

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-Second Session  
May 30, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 9:01 a.m. on Tuesday, May 30, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Brittney Miller, Chair  
Assemblywoman Elaine Marzola, Vice Chair  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblywoman Lesley E. Cohen  
Assemblywoman Venicia Considine  
Assemblywoman Danielle Gallant  
Assemblyman Ken Gray  
Assemblywoman Alexis Hansen  
Assemblywoman Melissa Hardy  
Assemblywoman Selena La Rue Hatch  
Assemblywoman Erica Mosca  
Assemblywoman Sabra Newby  
Assemblyman David Orentlicher  
Assemblywoman Shondra Summers-Armstrong  
Assemblyman Toby Yurek

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Rochelle T. Nguyen, Senate District No. 3

Minutes ID: 1251



**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Bradley A. Wilkinson, Committee Counsel  
Devon Kajatt, Committee Manager  
Connor Schmitz, Committee Secretary  
Ashley Torres, Committee Assistant

**OTHERS PRESENT:**

Alissa C. Engler, Chief Deputy Attorney General, Criminal Prosecution Division,  
Office of the Attorney General  
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County  
District Attorney's Office; and representing Nevada District Attorneys  
Association  
Beth Schmidt, Director-Police Lieutenant, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department  
Brigid J. Duffy, Assistant District Attorney, Juvenile Division, Clark County District  
Attorney's Office  
Mike Cathcart, Business Operations Manager, Finance Department, City of  
Henderson  
Erica Souza-Llamas, Administrator, Records, Communications and Compliance  
Division, Department of Public Safety

**Chair Miller:**

[Roll was called. Rules and protocol of the Committee were reviewed.] We will have public comment at the end of today's meeting. We have two bills that we are hearing and also a work session that we will begin with. I will have Ms. Thornton walk us through the work session.

**[Senate Bill 294 \(1st Reprint\):](#) Revises provisions relating to the safe storage of firearms.  
(BDR 15-47)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 294 (1st Reprint) revises provisions relating to the safe storage of firearms. It is sponsored by Senator Doñate [[Exhibit C](#)]. There are two amendments proposed to the measure. The Assembly Committee on Judiciary proposed an amendment which would provide that faculty and staff must be updated throughout the duration of a crisis or emergency, and also provides that all public schools must establish a plan for responding to a crisis, emergency, or suicide.

Senator Doñate proposed an amendment adding Assemblywoman Bilbray-Axelrod as a cosponsor to the bill.

**Chair Miller:**

I would like to say, on behalf of Senator Doñate, that one proposed amendment has been removed by Senator Doñate as well. If you recall, that amendment was about legislation from California. Members, are there any questions? Seeing none, I will entertain a motion to amend and do pass Senate Bill 294 (1st Reprint).

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS  
SENATE BILL 294 (1ST REPRINT).

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Are there any comments on the motion? Seeing none, we will vote.

THE MOTION PASSED. (ASSEMBLYWOMEN GALLANT, HANSEN,  
AND HARDY VOTED NO. ASSEMBLYMAN GRAY WAS ABSENT  
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Bilbray-Axelrod. Next, we will move on to Senate Bill 36 (2nd Reprint). Chief Engler will be presenting from the Grant Sawyer Building in Las Vegas. Chief Engler, your hearing is open; please proceed when you are ready.

**Senate Bill 36 (2nd Reprint): Revises provisions relating to psychosexual evaluations for sexual offenses and other crimes. (BDR 14-424)**

**Alissa C. Engler, Chief Deputy Attorney General, Criminal Prosecution Division, Office of the Attorney General:**

I am here to speak in support of Senate Bill 36 (2nd Reprint), which is proposed to address amendments to *Nevada Revised Statutes* (NRS) 176.133, NRS 176,135, NRS 176.139 and NRS 176A.110. Existing law provides that a person who solicits a child for prostitution is guilty of a felony pursuant to NRS 201.354. However, this crime is not listed as a sexual offense anywhere within the *Nevada Revised Statutes*. Therefore, existing law does not require or allow a psychosexual evaluation to be arranged for prior to sentencing.

