

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

**Eighty-Second Session  
March 7, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8 a.m. on Tuesday, March 7, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, 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:**

Assemblyman Cameron (C.H.) Miller, Assembly District No. 7  
Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1

**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Bradley A. Wilkinson, Committee Counsel

Minutes ID: 377



Devon Kajatt, Committee Manager  
Connor Schmitz, Committee Secretary  
Ashley Torres, Committee Assistant

**OTHERS PRESENT:**

Tick Segerblom, Commissioner, Clark County  
Ashley Garza Kennedy, Principal Management Analyst, Government Affairs,  
Department of Administrative Services, Clark County  
Heather D. Proctor, Chief Deputy Attorney General, Post-Conviction Division, Office  
of the Attorney General  
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public  
Defender's Office  
Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada  
Coalition of Legal Service Providers  
Nick Shepack, State Deputy Director, Fines and Fees Justice Center; and Private  
Citizen, Reno, Nevada  
Annette Magnus, Executive Director, Battle Born Progress  
Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County  
Public Defender's Office  
A'Esha Goins, Vice President, Las Vegas Branch, National Association for the  
Advancement of Colored People; and representing Cannabis Equity and  
Inclusion Community  
Jim Hoffman, representing Nevada Attorneys for Criminal Justice  
Anna Binder, Private Citizen, Mesquite, Nevada  
Chris Giunchigliani, Private Citizen, Las Vegas, Nevada  
Lilith Baran, Policy Manager, American Civil Liberties Union of Nevada  
Beth Schmidt, Director-Police Sergeant, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department  
Mary-Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office  
Zach Bucher, Government Affairs Officer, Government and Community Affairs, City  
of Las Vegas  
Pamela Del Porto, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Jennifer P. Noble, Chief Deputy District Attorney, Legislative Liaison, Washoe  
County District Attorney's Office; and representing Nevada District Attorneys  
Association  
A.J. Delap, representing Eighth Judicial District Court  
Alicia Lerud, Court Administrator, Clerk of Court, Second Judicial District Court  
Mike Cathcart, Business Operations Manager, City of Henderson  
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada  
Marc Schifalacqua, Senior Assistant City Attorney, City of Henderson  
Christopher M. Ries, Detective, Las Vegas Metropolitan Police Department  
Karly Hand, Intern, Washoe County Public Defender's Office  
Amber Falgout, Private Citizen, Reno, Nevada  
Elizabeth Florez, Director, Department of Juvenile Services, Washoe County

Marcos Lopez, Outreach and Coalitions Director, Nevada Policy Research Institute  
Stephanie McDonald, Directing Attorney, Family Law Self-Help Center, Legal Aid  
Center of Southern Nevada  
Dorothy Jean Davis, Private Citizen, Las Vegas, Nevada

**Chair Miller:**

[Roll was called. Committee policies were explained.] Good morning, everyone. We have three bill hearings this morning. We will be starting with Assemblyman C.H. Miller. I will now open the hearing on Assembly Bill 160.

**Assembly Bill 160: Revises provisions governing the sealing of certain criminal records.  
(BDR 14-634)**

**Assemblyman Cameron (C.H.) Miller, Assembly District No. 7:**

I want to make clear that Assembly Bill 160 is not intended to expand eligibility for record sealing. Assembly Bill 160 is about removing barriers for our constituents and making our record sealing process work for the people, making it more efficient and modernized. With that, I will pass it over to Commissioner Segerblom.

**Tick Segerblom, Commissioner, Clark County:**

By way of background, I served on the Committee you are on today for three sessions. I was the vice chair in 2011, then I was the Senate Judiciary chair for three sessions after that. I am very familiar with what you do and the importance of the Judiciary Committee in the Legislature. I also want to point out that when I was the vice chair for the Assembly, the chair was a teacher, not a lawyer, Bernie Anderson, and I think he was a legend. He taught me so much, and I also think he brought a great perspective as a teacher; as lawyers, we tend to focus on black and white and the light of the law. I think he brought a perspective of seeing the holistic part of laws and how they affect ordinary people. I really commend you for being the Chair of this and being a teacher; you know how to herd cats, which is part of your job here.

It has been ten years since Nevada started this marijuana program, where we legalized marijuana, initially as medical and later on as recreational. I was involved when that process started, and I am very proud of what we did. One of the products that we did not deal with was the legacy of the war on drugs. The marijuana industry itself has been productive, very beneficial I think, but it has benefited lots of old white men like myself and really excluded the victims of the war on drugs, who are primarily people of color. This bill seeks to address that imbalance. We will never be able to correct the wrongs of the past, but it does seek to address some of the issues that arose from the war on drugs which are still lingering to date. That is the fact that there are thousands and thousands of convictions out there in our records and throughout Nevada in our computer databases which are still existing. If you go to apply for a loan, college, rent, all kinds of things, these things will pop up and most people do not even realize they are still there.

You can individually go out and have those removed through a painstaking process. You have on your Committee Assemblywoman Considine, who is the world's expert in this area, and she can tell you that it is a very cumbersome process. This bill seeks to figure out a way to address this on a large basis and then wipe out lots of these convictions without having to go individually, one by one. It is a small, important step to rectify the war on drugs and its legacy. Right now, people are out there buying and selling marijuana, making money, and having a good time; but literally ten years ago, people were being arrested, convicted, and their lives were being ruined for something that we recognize now was wrong. We need to figure out a way to rectify that wrong, and I think A.B. 160 goes a long way to do that.

I will not get into the details of the bill; I just wanted to explain how we got here. At the Clark County Board of Commissioners, we collect marijuana taxes like you do. We were able to take below \$200,000 and hire a firm called Code for America, a nonprofit out of San Francisco. They came in here and spent over six months looking at all our records, talking to the district attorneys, the police, the judges, the public defenders, everyone, to see where these records are and to come up with this plan which will enable us to computerize a system where we can wipe these convictions out. It is a very sophisticated but cumbersome process.

This is being done from Utah to Connecticut, all around the country. Every city and county has a different database, the state has a different database, so it is not like we can have one computer program and run the system through it and wipe all of these out. We have to go to each area individually and do it. It is incredibly complicated but well worth it to have this done, one of the legacies on the war on drugs, and to rectify what otherwise has been a very productive process with our marijuana industry; to deal with the real victims of the past. We raise over \$100 million a year in marijuana taxes; this is the perfect way to take those taxes and use them to rectify the wrongs of the past. Ten years ago, there were people being arrested and now we realize that it was wrong. It is a drug. I do not want to encourage anyone to use it, but the fact is that it should have never been criminalized, and this is a large step towards rectifying that.

**Assemblyman Miller:**

Currently, there are many circumstances in which someone may have their criminal record sealed. In general, to be eligible, someone must be released from custody not under a suspended sentence, discharged from parole or probation, have met a statutory waiting period, and have not been charged with any offense since. I have included an exhibit that outlines those requirements [[Exhibit C](#)]. However, the process for a record to be sealed is overly cumbersome. As Commissioner Segerblom mentioned, it is a difficult process. While it has been the public policy for this state since 2017 to favor giving second chances to offenders who are rehabilitated, in the sealing of such records, our current petition-based process in Nevada is difficult to navigate.

Several states, as Commissioner Segerblom mentioned, have already started to automate record sealing. From Pennsylvania, Utah, New Jersey, Delaware, Virginia, Oklahoma, and Colorado, this is a bipartisan policy model that uses technology to automate arrest and

conviction record clearance. Simply put, the goal of this policy model is about efficiency, modernization, and eliminating one more barrier to success for those who are rebuilding their lives. It has significant economic impact to those folks as well as to our state.

**Ashley Garza Kennedy, Principal Management Analyst, Government Affairs,  
Department of Administrative Services, Clark County:**

I will be going off of the conceptual amendment [[Exhibit D](#)] and will note what sections of A.B. 160 are not proposed to be changed. The bulk of the changes are going to be in section 1 of the conceptual amendment. To summarize, before January 1, 2028, the Records, Communications and Compliance Division of the Department of Public Safety (DPS) shall develop and implement a process to identify each eligible conviction and charge as well as each agency of criminal justice that may be in possession of these records. I would like to reiterate the eligible charges and convictions referenced here are outlined in *Nevada Revised Statutes* (NRS) 179.245 and can be found on the handout [[Exhibit C](#)], which also includes a waiting period.

Additionally, in section 1, subsection 8, paragraph (d)(2) of the conceptual amendment [page 3, [Exhibit D](#)], a person is only eligible to have their record automatically sealed if someone has not been charged or convicted of any other offense except for a minor moving or traffic violation. Upon implementation, the Division will identify and compile a recommended list each month of each conviction or charge against a person eligible to be sealed and transmit that list to the Administrative Office of the Courts (AOC) of the Nevada Supreme Court. I want to note the addition in section 1, subsection 2, paragraph (c) of NRS 179.259 and NRS 453.3365 to the list of eligible convictions and eligible charges. For clarification, under NRS 179.259, a person may have their record sealed four years after completing a reentry program. This currently does not require a petition but is at the discretion of the court. This change just ensures these records are captured in this automated process as well. In that same vein, under NRS 453.3365, a person may have their record sealed three years after a conviction related to the possession of a controlled substance without the intent to sell. These records additionally can be sealed without a petition, but it is at the court's discretion.

Not later than January 1, 2028, the AOC shall develop and implement a process to review, approve, and transmit to each court with jurisdiction the eligible persons identified for record sealing. Upon implementation, the AOC shall notify each court with jurisdiction within 30 business days of the eligible convictions and charges. The court with jurisdiction shall notify the prosecuting agencies within 15 calendar days of the records that will be sealed, at which point prosecution can object to the notice within 30 calendar days. If there is no objection, the court shall order all of the eligible records sealed without a hearing and each entity identified as having possession of that record shall be named in the order. If prosecution does object, the court may set a hearing. I want to be clear that currently, during the petition-based process for record sealing, the prosecuting agencies have the authority to object, thus this conceptual amendment seeks to keep that ability.

