against high-risk behaviors to [A.B. 291](#).

CHRISTIANE BROWN (Brady United Against Gun Violence):

We support [A.B. 291](#), and I have submitted my written testimony ([Exhibit E](#) contains copyrighted material; original is available upon request of the Research Library).

SENATOR PICKARD:

We just passed a bill with respect to addiction and using appropriate nondivisive terms. This is the first time I have ever heard somebody object to a red flag designation, particularly when [A.B. 291](#) has nothing to do with addressing the mental health issues that are really at the core of the issue.

I do like section 18 of the [Exhibit C](#) amendment. I frequently deal with falsified temporary protective order (TPO) cases. This puts teeth into some dissuasion—trying to make sure these are not abused.

I have a question with the definition of a high-risk behavior in section 7. Are each of these paragraph items considered high-risk behaviors worthy of considering for removal of a firearm?

MR. KARWOSKI:

They are worthy of considering. No single factor by itself would result in an order being issued. It is the standard of risk to self or others.

SENATOR PICKARD:

Section 7, subsection 1, paragraph (h) states the acquisition of a firearm within the prior 6 months is an act worthy of removal of firearms. This means every owner of a firearm has exhibited a high-risk behavior; that concerns me.

Section 7, subsection 2 states, "For purposes of this section, a person shall be deemed to engage in high-risk behavior, if he or she has previously been convicted of (a) violating a temporary or extended order," but we do not address invited violations. That is when the applicant for a TPO or extended protective order (EPO) invites the adverse party to resume contact. Is that addressed somewhere?

MR. KARWOSKI:

No. We have worked diligently to make sure the language is as precise as possible in the violations space. This requires the order be intentionally violated.

SENATOR PICKARD:

Many of these instances involve an intentional act where people are frequently prosecuted even though it was invited. That defense is missing from the language.

Section 9, subsection 1 reads:

The court shall issue an ex parte order if the court finds by a preponderance of the evidence ... (a) That a person poses an imminent risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm.

Is mere possession of a firearm a high-risk behavior?

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MR. KARWOSKI:

No. The standard is a person who poses an imminent risk of causing personal injury to himself or herself or others by possessing a firearm. Possessing a firearm alone would not trigger the order.

SENATOR PICKARD:

I read it differently because it defines what that risk is—it is by possessing. I think the language is difficult there.

MR. KARWOSKI:

It is imminent risk. One has to satisfy the high-risk behavior component of this as well.

SENATOR PICKARD:

Section 9, subsection 1, paragraph (c) states, "less restrictive options have been exhausted or are not effective." How does a judge assess what other options are to be considered?

ASSEMBLYWOMAN JAUREGUI:

I do not think you are looking at the newest version of the amendment that was uploaded this morning. You have referenced a section that previously had been deleted.

SENATOR PICKARD:

That is troubling then—we do not have accurate copies.

SENATOR HANSEN:

That is a critical point. We just got this amendment this morning, is there another amendment?

SENATOR CANNIZZARO:

There is no other amendment. I do not know if there is confusion over this section in the [Exhibit C](#) amendment being discussed.

ASSEMBLYWOMAN JAUREGUI:

I apologize. I was looking at the wrong section.

SENATOR PICKARD:

Having talked to many stakeholders, I am interested in what representatives from the American Civil Liberties Union of Nevada (ACLU) say because I understand they even have trouble with this.

The testimony was that we have a seven-day maximum time on the TPO and up to a year on the EPO. As I look at section 16, we are talking about the ex parte order not to exceed seven days unless the EPO is filed; then it is as long as necessary until the hearing. The EPO goes up to a year. My concern is with the language in section 16, subsection 4, "Not less than 3 months before the expiration of an extended order." I would assume if the extended order did not go more than three months, it would be immediately expired. To continue, "... and upon petition by a family or household member or law enforcement officer, the court may, after notice and a hearing, renew an extended order ... not to exceed 1 year." This does not specify that it is the initial order, so this could presumably be a third, fourth or indefinite extension where there is no limitation as to the number of times this can be extended. Mental illness usually does not go away, so this could be an indefinite taking, correct?

MR. KARWOSKI:

The order can be renewed as many times as is necessary while there is still clear and convincing evidence a person poses a risk to himself or herself or others. These orders generally last as long as is necessary to prevent violence in the states with these laws in place. The use of them has been targeted and courts have shown they are in a unique position to know when a person no longer poses a threat.

SENATOR PICKARD:

The short answer is they are indefinite until the underlying issue—the mental illness issue—is resolved, which is not addressed.

MR. KARWOSKI:

I do not view these orders as indefinite. Every single time an order expires, the petitioner has to come back into a court of law and prove that person is a risk to himself or herself or others, and the order can only last as long as a judge determines.

SENATOR PICKARD:

I work with the TPO and EPO community pretty regularly. I know how judges approach these so I am comforted by the fact that the standard is clear and convincing evidence, which is certainly not the case for a TPO, which is a low standard. The thing that disturbs me is it is written so broadly and the triggering behaviors are so broad we are going to be terribly overinclusive.

I have worked with the addiction community for a dozen years where people regularly consider suicide, so I am sympathetic to them. However, this bill does not address that community. This is just a way of removing firearms from someone; my concern is the abuse of this legislation.

The language needs a lot of work. This is overly inclusive of people who probably do not meet the standard because there is no standard. The standard is mere possession of a firearm.

SENATOR HANSEN:

In section 6, subsection 6, it states a person who is currently in a dating relationship under this law is going to be allowed to file these types of actions. Is that correct?

MR. KARWOSKI:

Yes. "Often people in dating relationships are in a unique situation where they have extensive knowledge of a person's"

SENATOR HANSEN:

That is broad. I could see some of the family things perhaps, but to add that into it shocks me. Where is the individual's due process rights? Somebody I am dating can file a complaint with a judge and—without a hearing—suddenly the cops show up with an order saying, "Mr. Hansen, you are a danger to yourself or society. You have to turn in all of your firearms." Where is my right to say, "Wait a minute, I did not get my day in court"?

MR. KARWOSKI:

Assembly Bill 291 has strong due process protections. It not only has provisions designed to prevent abuse, it has extensive mechanisms to ensure a person has his or her day in court.

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SENATOR HANSEN:

Since I have not been able to read the [Exhibit C](#) amendment, perhaps you can tell me if I am allowed to go before a judge before one of these orders are filed and law enforcement officers come to my property and say they have a court order requiring me to turn over my firearms.

MR. KARWOSKI:

Yes.

SENATOR HANSEN:

I have not had a chance to read this. What section states that before this can be enforced, the adverse party gets to go before the judge and contest this adverse ruling?

MR. KARWOSKI:

I want to be clear, there is an ex parte process designed only to address situations where there is an imminent threat of violence from a person. That ex parte process can be issued without a hearing and lasts only seven days. Section 10 states the court process is initiated for a full order.

SENATOR HANSEN:

What does ex parte mean?

MR. KARWOSKI:

It means without the adverse party.

SENATOR HANSEN:

In other words, the adverse party will not have due process until after the seven-day window, is that correct?

MR. KARWOSKI:

Only upon a finding there is imminent risk.

ASSEMBLYWOMAN JAUREGUI:

The only changes to the original [A.B. 291](#) are within the first 14 pages. The remainder is the exact same language we heard during the original hearing.

SENATOR SCHEIBLE:

I have a legal question about the due process considerations in this bill in terms of other liberties or rights we do sometimes infringe on including a person's right to liberty when they are arrested. When an arrest warrant is issued, does the person who is going to be arrested have the right to come before the judge prior to the warrant being issued and before being taken into custody?

MR. KARWOSKI:

My general understanding is that arrest warrants are issued ex parte showing before a judge of probable cause.

SENATOR SCHEIBLE:

When a person comes before a judge to argue probable cause to challenge an arrest or a charge after he or she has already been arrested, would that be analogous to the way somebody can come before a judge to fight the extreme risk behavior allegation after his or her gun has been seized?

MR. KARWOSKI:

Yes. This is closely modeled after the domestic violence order of protection process where a TPO can be issued at the emergency stage when there is an imminent threat. People are ensured their day in court to contest that order.

SENATOR HAMMOND:

The dating language is broad and includes the language "ongoing intimate relationship." Can you clarify what is meant by a dating relationship?