A psychosexual evaluation is a report that is prepared by a licensed professional following a clinical interview. The evaluation uses different instruments to assess a defendant's risk level to the community and the individual's likelihood to reoffend. One instrument is the Sexual Violent Risk-20 checklist, which is a 20-item checklist of risk factors for sexual violence. The item level information is integrated into a summary judgment of the level of risk, either low, moderate, or high. Another instrument that is utilized is the Static-2002R. This is an instrument designed to assist in the predication of sexual and violent recidivism for sexual offenders. It consists of 24 items and produces estimates of future risk based on a number of factors present in any one individual. In addition to determining an individual's risk level and likelihood of recidivism, the evaluation also makes recommendations as to treatment should a court grant probation.

Psychosexual evaluations are critical to a fair criminal justice system. Preconviction, these evaluations can be utilized to reach plea agreements. Post entry of plea, these evaluations assist the court with determining the appropriate sentence for a defendant. This sentence can include probation with treatment. The proposed amendments are necessary to allow for evaluations to be ordered even when a defendant does not plead to a sexual offense. Additionally, as to solicitation of a child for prostitution, the underlying facts of this case involve an individual seeking to purchase sex from a minor. This is a crime where an evaluation should be ordered in every case.

Please allow me to provide a breakdown of the amendments by section. Section 1 of this bill amends NRS 176.133, subsection 3 to add solicitation of a child for prostitution pursuant to NRS 201.354 as a sexual offense.

Section 2 of this bill amends NRS 176.135, subsections 3 and 5 to allow for the Division of Parole and Probation, Department of Public Safety, to prepare a psychosexual evaluation as part of the presentence investigation report at the joint agreement of the prosecution and the defense in situations where the defendant has entered a plea to a felony or a gross misdemeanor that is a nonsexual offense. Per an amendment in the Senate, this provision would apply only to a conviction where the original charge in the complaint, information, or indictment was for a sexual offense as defined in NRS 176.133 or NRS 179D.097.

Similar to section 2, section 3 of this bill amends NRS 176.139 to grant the Division of Parole and Probation authority to arrange for a psychosexual evaluation as part of the defendant's presentence investigation report, if the parties jointly request the evaluation.

Section 4 of this bill amends NRS 176A.110 to add solicitation of a child for prostitution pursuant to NRS 201.354 as a sexual offense. Section 4.5 of this bill addresses the fiscal note that was added by the Division of Parole and Probation. Section 5 of this bill addresses when these amendments would be enforced, and section 6 addresses when the appropriation will be effective.

Thank you, Chair Miller and members of the Assembly Committee on Judiciary, for allowing me to present on behalf of S.B. 36 (R2). I am happy to answer any questions the Committee may have. [Written testimony was also provided, [Exhibit D.](#)]

**Assemblywoman Newby:**

Obviously, this is a new bill with a change which seems like it should have been in law for quite some time. I was wondering, in your experience with sexual offenses, do you find perpetrators have solicited children before leading up to the offense that ultimately comes before you? I am wondering how often that activity connects with sexual offenders?

**Alissa Engler:**

In my experience as a prosecutor, I have had a handful of evaluations that have been completed in cases where we have had plea bargains related to solicitation of a child for prostitution where the defendant has pled to a different sex offense that would have required

the evaluation. In a handful of cases, I have had instances where the defendant has come back as a moderate to a moderate-high risk to reoffend, not necessarily purchasing sex, but the evaluation might show indicators of other types of sexual indications. Perhaps the evaluation, for example, will outline somebody's sexual preferences; the evaluation might indicate that he might be a risk to reoffend related to that. I have seen it in instances where maybe not purchasing sex but purchasing sex in general, as a frequent thing, will show up in those evaluations. I have seen it. That is why I think it is important for this to be done in all cases where an individual pleads to solicitation of a child for prostitution.

**Chair Miller:**

Seeing no additional questions, I will open it up for support of S.B. 36 (R2). Is there anyone in Carson City wishing to provide testimony?

**John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:**

We are in support of S.B. 36 (R2). I want to thank the Attorney General's Office and Chief Engler for bringing the bill.

**Beth Schmidt, Director-Police Lieutenant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:**

We support S.B. 36 (R2). We want to thank the Attorney General's Office for bringing this bill.

**Chair Miller:**

Not seeing anyone else in Carson City, is there anyone in Las Vegas wishing to provide support? Seeing no one, is there anyone on the phone? Hearing no one, I will open it up for opposition to S.B. 36 (R2) in Carson City or Las Vegas. Seeing no one, is there anyone on the phone? Hearing no one, I will open it up for neutral testimony in Carson City and Las Vegas. Seeing no one, is there anyone on the phone? Hearing no one, Chief Engler, would you like to make any final remarks.