At a hearing, the prosecution has the duty to present sufficient evidence that rebuts the presumptions set forth in NRS 179.2445. Currently, there is a rebuttable presumption that if someone has met all the statutory eligibility requirements for record sealing, they should have their records sealed. The Division and the AOC shall take any action necessary to ensure public awareness of automatic record sealing and may contract with any vendors or apply for any grants to carry out the provisions of this section. Additionally, the implementation of automatic record sealing does not remove anyone's ability to still petition the court to seal their eligible records. If someone believes they may have had their records sealed through this process, they will also have the right to confirm and review their sealed record. Lastly, a year after implementation, the AOC shall report annually to the Legislature records identified as eligible and the number of records that were ordered sealed.

Section 2 and section 3 of A.B. 160 are conforming changes, and no changes are proposed in this conceptual amendment. Section 4 of A.B. 160 allows someone to seal their arrest record related to any charges which were disposed of by dismissal, declination, or acquittal. Section 5 of A.B. 160 is conforming changes. Section 6, subsections 2 and 3 of A.B. 160 relate to the documentation that the court must provide upon sealing someone's record. As more records are sealed, under the provisions of this bill, without the need for a petition, we may not have a way of notifying someone their record was sealed, thus these changes proposed in this section will remove the documentation requirement for persons who had their records sealed automatically. However, a person may file a written request with the court to verify that record was in fact sealed and to have the documentation stating their civil rights were restored. Sections 7 and 8 are conforming; however, I would like to add clarification in section 8. Currently, based on federal and state law, there are convictions in which someone may be prohibited from carrying a firearm. The conceptual amendment in this section clarifies that DPS can inquire and inspect any records that were sealed to comply with those provisions which are in NRS 202.360.

Referring to the conceptual amendment [[Exhibit D](#)] again, I want to walk through a few additional proposed changes that are not in A.B. 160. First, we seek to create a task force of individuals from this body and criminal justice agencies in the state to oversee implementation of automatic record sealing and periodically report to the Legislature. Secondly, given the long implementation timeline of A.B. 160, we want to ensure that we do not remove anyone's right to still petition the court to seal their record. It is proposed that the AOC may develop any type of regulation or rule to streamline the petition-based process during the implementation period and after, because we want to keep that right for folks to still petition if they would like to.

Third, to automate record sealing, the agency tasked with identifying eligible cases must have up-to-date and accurate records. *Nevada Revised Statutes* 179A.075 outlines the various records required by each criminal justice agency that need to be kept, and how and when those records need to be communicated to the Division. Thus, the conceptual amendment just asks the Legislature to declare the public policy of the state to enhance and modernize information sharing. Finally, the conceptual amendment seeks to clarify effective dates of section 9 of A.B. 160. In conclusion, to reiterate a point made by

Assemblyman Miller, the goal of this legislation is to take our existing policies around record sealing and remove the lengthy petition-based process. If someone has met all of the statutory requirements of having their record sealed, then those records should be sealed without the red tape.

**Chair Miller:**

Thank you for the presentation. We will now go to questions from our Committee members. Assemblyman Miller, you spoke about the benefit of removing barriers. Could you give us a few sentences about the impact this will have on individuals and the public?

**Assemblyman Miller:**

There is a report by The Center for American Progress that says 9 in 10 employers, 4 in 5 landlords, and 3 in 5 colleges and universities now use background checks to screen out applicants with criminal records. A criminal record can be a barrier to economic prosperity. With that said, being able to have an automatic process after you have served your time, been rehabilitated, and cleared by our statutes that already exist and say you should be eligible to have your record sealed, we want that process to automatically start and not create any additional barrier for those folks.

When we look at what it takes to build a life, now we are looking at someone having to rebuild it. We want them to be as successful as they can possibly be so that it reduces recidivism and the need to go back to do anything that brought them into that position where they found themselves needing to have a record sealed. The benefit for the individual is, with that barrier removed, they can start to finally put their life back together in a more expeditious way. The benefit for us is a streamlined process as a state, as a government, that can bring about efficiency in how we handle our human resources within our agencies differently to make sure that our government is actually working for the people.

**Chair Miller:**

Ms. Proctor, will you walk us through the Attorney General's amendment [[Exhibit E](#)]?

**Heather D. Proctor, Chief Deputy Attorney General, Post-Conviction Division, Office of the Attorney General:**

[Ms. Proctor read from written testimony [Exhibit F](#).] The Office of the Attorney General submitted a proposed amendment to [A.B. 160](#) [[Exhibit E](#)] to include in sections 5, 6, and 7, references to NRS 41.910, which addresses wrongful conviction compensation cases. The Legislature created this process in 2019. If a person is successful in obtaining a certificate of innocence under the wrongful conviction compensation statutes, their criminal records will be sealed pursuant to NRS 41.910. I would note a sister bill in 2019 created the ability for defendants to file a factual innocence petition, which, if granted, will also lead to the sealing of the criminal records under NRS 34.970. Sections 5, 6, and 7 of [A.B. 160](#) already include NRS 34.970 in the statutes. We seek to include NRS 41.910 for wrongful conviction compensation matters as they address a similar basis.

We therefore seek to amend sections 5, 6, and 7 of A.B. 160 to provide persons who prevail on a wrongful conviction compensation complaint the same ease of access and ability to address records held by the criminal history repository, restore the individual's civil rights, and to inspect sealed records. If these individuals obtain a certificate of innocence leading to the sealing of their criminal records, they should have the same rights as others whose records are sealed by the court order if they prevail on a factual innocence petition. We therefore submit the proposed amendment to include NRS 41.910 in A.B. 160 sections 5, 6, and 7.

**Chair Miller:**

Assemblyman Miller, I am assuming those are friendly amendments as well, considering you are at the table together.

**Assemblyman Miller:**

Yes.

**Chair Miller:**

With that, we will go to questions from our members.

**Assemblywoman Gallant:**

I appreciate where you are coming from on this. We need to be able to give people a fresh start. Not being an attorney, using the term "automatic," one might think of just pressing a button and it is done. What does the process look like now?

**Assemblyman Miller:**

I got a crash course in understanding just how cumbersome the process is. It starts with a petition to the court. To make this petition, you must have all of your criminal records from all of the agencies, which requires the individual to go, on their own, to each one of those agencies to get the necessary information and verify it. Then, when they go to each one of these agencies, each process is manual. It requires that agency to then go through, verify, do all of those checks, and get the information to them, which can take months at each agency. It can take an extended period of time.

I am sure there are folks in the room that are more familiar with the process who will be able to correct and clean up anything that I misstate, and I invite them to do so. At the end of the day, these individuals have to go through this. No one assists them unless they seek their own legal counsel to do it, which can become costly for the individual; it is very time and labor intensive on each of the departments or the agencies that have to prepare the records or information.

**Ashley Kennedy:**

I will also note that this process is hard to do without legal representation. Michigan recently passed what we call "clean slate" legislation. They did a study and found that 90 percent of the people who were eligible to have their record sealed did not do it just because of the burden.



**Chair Miller:**

With that, I would like to call Clark County Public Defender John Piro to testify, because I know he has spent a lot of time in this process. Mr. Piro, could you respond to that question, as well?

**John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:**

Assemblyman Miller is correct. It is a patchwork of laws. It is much better than 2014 when we first started this process, and this body has done a good job making it similar, but it is still very difficult. I can tell you that I am currently working on six cases pro bono, and each step of the process takes a long time.

First, you have to get your criminal record from the repository, which can take up to six to eight weeks. They say 45 days, but it can take a long time. Once you get that, you should go to each agency which arrested you and get a SCOPE [Shared Computer Operations for the Protection and Enforcement] report, so you have an accurate accounting of what the criminal record says. That entails getting fingerprinted, going to each agency and getting each record—hopefully it is only one like Las Vegas Metropolitan Police Department; if not, you may have to go to Henderson or North Las Vegas.

Then you have to figure out where the charges are. Are they in Las Vegas Justice Court? Las Vegas Municipal Court? Henderson Justice Court? Henderson Municipal Court? North Las Vegas Justice Court? North Las Vegas Municipal Court? Mesquite? Laughlin? Where are all of your charges? Have you met the time periods required by law to have each record sealed?

Then we fill out the paperwork and send it to the prosecuting agency. That could be the district attorney's office, it could be the Henderson City Attorney's Office, the Las Vegas City Attorney's Office, the North Las Vegas City Attorney's Office; each one of them have little peculiarities they like. You put that packet in with them and then you wait for their ability to process that packet, even if you have met the time frames.

Then, once you get the paperwork back, you can submit it to the court. If the court decides, then the court will have a hearing. After you do all that, you have to mail it back to each agency and the Department of Public Safety. You hope they are going to mail it to the Federal Bureau of Investigation and get it there on time so the record is also sealed there. Then you mail it to each police agency and court where you were convicted and hopefully by the end of a year's time frame, a year and a half sometimes, your record is sealed. The bill we are discussing would streamline the process in the most efficient manner.

**Assemblywoman Gallant:**

It sounds arduous now. I am sure that all of that court stuff has to continue to happen, so how would this bill streamline it? Who would be responsible for it? What would this look like in practice if this passes?

**Ashley Kennedy:**

I think the petition-based process would become automatic, in the sense that all of the systems are working together. I will be frank, it would be a perfect world if all of our criminal records were in the same system, which, unfortunately, is not the reality. I will say in other states—like Oklahoma, Michigan, and California—who have done similar things that have disparate systems like we do that are all over the place; they have been able to make this work throughout implementation. Ideally, it would be the systems talking to one another through this process, rather than the petitioner going through the process himself. There will need to be technology and system upgrades in order to make this happen.

**Assemblyman Miller:**

This is also a part of why we would have the task force or working group implemented, to make sure we are able to streamline a process and a future implementation date which is a day-forward provision on convictions. The working group would consist of stakeholders coming together, figuring out the best process, and we would start on Day One for convictions eligible for automatic sealing to be sealed at that time.

Automatic does not mean easy, it does not mean simple, it just means it begins to happen, which is what we are aiming for. Obviously, we need to modernize many of our systems so technology can assist us to be efficient in processing these automatic record sealings. Technology would help with communication; so many of our departments and agencies do not communicate with each other. If this process can lead agencies to start communicating more efficiently and effectively, when there is a case that can be followed through a system, then that helps us in the efficiency of how each agency and entity would work. It also helps us with the automation process, with the goal of not being such a cumbersome process for the entities as well as the individual.