MR. KARWOSKI:

A dating relationship is an ongoing intimate relationship with the adverse party; it is not a general social relationship. For a person to qualify to petition for an order, he or she must: have an ongoing intimate relationship; prove to a court based on strict evidentiary standards that a person is a risk to themselves or others; and is not violating the criminal provision designed to prevent abuse.

SENATOR HAMMOND:

We are then allowing a judge to make those determinations when he or she is presented with evidence. A one-night stand, for example, is not going to qualify for this because it may be intimate, but it is not ongoing, correct?

MR. KARWOSKI:

The relationship has to be ongoing, and there must be strong evidence a person is a threat to himself or herself or others.

CHAIR CANNIZZARO:

This legislation uses the term "dating relationship" in reference to domestic violence as defined in *Nevada Revised Statutes* (NRS) 33.018 as, "frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context."

SENATOR HAMMOND:

I just received this [Exhibit C](#) amendment this morning and I am not a lawyer, so I am trying to understand this as fast as possible. It seems like we have a lot of these domestic violence definitions in statute where someone can come in, present an order and guns can be removed. I do not know why we have to go to this next level.

CHAIR CANNIZZARO:

There would have to be an act of domestic violence in the domestic violence context—an act of violence against one of the persons who falls within one of these definitions.

SENATOR SCHEIBLE:

Who makes the determination of whether the person bringing the request or filing this document falls under section 6?

MR. KARWOSKI:

The clerk of the court would make that determination. Obviously, the proceeding could not go forward if the person was not eligible to petition.

SENATOR PICKARD:

Section 26 is the inclusion of Assemblyman Ozzie Fumo's storage bill. He and I discussed a potential amendment to define "substantial risk" as conduct that constituted a gross deviation from the standard of care that a reasonable person would exercise in the same situation because the definition elsewhere in statute either does not necessarily apply or does not apply well. It was my understanding that was to be adopted; I have that language, and I suggest we use that definition.

SENATOR HARRIS:

Are there statistics on how many of these orders are granted in states that have enacted similar petitions?

MR. KARWOSKI:

Statistics on red flag extreme risk orders are hard to pin down. The best numbers are from states like Maryland that have publicly reported some of their numbers. Evidence suggests these orders are used with moderate frequency. A significant portion, nearly half, are either denied outright or removed at the final or within the extended order phase. Evidence indicates their use has been extremely judicious.

ASSEMBLYWOMAN JAUREGUI:

Indiana has seen a 7.5 percent decrease and Connecticut has seen a 14 percent decrease in suicide rates since the passage of their extreme risk protection orders.

MR. KARWOSKI:

There is strong anecdotal evidence to show these orders are being used not only judicially but effectively. The Maryland Sheriffs' Association stated this has been used to prevent four separate school shootings. These orders have been used to prevent at least two documented incidents of school gun violence in Florida. In Seattle, Washington, 200 orders have been issued; it has a special task force to deal with these issues. Several instances of mass violence have been prevented as well.

SENATOR HANSEN:

In going through the [Exhibit C](#) amendment, I came across NRS 33, NRS 197 and NRS 202. What happened to the single-subject rule? Are all these considered germane on the amendment portion of the bill?

NICOLAS ANTHONY (Committee Counsel):

If you look at the title of A.B. 291, it is actually public safety. Everything contained in this bill relates to the single subject of firearms.

CHAIR CANNIZZARO:

I wanted to provide clarification on earlier questions regarding contact. If I am understanding correctly, A.B. 291 does not consider contact with an adverse party a violation of this order.

MR. KARWOSKI:
Can you clarify?

CHAIR CANNIZZARO:

There were earlier questions about instances involving invited contact. Ordinarily when we talk about protective orders involving domestic violence, it is about contact between two individuals. Assembly Bill 291 is not about contact between two individuals. I just wanted to clarify that point of invited or accidental contact is not covered by this particular protective order.

MR. KARWOSKI:

Unlike a domestic violence restraining order, which might restrict someone from contacting the other person, these orders restrict someone from having access to firearms. The way to intentionally violate the order is to have guns.

CHAIR CANNIZZARO:

I also wanted clarification on the question about whether this legislation would be applicable when someone just acquires a firearm. Section 7, subsection 1, paragraph (h) states a person would both have to have acquired a firearm within the immediately preceding six months as well as engage in high-risk behavior that presents a danger, serious imminent threat, a pattern of threats of violence, communicates imminent threat of violence, commits an act of violence toward someone or attempts to use or threatens to use physical force against another person.

MR. KARWOSKI:

A person would have to both engage in high-risk behavior and meet the evidentiary standard that he or she is a risk to himself or herself or others. Merely possessing a firearm would not qualify.

SENATOR HANSEN:

If an individual in a household is determined to be a risk, does that mean all the firearms in the household have to be removed?

MR. KARWOSKI:

Any firearms in the person's custody, control or possession are eligible to be temporarily removed. There are strong provisions in A.B. 291 that have been deliberately added to make sure any firearm owned by someone else that is inadvertently swept up in the process is swiftly returned to that person.

SENATOR HANSEN:

If someone in my household is determined to be suicidal, would all the firearms need to be swept out of the house for at least seven days? Everyone else's rights would be compromised under this bill because the household basically has to be a gun-free zone, correct?

MR. KARWOSKI:

They have to be kept out of the care, custody, possession or control of the person. There are other ways to accomplish that without sweeping the household.

SENATOR HANSEN:

I would like to hear what the other ones are. Would they have to be locked in a safe so the person would not have access to them? It appears to me this can be broadly interpreted in such a way that a lot of people could lose their Second Amendment rights, at least in this window of time. Since, according to your testimony, this window of time can be extended indefinitely, that could be significant for people who are in a household where these types of circumstances could occur.

MR. KARWOSKI:

We understand that, which is why we drafted A.B. 291 with such precision. There is a risk of another person's firearm getting swept up into this process, but there are strong provisions in this bill to return that firearm.

The orders are not indefinite. Every time an order expires or needs to be renewed, the petitioner needs to show up in a court of law and prove a person is still a risk of violence to himself or herself or others.

SENATOR PICKARD:

You raised the issue of compliance, which is an important point. Section 12, subsection 2 gives the person 72 hours or 1 business day, whichever is later, to provide a receipt of the transfer out of their possession. Section 12, subsection 4 states probable cause to believe this person has not surrendered the firearm is grounds for a search warrant. My concern is in rural areas where it may not be possible to provide that receipt back to law enforcement within one day. Is the lack of the receipt alone probable cause to issue an arrest warrant and search the house?

MR. KARWOSKI:

The lack of a receipt or failure to comply could be probable cause. One day or 72 hours is substantial time to get that receipt back. These orders are designed to prevent emergency situations of violence, so we want to make sure the time frame is as narrow as possible to balance both the rights of the party and public safety.

CHAIR CANNIZZARO:

This is the same language in statute for situations where individuals who commit domestic violence would not be permitted to possess firearms as well as when and where those firearms would be removed in that process.

SENATOR PICKARD:

I am aware of that. Once the TPO is ordered, law enforcement can immediately step in if it thinks there is a problem. I just wanted to make sure this was following the same standard.

SENATOR SCHEIBLE:

I want to clarify one thing on the record. My colleague suggested a law enforcement agency could obtain an arrest warrant; a search warrant is mentioned in the bill, correct?

MR. KARWOSKI:

There are two provisions, one for a search warrant and one for an arrest warrant if a person does not comply. A search warrant can be issued in the provision we just discussed that relates to failure to surrender. If probable cause does arise, a person can be arrested under this text.

CHAIR CANNIZZARO:

I want to follow up on that because there may be some confusion. I think what Senator Scheible referenced was the search warrant language included in section 12. There is reference to an arrest warrant in section 15. A violation of an order would trigger an arrest warrant. A search warrant for firearms is issued for someone who engages in high-risk behavior. The arrest warrant would come if there were a violation of what would ostensibly be a temporary order in place.

MR. KARWOSKI:

It is my understanding the arrest warrant is issued when there is probable cause to believe a person is violating the order—whether that order is temporary or extended.

CHAIR CANNIZZARO:

I want to clarify the arrest warrant is issued when there is a violation of an order. The search warrant Senator Scheible referenced has to do with a search warrant for the actual firearms.