**Alissa Engler:**

I appreciate the opportunity to present this. Thank you.

**Chair Miller:**

With that, I will go ahead and close the hearing on Senate Bill 36 (2nd Reprint). Assemblyman Yeager has waived the 24-hour rule for us in the Assembly, so we are able to work session this bill today.

**Senate Bill 36 (2nd Reprint): Revises provisions relating to psychosexual evaluations for sexual offenses and other crimes. (BDR 14-424)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 36 (2nd Reprint) is sponsored by the Senate Committee on Judiciary on behalf of the Attorney General and was heard in Committee today. This bill revises provisions relating to psychosexual evaluations for sexual offenses and other crimes. There are no amendments to the bill.

**Chair Miller:**

Are there questions? Seeing none, I will entertain a motion to do pass Senate Bill 36 (2nd Reprint).

ASSEMBLYWOMAN MARZOLA MADE A MOTION TO DO PASS  
SENATE BILL 36 (2ND REPRINT).

ASSEMBLYMAN YUREK SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN COHEN WAS ABSENT  
FOR THE VOTE.)

I will assign the floor statement to Assemblywoman Hardy. Our next bill is Senate Bill 367 (1st Reprint). The hearing is open, and please proceed when you are ready.

**Senate Bill 367 (1st Reprint): Revises provisions relating to public safety. (BDR 15-942)**

**Senator Rochelle T. Nguyen, Senate District No. 3:**

I am a poor replacement for Senator Cannizzaro, but I will do my best. I am here to present Senate Bill 367 (1st Reprint), which makes three separate changes to Nevada law related to firearms. They are: One, possession or use of a firearm during the commission of certain drug trafficking crimes; two, the way the Nevada law treats the prohibition on a convicted felon being in possession of one or more weapons; and three, the ability of a gun seller to conduct accurate background checks in compliance with federal law when a person less than 21 years of age seeks to purchase a firearm.

Section 3 responds to the decision by the Nevada Supreme Court, which found that no matter how many weapons or how much ammunition a convicted felon had in their possession when arrested, the law only allowed that person to be charged with one count of being a felon in possession of a firearm. Prior to that Nevada Supreme Court decision—I actually know this so I can talk about this a little bit—if you were arrested with five weapons, you would have five separate charges of an ex-felon, or a person who is prohibited from having a firearm, being in possession of a firearm. That was the law up until the Nevada Supreme Court decision.

This bill, instead, now provides that each dangerous weapon owned, possessed, manufactured, sold, disposed of, handled, used, carried by, or otherwise under the custody or control of a prohibited person constitutes a separate violation of the law. I am going to turn this over to Ms. Duffy because I believe she is going to talk about sections 5 through 8 as it relates to juveniles and people under the age of 21.

**Brigid J. Duffy, Assistant District Attorney, Juvenile Division, Clark County District Attorney's Office:**

Sections 5 through 8 are in response to the federal Bipartisan Safer Communities Act of 2022, which went into effect in December of 2022. I would like to thank Senator Cannizzaro for hearing me when I came to her. While I was at work one day, I started to get a lot of emails from the Department of Public Safety citing the Bipartisan Safer Communities Act and then asking for background information on young adults, ages 18 to 21, who were seeking to purchase or possess rifles, which in Nevada, we know includes long rifles and AR-15s. Everything with regard to 16- and 17-year-olds is confidential or sealed and unable to be shared. Knowing and being horrified over the last few years, watching children being killed and other citizens being killed in mass casualty attacks by young adults—which include the Parkland High School shooting in Florida, the school shooting in Uvalde, Texas, and the mass shooting in Buffalo, New York—those shootings were all committed by young adults aged 18 years old who purchased these assault rifles legally on or around their 18th birthday. They cleared background checks despite some of them having a history of mental health issues or threats to schools. That is what created the Bipartisan Safer Communities Act. It passed to say we need to do background checks of 18- to 21-year-olds for their juvenile delinquent history, for 16 and 17 years of age, as well as any involuntary mental health commitment at the age of 16 or 17. It is very limited, and is also looking for very limited information in juvenile delinquent history.

This bill is not prohibiting 18- to 21-year-olds from purchasing a weapon. That is not what this is doing. It is ensuring that if an 18-year-old, the day after they were 17, goes in to purchase a long rifle, the person who is selling that weapon is able to do an appropriate background check as they would if the person were 22 years old, to know if that 16- or 17-year-old had committed an armed robbery or had been involuntarily held in a mental health institution.