**Assemblywoman Cohen:**

You mentioned the not-for-profit Code for America, and then throughout the bill there are references to "or private company," which I assume is Code for America right now. Can you get more into the concept of utilizing a private company? Who would be choosing and overseeing the use of a private company, the task force? A lot of us get squeamish when we are ceding some of our responsibilities to a private company.

**Assemblyman Miller:**

As of right now, Code for America only did the study. They are not a part of this process, where we are right now. Moving forward, the task force would be able to find the best entity to assist us in implementing our automatic record sealing process. As of right now, that is not Code for America; there is no expectation for it to be Code for America.

**Ashley Kennedy:**

The Records, Communications and Compliance Division of DPS, for example, is currently going through a technology modernization process. They are working with a vendor to update their systems. This conceptual language which includes the ability to contract with a vendor was drafted with that in mind; there are vendors out there who work on criminal

justice records and we wanted to allow the ability for that process to move forward. As Assemblyman Miller mentioned, the task force is envisioned as an implementation force that would be tasked with reviewing and approving anything regarding contracting with a vendor, applying for grants, et cetera.

**Assemblywoman Hansen:**

I appreciate that people need a second chance. In our small business, we really try to do that because a lot of these individuals do not have their records sealed, and then we have to have some conversations and work through that. I know that is not always the case.

From this presentation, I understand the names would go through the Central Repository over to the Administrative Office of the Courts, at which point the list would be reviewed. The court then notifies the prosecuting agencies and district courts to look at those names, followed by a 30-day chance to appeal. If there is no problem from the prosecuting agencies or the district court, the automatic seal would then take place. There is a flow-through that I felt comfortable with. To emphasize, this bill seeks to change processes, not policy; a very important point to make.

We look at the waiting periods under Nevada law. We have talked with the Commissioner about marijuana, some of these drug offenses. But now, we are not just talking about that. We are talking about other very serious crimes. To be clear, we are not talking about changing the waiting period for very serious crimes, it is just the automatic sealing. We still have those offenses that you never get to seal your record: sex crimes against a child, DUI that results in a homicide, watercraft that ends in a homicide. Those waiting periods would all stay in place; we are just trying to get this process worked out, right?

**Ashley Kennedy:**

That is correct. There are multiple checks and balances through this ideally automated process, where DPS would be identifying folks that are eligible within their system—having the AOC confirm that a charge or conviction is eligible—and then letting the court that has jurisdiction over that case—wherever that case was charged, which could be a district court or justice court—to let them know these cases are the ones to be sealed. At that point, prosecutors have the ability to object. That is currently how the process exists in the petition-based process, that the prosecution has the ability to object within 30 days.

What you said about this changing process not policy is correct. This handout [[Exhibit C](#)] lists all of the offenses eligible after a certain period of time to be sealed. For example, if you were convicted with a category B, C, or D felony, you have to wait five years from your release of custody, discharge, parole, or probation—whichever one is later—and you must have not been convicted or charged since then; all of which will remain in place. Nothing has changed as far as the crimes that are not eligible for sealing. It really is just about the process. Rather than somebody trying to navigate the system, the system is working for them.

**Assemblywoman Summers-Armstrong:**

Once records are out in the atmosphere, what types of expectations do we have from people who use court data as a business? Has there been any thought about how regularly people who use court data will be required to come back and revisit that, so the folks that believe their records are sealed find out later there is some case, somewhere, that did not get done; therefore, they are unable to rent housing or get a job? Can you talk a little bit about what the requirements are if someone has a business that is allowed into the repository, how does that work now?

**Ashley Kennedy:**

You bring up a good point when we talk about sealing versus expungement. There are private companies that could have your criminal record. I am sure you have seen them Googling someone's record; there are these private companies that are using that. During the sealing process, there is a hope that those records that are housed with those private companies are captured, and that is one thing that I think our statute and the conceptual amendment tried to address. However, those records are not expunged. For the purposes of somebody getting their records sealed, if an individual's record is sealed for that particular conviction or charge, whether it is a partial seal—meaning some of your charges or convictions were sealed and some of them were not—you have a right that that record be sealed. Therefore, you have the right to be sure this record does not exist anymore when filling out an application.

**Assemblywoman Summers-Armstrong:**

What I am understanding is, it is a hope but it is not necessarily going to be a catchall. We can still have employers, banks, or other people who have access to data showing previous charges and still deny a person a right they should have. If that is true, is there any recourse if that person later finds out about being discriminated against for a sealed charge?

**Assemblyman Miller:**

I would suggest our working group would be able to further study and implement a plan to address that particular issue directly.

**John Piro:**

There are certain groups which do get the ability to look past a sealing, for good reason. For example, the nursing board or police agencies. While these records will be out of public view, some agencies will still have the ability to see that something happened.

**Ashley Kennedy:**

To clarify, currently when you go through the petition-based process, you receive documentation stating your record was sealed and your civil rights were restored. The conceptual amendment—because this will be an automated process, we may not have contact information for everyone whose record was sealed, but we want people to still be able to inspect their sealed record. In the event somebody did have their record sealed, for example, if there were stipulations on any kind of background check or anything, they would be able to make a written request with the court to show documentation that record was sealed.

**Assemblywoman Hardy:**

You mentioned that you extended the timelines for implementation—the original bill was 2024 and if you would just go through the new effective dates—so it gives time for all these different entities to be able to have the technology and all these things we are talking about. Do these groups feel that these dates will work to have everything ready?

**Ashley Kennedy:**

I will walk through the dates. The biggest date, as far as when this would theoretically go live, would be 2028. That date was chosen based on feedback from DPS, which is going through an information technology modernization program that should hopefully be done by next year. This gives their agency the ability to finish that project before starting a new one. While they think their systems could support changes that lead to automation, technology upgrades would still be required. That is how we landed on 2028 for the go-live date.

There are some other dates as well. Beginning in January 2029, we will start getting regular reports from the AOC, as far as how many records we are talking about yearly. The task force will begin as soon as this bill is passed with the hope that in 2024 and 2026, so before the 2025 Session and the 2027 Session, they are reporting to the Legislature how the implementation is going and if there are any changes needed—whether it is technology support or statutory support—in order to make this process work. If the AOC moves forward with a more streamlined petition-based process in the interim during the implementation process, or moving forward for anyone who still goes through the petition process, hopefully that will be done by 2025.

**Assemblyman Miller:**

In full transparency, not every agency or department has signed off or agreed to these dates. Sometimes when you are proposing significant change and transition, there is an immediate halt because this is going to be a lot. It will be difficult, it will be heavy, but it will be worth it. Even though it is challenging to say, "Oh, we are going to have it implemented by this date," that is the purpose of the working group, to try to make sure that all the entities that need to be a part of the conversation are a part of how they can get their agency ready for these implementation dates.

If we need to make adjustments, we look at what that looks like on a case-by-case basis on how people come online into this process. As Ms. Kennedy stated, we started with where DPS was in their automation process and then built out from there what we thought would be a reasonable implementation timeline for the entire process.

**Assemblywoman Newby:**

Beyond the obvious benefits to the individuals, which are many, I imagine this also streamlines a lot of work at the local jurisdiction level and for the courts—not having to go through this process on and on. Ms. Kennedy, can you speak to the efficiencies that may occur because of that?

**Ashley Kennedy:**

I will also defer to Mr. Piro who has worked in this field and has done this himself for years. I want to note that I understand this is a big process change and that there could be some challenges getting this up and running. However, when all of that is done, ideally this should be automated and be an easier process, less review by all of the different criminal justice agencies that are involved from law enforcement, the courts, the repository—it would be a lot less labor intensive once we get there. I recognize there currently is a lot of manual work that goes into the record sealing process, and we hope to get to an automated process where there is very little manual work going into this process.

**Chair Miller:**

With that, I will open it up to testimony in support of A.B. 160.

**John Piro:**

I have been working on this process with Judge Yeager since 2014. We worked with the Legal Aid Center of Southern Nevada, and we got everybody in a room and tried to make the process less onerous. Since 2017, this body has helped tremendously in making it less onerous. When we started, we saw people cycling through the system and we wanted to figure out a way to stop that cycle. There was a lot of heartbreak with how difficult the record sealing process was. We would see tears on the back end as well as the front end. This body has helped us move forward in that direction, but this would definitely streamline the process and put a lot of people in a better position to get back to work, get their lives back, and move forward and become part of our economy, which would be better for all Nevadans.

**Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers:**

We have been involved in a grant from the Clark County Commission in record sealing starting in 2022. To put it in perspective, in Clark County, we have one attorney at the Legal Aid Center who handles these cases and one attorney at Nevada Legal Services who handles these cases. We have good pro bono attorneys, like Mr. Piro, who are able to take cases, but when you think of the population of Clark County and you have two attorneys, and then we put on clinics where we engage pro bono attorneys, the number of people we are able to reach versus how many people are eligible, there is obviously a big gap between those two. It is labor intensive. I can share with the Committee, and we have information on our Self-Help Center's website about the process, and at every point—Mr. Piro referenced 45 days is the ideal to get the information from the criminal repository, but it can run six or seven weeks—the whole process, once they get to Legal Aid with all of their documents, can be an additional six months to a year. It is significant.

Assemblywoman Summers-Armstrong mentioned the idea of companies scraping data from our courts' websites and the question is, How often are they requerying or rescraping that data as to not eliminate people based on information they scraped two years ago? I think that is a really worthwhile discussion because with a credit agency, you have the ability to correct

your credit report. I am not aware of a similar mechanism for correcting those third-party, private databases. I am very happy Assemblyman Miller took that on and said they would be able to look at that, because I think it is important.

**Nick Shepack, State Deputy Director, Fines and Fees Justice Center:**

As an organization that works to eliminate fees in the criminal legal system, we are here in strong support of this bill. We want to thank Assemblyman Miller, Commissioner Segerblom, and the other presenters for being here today with this important piece of legislation. As Assemblyman Miller mentioned, the process for record sealing is arduous, it is confusing, and from our work we know that it can be very expensive; the barriers are many. It is our job as a state to recognize those barriers when we find people who are working to get their lives back on track, to take care of their families, and become productive members of society. It is our responsibility to remove many of those barriers. In fact, it is our duty.