MR. KARWOSKI:

Yes. The search warrant is for actual firearms a person has failed to surrender as required by the court order.

SENATOR PICKARD:

I apologize if I said arrest warrant. I was talking about a search warrant.

SENATOR SCHEIBLE:

I was trying to imagine this working in real life. This order would be issued and the adversary party would be ordered to turn over all his or her guns. If that individual cannot come up with the receipt to show the guns were transferred, a search warrant might be issued. If guns are discovered in the home in the course of executing this search warrant, that would be probable cause for an arrest warrant to be issued; that person would then be arrested for the violation of the order, correct?

MR. KARWOSKI:

Yes, that could be the order of operations. The search warrant is designed to make sure people are complying with their obligation to surrender firearms. The arrest warrant is really designed on the back end to make sure an arrest warrant can be issued when a person violates an order and commits a crime by having firearms, or if someone comes to law enforcement or the court to say this person is deliberately trying to access firearms.

SENATOR HAMMOND:

My colleague asked a question I asked earlier regarding under what conditions a firearm can be removed. The scenario he brought up involved a person who has multiple roommates and is in an intimate relationship with someone who says this individual is a risk. The identified person does not own a firearm but a

roommate does. I understand that the answer was that the firearm is removed. Is it always removed for that seven-day and/or extended period, or can the weapon be kept if the roommate can prove he or she has a special lock?

MR. KARWOSKI:

It comes down to whether the firearm is in the person's possession, care, custody or control. If it is owned by someone else in the household and locked away so the identified person does not have access, it would not be seized under this language. As I mentioned previously, A.B. 291 contains provisions to ensure someone else's firearm is swiftly returned in rare circumstances where it is swept up in this process.

CHAIR CANNIZZARO:

There are provisions in the bill that state an order would be issued only if the least restrictive means were considered determined to be insufficient by the court.

MR. KARWOSKI:

The process requires other less restrictive options be exhausted first.

CHAIR CANNIZZARO:

The "less restrictive" language means as it relates to whatever is in the custody and control of the adverse party.

MR. KARWOSKI:

That is right.

CHAIR CANNIZZARO:

I wanted to clarify one more thing regarding arrest and search warrants. In NRS 33.033 where individuals convicted of domestic violence are no longer allowed to possess firearms, do the same provisions exist in A.B. 291 with respect to the search warrant and the arrest warrant if there was a violation?

MR. KARWOSKI:

That is my understanding. This bill is closely modeled off of that domestic violence process.

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CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):
We were neutral on the bill originally, but with the amendments, we support A.B. 291.

SARAH DAHL (Moms Demand Action for Gun Sense in America):
I work with some of the Nation's finest judges at the National Judicial College in Reno. Last summer, I spent a week with Judge T. Edward Page, an incredibly kind person who lived a life guided by service. He devoted countless hours of unpaid labor to his Masonic lodge, the Boy Scouts and the Judicial College. Tragically, after he left the College, he was shot and killed at his home in Indiana by an elderly client. Judge Page had recommended a guardianship for the shooter as he seemed to be suffering from increasing senility and cognitive decline. The shooter's daughters, who were there that day, had been increasingly alarmed by their father's behavior as they later testified.

Indiana is one of 15 states with extreme risk provisions in place. If the shooter's daughters had taken advantage of that law and asked law enforcement to confiscate their father's gun, there is no doubt Judge Page would be alive today.

I would like to see A.B. 291 passed so Nevada's families will have a path of safety when they fear their loved ones may be planning suicide or violence. Nevada has long held the dubious honor of having one of the highest suicide rates in the Country. Extreme risk laws have been shown to reduce suicides in states where they have been enacted. In Indiana, firearm suicide rates seem to have gone down 7.5 percent in the 10 years after it passed its extreme risk law in 2005.

Assembly Bill 291 strikes the right balance between constitutional rights and public safety. It is supported by law enforcement as a reasonable method of dealing with individuals in crisis.

ALYSON GILLES (Moms Demand Action for Gun Sense in America):
We support A.B. 291, and I have submitted my written testimony ([Exhibit F](#)).

JOHN SALUDES (Nevada Gun Safety Coalition):
We support A.B. 291, and I have submitted my written testimony ([Exhibit G](#)).

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COREY SOLFERINO (Washoe County Sheriff's Office):

We support A.B. 291. Provisions in this bill will fill a gap and allow us to intervene where we can. Part of the Washoe County Sheriff's Office mission is to keep firearms out of the hands of prohibited persons and those with mental health illnesses. While this bill may not prevent all tragedies, it will help us prevent the ones we can.

SENATOR HANSEN:

What gaps does this specifically fill? What sections in the bill are missing? Apparently, you had the amendment before we did.

CHAIR CANNIZZARO:

The amendment was posted online as soon as was able; everyone had it at the same time.

MR. SOLFERINO:

When law enforcement is dispatched to a call, we determine whether a crime has either been committed or facts and circumstances do not rise to the level of a Legal 2000 so we are unable to intervene and something tragically happens later.

With this legislation, if we determine the facts and circumstances do not rise to a Legal 2000 and we have clear and convincing evidence, we can obtain a search order for firearms to start this process and remove the firearms before tragedy occurs. That is the gap we were referencing; S.B. 291 allows us to intervene before tragedy strikes.

DIANA LORING (Moms Demand Action for Gun Sense in America):

We support A.B. 291, and I have submitted my written testimony ([Exhibit H](#)).

JOHN T. JONES, JR. (Clark County District Attorney's Office):

We support A.B. 291 with the [Exhibit C](#) amendment. The language in section 26 of the proposed amendment came out a little differently than it did on the Assembly side. We ask that the amendment and this bill mirror the amendment that came out of A.B. 153. We are in support of the red flag legislation as well.

[ASSEMBLY BILL 153 \(1st Reprint\)](#): Revises provisions governing the storage of firearms. (BDR 15-119)

CHIP EVANS (Indivisible Northern Nevada):

We support A.B. 291, and I have submitted my written testimony ([Exhibit I](#)).

ELAINE SANCHEZ:

I support the amendment to A.B. 291. This is a targeted approach. Local law enforcement and judges are involved in making decisions which inhibit the ability of removing firearms from someone who is not considered an extreme risk—there must be evidence. This prevents abuse and allows individuals due process. How many times have we read in the newspaper or witnessed on the television about clear warning signs a shooter posed a serious threat before a shooting? Extreme risk laws give family members and law enforcement a way to intervene before these tragedies come to fruition.

Safe gun storage and red flag laws are essential to living in a safer community. There are legitimate statistics that show red flag laws and gun storage promote public safety and prevention. These laws can help deescalate emergency situations and are a proven way to intervene before gun violence such as firearm suicide or mass shootings take place.

ELLEN FUMO:

I support A.B. 291. Most importantly, I support the section regarding safe storage of firearms—the child access prevention law, also known as Brooklynn's law.

Brooklynn's law will not take away gun owners' rights. It simply states the importance of safely storing firearms so children cannot get ahold of guns, causing harm to themselves or others. If a child does access a firearm and harms himself or herself or another, the parent or the owner of the firearm will be held accountable.

ERIN BREEN:

For the last decade, I have been involved as a grief facilitator for two different grief centers in Clark County. I am here to talk about firearm safety, the safe storage of guns and the language from Assemblyman Fumo's bill that has been rolled into A.B. 291, which began as A.B. 153.

I expected to see many car crash victims at our grief center. What I found was an overwhelming number of people who come to our center simply because guns are not stored safely. We have seen parents, children and siblings of

people who have died in gun violence, but the prevalence is from people who have died because of unsecured weapons.

I am here today to talk to you about a wonderful family, the Mohler family. Brooklynn Mae Mohler's life tragically ended six years ago. She was visiting a friend after school while waiting for her father to pick her up at a home where Darchel Mohler, Brooklynn's mother, had gone to make sure the house was safe. She talked about all the different scenarios by which she thought her child could potentially be injured. She never thought to ask if there was an unsecured weapon in the home. A single dad of two children thought it was smart to have a Glock stored in the cereal cupboard in case his children needed to fire at someone; that ended Brooklynn's life. It was not an act of violence, it was an act of curiosity. Brooklynn had turned to run away from the gun just as she was taught. When Brooklynn's father arrived to pick her up, he found his daughter dying on the living room floor.