Sections 5, 6, and 7 open up *Nevada Revised Statutes* (NRS) Chapter 62H to allow for juvenile justice information to be shared for the purpose of performing background checks to determine whether a person less than 21 years of age is eligible to purchase and possess firearms under state or federal law. Section 8.5 amends NRS 432B.6076, which would require a court to transmit a copy of an order if they involuntarily committed a child aged 16 or 17 to a mental health treatment facility. That would be transmitted to the Central Repository for Nevada Records of Criminal History for the purpose of holding information for the use in that firearms possession background check. In response to some conversations I had with community partners, we added section 7.5, which would require the Central Repository to remove information transmitted under section 8.5 from the Central Repository upon the person turning 21 years of age; this is juvenile history, ages 16 or 17.

Having said all that, a couple of questions I got in other committees was around the Health Insurance Portability and Accountability Act (HIPAA). The federal Bipartisan Safer Communities Act exempted these mental health histories from HIPAA protections, same as with adults who are 22 and older who have to go through the same background.

Ultimately, this bill is not going to eliminate mass casualty shootings in our communities, but it is going to take us a step closer to making sure we have appropriate background checks done for those young adults whose brains are not fully formed who are making sometimes impulsive, bad decisions, and making sure we have these clear background checks for 18- to 21-year-olds. I thank you for the time to listen to this bill today.

**Senator Nguyen:**

I think less is more. I will open it up to the Committee and, hopefully I will be able to answer any questions with the assistance of Ms. Duffy. I know there are plenty of people who have worked on this bill and are in this room.

**Chair Miller:**

It is interesting as we have this conversation, because as Ms. Duffy brought up, there are many 18-year-olds still in high school. I have an early March birthday and was 18 for basically that last semester. For January birthdays, there are people who, for six months, are 18 and still in high school. It is an interesting thing because legally they are adults but still cannot go to the restroom without permission. It is a very interesting age and place to be. I know I will probably get in trouble for saying this, but growing up in Michigan, the legal age was 19 for everything in Canada, which suited us because we could go across the water and legally do everything we wanted once we were 19. I think that by 19, most people have finished high school. We have heard a few bills this session about the different dynamics of being 18 and still being in high school, but legally being an adult; also, in the past few decades really understanding brain development more and knowing that our frontal lobes are not fully developed until our mid-twenties. We do have a few questions, starting with Assemblyman Orentlicher.

**Assemblyman Orentlicher:**

My question is in section 3 of the bill. I am reading the cross-reference to NRS 202.360 for possession. Right now, there are two felonies, a B and D. Let us start with the B. Currently, if you are arrested with possession and you should not have these weapons, you can get from 1 to 6 years. With this change, somebody who has five weapons would have a minimum of 5 years and a maximum of 30 years, which seems pretty harsh. Under current law, you can take into account the number of weapons because you have 1 to 6 years, so that person with five weapons could get six years. I am curious about why that is not sufficient.

**Senator Nguyen:**

I will just point out that was the state of the law prior to the Nevada Supreme Court decision as to how people were charged. I think as a general policy, you do have that decision and you still have that discretion. You are aggregating those sentences assuming that there are multiple weapons. If this law were to go through, you are right, it would be five separate



charges for each one of those firearms. You are aggregating those sentences, and that would still be at the discretion of the judge. It is still a probationable offense. It is still something that could run concurrently, which means they could all run at the same time, and that is still at the discretion of the judge on whether or not they want to look at the circumstances and say, Hey, we have someone who is a five-time felon and they have five guns and we are going to give them five years, or he could look at this and say, This is a 19-year-old kid with one prior felony and he has two guns, and we are going to give him probation.

Yes, it does potentially include and enhance that sentence, but I think there is still discretion that is available to those courts, those elected judges who we put in those positions, to take into consideration all of those circumstances: the youth, the age, the background, the history of that. I think it is important, if you have someone who is a five-time felon and they have 40 weapons, I do not think that 1 to 6 potentially covers that charge in the same way. It does not mean that person would get 20 years on the bottom. I think those are circumstances that are at the discretion of the judge to be able to make those kinds of determinations.