We have created a record sealing system in this state with the understanding individuals deserve a second chance and should have their records sealed. However, the system now is two-tiered; if you have the finances and resources, or if you are lucky enough to get pro bono representation, you can move forward with the record sealing process. However, as we heard, in one state over 90 percent of individuals failed to utilize this process. When we make laws in order to give people a second chance, laws we believe in but do not create a pathway for them to actually work, that is very problematic. We see this bill as a fantastic solution, and we urge your support.

**Annette Magnus, Executive Director, Battle Born Progress:**

[Ms. Magnus read from her written testimony [Exhibit G](#).] I am here today to show our support for [A.B. 160](#). Individuals who are found guilty of certain crimes should not be marked with a scarlet letter for the entirety of their lives. The drug war has done significant harm to communities of color, and this bill would begin to right that wrong. Applying for a loan, applying for housing, applying for a job, applying for social assistance, all of these things are prohibited or made much more difficult for individuals who have been convicted of a felony. This cannot continue. I urge the Committee to pass [A.B. 160](#) and begin to right the wrongs of a misguided criminal justice system that has done so much harm. Please support this important bill.

**Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office:**

I echo the sentiments of those who have come before me testifying in support of [A.B. 160](#). Justice means nothing without access to justice, and this is a first step to ensure that everyone who has completed their time, paid their debt to society, is able to move forward and access the resources and basic needs they deserve.

**A'Esha Goins, Vice President, Las Vegas Branch, National Association for the Advancement of Colored People; and representing Cannabis Equity and Inclusion Community:**

This bill is such an important piece of legislation, especially as it relates to the work both of the organizations I represent do. Desmond Tutu said, "My humanity is bound up in yours, for we can only be human together." Nothing challenges my humanity more than the apparent obstacles and fees that impacted and poor people have to pay. I am challenged because there never seems to be an alternative, but I hurt because my family and community are still impacted. The saying is, Being poor is expensive but being formerly incarcerated is also generationally expensive and impacting. This bill is important in relieving cost and restoring impacted folks. It allows impacted folks the opportunity to begin again. In our humanity, we should be able to offer everyone an opportunity to begin again.

**Jim Hoffman, representing Nevada Attorneys for Criminal Justice:**

We support this bill. I have also done pro bono record sealing, and from my experience there are a few specific groups of people who would really benefit from a bill like this. The first group is people who used to be homeless; the second group is people who are either voluntary sex workers or victims of sex trafficking; and the third group is people who used to have a substance abuse problem but were able to get clean. Those are all groups of people who can pick up large numbers of criminal charges at a time when their life is not going so great. Then, when they get out of that life, they get sober, get housing, or escape from being trafficked, they still have all these charges on their record. That makes it harder for them to get employed, get back into school, and unfortunately, it makes it easier for them to slip back into the bad old life.

We have a process for sealing those records and helping those people, but as it was testified, it is a very arduous process. At a time when people are doing this very difficult work of moving out of homelessness, getting sober, building a life after being trafficked, we do not think it is good policy to also put this extra bureaucratic burden on them. We think it should be streamlined and automatic because that is the best way to help people move forward. We support the bill.

**Anna Binder, Private Citizen, Mesquite, Nevada:**

I am a retired paralegal of over 25 years and I cannot begin to explain the people in our community that will benefit from the automation of this process. I echo everything that has been presented today. However, throughout my career, if we took it back prior to 2017, [unintelligible] trial only in the district court, I believe there could be a mechanism under the law to potentially send something that is comparable to a notice of creditor that goes out in probate cases to the other jurisdictions to let them know that this is being done and preserve that time for them to object. That would mitigate the unnecessary, multiple filings in multiple jurisdictions for those in the population who have that on an individual level.

Also, back in the day, the only waiting period we had was the district attorney's office who would approve the petition, and back then there was really only one employee that did that, so that could be a 90- to 120-day turnaround. When things get kicked back from the courts,



it only takes a couple of days to make corrections and send that back. As we are trying to make things easier, since 2014 and coming forward, in my professional career, the laws made it much more difficult. I really look forward to seeing how the automation works, and I would not mind participating. I am also a previous justice court employee, so I know the burdens of the system. I really think this is simpler, not harder, and we could streamline it if we went back to some of the old ways.

**Chris Giunchigliani, Private Citizen, Las Vegas, Nevada:**

It was 23 years ago that I wrote the first automatic sealing of records bill. Unfortunately, I also included policy in that. Now this one is pretty clean, and you do not have to worry about the timelines; I did that back in 2001 and 2003. The sad part is, it was undone and changed over the years and it made it more difficult, and the automatic part of it never got implemented, in my opinion. This bill is much needed. Secondarily, I would urge you strongly to eliminate the word "charged" or "convicted." You could be picked up and put in jail for one day; you are charged and it stays on your record, and most people do not know that. You have never been convicted of anything. Taking that wording out throughout would really focus on the issue of your being convicted again, which then changes your eligibility.

I would also point out NRS 179.245, subsection 1, paragraph (e)—domestic violence—take a look at the timelines for that. Sometimes, in the old days, the woman who made the call was also charged, which would go against her record, even though she was not the guilty party. I would say justice delayed is justice denied, and justice means completing an opportunity for people to participate back in society after they have paid their debts.

Additionally, I would suggest you establish a fund currently for some of the money that Commissioner Segerblom recommended from the MMJ [medical marijuana card] to go to the courts; they will not be happy, but peel off one penny or something to put into the fund to begin paying for the money when it is ready to go automated. Finally, I would suggest that you look at your go-live date and do not prohibit it from being able to go sooner if you get everything lined up and it is ready to go. This has been a barrier for occupational licenses, adoptions, foster care, CASA [court appointed special advocate], employment, all of this keeps people down. If we really want to move this country and everyday people after they have paid their debt to society on to an opportunity to be able to succeed, then we really need to take a look at that. Finally, licensing boards should still have some review, but some are overly restrictive; maybe the task force could make sure they look at that. This is a bill for efficiency, fairness, and it is much needed after 23 years of thinking I helped fix it.

**Lilith Baran, Policy Manager, American Civil Liberties Union of Nevada:**

This automatic sealing of records bill is tremendous, and we would like to offer full support. This will provide individuals with a fair chance to move on from their past mistakes and rebuild their lives without the stigma of a criminal record. By automatically sealing records relating to certain convictions and charges, this will ensure that an individual who has paid their debt to society is not unfairly penalized for the rest of their lives.

This will not only benefit those individuals, but also their families and communities. These are barriers which perpetuate a cycle of poverty and crime, disproportionately so for marginalized communities. We recently held a record sealing event with the American Civil Liberties Union of Nevada in Clark County and those folks were overwhelmingly Black women and people who were unhoused and already struggling. This would be a really important piece of legislation.

**Chair Miller:**

Is there anyone else who wishes to testify in support of A.B. 160? [There was no one.] With that, is there anyone who would like to testify in opposition to A.B. 160?

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

We are in opposition to A.B. 160. We agree with Assemblyman Miller; record sealing is not easy, it is not simple. Record sealing is extremely labor intensive. We do not anticipate the human element going away with this bill. In our experience, record sealing is not the process of pressing a button or using one piece of software. Record sealing can take anywhere from hours to days, depending on the complexity of the case and the number of areas that may have records. Las Vegas Metropolitan Police Department (Metro) currently seals 1,600 adult records per year. With the implementation of this bill, we anticipate sealing 48,000 adult records a year. The software being proposed would utilize technology to seal the criminal history repository database. Las Vegas Metropolitan Police Department has approximately 20 different databases and systems that must be queried to ensure a record is properly sealed, and it is important that the record is properly sealed.

We believe that if we even started today to make process and technological upgrades, we do not believe we would meet the implementation deadlines set forth in this bill. Without a complete restructuring of how we seal records in Nevada, we believe this approach adds layers on top of an already cumbersome process. Without significant resources, Metro has serious concerns about our ability to effectively seal records in a timely manner as proposed in A.B. 160. The sealing process encompasses more than just removing the criminal history repository from the database. All of the supporting documentation also needs to be removed from production and this documentation is spread out over numerous locations and mediums. Las Vegas Metropolitan Police Department staffing would be severely impacted by this process, to include the creation of a new record sealing bureau that would exceed the size of our current record fingerprint bureau. We have been working with Assemblyman Miller, and we look forward to continuing to work with him on A.B. 160.

**Mary-Sarah Kinner, Government Affairs Liaison, Washoe County Sheriff's Office:**

We are also opposed to the bill in the current form. We are not opposed to record sealing; however, we have some concerns about the automatic timelines, as well as our ability to come into compliance with the technologies by the date set. We look forward to working with Assemblyman Miller. We have a meeting with him later in the week on this bill.

**Zach Bucher, Government Affairs Officer, Government and Community Affairs, City of Las Vegas:**

Under the rules of the Committee, we must testify in opposition today, not because we are opposed to the angle of this bill, rather we have serious process concerns due to increased workload, staffing, and technological upgrades with no additional funding in this bill to accomplish the outlined objectives. Basically, we are looking at an unfunded mandate. The conceptual amendment addresses many of our concerns, and a task force could significantly improve the process for implementing this policy. We look forward to working with the sponsors and stakeholders to help make it work.

**Chair Miller:**

Do we have any callers wishing to testify in opposition?

**Pamela Del Porto, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We are testifying in opposition to Assembly Bill 160 today. We look [unintelligible] Assemblyman Miller to be able to proceed with this and being on the task force should that [unintelligible].

**Chair Miller:**

Ms. Del Porto, we did not hear all of this. Please submit your testimony in writing.

**Jennifer P. Noble, Chief Deputy District Attorney, Legislative Liaison, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:**

In 2017 we worked with then-Majority Leader, now Attorney General, Aaron Ford on Senate Bill 125 of the 79th Session. We supported that bill and agreed to shorten the time applicable to violent crimes by one-third, and for all other crimes we cut that time over half. We also agreed to a presumption in favor of sealing, and the current law reflects good faith negotiation by the prosecutors of this state, and we agreed to that with the understanding that each petitioner would still be required to demonstrate rehabilitation and would be given individualized consideration. Believe it or not, district attorneys believe in second chances as well. We appreciate the intent of this bill; however, the problem is the automatic process that is contemplated in the conceptual amendment eliminates a petitioner's obligation to provide their criminal history and apply. It replaces important required information with a haphazard system of names and convictions.