Every gun owner should be held responsible if there is a child in the home. I support this bill not only for the deaths that could have been prevented but also for the lives of the children who are left behind to pick up the pieces.

WENDY STARKWEATHER (Moms Demand Action for Gun Sense in America):
I support [A.B. 291](#) and have submitted my written testimony ([Exhibit J](#)).

LINDA CAVAZOS:
I support [A.B. 291](#) and have submitted my written testimony ([Exhibit K](#)).

TERESA CRAWFORD (Moms Demand Action for Gun Sense in America):
I am a retired nurse and know firsthand the reality of firearm suicide. In my 30-plus year career, I frequently cared for survivors of other types of suicide attempts such as ingestion, hanging, cutting and burning. I remember every survivor of a suicide attempt by firearms I ever cared for. It is that lethal, and the majority of people who survive even a serious attempt do not go on to die by suicide. It is often an impulse and treatable.

Offenders of these mass shootings frequently display warning signs. Without a mechanism in statute to remove guns from them, family members and law enforcement are left with no ability to intervene before a crisis or a tragedy occurs.

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In Indiana, the law is named after a police officer, Jake Laird, who was killed by somebody who should not have had access to guns; he was known to be dangerous by law enforcement. The Jake Laird Act of 2018 has worked to reduce suicides in Indiana.

Nevada is in a suicide belt, so we can expect results similar to Indiana within the first couple of years after A.B. 291 is implemented. The due process is fully covered and I appreciate the discussion.

MARLENE LOCKARD (Nevada Women's Lobby):
We support A.B. 291.

DANIEL S. REID (National Rifle Association of America):
We oppose A.B. 291. This law removes a person's constitutional rights, not because of a criminal conviction or a mental adjudication but based on third-party allegations with evidentiary norms well below what we normally expect when someone's constitutional rights are removed.

As you heard in earlier testimony, there is a loose-knit definition when it comes to intimate partners in dating relationships; anyone will be able to bring these orders through law enforcement.

The red flag portion of this bill lacks due process as these can be done through ex parte orders. No notice is required before one loses his or her constitutional rights, and there is no opportunity to be heard for at least seven days, maybe more. There is a section in A.B. 291 that addresses whether a hearing has to take place within seven days if an emergency order is filed at the same time as an extended order. That is something we should look at a little bit closer.

Law enforcement can obtain these orders over the phone without appearing before a judge. Our due process protections are low here; we are talking about someone coming in without notice and taking away someone's constitutional rights.

There is some de-escalation language in this bill I would be curious to hear from law enforcement on. In some other states, this escalates situations because it is not just your neighborhood beat cop who is going to go and knock on your door to serve these orders. Law enforcement hears this is a dangerous person with a firearm, so it calls in a Special Weapons and Tactics (SWAT) team.

We have heard about when less restrictive means have been exhausted. I would like to get a little bit more clarification on what those less restrictive means are. In Nevada law, we have the Legal 2000 process. One of the big differences is a mental evaluation takes place in that case; here we are saying, someone is too dangerous to exercise his or her constitutional rights to possess firearms based on these third-party allegations. We are not going to account for any other element of dangerousness this person might possess, and we are not even going to have any follow-up with a mental health professional. We are just going to say this person is too dangerous to exercise this right, and we are going to have a hearing on that in a couple of days. We might extend the order for a year, or we might extend it indefinitely because there is no limit on the number of times these orders can go forward.

One of the things A.B. 291 addresses is storage of firearms. It says they can either be stored with law enforcement, or they can be stored with a contracted Federal Firearms License (FFL) party. I would be curious to know if there are any fees associated with that. Is someone who is subject to this order going to be charged by law enforcement or that FFL contractor to store his or her firearms? If an order continues to be extended, it could exceed the cost of the firearm. We need to vet out how that is going to take place.

I do not see anything in this bill ensuring those firearms are stored in good condition; some people out there have fairly extensive firearm collections that are worth lots of money or have sentimental, heirloom-type value. It would be really unfortunate for someone who has never been convicted of a crime or adjudicated mentally ill—just had these firearms taken based on allegations—to have his or her firearms sit in a rusty warehouse somewhere and returned in damaged condition.

I would like more clarification on the return of the firearms. The language says they shall be returned in no less than 14 days. Does that mean individuals have up to 14 days to return them, or they cannot return them for at least 14 days? What does that process look like? Getting firearms back from law enforcement in some of the other states I have worked can be a challenge. It can involve the use of counsel, and it can be expensive.

As I was quickly going through this, it looks like sections 16 and 17 might cover the appeal of these orders. Say someone brings these allegations against you, there is the low evidentiary standard that goes forward and takes away your

rights, and you say, "Hey, wait a minute! This does not exist." The way I am reading this, it does not look like you can appeal without the person who brought forward the allegations to agree to it. I would like some clarification on how that appeal process works, and—if you do have an appeal process—what is the evidentiary standard someone has to meet to prove he or she is not dangerous, and how does that look in practice?

I noticed there are no fiscal notes on this. I realize the [Exhibit C](#) amendment came forward just before the start of this hearing, but obviously there are going to be constraints on Department of Public Safety (DPS) regarding the time frame of putting records in and taking them out. This is especially true if records are going in for maybe only 7 to 30 days; DPS could be responsible for the attorney's fees if those records are incorrectly entered; protections from lawsuits may be needed since attorney's fees are recoverable. Earlier this Session, we talked about difficulties with removing records from the National Instant Criminal Background Check System (NICS) due to people sharing similar names, birthdays or addresses. In addition, while monies and positions have been allocated, DPS already is working hard to address a backlog of the current records system.

In closing, I wanted to mention another jurisdiction is mandating training for law enforcement; this might be something to look into as well as any response costs. I will use California as an example, where this law has been on the books for a couple of years, and it is seeing a gap in being able to appropriately effectuate these orders in practice.

DARLENE COOLEY (Nevada Federation of Republican Women):

After celebrating Memorial Day, we are reminded how our brave men and women paid the ultimate sacrifice to protect our freedoms and our constitutional rights. It is ironic our State Legislature is voting on a bill that takes away those freedoms our military died to protect. Limiting the effectiveness of guns in the hands of law-abiding citizens does not stop criminals. Citizens with effective guns will help stop criminals, and criminals generally do not follow the laws.

We oppose [A.B. 291](#).

GREGORY ROSS:

I oppose [A.B. 291](#). I am concerned about the process of enforcing the emergency protective order and, especially, the search warrant process. It will

be used to stifle the freedom of expression by gun owners. You will have to be careful what you say lest you be subject to one of these search warrants, which likely will be done with a SWAT team.

This is not going to be effective at preventing suicide; it is going to cause confrontations between gun owners and police.

MATT HENNAGER:

I oppose A.B. 291 on the basis the red flag law lacks due process. If I were accused of something by my girlfriend, I would want to have the ability to go in front of a judge and express my point of view. The way the law is written takes out that due process.

My other disappointment about the whole process is the short notice given to people to look over the bill and understand the law.

ANTHONY CONNOLLY:

I oppose A.B. 291. I am a Las Vegas police officer. If this law passes, I may be the one serving the search warrant. There has been talk about due process with this law; there is a fundamental misunderstanding on what due process is. From what I am reading in this bill, there is no mechanism for the adverse party to address a judge with his or her concerns on the order. If there was a mechanism, would there be a way to stay the order against the removal of the firearms from his or her home? I see nothing in the bill that addresses this, so there is no due process protection. Basically, the applicant can make an accusation to a law enforcement officer, the officer can petition a judge to get a warrant telephonically, and the judge will decide if there is preponderance of the evidence or clear and convincing evidence. The judge can then issue the order to take away all firearms from an adverse party, and he or she has 72 hours on a weekend or 1 business day on the weekday to comply. I have a lot of concerns with that, and I do not want to get hurt or die trying to enforce a law that is arguably unconstitutional the way it is written. If there is a way to fix the due process mechanism, of which there is none, I may be able to support it. But in its current configuration, there is no way this is constitutional. The first person to have his or her gun taken will probably have a good case to appeal.

JEFF WATSON:

I oppose A.B. 291. It was mentioned by those in support that this bill could have prevented the Parkland, Florida, shooting from happening. What about all

the calls and the leads on the shooter? There were multiple calls to both the Broward and Palm Beach County Sheriffs and the FBI, yet nothing was done to prevent this mass casualty from happening.