**Assemblyman Yurek:**

I appreciate the efforts of this bill and, actually, I am pretty in line with it. In section 8.5, subsection 4, it talks about the mandatory reporting to the Central Repository does not apply to a "child with respect to whom the proceeding was held voluntarily seeks treatment and stipulates to his or her admission." We do not want to deter people from voluntarily participating and getting the treatment they need and then wondering, is this going to hurt me later with my ability to maybe get a gun. Is there a risk with the way this is worded, or is there a concern that potentially we might get somebody in a position who says, I will just stipulate to this to avoid the potential consequences of having this information and being committed to an institution or facility would require them to now be submitted to the Central Repository? Can you address that concern?

**Bridget Duffy:**

Section 8.5, subsection 4 was really around conversations about people who voluntarily seek treatment are more likely to grasp that treatment, want to be better, want to follow through with that regimen, and do not want to have it held against them that they voluntarily sought that treatment. We are talking 16- to 17-year-olds. It really would be parents, or, on the part of foster children, it could be the child welfare agency that is seeking treatment for a child at 16 and 17. It is that involuntarily committed where they are saying I do not need help, but a judge—after due process protections are in place and the child gets an attorney, they have a right to a second opinion, they have a right to a full evidentiary hearing—and the judge says, You are a danger to yourself or others and you need to be committed to a residential treatment center. Those types of commitments would need to be transmitted to the Central Repository. To answer your question directly, yes, anybody could be influenced to say, I do not want my child to be prohibited from owning a long rifle at the age of 18, so I am going to voluntarily admit them. I am not sure that is what people are really thinking; at that point, he is seeking help.

**Assemblyman Yurek:**

Thanks for that. That is really not what I was getting at, because obviously that sort of manipulation could occur. I am just concerned that perhaps an individual at 17 years old is being threatened with being committed to a facility and under the advice of counsel or somebody else says, You know what, I am just going to stipulate to this, to avoid the very intention we are trying to accomplish with this bill. Is there a risk that could happen, that this individual, under the advice of counsel to preserve their long-term rights and undermine the very intentions here, would stipulate to that? That is what I was getting at.

**Bridget Duffy:**

I would say, yes, I think that is always possible.

**Senator Nguyen:**

It has been a while, but at one point when I was a public defender, I did commitment hearings. The hearings we are talking about—especially when it comes to children, but also when it comes to adults—these are extreme cases where people are in a situation you may have heard about in the community, like Legal 2000 or other kinds of circumstances, where people are at that extreme end of a mental health crisis and need help. Yes, there could be circumstances where people are manipulating to get into a voluntary treatment, but I just think it would be such an outlier in this kind of situation.

**Assemblywoman Summers-Armstrong:**

I, too, have similar concerns that were expressed by my colleague regarding this enhancement. That is one concern. My second one is control of the data. We have heard a lot about these systems that are supposed to be being upgraded. We have all these different systems that are carrying data on folks. How do we ensure that a commitment—whether it is voluntary or whether it is forced—of a young person is not out in the ether somewhere? Then this young person is looking for a job and after they are 21, 24, or 25, all of a sudden here comes this information that they have had a commitment and now they are being barred from employment or even educational opportunities.

**Senator Nguyen:**

I will start with the easier one, the enhancing charges or additional charges for each firearm. I know that Senator Cannizzaro worked extensively with the public defender's office. I know there were some concerns with the original language because it included a lot of different things, including ammunition, other dangerous weapons, metal-penetrating bullets, and all kinds of things where it would turn that in. It included explosives or incendiary devices and other explosive substances, a machete, and other kinds of things. I know that there were attempts, and I know that they worked really hard to accept the amendment that the public defender's office had to limit this to certain firearms. Again, I will go back to the courts, which still have discretion to look at each of those cases. If someone has a mass cache of weapons and they are a prohibited person under law, they have the discretion to look at whether or not to treat that and how to treat that. Again, it is still a probationable offense.

As far as the Central Repository and the concerns about records, this may be something that I may have to phone a friend with Legal Counsel, but it is my understanding that your mental history currently is not a violation of your HIPAA rights when it comes to the Central Repository; when you have a commitment like this, it already is in existing law. This just gives some clarification for those children who fall into the unique circumstances between the ages of 16 and 17.

**Bridget Duffy:**

When it comes to the juvenile arrest history, we have the two things. We have juvenile arrest history for 16- and 17-year-olds. Instead of arrest, I should say conviction or adjudication, as we call them in delinquencies. For 16- and 17-year-olds, that is already current law. In section 5, where we add that we can share it with the federal, state, or local government entity to access before the background checks, the current law is, if the person who is in receipt of that further disseminates it for any other purposes except that background check, he is guilty of a gross misdemeanor. We have that protection there in the statute already.