I want to make clear to you that once a record is sealed, district attorneys cannot see it. If a person reoffends, we will not know about their prior criminal histories. Currently we struggle to conduct evaluations of sealing applications we receive. Faced with the overwhelmingly large list of only names and convictions, it will be impossible with our existing resources to run these individuals in the local and national criminal history databases to verify they have not reoffended during the waiting period, in Nevada or somewhere else. District attorneys do not have the personnel or the infrastructure required to conduct a meaningful review of the list contemplated by the bill and no provision provides us with any additional resources.

Even if we were able to run the criminal histories, there are not enough prosecutors to review them, so our ability to object will be rendered effectively meaningless. Although the bill's effective date has been pushed forward, extra time simply does not equal extra resources. Hearings that should be occurring will not occur. We believe that victims and the people of Nevada deserve consideration as well.

[[Exhibit H](#) was not discussed but was submitted in opposition of [A.B. 160](#) and will become a part of the record.]

**Chair Miller:**

We will now move into testimony in neutral to [A.B. 160](#).

**A.J. Delap, representing Eighth Judicial District Court:**

We are here in neutral on the measure. We understand this is a policy committee. However, we are just highlighting the fact that there is a substantial fiscal note on this measure that we would like to draw the attention of the Committee to.

**Chair Miller:**

We do not discuss fiscal notes in the Committee.

**Alicia Lerud, Court Administrator, Clerk of Court, Second Judicial District Court:**

We are here testifying in neutral today on this measure. My prepared remarks I came with this morning were largely just to highlight that, right now, the sealing process within Nevada is anything but automatic for those of us working on the back end of it. It is a labor-intensive process for both the courts and all of the different agencies involved in the criminal justice system. I believe the conceptual amendment which has been presented this morning highlights this.

I thank Assemblyman Miller and Ms. Kennedy for bringing this conceptual amendment forward because it is a very arduous process. Just to put into context what this bill means for a workload, I am with the Second Judicial District Court in Washoe County. We deal only with gross misdemeanor and felony offenses. Over the last ten years, we have averaged about 105 petitions to seal which are brought via petition. We estimate this will increase our workload by about tenfold, which will require all of those cases to be reviewed, even if we do figure out system automation. When a case is sealed, it still has to go to a judge for an order. That order still has to be processed. The judge still needs to review that order. Under this bill and current processes, the court is responsible for notifying all involved agencies.

Right now, our list of agencies that we notify on automatic sealing is at 12. We have to prepare letters and copies of those orders to go out to those 12 other agencies and that is the court's workload. One other item in this bill that we would like to highlight is, even with the conceptual amendment, the court would be prohibited from holding a hearing if there was not a prosecutorial objection. Judges would certainly like to still be able to fulfill their

obligations and review these to ensure those cases that are put forward for sealing have met the requirements.

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

We have one of our attorneys from the city attorney's office on the line. He was trying to get in under opposition. He is on now and we are hoping you will let him still testify.

**Chair Miller:**

I will go back in a moment. Is there anyone else here in Carson City who would like to testify in neutral? [There was no one.] In that case, I will open it up to hear the city attorney. It is open to anyone wishing to testify in neutral, with that one exception.

**Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:**

Thank you for bringing this bill. I like to give people second chances. However, I am just concerned about the long processes that it is going to take. Thank you.

**Marc Schifalacqua, Senior Assistant City Attorney, City of Henderson:**

I am the head of the criminal division for the Henderson City Attorney's Office. Although I am speaking in opposition of A.B. 160, I want to thank Assemblyman Miller for the time he gave us. While it is true ten other states have enacted limited automatic record sealing laws, A.B. 160 would represent—in my review of these laws—the most expansive criminal record sealing law in the nation. Every other automatic record sealing law initiated by the states or by a central court system is not as expansive as this bill. Other states, like California or the Commonwealth of Virginia, allow sealing for acquittals or when charges are not filed; in Utah, maybe it is low-level, nonviolent convictions, but never domestic violence or driving under the influence; in New Jersey, some drug offenses. Some states put caps on the number that are eligible, like Michigan—only 4 misdemeanors; if you have 30 or something like that, you have to file a petition and show up in front of a court. All of these other states extend the wait times for automatic sealing. They are all between five and ten years. Some states, like North Carolina, only allow it to occur once, a one-time act of grace.

Assembly Bill 160 does not cap the number of convictions, does not allow a one-time per defendant, does not limit it to nonviolent offenses, and does not extend the waiting period so we have some assurances that a defendant has truly changed his or her life around. Also, this appears retroactive, so it would be all cases from the beginning of time. This essentially is a process change, but it is really policy. It would overwhelm the system. I have about 250 cases for sealing a year. This would be about several thousand a year. There would not be meaningful review or checks and balances, and it would overwhelm the system. This is further than any other state law in the nation. Without some extra safeguards and limitations, we would be in opposition, and I do want to thank the grace you gave me to chime in a little bit late with the problems that we were having this morning.

**Chair Miller:**

Is there anyone else wishing to testify in neutral? [There was no one.] I will now close testimony on A.B. 160 and welcome Assemblyman Miller back up for his final remarks.

**Assemblyman Miller:**

We heard multiple agencies mention how many records they seal now versus how many records they would be sealing. I think one of the estimates was about 1,000 a year to 48,000 a year. How exciting is it that we have an opportunity as a body to give so many more Nevadans a second chance at life; a fresh start. I urge you to support this bill and do the work of government for the people of Nevada. This is what we are here to do.

**Ashley Kennedy:**

I just want to put a few technical clarifications on the record. One is in regard to NRS 179.295, which relates to the reopening of sealed records for inspection. I want to note in the event, for example, an arrest record was sealed because the prosecution declined to press any charges, the prosecution can still file charges later before the statute of limitations runs out and the court can order the inspection of sealed records. There is also a situation in which if someone was arrested but their charges were dismissed and an arrest record was sealed, the court may allow the inspection of records by a prosecuting attorney upon showing newly discovered evidence the person has been arrested for the same or a similar offense and there is sufficient evidence that that person will stand trial for the offense. There are still circumstances in current law in which sealed records can be inspected for the sake of public safety.

Regarding the financial aspect, I know this is not the money committee and there is more work to be done, but I wanted to make a note about the federal funding that is available for initiatives like this. The National Criminal History Improvement Program, which has existed since 1995, lives within the Department of Justice. They work to award states competitive grants with technical assistance to improve the quality, timeliness, and accessibility of criminal records. Just last year, they allocated \$200 million over the next five years for states to improve their criminal history reporting. One of the allowable uses is automatic record sealing. There is federal support out there for a policy such as this.

**Chair Miller:**

With that, I will close the hearing on A.B. 160. The next bill on our agenda is Assembly Bill 170, which will be presented by Assemblywoman Monroe-Moreno and Erica Roth from the Washoe County Public Defender's Office.

**Assembly Bill 170: Revises provisions relating to certain offenses involving concentrated cannabis. (BDR 40-110)**

**Assemblywoman Daniele Monroe-Moreno, Assembly District No. 1:**

I am here today to introduce Assembly Bill 170. This bill closes a loophole from a bill I sponsored last session, Assembly Bill 158 of the 81st Session. I will remind this body that that bill passed through both houses of this Legislature unanimously. Assembly Bill 158 of the 81st Session established and revised the penalties for certain misdemeanor offenses involving marijuana and cannabis. Instead of imposing a punishment of imprisonment in the county jail, imposing a fine, or imposing both a fine and imprisonment for these offenses, the bill required an adult convicted of illegal possession of one ounce or less of marijuana to

perform community service, attend a victim impact panel, or undergo a program of treatment, or any of a combination of those. The bill also expanded the jurisdiction of juvenile courts to include offenses committed by children relating to possessing one ounce or less of marijuana.

The measure provided that the first and second offenses result in the juvenile offender being deemed a child in need of supervision rather than a delinquent child. The intent of A.B. 158 of the 81st Session was to revise the penalties applicable to the illegal possession of marijuana. However, because of the way our statutes are written, concentrated cannabis is not included in the definition of marijuana. Therefore, the illegal possession of concentrated cannabis by a person under 21 years of age, or by an adult who is 21 years of age or older, is a category E felony. This creates a large discrepancy in our law.

Assembly Bill 170 standardizes the penalties for the possession of one-eighth of an ounce or less of concentrated cannabis by making them the same as the penalties for possession of one ounce or less of marijuana, thereby getting rid of the discrepancy in law and closing the loophole from last session's bill. Joining me here today is Erica Roth of the Washoe County Public Defender's Office to explain the reasons why we are here today and to also explain to you how this loophole has directly affected a number of children in our community. She will walk you through the bill and the amendment.

**Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office:**

I want to highlight the issue we have seen in Washoe County. This is not a statewide issue, which is important for this body to understand. The law in this state is not being applied equally. In Washoe County in the last year, we pulled data [[Exhibit I](#)]: with a total of 280 cases the Washoe County Public Defender's Office represented clients on in the last year, 70.36 percent of those were for possession of marijuana—specifically, concentrated cannabis. We have to ask why this is happening in our state. The law as previously set out did not define marijuana; however, marijuana is defined in other statutes. In A.B. 170, we are simply establishing a uniform definition of marijuana which includes concentrated cannabis, which has always been the intent. A child who is found with a vape pen, for example, at a high school in Reno is now being charged with a felony offense.

When we do a breakdown [[Exhibit I](#)] of the demographics—this is the raw data that was provided—the total population in Washoe County is 61.1 percent white. When we look at who we are representing, it is only 36.04 percent white clients who are charged with possession of marijuana. The total population of Hispanics in Washoe County is 25.3 percent, and the total population of our clients is 32.49 percent. When we look at the Black population of our clients, it is 6.6 percent, and it is much less than that in Washoe County. This is important to understand when we are looking at why closing this loophole is so important and how it is impacting our clients. We recognized last session that ensuring juveniles are treated differently than adults is the first step in addressing the school-to-prison pipeline, which has long-lasting negative consequences that include difficulty finding employment, denial of educational opportunities, discrimination in housing and services, and later incarceration as adults.