What causes an assessment of a threat, and what is the probable cause for this protective order to begin? Who decides that? What about my civil rights and due process? I am presumed guilty having to prove my innocence with the burden of proof on me, not on the prosecution to prove I am guilty. This creates an unfair environment, causing undue personal and financial stress while fighting this allegation. It does nothing to get my reputation back let alone my firearms. You proposed NICS would clear this issue if someone was found not guilty; NICS is already understaffed and overburdened from dealing with background checks. Who does the checking to make sure this is removed from the NICS system and my rights are fully restored upon vindication.

Storage of firearms should be up to the owner. I do not ask how you store your vehicle, which kills just as many people if not properly used and stored. Assembly Bill 291 will do nothing but continue to strip the rights away from law-abiding citizens. It takes choice away from those responsible citizens because of the actions of a few who are bent on creating havoc and causing mass casualties. Enforce the laws already on the books, and do a better job of community outreach and education; stop mandating laws which do nothing to stop violence and continue to strip away our Second Amendment rights.

JARED RAMAN (Nevada Independent American Party):

I ask the Committee to reconsider the red flag amendment of this bill before its passage. This Country's history of gun control comes from a mindset of racism. The red flag or extreme risk portion of this bill enables law enforcement to further encroach on the liberties of minorities. Examples of racist gun laws date back as early as 1640, when a Virginia law explicitly banned black people from owning guns even if they were not slaves. In fact, the Second Amendment did not apply to black individuals until well after the War Between the States. This red flag law is no different.

Today, minorities have the same Second Amendment rights as everyone else, but exercising those rights carries with it a burden of paranoia and hinted provocation. This is despite all of the achievements made during the civil rights movement in the 1960s. It is blatantly obvious the [Exhibit C](#) extreme risk

amendment attacks not only the Second Amendment but the Fourth and Fifth Amendments that protect all Nevada citizens—especially minority groups.

We as minorities still face an encroachment of our civil liberties on a day-to-day basis throughout this Country. As we speak, an innocent minority is being wrongly harassed by law enforcement somewhere in this Country. This extreme risk bill is nothing but another racist tactic to target minorities, not just by law enforcement but by third-party allegations of racist individuals who get a rise out of seeing minorities harassed for unjust reasons. This is a racist and oppressive road paved by what I assume are good intentions. I ask the Committee to oppose this bill, particularly due to the racist language of extreme risk laws.

JANINE HANSEN (State President, Nevada Families for Freedom):

I agree with those who have stated their opposition to the red flag portions of A.B. 291 that violate due process and our constitutional liberties. The language on page 26 of Proposed Amendment 6000 specifically repeals NRS 244.364 which requires all counties and cities to have the same laws. The purpose of this section is to establish State control over the regulation of and policies concerning firearms. Am I correct about this repeal?

CHAIR CANNIZZARO:

No. That section has been removed from the original bill.

Ms. HANSEN:

I would like to discuss the section on mandatory storage. I live in Elko, not Las Vegas. Last year, 9 grandchildren ranging in age from newborn to 15 years old lived with me. We have a shotgun sitting by our front door. All of the children understand the critical nature of having guns, and they have seen the results of the use of those guns on coyotes, critters and jackrabbits. All the children, no matter how little, were familiar with the consequences of using a gun. This is important if we are going to have guns in our home.

We have those guns for protection. We have had our turkeys and chickens killed. I live 10 miles from Elko where people dump unwanted dogs. These wild dogs are a danger to the children, our livestock and our goats.

The portion of A.B. 291 requiring mandatory storage is not reasonable. If children and grandchildren are taught gun safety, there is no problem. The

problem lies with people who are inexperienced and have not taught their children correctly. If faced with the threat of an invader in your home, you will either be unable to protect yourself or be found guilty of a misdemeanor because of the mandatory storage requirement in this bill.

I oppose the red flag portions of A.B. 291 and the portions that require mandatory storage. If people are going to have guns, they need to be responsible and teach their family—including little children—the consequences of firearms.

RANDI THOMPSON (Nevada Firearms Coalition):

We know it is important to de-escalate a heated situation, especially in cases of domestic violence. Taking the person has been proven to be more effective than taking the gun. Without more thorough vetting, we cannot explore the unintended consequences of A.B. 291.

One supporter said this bill could have prevented October 1; I want to call that out as totally false. Stephen Paddock was not on anyone's radar. I do not like how people use situations to say this could have prevented something.

Section 12, subsection 1, paragraph (b) states the adverse party can transfer a gun to a person instead of taking it to a court-ordered FFL or law enforcement. I do not know how that is going to work due to the passage of S.B. 143.

SENATE BILL 143: Repeals, revises and reenacts provisions relating to background checks for certain sales or transfers of firearms.
(BDR 15-755)

This is a great way for a person to get a gun out of a house, but how is that going to sync with S.B. 143?

We are also concerned with the trigger modifications that have yet to be addressed, primarily because the sponsors refuse to meet with us on all of these issues.

I ask this Committee not to adopt this Exhibit C amendment and give us time in the Interim to work out language that protects the constitutional rights of those folks who own their guns while providing law enforcement the tools needed to protect the innocent. We are more than willing to work with the

three out-of-state gun control organizations that wrote this bill. We would also like to meet with law enforcement and the ACLU during the Interim and come out with some language that works for all of us.

TIM STOFFEL:

I will address the whole protocol this seems to occupy. Earlier this Session, S.B. 143 was ramrodded through the Legislature and passed in about five days. It seems we have another highly irregular situation here. Three bills were declared dead under Joint Standing Rule No. 14, and suddenly this bill was brought back by the Assembly that found a way to declare it exempt. Then it came along and tacked all these amendments into one bill. Someone, somewhere wants this bill badly. When the Exhibit C amendment finally came along, we only had one hour to look at it. These are the kind of tactics I have expected and seen from the radical animal rights people in Las Vegas a few years back.

This is highly irregular and makes me question if passing A.B. 291 is going to dull the image of our Legislature. There are a lot of other bills heard that would affect lives as much as this one, so I am concerned the Legislature is setting a bad example by trying to pass this bill in this manner—it should have been done differently.

I echo the sentiments of all the people who spoke about the problems with this Exhibit C amendment, although the extreme protective order has some merit if it is done right; there are cases where it would save lives. Some of the issues that have been brought up, especially those of due process and suddenly being held at gunpoint by somebody demanding you hand over your firearms, can make a problem worse rather than better. There are certainly better ways to do it. The last speaker talked about arresting the person rather than taking his or her guns; maybe that is a better solution.

When you combine this with how much A.B. 291 is not liked, this whole thing needs to be scrapped. We have to look at something that protects people's rights on all sides.

CODY CUNNINGHAM:

I lost a friend a few years ago to suicide. I do not irrationally or selfishly blame that firearm. It seems like there is a lot of reassurance and explanation to what is in red flag laws, but it is an attempt to pull the wool over our eyes with such

biased reassurance and explanation. Red flag laws are an outright act of aggression, especially the language that classifies the purchasing and possession of a firearm. Does this mean people who open-carry will go to jail? People claim red flag laws save lives, but support fails to mention the multiple deaths on the East Coast resulting from such laws. The death of Gary Willis, who was shot dead by the state in his own home, is such an example. We never seem to think twice when the government kills its own people.

These are the type of laws that spread conflict between colonies in England. I am happy to see the preemption repeal. However, I am displeased it was struck at the order of a political action committee and not the overwhelming opposition of the constituents. It is clear this bill is vague and supports lobbyists over the people.

I oppose A.B. 291 and its amendments. I support the motion to table the bill.

MACK MILLER:

More than 3,500 Nevada citizens oppose A.B. 291. While I was doing research in opposition to the red flag amendment to this bill, I accidentally ran across some numbers that showed 5,051 people had been killed. I looked closely and realized I had accidentally typed in the number of people killed by gum, not guns. Apparently, the National Safety Council found choking from gum was the fourth-leading cause of death. That was irony—we are talking about gun control.

In Iraq, we had fatalities totaling 4,887 as of April 29, 2019. As of 2015, some 5,000 people died from choking on gum. I think we need to get our acts together and stop trying to take away the will and the rights of the people.

Previously in this Session, this Body voted to pass a law that said every vote should count; yet the vote of the citizens opposed a bill that ultimately passed.