On the mental health, I do not know that there are employers who say, check the box if you have been adjudicated or convicted, that ask for your mental health history, because it would be protected. You would not have to turn that over to get a job unless you waived it. We also have it being removed from the Central Repository at the age of 21 to do that further protection of children's mental health history. I hope that satisfies your concern on those issues.

**Assemblywoman Summers-Armstrong:**

To be clear, when someone is going for a job and they are 21 years old, they do not have to check the box that they have had a prior as a juvenile because it is sealed, is that correct?

**Bridget Duffy:**

Yes, juveniles are not convicted. Every time I work with a kiddo, I tell them you have never been convicted, you have only been adjudicated; it is not a conviction. When the question is, have you been convicted of a crime, the answer is no, because you are not convicted as a juvenile. Regardless of that, records are sealed at certain stages, depending on the level of offense. For misdemeanors, they seal automatically at age 18. This unsealing is only for the purposes of the background check and is not to be further disseminated for any other information.

**Assemblywoman Gallant:**

I appreciate this bill; it definitely seems to be closing in on this weird loophole. My question is on section 7.5, subsection 9(b). It talks about the process of being able to expunge their records by getting that mental health background off of the National Instant Criminal Background Check System. Earlier this session, we listened to a bill [[Assembly Bill 160](#)] by Assemblyman Miller discussing doing automatic expunging of records and then learning that it was just a much more intensive process. My question is, first of all, what does the process look like? Second, based on the diagnosis, if you have somebody who is homicidal, suicidal, or a sociopath, those things do not change. It is kind of like your fingerprints. I can

understand if you are homicidal or suicidal, there might be some trauma that is going on that you can get some treatment and kind of work through that. What does that process look like? Do they consider the type of diagnosis before moving forward with removing these types of reports from your background?

**Brigid Duffy:**

I hope my friends from the Department of Public Safety (DPS) are watching because prior to proposing the language, I spent some time on a conference call with them. One of the areas we discussed was how their system is going to do the automatic sealing of their mental health history at age 21. They are in the process of revamping their system; they are getting a whole new system right now, and they said they can build into the system when the date of birth hits 21, they can seal it. They asked me what my numbers were. In Clark County over the last five years, we have averaged seven 16- to 17-year-olds involuntarily committed. That is in the biggest county. I imagine it is much smaller for the rest of the state. We have had seven. The Department said, We can handle that number, that is not a lot. They did do a small fiscal note to add that into the system, which we heard in the Senate Finance Committee. That is how that would automatically happen; they are building it into their new system. I do not think anybody from DPS is here.

**Senator Nguyen:**

Senator Cannizzaro presented this in Senate Finance, and we did approve the allocation of \$34,000. That amendment and changes were made to the original proposal. This had to do with the Nevada Criminal Justice Information System Modernization contract to make sure that we could actually act on some of these provisions.

**Assemblywoman Gallant:**

I want to go back to the criteria based on diagnosis; is that looked at?

**Brigid Duffy:**

No, we are not doing that. This is just looking at that 16- to 17-year-old's history. When you turn 18, 19, 20, and 21, all of that history is available when you go to possess or purchase a long rifle. If they failed treatment or did not accept treatment or treatment did not work or however you want to say it in a correct way, they will probably continue to cycle through the system somehow, and that is how you would identify them in any other background check. This bill does not address any specific diagnosis.

**Senator Nguyen:**

To clarify, that is the current system. If you are 18 years old, and you were involuntarily committed, that will be accessible if you go in to do a background check for a firearm. This adds those limited exceptions that we talked about that are not being considered, those 16- and 17-year-olds, and it sounds like there are a very limited number, even in Clark County, of less than ten, probably less than ten across the state, just to make sure that there are not any issues and making sure there is a look back for that very limited window.

**Assemblywoman La Rue Hatch:**

I think my colleagues have asked most of my questions, but I have one as a curiosity, which may or may not be part of the bill. As a teacher, I know that we have a lot of things that happen in school that are also concerning and are also warning signs for these mass shooters. I was at an incident at the high school I taught at where a student ended up bringing knives and tried to attack other students. The week prior to that, he had broken an iPad over another student's head and had done a bunch of other things. My question is, as part of this federal guidance, is there any consulting with schools or any information about school behavior that is included in these background checks?