This bill will clean up the misplaced argument that juveniles should be prosecuted as felons for possession of marijuana in any form. When looking at the amendments [[Exhibit J](#)], you will see it is a very simple change. In the Legislative Counsel's Digest, it states that sections 1 through 4 of this bill conform the specified sections of *Nevada Revised Statutes* (NRS) to the definitions of marijuana and concentrated cannabis as proscribed in NRS 678A.085 [page 3, [Exhibit J](#)]. That will point you to NRS 453.096, section 1, which defines marijuana to include: "(a) All parts of any plant of the genus *Cannabis*, whether growing or not; (b) The seeds thereof; (c) The resin extracted from any part of the plant, including concentrated cannabis; (d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin . . . ."

This is important because what we are doing is pointing to the definition of marijuana as it already exists in law. As it exists in law, the definition of marijuana includes concentrated cannabis. There is no reason we should be situating juveniles separately in one single county in the state of Nevada for the possession of concentrated cannabis, which is defined as marijuana already under law. When talking to Washoe County Department of Juvenile Services, these cases, possession of marijuana for concentrated cannabis specifically, are the number one referral in the county at this time. The amount of resources that are being spent prosecuting these cases is astronomical, although unknown. I cannot tell you that number at this time. It is the number one kind of case being referred, which means, not only is a child now facing a potential felony conviction, it also means their parent has to take the day off of work to come to our office and meet with our attorneys to determine what are the appropriate steps. They have to take additional time off of work to go to court with their child, to help them with services which may additionally be required and beyond what we would normally expect from this type of case.

Bryan Stevenson once said, "We have become so fearful and vengeful that we have thrown away children, discarded the disabled, and sanctioned the imprisonment of the sick and the weak. Not because they are a threat to public safety or beyond rehabilitation but because we think it makes us seem tough, less broken." The law was made clear last session. We should not be charging juveniles with felony possession of marijuana. They are not similarly situated, and we recognize that they deserve resources and punishment that fall outside of the criminal legal system. In this cleanup bill, by defining the definition of marijuana as it already exists in law to include concentrated cannabis, we make clear to each district attorney in each county of this state that juveniles should not be facing felony charges when they show up to school with a vape pen with some amount of marijuana in it.

**Assemblywoman Monroe-Moreno:**

During the interim, I received calls from parents throughout the state. As you have heard from testimony, there is only one county that we are having this problem with. I have had calls from parents saying, Hey, I thought you passed a bill that my kid, if they got caught with a little bit of marijuana, was not going to get a felony. I said, Hold on, there is a law in place.



Parents were so eager to get their kid out of jail that they were taking plea deals, thereby giving their kids these records that are going to follow them for the rest of their lives. In talking with attorneys in Clark County and Washoe County, there is a loophole we need to clean up, so if there are a few officers who are a little heavier with who they arrest to make sure that the law was clear—to make sure that mom and dad, who may have a kid who might have marijuana where they probably should not have marijuana or might have a cannabis oil in a vape pipe, which they probably should not have; there are other ways to go about teaching a child right and wrong—it is not a felony arrest. A felony conviction will follow that child for the remainder of their lives. For me, as a Black mother who has Black and Brown children, the majority of those children impacted were Black and Brown. I am coming before this body again and saying help me fix a loophole in a bill we all passed unanimously from this body last session.

**Chair Miller:**

With that, I will open it up to member questions.

**Assemblywoman Marzola:**

As a mother of a Black son who lives in Reno, I appreciate this cleanup. From the statistics that you have provided, it does affect Black and Brown children. Is this an issue with the entire police force in Washoe County, or are we talking about just a couple of officers? Are you able to answer that?

**Erica Roth:**

Yes. With the data we have pulled, which is not exhaustive, I was able to pull data for a period of one year. As we continue moving forward, we would be able to pull more data. I can tell you almost all of these cases came back to four officers.

**Assemblywoman Marzola:**

Has this issue been addressed with these four officers? If you could provide their names on the record, that would be wonderful.

**Erica Roth:**

I can. With our analysis, we were able to pull back the majority of these cases to three officers. [Testimony stricken by Chair Miller.]

**Assemblywoman Marzola:**

Have these officers been reported? Is there anything happening, as far as what they are doing out in our streets with our kids?

**Erica Roth:**

I cannot speak to whether they have been reported, but what I can speak to is where our challenges have come in litigating these cases to try and deal with this issue outside of the Legislature. When we read this, it is very clear that these children should not be prosecuted for felony offenses. What is highlighted in this process is how unjust the system can often operate. A child will be charged with the felony; it is incredibly scary for a child to realize

they now may be facing a felony conviction. As attorneys, we need standing and permission from our clients to litigate a case, to raise certain challenges, and we cannot do that when they are, on the eve of trials, eventually offered a plea negotiation for misdemeanors that they want to take. It leaves our office in a position where we have been unable to really litigate these cases and bring them before the Nevada Supreme Court. All of these resources are being used up until that point. It also begs the question of why. If they are ultimately going to resolve as misdemeanors, why are they being brought as felonies? Why are we dragging children through the mud, facing felony convictions, traumatizing them with this threat at this time?

**Assemblywoman Monroe-Moreno:**

My career was in law enforcement for almost 30 years. I have respect for our law enforcement officers. Every day when we put on that uniform, we are putting our lives on the line to protect the community around us. Oftentimes, we are all human, sometimes the interpretation of the law by an individual is what gets us to this point and what has gotten us to A.B. 170. It is making sure that it is taking away that interpretation of the law and making sure that it is clear so that every officer is able to understand and enforce the law as it was intended.

**Chair Miller:**

I appreciate that comment as well, because I wish many different professional fields would ensure better communication with employees and professionals in the deliverance of new legislation passed here, which I think is a very fair assessment.

**Assemblyman Orentlicher:**

In the amendment, I understand why you would want to conform it to existing definitions. I noticed it changes the level of when this is triggered, because in the original it was one ounce of marijuana versus one-eighth of an ounce of concentrated cannabis and it looks like with the change, now it is one ounce for both. Maybe that makes sense. Was it wrong before to say concentrated cannabis should be at a different amount?

**Erica Roth:**

Correct. This change simply defines what concentrated cannabis is. Two-part answer to this: one, it is important to understand concentrated cannabis was not excluded. The intent last session was to ensure a juvenile—and I also want to make clear that some of our clients are as young as 12 years old—in some of these cases we pulled, these are 12-year-olds facing potential felony convictions. When you break down sections 1 and 2 of the bill, concentrated cannabis was only defined for adults by weight, because traditionally, we recognize adults and juveniles are not similarly situated and should be treated differently within the criminal legal system. I think this reflects the original intent by simply saying concentrated cannabis is marijuana, as defined by law, and should fall under section 2 of this statute.

**Assemblyman Yurek:**

While I do not think the intention here this morning would have been to demonize our law enforcement officers—I do not think you were trying to do that at all—my concern, as a former law enforcement officer, is it could be interpreted that way. When we talk about a disproportionate number of police officers in Washoe County who might have been, at least perceived to be, overcharging these kids to get plea deals, there might be another explanation for that. I believe in holding our law enforcement officers accountable. Do we know if those individual deputies or officers were assigned to a task force that deals with this? Were they assigned to schools which had a higher level of interaction with children or increased opportunities to charge juveniles with this?

**Erica Roth:**

I agree. Neither the sponsor nor I came up here to demonize anyone. This is a real problem that has real consequences. Those officers, to my understanding, are assigned to schools. I agree there is a reason; four officers in the entire agency who are targeting kids, and they are assigned to schools. It does ultimately come back to a very small portion of officers. It is not simply just these officers; it is a countywide problem. There are many people in the line who are in power who could stop this practice. It does not simply fall on the backs of those single officers.

**Chair Miller:**

As I do not see any more questions from members, I will now open testimony in support of A.B. 170.

**A'Esha Goins, Vice President, Las Vegas Branch, National Association for the Advancement of Colored People; and representing Cannabis Equity and Inclusion Community:**

It is incredibly exasperating to have to clarify we do not want young people to go to jail for marijuana. This is the second time that I am here personally to talk about how we do not want young people to go to jail for marijuana. I am here on behalf of the National Association for the Advancement of Colored People of Las Vegas and also the Cannabis Equity and Inclusion Community.

I get emotional because I feel like I am consistently chasing down the criminalization of marijuana. Every single time we think we have stopped people from going to jail, there is another way that shows up to put people in jail. Yet, there are people making millions of dollars, spending millions of dollars to sue people for millions of dollars, to make money off of this product. We continue to find ways to criminalize this product that is no longer a drug. It is a product: they are making money; it has been legalized. You can go into the stores and purchase it. I have young people that come into my office consistently talking about how come they do not yet have an opportunity, yet they are still trying to put them in jail. Just recently, I had a young man—the craziest thing—they are still doing stings to find people that are selling marijuana. Why? The police can go to the store and purchase it. That is a joke.

I want to impress on this Committee that the legislators passed this unanimously last session [Assembly Bill 158 of the 81st Session]. I am hurt for my family, and I say it is my family because it is not just my community. I have family in Washoe County; I have nieces and nephews in Washoe County, just as well as I have them in Clark County. I do not want to continue to spend time to come up here and ask the legislators to stop criminalizing people for a product that people are making millions of dollars off of. I am hurt. I am hurt for those families. I am hurt for those families who had to take plea deals because they thought they were protecting their children. Can you imagine having to choose between your child's future, the idea that you have for them, and this plea deal because you think that is the only way they are going to have a life. It is not fair and I am over it. I am asking the Committee to please consider how relevant this bill is and important enough is to pass.

**Annette Magnus, Executive Director, Battle Born Progress:**

[Ms. Magnus read from her written testimony [Exhibit K](#).] We are here in strong support of A.B. 170. We believe this important cleanup bill is critical. Our young people should not be subjected to felonies for doing something that others are not being criminalized for. We should want fewer young people in our criminal justice system, not more. The fact that young people in Washoe County are being charged with something which will impact them for years to come is wrong. This bill is actually very personal to us at Battle Born Progress. One of our staff members had this happen to their child in Washoe County a few months ago. She will be testifying by phone later. Days off work and stress about their child's future has now become the reality they are dealing with weekly. In our attempt to support our employee, we have seen the aftermath this has caused. As an employer, it has been horrifying to watch how her child has been treated during this process. We need to clean up our laws and make them consistent and uniform across the state. Please pass this important legislation.