Must all individuals be certified to make the determination another is at risk before reporting to law enforcement? Would a person who reports a law-abiding citizen as acting suspiciously be liable for a lawsuit if it is later determined that person was incorrect or he or she simply reported the law-abiding citizen maliciously? We know this happens. I have had it happen to me. What is suspicious activity or a clear path to dangerous activity? When my daughter comes home after not getting an "A" on her math test and is irritated, do I

report her? Do I report her mother? When my colleague is upset because his request for vacation time is denied and calls the boss a four-letter word, do I call the Las Vegas Metropolitan Police Department and have them go to his house, fearing he might come back and shoot the boss?

When my mother complains the Affordable Care Act raised the price of her prescription medication and is on her knees praying to God to resolve that problem, do I call the police? When I hear my neighbors are arguing, do I call the police?

The public never knows exactly how many people support or oppose these bills or amendments. Just in these bills and red flag bills, I printed out 383 pages. I oppose A.B. 291 and this red flag amendment along with 3,580 others. Just to note, only 250 people support the bill.

TRENTON PUCKETT:

I oppose A.B. 291. While in the service, I had the honor of serving as a senior noncommissioned officer with the military police. I know ERPOs divert law enforcement resources away from their role as first responders and place them in a role in the mental health system—a role they are completely untrained and ill-suited for. This places police officers at risk when they show up at a person's door to take firearms away from somebody they know is mentally ill. In the past, this has resulted in the deaths of citizens and police officers.

The core of this argument is ERPOs remove citizen's rights to self-defense without due process. We know a firearm is the most effective tool for individuals to defend themselves. Removing those tools endangers those who are most at risk: our immigrant communities, religious or ethnic minorities, LGBTQ members, persons of color and women.

GORDON UTZ (Stillwater Firearms Association):

We oppose A.B. 291 based on the grounds that it eliminates due process and is open to abuse. If this is truly the will of the people, why the secrecy? Why was it nobody really got a chance to look at this, including the Committee members, until immediately before this meeting? If it was a good idea, you would want everybody to know all about it way in advance.

SCOTT COOLEY:

I oppose A.B. 291. The fact that there is no health assessment really bothers me. We need to look at the person, not the gun. Guns are taken away without restriction; that person is then sent home with knives and forks sitting in the kitchen, as well as tire irons, bats, shovels and any other number of weapons that can be used to perpetrate whatever crime he or she plans. Go after the person, not the gun.

There is nothing in A.B. 291 that states how much this is going to cost the taxpayers. How much will this go against our budget? Who is going to bear the cost of storing these guns? Who bears the legal and police costs?

One of the supporters talked about someone who, unfortunately, was killed in Indiana by someone who was mentally ill. Its red flag law did not work. Maryland has a red flag law, and Baltimore is on pace to become the murder capital of the United States. Illinois has a red flag law and, this past weekend, 39 people were shot and 7 people died in Chicago. How well did the red flag law work there?

My only problem with firearm storage is the violation of my right to privacy. My home is supposed to be my castle, and now I am going to be arrested for doing something in my home that is not wrong to me.

BILL MAGGIORA:

I oppose A.B. 291, and I have submitted my written testimony ([Exhibit L](#)). We have talked about school shootings in the course of this hearing. In Florida, the commission investigating the school shooting in Parkland recommended allowing qualified school employees to be armed. John Lott at the Crime Prevention Research Center has said he found no school shootings at schools with armed employees.

California passed mandatory gun storage. It did not seem to make any difference in the number of children killed in gun accidents, and no one seemed to be prosecuted.

In most states, child endangerment laws are adequate to prosecute for child endangerment with unsafely stored guns.

There was a horror story in Mariposa, California, about 20 years ago when some lunatic in the neighborhood quit taking his mental health medicine. He got into the Carpenter family's house during the day when the parents were gone and the children were home. The eldest, a 13-year-old, got ahold of their family revolver but could not protect her siblings because the revolver had a trigger lock on it and she did not know how to get it off. The lunatic killed two kids and severely injured a third with a spade fork. Eventually, deputy sheriffs killed him.

Japan, which has practically no privately owned guns, has about the same number of deaths due to murder and suicide per capita as the United States according to the World Almanac.

GREG QUINTANA:

I am glad somebody mentioned Gary J. Willis from Maryland. He was 60 years old when he was murdered because of the red flag law. These red flag laws are causing chaos. They are leaving blood on the streets, and these people who support his bill want to bring it to this State?

I am glad there is somebody who made a statement that somebody really wants to get this bill passed. That person is Michael Bloomberg, a billionaire from New York City who has spent lots of money to pass anti-gun bills.

On the Legislative Counsel Bureau's website, 2,997 people expressed their opposition of A.B. 291.

PATTI JESINOSKI:

I oppose A.B. 291. I was not able to review the [Exhibit C](#) amendment as I do not have a copy of it. The bill failed to meet the May 17 deadline; there was nothing about the bill being exempt. As of late yesterday afternoon, the [Exhibit C](#) amendment was not posted.

This [Exhibit C](#) amendment seems to be presented by the man from Everytown for Gun Safety. Did they write this? Why were the questions not answered by the legislative lawyer instead of the man from Everytown?

If a cop or a sheriff is the roommate of a person who has his or her gun seized, that cop will not be able to perform his job for seven days because his gun will be removed.

How does this address the person who illegally owns guns if he or she stores them at multiple locations or claims they belong to someone else, even though that person does not reside in the home?

Will you remove knives, pills and cars from homes so someone will not commit suicide? I know of suicide by secondary means after firearms were removed. I am a medical professional who came here from Minnesota in 2000. Perhaps suicide rates are higher in this State because it has such poor medical health care.

I suggest those who support this bill to turn over their cars because some day it might kill someone.

DAPHNE LEE:

I oppose A.B. 291. I come from a military and law enforcement family background. I was shocked to see, after we just celebrated Memorial Day, these kind of tactics employed to sneak in at the last minute this kind of egregious language in an amendment like this. Like many of the Legislators, I have not had a chance to read it.

I echo all the sentiments everyone has stated. The Baltimore Police Department is in a big scandal right now for having dropped the guns officers used to shoot citizens. What does that due process look like? Are SWAT teams ascending on people's homes, bringing dogs and tearing up houses? I do not know how this would logistically work. If my son is accused of this behavior by some young girl who is mad at him after a breakup, are my firearms are going to be taken? Am I going to be traumatized by SWAT coming down on my house?

There are psychiatric holds in place. I have had two friends who committed suicide; A.B. 291 would not have saved them. We need to focus on a person's mental health. Simply taking away a tool that is protected by the Constitution is not enough, and just because other states are doing it does not make it right.

D. JAMES HINDLE III (Nevada Republican Party):

I am the Vice Chair of the Nevada Republican Rural Caucus and the Chair of the Storey County Republican Central Committee.

The Nevada Republican Party opposes A.B. 291 and the adoption of this [Exhibit C](#) amendment. It appears this is about restricting gun possession and

ownership, not about preventing violence by mentally unstable individuals. We support the minority party's Senators here today in protest of the last-minute nature of the presentation of this [Exhibit C](#) amendment in terms of the appropriate preparation for this hearing, as well as the time left in this Session for careful consideration of this bill and its amendment by the Legislature.

I personally looked up what bills would be heard in this hearing, and [A.B. 291](#) was not even listed, let alone noticed as the focus of the proposed agenda. We heard Committee members state they only had today to review the pending amendment. In light of these statements, it is curious to us that over 24 hours ago, *The Nevada Independent* published an article discussing in detail how this bill would be amended in this hearing. It is distressing when the press seems to have more notice and information than our Legislators or the public, especially on an issue as impactful as this.

Specifically to the [Exhibit C](#) amendment, it seems clear this is not about reducing violence but about restricting gun rights. If this is not so, why the focus on firearms as the only weapon of concern? What about other weapons? To justify the mix of topics in this bill, it was even said today the bill is appropriate because the single focus is firearms. It seems the intent is not about preventing violence by mentally ill, violent and aggressive individuals but on restricting firearms ownership. I do not doubt the good intent of the individuals proposing this bill, but its language is poorly crafted. If passed into law, this bill will not keep mentally ill people from committing criminal violence.