**Brigid Duffy:**

Not that my research has shown. It is very limited to court-ordered, involuntarily committed association.

**Assemblyman Orentlicher:**

I appreciate your answer about judges having discretion and that they can put the person on probation. They do not even have to incarcerate them at all. We have a lot of excellent judges, but not all judges exercise their discretion responsibly. I want to make sure we protect against the judge who—let us say the person has ten weapons, and he could be incarcerated for 60 years; and there are judges who might do that, unfortunately. I know this is a crime, possessing a gun, but it kind of shades into incarcerating somebody because we think they are going to commit another crime, which is inconsistent with our fundamental principles. We do not incarcerate people because we think they are going to commit a crime. This kind of shades into that. Do you think 60 years is a legitimate sentence? What do you think the upper limit should be? Could we put a cap on the aggregate when we aggregate? There should be something less than 60 years. Maybe you think 6 years is not enough. Maybe 6 years is not enough, but is it 10 years, or 12 years, but 60 years?

**Senator Nguyen:**

You have broader issues with our sentencing structure. In our criminal justice system and the way that our statutes are set up, there is a range of sentence that people are given, whether it is 1 to 5, or 1 to 6, or 1 to 10, or 2 to 20. I am just thinking of the ones that I know off the top of my head. The same could be said about any single one of those crimes. We do have a system where we have entrusted our elected judges to do that. I have worked in this for 21 years, so I know what you are talking about. There are some judges who exercise that discretion in one way and there are other judges who exercise that discretion another way.

Unfortunately, without having a set sentencing structure or sentencing guidelines, much like they kind of do in the federal system, that is the system that we work within. Unfortunately, I think we all are in a position where, when we are making these laws and we are enacting different statutes or we are changing penalty structures, we have to do that, and people know that going into it.

Do I think 60 years for the possession of ten guns is a lot? Yes, but I would still hope that would not happen. I am still optimistic even having been a public defender for over 21 years. That extreme example is just that, extreme. You have talked about punishing people for the crime of possessing a firearm or possessing ten firearms. Again, you have to be convicted of a felony and you have to be that prohibited person in order to do that. You are committing a crime by possessing that firearm. If you have someone who committed a burglary or robbery or another felony charge, and he had that conviction and he served his time on that, he knows very well that he cannot have a firearm, let alone one, two, or ten, in your scenario. I think those are circumstances that the judge can take into consideration.

I disagree with the assessment that that is not a crime, or that we are punishing them for potentially committing a new crime. The mere fact of their being in possession of the firearm having been a convicted person is the crime. I think we have a policy intent that if you are a prior felon and you have been convicted of a crime, you should not own or possess a firearm. I do agree with that assessment.

**Assemblyman Gray:**

I have no problem with the first part of the bill. I do trust judges in their discretion most times. They look at the totality of the cases and everything else in prior history and not just the crime that was in front of them. The second part, I have a little bit of an issue with. The goal is to make them a prohibited person, obviously. How long would that prohibited person status stay with them? Is there any way to get them out of that now that they are 26, and a great productive citizen, and he had some troubles as a youth, and now he wants to purchase a firearm?

**Bridget Duffy:**

For their mental health history, it would automatically seal at 21. For their juvenile arrest history, it does not have that same opportunity to seal it at 21. There is no provision when you are 50 and you are trying to possess a firearm, and you had something happen when you were 18, 19, 20, or 21. This is just adding two more years to it.

**Assemblyman Gray:**

To clarify, that will not follow them past 21.

**Brigid Duffy:**

The mental health history will be automatically sealed. The appropriation was provided to the Department of Public Safety to upgrade their system to allow that to happen.

**Chair Miller:**

Seeing no further questions, I will open it up for testimony. Is there anyone in Carson City who would like to testify in support of Senate Bill 367 (R1)?

**John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:**

We are in support of S.B. 367 (R1). There are three main points I want to reiterate with respect to this bill. First, it is a compromise piece of legislation. We did work with Senator Cannizzaro, the public defenders, and others to come up with the bill that is before you today. Second, the possession of a firearm language only applies to people who have previously been convicted of felonies or those convicted of battery domestic violence. Those are the two main categories of persons that the enhanced penalties would apply to. The third thing I would like to point out is that it just brings us in compliance with the Bipartisan Safer Communities Act. It does not do anything more than bring us in compliance with that Act.