**John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:**

We thought last session's bill was clear. There is a quote attributed to former United States Supreme Court Justice Anthony Scalia that states, "Legislative history is like looking over a sea of your friends and just picking out the ones that you like." With this bill, we are going to make the text even more clear so a loophole is not exploited anymore. One of the reasons that people do not like lawyers is sometimes we exploit loopholes. Let us close this loophole and move forward by treating kids like kids and providing them with the treatment they need, without putting a felony on their record.

**Nick Shepack, Private Citizen, Reno, Nevada:**

I am the state director for the Fines and Fees Justice Center, but today I am here testifying as myself. Last session I had the immense joy of being able to work on this bill [Assembly Bill 158 of the 81st Session] with Assemblywoman Monroe-Moreno. In the many stakeholder meetings we had, there was no inclination at any point that we did not intend to capture all types of cannabis. That was never mentioned once and I was in many, many stakeholder meetings, which I think is abundantly clear by the fact that every county except one is following the original intent of the law. I think it is clear. Just for edification,

we were looking at it from our position as being similar to alcohol. You do not charge somebody who has a beer at 3.5 percent alcohol differently than someone who has a bottle of wine, than the child who has a bottle of booze. It is our job to determine the help each individual needs. These things should be viewed the same in law. That was the intent in every conversation we had. We are happy to see you willing to close this loophole.

**Christopher M. Ries, Detective, Las Vegas Metropolitan Police Department:**

We support A.B. 170 and feel it clears up confusion surrounding concentrated cannabis. We feel a person under the age of 21 in possession of less than one-eighth of an ounce of concentrated cannabis should appropriately be charged as a misdemeanor. We thank the bill sponsor, Assemblywoman Monroe-Moreno, and we support this bill.

**Karly Hand, Intern, Washoe County Public Defender's Office:**

I am here in strong support of A.B. 170. I would like to echo the sentiments of those who testified before me. This bill will eliminate a loophole that is disproportionately affecting juveniles, particularly juveniles from minority populations. It is crucial to protect these children, as young as 12 years old, who are facing felony charges in Washoe County. Therefore, I strongly urge you to unanimously pass this bill.

**Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers:**

We represent at any given time between 3,000 to 4,000 kids in foster care in Clark County and Washoe County. I believe both counties have a dual jurisdiction calendar for kids who have Department of Juvenile Justice Services involvement as well as in child welfare. We support this measure. We should be treating kids like they are kids. Any criminal justice thing kids can be charged with falls disproportionately on foster kids.

**Chair Miller:**

Are there any callers wishing to testify in support of A.B. 170?

**Jim Hoffman, representing Nevada Attorneys for Criminal Justice:**

Vaping is not good for your health. Kids should not be vaping; they should not be using weed. At the same time, we do not think it makes sense for that to be a felony. We believe that the existing statutory framework is a good one. It got unanimous support. We ask that concentrated cannabis cartridges be placed under that same framework.

**Amber Falgout, Private Citizen, Reno, Nevada:**

[Ms. Falgout read from her written testimony [Exhibit L](#).] I am the northern Nevada Manager for Battle Born Progress, but am testifying in my personal capacity. I am a resident of Assembly District 25. I am here to testify in support of A.B. 170. My family has a long history of substance abuse. My husband, in fact, was arrested at 12 years old and charged with felony possession and intent to distribute marijuana. Though he had no controlled substances on his person, his peer had accused him of providing marijuana. He went through a lengthy legal process.

Fast forward to 2021: my oldest child was arrested for felony possession after she was found with a marijuana vape pen. Both of these incidents were around marijuana, which is now legal in Nevada. Drug possession should not be an automatic felony. This is simply another archaic tool used in the drug war to punish communities of color and others who do the same thing that various people around me do legally. Never once have I seen someone get clean or stop using simply because they were arrested. Often these charges lead to felony convictions which further disenfranchises people and makes it more difficult for them economically, socially, and emotionally. Please pass A.B. 170 so we can begin to turn the corner and start planning solutions for drug possession and abuse that actually works.

**Elizabeth Florez, Director, Department of Juvenile Services, Washoe County:**

We are calling in support of A.B. 170. It was noted earlier in testimony that possession of a controlled substance has grown to be the number one referral to juvenile services in Washoe County. In fact, possession of concentrated cannabis to our agency has more than doubled in numbers from 2021 to 2022. I must, however, correct earlier testimony provided by Ms. Roth naming three officers for bringing forward felony charges for concentrated cannabis. These individuals are juvenile probation officers who are assigned to our probation assessment unit and whose function is to assess all referred felonies, which are required by law to be forwarded to the Washoe County District Attorney's Office.

Our juvenile probation officers are not the primary agents of arrest. We receive these referrals from local law enforcement agencies and must process them as required by law. The vast majority of these referrals come from the Washoe County School District Police Department. In reviewing the profile of these youth in Washoe County, over 60 percent of these youth were first-time offenders assessed as low risk to reoffend, with low substance abuse treatment needs. The passage of this bill would allow this population of youth the benefit of court diversion and would reduce costs associated with formal court proceedings which require the time of the district attorney, public defender, and family court. If concentrated cannabis is reduced to a status offense, juvenile justice agencies remain positioned in law through NRS 62C.200 to continue to hold youth accountable and provide proper assessment and therapeutic services to this population, with no evidence of negative impact to public safety.

**Chair Miller:**

Ma'am, I just want to clarify. Are you still in support of the bill?

**Elizabeth Florez:**

I am still in support of the bill. I just wanted to correct earlier testimony.

**Marcos Lopez, Outreach and Coalitions Director, Nevada Policy Research Institute:**

We are in support of A.B. 170 for many of the reasons the previous testifiers in support mentioned. Generally, prohibition is a bad use of tax dollars. It never really realizes what its promise is, and in fact, we would encourage the Committee to go further and also revisit the amount individuals can possess overall. [Mr. Lopez also submitted [Exhibit M.](#)]

**Chair Miller:**

Seeing no more testimony in support, I will now open the hearing up to testimony in opposition to A.B. 170. [There was none.] We will now move to testimony in neutral to A.B. 170. [There was none.]

Assemblywoman Monroe-Moreno and Ms. Roth, you are welcome to make closing remarks on A.B. 170.

**Erica Roth:**

I want to make a clarifying statement and personally apologize to the officers whose names were read. It was not my intention; those names were handed to me, quite frankly. We always strive to ensure that the right information is getting out. We appreciate all of the services from all of the officers from juvenile services and I want to make that clear. I think it gets right to the heart of this issue that we all just need a very clear definition of what cannabis is so there is not any more confusion. Thank you, Assemblywoman Monroe-Moreno, for bringing this bill to ensure that Washoe County, kids in Washoe County, are being treated the same as kids across the state. That is what our office is trying for. I know that is what those probation officers are trying for in juvenile services. I appreciate that.

**Assemblywoman Monroe-Moreno:**

I think we can all agree that our kids should be kids. Oftentimes kids make mistakes. We were all kids at one time, and we made some mistakes that we hoped would not follow us for the rest of our lives. Today we have an opportunity to fix a loophole in a law we all passed [Assembly Bill 158 of the 81st Session] so that our kids can remain kids and not let some of those stupid mistakes, decisions they make, follow them into adulthood. I hope we have earned your support for this legislation.

**Chair Miller:**

Thank you for that. I will now close the hearing on A.B. 170. The last bill on our agenda today is Assembly Bill 227, which will be presented by Assemblywoman Lesley Cohen, Jonathan Norman from Legal Aid, and Stephanie McDonald, who I believe is on Zoom.

**Assembly Bill 227: Revises provisions relating to domestic relations. (BDR 11-660)**

**Assemblywoman Lesley E. Cohen, Assembly District No. 29:**

Assembly Bill 227 is about having better, easier, less adversarial ways for our constituents to move their cases through family court in our jurisdictions that have family court, and in regular court where they do not have family court. With me in presenting the bill is Jonathan Norman, who represents the Nevada Coalition of Legal Service Providers, including the Legal Aid Center of Southern Nevada. Mr. Norman worked as a legal aid attorney on the Navajo Nation right out of law school. In 2017, he took a position in Las Vegas representing foster children with the Children's Attorneys Project at Legal Aid Center of Southern Nevada. He eventually become the lead attorney at Legal Aid's education advocacy team before moving into policy full time.

Then we also have Stephanie McDonald, who is the Legal Aid Center's directing attorney at the Family Law Self-Help Center, where she has been since 2013. In this position, she oversees operations at the family court Self-Help Center providing information, forms, and procedural guidance to Self-Help Center represented litigants navigating family court. She has also worked as a law clerk in family court for the late Honorable Matthew Harter and the Honorable Sandra Pomrenze.

**Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers:**

The Legal Aid Center of Southern Nevada operates the Family Law Self-Help Center, and we also operate the Civil Law Self-Help Center. Both of those are like legal emergency rooms, whether it is a landlord/tenant issue at the Civil Law Self-Help Center or a family matter at the Family Law Self-Help Center. It is where folks can go to get the right form and get on the path to resolving or making progress on their legal issue. The Family Law Self-Help Center assists with issues ranging from adult guardianship to child custody. It assists around 80,000 residents of Clark County every year. In addition, it gets well over a million unique users logging on to the website to get forms and access information. Ms. McDonald runs a significant operation for people in Clark County.

If you go to the Family Law Self-Help Center's website, there are a host of forms and how-to guides. Under divorce, there is a link to file your divorce together. The link takes you to the forms and steps you need to file a joint petition for divorce. This is ideal for people getting along enough to know they should not be married. Nevada law does not have similar laws for legal separation, annulment, and child custody, which means people have to file a petition and serve their wife, husband, coparent, and go through what can be an artificially adversarial process, which could become adversarial if someone is served with a petition; it ramps up the emotions involved.

I will turn it over to Stephanie McDonald to walk through the bill. We do have an amendment [[Exhibit N](#)] and, if it is okay with Chair Miller, I would like to work off of the amendment.

**Chair Miller:**

Yes, please.

**Jonathan Norman:**

I also spoke with Victoria Coolbaugh and Kim Surratt with the Nevada Justice Association. They are still digesting the amendment [[Exhibit N](#)], so there may be some additional language, but I think they agree with the thrust of what we are trying to accomplish. They want to make sure there are no unintended consequences for family law practitioners, which we certainly appreciate. Our goal is to have forms for pro se litigants, self-represented people, to access a nonadversarial form.