The words and potential interpretation of this bill are full of unintended consequences. Poorly implemented intent does not achieve desired results. We ask the Committee to oppose this [Exhibit C](#) amendment and the whole of [A.B. 291](#) so it can be more effectively crafted and vetted through a more appropriate, bipartisan, deliberative, legislative process.

SHAWN MEEHAN (Guard the Constitution):

I echo what Mr. Hindle said. At 1:50 p.m. yesterday, *The Nevada Independent* published an article quoting Assemblywoman Jauregui as saying she was pleased with the amended version of the bill. This [Exhibit C](#) amendment obviously existed yesterday, and our elected representatives indicated on the dais they just saw it this morning. That is troubling.

I want to thank our Republican woman's representative who cited Memorial Day. As a veteran, it touched me. It is ironic we are talking about due process today when 1.4 million veterans have died in the history of our Country to defend our Constitution, specifically our civil rights.

Mr. Reid from the NRA articulated well the problems with due process.

An earlier representative from the Gifford's Law Center cited the mass shooting at the University of California, Santa Barbara. Being from Santa Barbara originally, I followed this closely. Did the representative know law enforcement officers visited this individual numerous, exhaustive times and failed to check the gun database in which he was registered under California law? They should have known this individual had firearms. God bless law enforcement for admitting an error was made, but this individual—as Senator Pickard highlighted—should have had his mental issues addressed. The Fifth and Fourteenth Amendments of the U.S. Constitution both articulate due process. Saying you protect due process is different than actually protecting it.

MELISSA CLEMENT:

I oppose A.B. 291. My husband and I are Reno residents. We own a small business dealing with concealed weapon permit classes and general firearms training. My husband is a retired police officer who specializes in providing small-group-size training geared specifically to women. He has a heart for this because he was raised by a single mother who so often felt endangered. Throughout his law enforcement career, he felt powerless when responding to sexual assaults, robberies and domestic violence calls where women were victims because he arrived too late. He works every day to change that now. I challenge the Committee to change its perceptions.

When considering this bill, most people will think about an abusive or mentally ill man. I would ask you instead to consider the growing number of women who are concealed weapon permit owners—the fastest-growing demographic at 111 percent growth between 2012 and 2018. Firearms are the great equalizer when it comes to enabling women to protect themselves against abusive boyfriends, husbands and other bad guys.

With the lack of due process in relation to the red flag portion of this bill, one call can endanger women. This is a woman's safety issue. It is not an exaggeration to say women are dying every day at the hands of abusive men.

Statistics indicate about three women a day are being killed by abusive partners. Helping women protect themselves can save lives. One call can take away her ability to protect herself for seven days because an abusive boyfriend or husband can make that call just like everybody else.

Law enforcement response to the scene of an attack takes time, and abusers are usually not present when the police arrive. Even if resources are put toward the arrest of an abuser, police might take several days or weeks to locate and arrest him or her, and there is not enough jail space to keep that individual confined beyond 24 to 48 hours. If a victim is under an ERPO, he or she is completely defenseless.

This is a rush bill like so many this Session. I have to say it is probably the most frustrating thing I have dealt with this Session. So many times I have heard Legislators say, "Well, that is not what we intend." But all too often, those are the words that become law. I encourage this Committee to take a breath and consider the constitutional rights of women. There are countless people who wish they could be here today, but with the short notice given, sadly, they cannot. Many of them will think after this Session, "Why bother? You won't listen." They have emailed, called, shown up to meetings and testified, and registered their opinions on the legislative website. Overwhelmingly, on so many issues, the people have been ignored. I urge you to vote against A.B. 291 in its entirety.

LINDA CANNO (NevadansCAN):

Assembly Bill 291 is unconstitutional. It violates the rights given to all of us by the U.S. Constitution and can be taken away simply by the opinion of another citizen. I see so much opportunity for exploiting this bill by angry partners, boyfriends or girlfriends. This bill was written way too loosely for it to truly protect the rights of individuals.

This bill is too broadly based and will not change the fact that we are going to have violence with guns. Gun control has never been able to prevent violence. Chicago has some of the strictest gun laws as well as the highest gun violence in the Country. Criminals do not abide by laws.

The red flag bill is another step toward a gun grab. Protect our constitutional rights to gun ownership and vote no on A.B. 291.

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JULIE HEREFORD (NevadansCAN):

All the groups who have opposed this bill are from the State; all the people who support this are from out of state. Who does this Body represent? Do you represent Nevadans or out-of-state special interests?

Over 3,000 people took the time to either testify or write to oppose this bill; less than 300 people are for it. How would you vote? I just want to remind you of your roles and responsibility to protect Nevadans, not out-of-state people.

LEONEL AGUILAR:

I oppose A.B. 291.

ERIC SPRATLEY (Nevada Sheriffs' and Chiefs' Association):

We were originally opposed to A.B. 291 based on the information available this morning. In consideration of the [Exhibit C](#) amendment, we will be neutral on the bill.

HOLLY WELBORN (American Civil Liberties Union of Nevada):

Our position of neutrality does not come from a lack of concerns with the aspect of these TPOs in general. This is where the basis of our opposition comes when we are talking about crafting legislation that will punish people before they commit a criminal act.

When it comes to red flag laws across the Country, we have weighed in a number of ways. Legislation coming out of Vermont is the most effective and provides the most protections when talking about taking a constitutional right away from someone. The other important aspect of the Vermont legislation is that Vermont has heightened gun protections like Nevada. Its constitutional language for gun rights is similar to Nevada gun rights. Through some negotiations and speaking with the proponents of this bill, there were several concessions made. There was good-faith negotiating with us when we were discussing some of the problematic aspects of it. We agree we need to ensure there is stronger due process when considering protection orders.

SENATOR PICKARD:

All sides want to make sure we address the needs of the mentally ill who are struggling with suicidal or homicidal ideation. We need methods built into the law to ensure we protect them and others.

You did not mention anything about section 17, where it talks about a court that issues an ex parte or extended order and then requires that information to be transmitted to the Central Repository for Nevada Records of Criminal History. The Repository is required to put that in the system, and that is the basis for the background checks. In section 17, subsection 2, for that record to be removed from the system, even if an extended order is denied, it requires an adversarial petition. They have to go to court. In section 17, subsection 8, there is no distinction when a petition is denied, even if it is denied on technical grounds. Maybe someone did not file the petition properly. Regardless, individuals are required to wait two years before they can even request another order. That seems to be an arbitrary number. What is the ACLU's position on that kind of a denial?

MS. WELBORN:

We are testifying from a neutral position. Vermont legislation provided a six-month period to reapply—we thought that was a better protection. Through the negotiations, however, this is where A.B. 291 landed.

SENATOR HAMMOND:

Ms. Welborn, you stated you had good-faith negotiations. Did those good-faith negotiations happen over the original bill, the bill that removed the preemption language, or in regard to this Exhibit C amendment? When did those negotiations happen?

MS. WELBORN:

We had conversations in February with Senator Julia Ratti, who was the proponent of S.B. 120. Senator Ratti approached me and some of the proponents well into the Interim regarding the ACLU's stance on the bill. There were some conversations about this amended language, but we did not see this final proposed Exhibit C amendment until 24 hours ago. We had been negotiating language based on S.B. 120.

CHAIR CANNIZZARO:

If I remember correctly, there was a bill from last Session that was heard both in the Senate and the Assembly. You mentioned during the Interim, but that was done from the bill with similar language from last Session.

MS. WELBORN:

That is correct. Thank you for refreshing my recollection.

ASSEMBLYWOMAN JAUREGUI:

You heard witnesses say this would not have prevented October 1. As someone who was there and had to flee for her life, I say shame on you for presuming to know what the shooter's family or law enforcement knew. As reported by *NBC News* on October 6, 2017, just 5 days after the deadliest shooting in our history, the shooter's girlfriend, Marilou Danley, said he was experiencing strange and odd behavior, including lying in bed every morning and moaning loudly. He was also experiencing other strange behavior like paranoia and constantly looking out the windows as reported by the *Las Vegas Review-Journal*. All of these behaviors are believed to be signs of distress and a mental health disorder. Extreme risk protection orders are a powerful tool to prevent gun violence.

Between 2013 and 2017, nearly 2,300 Nevadans were shot and killed with a firearm. According to the Centers for Disease Control and Prevention, 53 percent of all suicide deaths were carried out with guns, including nearly 1,600 Nevadans.