**Beth Schmidt, Director-Police Lieutenant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department**

First off, I want to thank Senator Nguyen for pinch-hitting today. Also, we want to thank Senator Cannizzaro and Ms. Duffy, both of them, for their collaboration and for bringing together all the stakeholders. This really was a piece that we worked a lot on. We appreciate the addition of the unit of prosecution. As Mr. Jones has said, this is for persons who are fully aware that they are prohibited from possessing a firearm. We also appreciate the portion on bringing us into compliance on background checks. The Las Vegas Metropolitan Police Department supports S.B. 367 (R1).

**Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:**

I want to thank Senator Cannizzaro for bringing this bill and Senator Nguyen for presenting it today, and everyone who has been working on this. We believe this is good public safety policy and are in support of S.B. 367 (R1).

**Chair Miller:**

Is there anyone else Carson City or Las Vegas wishing to testify in support? Seeing no one, is there anyone on the phone? Hearing no one, is there anyone in Carson City or Las Vegas in opposition? Seeing no one, is there anyone on the phone? Hearing no one, is there anyone in Carson City or Las Vegas in neutral? Seeing no one, is there anyone on the phone?

**Erica Souza-Llamas, Administrator, Records, Communications and Compliance Division, Department of Public Safety:**

I wanted to call in and make myself available for any questions.

**Assemblywoman Hansen:**

I want to verify, Ms. Duffy had mentioned there has been a conversation, I am not sure if it was with you, but the idea of the sealing. The numbers are pretty low. I think there may be seven that this might apply to in Clark County. I want to make sure that with the sealing portion, the automatic sealing can happen with part of the modernization that is being done.

**Erica Souza-Llamas:**

When these juveniles reach the age of 21, when we receive these for the purpose of this bill or the Bipartisan Safer Communities Act, they are being entered into the National Instant Criminal Background Check System indices database, which is the federal prohibited database of individuals—that is the database that we are automatically removing the mental health records from at the age of 21. Those records are not being entered anywhere else into our state system. Therefore, there is nothing for us to seal, we are just removing them from the federal database.

**Chair Miller:**

Thank you so much. I am not seeing any additional questions. Are there any other callers wishing to testify in neutral? Hearing no one, I will welcome Senator Nguyen up for any final remarks. She is waving us off. There are no final remarks. I will go ahead and close the hearing on Senate Bill 367 (R1). As I stated before, Assemblyman Yeager has waived the 24-hour rule, so we are going to go ahead and work session this bill today.

**Senate Bill 367 (1st Reprint): Revises provisions relating to public safety. (BDR 15-942)**

**Diane C. Thornton, Committee Policy Analyst:**

Senate Bill 367 (1st Reprint) is sponsored by Senator Cannizzaro. This bill revises provisions relating to public safety. There are no amendments to the bill.

**Chair Miller:**

Are there any questions? Seeing none, I will entertain a motion to do pass Senate Bill 367 (1st Reprint).

ASSEMBLYWOMAN MARZOLA MADE A MOTION TO DO PASS  
SENATE BILL 367 (1ST REPRINT).

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Are there any comments on the motion?

**Assemblyman Gray:**

I am going to vote to get it out of Committee and reserve my rights for the floor.

**Chair Miller:**

Are there any additional comments? Seeing none, I will take a vote.

THE MOTION PASSED. (ASSEMBLYWOMAN SUMMERS-  
ARMSTRONG WAS ABSENT FOR THE VOTE.)



I will assign the floor statement to Assemblywoman Summers-Armstrong. The last thing on our agenda today is public comment. Is there anyone in Carson City or Las Vegas wishing to make public comment? Seeing no one, is there anyone on the phone? Hearing no one, I will close public comment. I will let everyone know that we will have a meeting tomorrow morning at 9 a.m. We have two more bills to hear. Thank you, members, for all your work today. With that, this meeting is adjourned [at 10:05 a.m.].

RESPECTFULLY SUBMITTED:

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Connor Schmitz  
Recording Secretary

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Nancy Davis  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Brittney Miller, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for Senate Bill 294 (1st Reprint), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is written testimony, dated May 30, 2023, presented by Alissa C. Engler, Chief Deputy Attorney General, Criminal Prosecution Division, Office of the Attorney General, in support of Senate Bill 36 (1st Reprint).