CHAIR CANNIZZARO:

We will close the hearing on [A.B. 291](#) and open public comment.

Ms. JESINOSKI:

I would like to ask for better notice when bills are brought out of the dead file so we can be prepared to be here and provide testimony.

CHAIR CANNIZZARO:

I will open the work session on [A.B. 291](#).

[ASSEMBLY BILL 291 \(1st Reprint\)](#): Revises provisions relating to public safety.
(BDR 15-759)

PATRICK GUINAN (Committee Policy Analyst):

The Committee heard this bill on April 1 and May 29. The Committee members have a summary of the bill in its first reprint in the work session document ([Exhibit M](#)). Following that summary is a rundown of the amendments as they were proposed today.

The rundown of the amendments as they were proposed today is taken directly from the bill's Legislative Digest. The only difference is on the last page of

[Exhibit M](#), where it notes that section 26 of the amendment has been revised to reflect changes requested by John Jones on behalf of the Nevada District Attorneys Association. That change removes language requiring the negligent storage of a firearm must have caused injury to a child or another person. Otherwise, this is exactly the same Proposed Amendment 6000 in [Exhibit C](#), which was discussed at length this morning in Committee.

SENATOR PICKARD:

Do I understand the new amendment to section 26 does not require any harm to occur to anyone before it is considered a violation?

CHAIR CANNIZZARO:

Yes. If you recall from the testimony earlier today, the concern is with that language in the bill as is, prohibiting a situation wherein you would be able to charge child abuse if somebody is injured. It would not preclude if there was an issue with the negligent storage of the firearm in the first place. That language would cause an issue with the ability to charge with child abuse.

SENATOR PICKARD:

That is at the core of my concern. If no abuse occurred, it is not child abuse unless we want to create a new species of abuse. This would be insufficient to do that. Under NRS 432B, actual abuse or actual neglect has to be proven. This is inconsistent with that statute.

CHAIR CANNIZZARO:

When we are talking about child abuse, we are referring to NRS 200.508 which would relate to felony child abuse, which is criminal in nature not civil. That is where the conflict resides with this particular section of the bill. It would essentially prohibit the charge of felony child abuse if somebody were to place a child in a situation where he or she suffered unjustifiable physical harm. It would be more prudent and policy forward to say if somebody is in a situation like that where a child is injured, that would be felonious.

SENATOR PICKARD:

I thought this removes the element of actual abuse to occur. If there has been no harm to the child, how does that create a felony?

CHAIR CANNIZZARO:

Somebody harmed with a firearm would be actual physical harm to a child and felonious conduct. Under this bill, if you have the language that says "and it causes harm," it could potentially be just a misdemeanor. The intent is to say there should be some provisions for the negligent storage of firearms. But in the instance where actions cause a child to be injured, that falls within the realm of child abuse.

SENATOR PICKARD:

This goes back to my original question. We are charging someone with a crime without any actual conduct having occurred. Is that correct?

CHAIR CANNIZZARO:

No. The conduct would be the negligent storage of a firearm.

SENATOR HARRIS:

Under the scenario where a child is harmed but it is not your child and that harm is caused by the negligent storage of a firearm, would you only be charged with a misdemeanor?

CHAIR CANNIZZARO:

The provisions in this bill require a knowledge element with respect to knowing the firearm should be stored a particular way.

SENATOR SCHEIBLE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 291.

SENATOR HARRIS SECONDED THE MOTION.

SENATOR OHRENSCHALL:

I still have some questions regarding the high-risk protection order. This is an important enough issue that it should go to the Floor. I am going to support it and reserve my right.

SENATOR HANSEN:

I was disturbed when the ACLU representative mentioned she had the amendment for 24 hours and we did not see it until 7 a.m. this morning. This has been an abuse of process and one of the reasons people, in general, have a

low opinion of the Legislature and the legislative process when these sorts of things go through—that and the fact we are voting on it when we literally just got this substantial amendment on a bill that has been exceptionally controversial. To ramrod this through is a horrible abuse and a mistake. I object to the process, and I am going to be voting no.

CHAIR CANNIZZARO:

The provisions included in this bill were included in a bill from last Session.

SENATOR HAMMOND:

The public was not aware of it until this morning so they did not get an opportunity to participate. The idea that we are prepared and have been discussing these specific issues is inaccurate.

SENATOR HARRIS:

I have been lobbied heavily on every provision in this bill, including the provisions that had not been previously heard.

SENATOR PICKARD:

I appreciate that my colleague was brought up to speed, but we were not. It is problematic to suggest language that has been hanging out in the open in the past would even be considered in the context of this bill until it is included in this bill. The language we discussed last Session did not make it out for many of the same reasons this one has been discussed. We do not read language in the context of a bill until it is included in the bill. To suggest just because someone had the language out there and maybe a couple of us have seen it in the past is disingenuous. If we are talking about the bill, we have to talk about the bill as it is presented to us; we had one hour before the hearing to read it. That is inappropriate.

I agree the provision making it a crime to falsely file an affidavit is probably the best part of this bill. In my experience, I see TPOs abused on a regular basis, and there is no provision for a penalty for doing so. This does not speak to the constitutional issues we have here, particularly since we are including, with no real notice, a provision that creates a misdemeanor when no actual conduct can be proven.

Because this bill has not been thoroughly vetted and this amendment was dropped at the last possible moment, we have done a great disservice to this

State, we are going to put people in jeopardy, we are not addressing the central issue which is the mental health issue, and we are not addressing the constitutional problems. This is another example of how we are ignoring our Constitution. I am going to be voting no, even though I would like to see us address in real terms how we deal with these situations. This is not the answer.

SENATOR DONDERO LOOP:

This is my fourth Session, and I have never been through a Session where amendments have not come forward on any type of a bill in the final days. Bills have been dropped, amended and killed. Bills I thought were going to go through did not and vice versa. There is a very short process. When you have 120 days and things get fast and furious, we have to make the best use of our time. I cannot imagine any of us are being disingenuous: our legal counsel, our research people and all the staff involved as well as Legislators. I recognize we have read fast; I did not have this amendment any sooner than anyone else.

CHAIR CANNIZZARO:

There is a difference between conduct and injury. Conduct does not always constitute injury and this bill is intended, with respect to the provisions that would penalize conduct that does not cause injury, to get at actual conduct. We are not just penalizing individuals for having done nothing. Many of the things we heard in this bill today mirror domestic violence statutes for the provisions in allowing for the removal of firearms from individuals who are prohibitive possessors of firearms.

Red flag laws were discussed as part of a 2018 committee on school safety chaired by Attorney General Adam Laxalt that would have recommended red flag laws to allow for the temporary confiscation of firearms. I am comfortable with the language in that it provides us sufficient due process periods for the review of those protective orders and is servicing a need to ensure individuals who should not have firearms—because they pose a danger to themselves or others—do not have firearms.

THE MOTION CARRIED. (SENATORS HAMMOND, HANSEN AND PICKARD VOTED NO.)

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CHAIR CANNIZZARO:

I will close the work session on A.B. 291 and adjourn this meeting at 1:20 p.m.

RESPECTFULLY SUBMITTED:

Jenny Harbor,
Committee Secretary

APPROVED BY:

Senator Nicole J. Cannizzaro, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	8		Attendance Roster
A.B. 291	C	34	Assemblywoman Sandra Jauregui	Proposed Amendment 6000
A.B. 291	D	1	John Ocegüera	Testimony in Support
A.B. 291	E	4	Christiane Brown / Brady United Against Gun Violence	Testimony in Support
A.B. 291	F	2	Alyson Gilles / Moms Demand Action for Gun Sense in America	Testimony in Support
A.B. 291	G	2	John Saludes / Nevada Gun Safety Coalition	Testimony in Support
A.B. 291	H	1	Diana Loring / Moms Demand Action for Gun Sense in America	Testimony in Support
A.B. 291	I	1	Chip Evans / Indivisible Northern Nevada	Testimony in Support
A.B. 291	J	1	Wendy Starkweather / Moms Demand Action for Gun Sense in America	Testimony in Support
A.B. 291	K	2	Linda Cavazos	Testimony in Support
A.B. 291	L	1	Bill Maggiora	Testimony in Opposition
A.B. 291	M	3	Patrick Guinan	Work Session Document