**Stephanie McDonald, Directing Attorney, Family Law Self-Help Center, Legal Aid Center of Southern Nevada:**

Family court is a place where people unfortunately find themselves a little too often when family crises happen: divorce, legal separation, child custody matters, and annulments are the primary issues that bring people into family court for resolution. It is estimated that here in Clark County, roughly 70 percent of litigants in family court matters are handling their case on their own without the assistance of an attorney because often they cannot afford legal counsel to navigate their family matter when crises erupt.

As the directing attorney overseeing all the operations at the Family Law Self-Help Center, I can tell you self-represented litigants are often bewildered by the court process, no matter what it is. As mentioned earlier, my team and I assist almost 80,000 people per year, all struggling to understand the many rules they must follow to present their case to a judge. One of the similar processes we have available is *Nevada Revised Statutes* (NRS) 125.181, which provides a streamlined process for spouses who are in full agreement to all of the terms of a divorce. Those spouses can complete a joint petition with their agreement spelled out. They submit the petition with a jointly signed divorce decree for approval. The process encourages cooperation and is usually popular for those who want to fast-track their divorce. Right now, divorce is the only family court matter that can be handled in this expedited, mutually agreeable fashion.

Litigants who are in agreement to a legal separation, an annulment, or a child custody matter are often shocked to find out they must file a contested case, regardless of their agreement. To get a court order for one of these processes, one person must agree to be the plaintiff and complete a series of forms to put a proposal together for the court. The other person must agree to be a defendant and file separate forms agreeing to the proposal. I can tell you nobody likes to be a defendant, regardless of it meaning nothing so much in family court, but the context of being a defendant is never appetizing to anybody. Finally, both people must complete a final set of forms to present their agreement to the court for approval. The number of steps and forms required to accomplish a stipulated decree for anything other than divorce is pretty overwhelming.

Assembly Bill 227 would make the same expedited divorce process available to those who are in agreement on a legal separation, an annulment, or those who are not married but want to formalize a child custody agreement with the court. The bill itself, the sections run through each of those areas in succession. Sections 2 through 4 would make the joint process available to those filing for separate maintenance. Sections 9 through 14 make some conforming changes within the existing separate maintenance statutes to reference that process as well. Sections 5 through 8 would make the joint petition process available for annulments. Sections 14 through 19 would make the joint petition process available for those filing for child custody. All of the new proposed statutory language that you see in the bill is based on the existing language in NRS Chapter 125 that lays out the joint petition process for divorce. It is not necessarily new; it is just adapted for those other areas of law that it has previously not been applicable to.

This bill would ultimately allow those already in agreement to get through the court process easier. It reduces the amount of court resources that would be needed to file and finalize a case. Ultimately, it helps litigants maintain a cooperative spirit to resolve their issue, rather than introduce adversarial concepts to those who are not at odds with each other.

**Chair Miller:**

We will now open for questions from our members.

**Assemblywoman Newby:**

On page 4 of the bill, section 7, subsection 3, I had to giggle last night. The "revoking parky," I think it is supposed to be, "revoking party." It is correct in the other sections. I was curious what a "parky" was.

**Assemblywoman Hardy:**

I agree with you when there are those instances, such as annulments and separations, to be able to do this in a joint petition when they are in agreement would definitely help the petitioners and also the court. When you are talking about custody arrangements, those can be a little more intricate and emotionally charged, specifically in section 16, subsection 4, where you are saying "sufficient particularity," which means absolute terms, which means every detail of your custody agreement would need to be spelled out including holidays, weekends, school, all of those things; which, in my opinion, can be quite cumbersome and a little more involved in that. Do you have any numbers as to the percentage of custody cases that come in where both parties are in total agreement to what they are proposing and agreeing to?

**Stephanie McDonald:**

The number of people who are seeking an agreed upon court order in regard to child custody are probably the fewest of the batch, in and amongst the areas that we are talking about. Often, those that are coparenting successfully continue to coparent successfully without the assistance of the court. That is of course the ideal. We do get maybe ten a month where coparents are in full agreement to all of the terms of what they want to follow. They are getting along right now, and while they are getting along, they see the usefulness of getting the agreement in writing, just in case.

Everybody knows somebody who has been through something awful at family court, and those who are planners and want to be proactive are very interested in getting their current terms on record, just in case. Hopefully they never have to litigate again, but the best time to get something on record is when you are getting along. Heaven forbid problems arise later, but now, at least, they have their original agreement on record as a court order and it provides greater assistance for judges who then have to navigate the difficulties or disagreements that might come later. At least they have a starting point of where those parents were originally in agreement on.

**Assemblywoman Hardy:**

I appreciate that answer because custody can be a confrontational issue at times. Where parents can agree, that is wonderful. Various sections of the bill imply that before the orders are issued, they could revisit this. Before that order is issued, they could go back and visit the terms. What if they change their minds, how does it work?

**Stephanie McDonald:**

The way it works now for divorce cases, many of the divorce joint petitions are between parents who share children together as well. Not only are they getting a divorce, but they are also agreeing to custody, child support, visitation, health insurance terms, everything you would expect from a child custody order is included in that joint petition for divorce. It would be the same process for parents who are going through a joint petition for custody. They would have to be in complete agreement before even filing the paperwork regarding what will their time share be with the children, what will the holiday schedule be, who if anyone is going to pay child support, who is going to provide health insurance, how will uncovered medical expenses be paid; all of those things would be included in the agreement. Without a hundred percent agreement on all of those terms, a joint petition process would not be available to them.

If there is even one thing they are unable to agree on, they will not be able to pass go in this case. However, there is a wonderful mediation program that the University of Nevada, Las Vegas Boyd School of Law offers, which is available and free to the community. It is an amazing referral which I tend to give people when they are 95 percent agreed and there is one sticky little issue they cannot agree on, and perhaps with the assistance of a free mediation service, they could get there. That is a great stopgap to help those litigants who are really close but not quite there. In order to get the joint petition process filed, they would have to reach a complete agreement prior to filing. Ultimately, the court will put their agreement into an order as long as the agreement makes sense and it complies with the law; it makes it easier for judges just to sign and approve them. If for some reason they cannot reach an agreement on one or two little things, unfortunately they will be in the process of someone filing a complaint, the other filing an answer, and ultimately going down the path of litigation.

This is intended for those who are not going to need to litigate anything because they have already reached a full agreement; if disagreements come up later, they can reopen the case, request modifications, they can request enforcement, but that is an if for down the road if problems arise later. This is a way to fast-track the case and avoid court hearings and delays to get that order in place.

**Assemblyman Yurek:**

I am in full agreement with looking for ways to improve and streamline the family court system. When we are dealing with something like child custody issues, I think it warrants a higher level of scrutiny and concern when we are dealing with kids. My understanding in the summary process is that there is no hearing on that issue, so there is no way for a judge to actually look at the parties involved and get assurance, in their physical presence, to evaluate

that everything is on the up and up. Are there any concerns or ways that we can assure the court that when they are signing off on a summary divorce where there are child custody issues that what we have in agreement is the true intent of the parties without undue duress or coercion?

**Stephanie McDonald:**

Although this process is designed to be streamlined without a hearing—approval based on an understandable agreement between the parties—judges always reserve the right to request a hearing if they see something in the paperwork that does not quite make sense or looks a little off to them. It does happen in the joint petition divorce process; for example, if two spouses complete a joint petition for divorce that would grant one person sole legal custody, sole physical custody, no visitation to the other parent, and that other parent is also not paying child support. If there is something that looks like a complete imbalance in power or something that does not look like the typical type of order a judge would want to craft, they always have the right to request that the parties set a hearing so the judge can ask some clarification questions before approving the final order. There may be good reasons for why that is their agreement, and there may not be.

There is no requirement that a judge sign off just because it has been filed and presented. Judges can and do request amendments to the paperwork if it can be fixed on the paperwork, or request hearings to question the parties about any issues that do not quite make sense. That right would always be preserved so wild and crazy orders are not getting through the court just because.

**Assemblywoman Cohen:**

If we are talking about Clark County and people are using the forms, the forms are really detailed. They walk the litigants through dividing up the time, dividing up the holidays, so that hopefully people will not put something in which does not make sense. I always get the example from clients when I say to them, what do you want to do with the holidays? And they say, Oh, we will split them. I always ask them, Well, what does that mean? If you are talking about Christmas, does that mean the two weeks off from school? Does that mean Christmas Eve and Christmas Day? Does that just mean Christmas Day? Does that mean alternating? Does that mean dividing it up? The forms are really good at helping the litigants figure out what that means for them.

On top of that, even if you have an adversarial case, our judges tend to defer to the litigants when we are talking about custody and visitation issues, because our judges believe that parents know what is best for their children. Unless we are having an issue where there is something that just does not look right, usually the court is going to presume that these parents know what is best for their children, even if the schedule looks a little odd. That is what these parents want to do for their children, in the best interest of those children.

**Chair Miller:**

I do not see any additional questions. I will now open testimony in support of A.B. 227. Is there anyone in Carson City who wishes to testify in support? [There was no one.] Do we have any callers who would like to testify in support?

**Dorothy Jean Davis, Private Citizen, Las Vegas, Nevada:**

I am calling to give my testimony concerning the solution for equality and justice. This is dealing with the removal of the [unintelligible] of felons and those who have completed their sentence—

**Chair Miller:**

Excuse me, ma'am, we are on a different bill. We have already closed the hearing for that bill. If you would like, you are more than welcome to submit your testimony in writing. You may email the Committee. That information is also on the agenda. We are on a different bill hearing right now.

**Dorothy Jean Davis:**

Yes, which is the revision relating to domestic relationships, correct?

**Chair Miller:**

Yes, we are on A.B. 227.

**Dorothy Jean Davis:**

Yes, which still coincides with that, because what has happened with that, within domestic relationships, you have my situation. Family members struggle and try to use that to railroad, in other words harass you, and get you involved with things that are not ethical or legal, and then you call the authorities and nothing can be done. Or they claim that nothing should be done.

**Chair Miller:**

Ma'am, are you calling in support of the bill?

**Dorothy Jean Davis:**

Yes, I am.

**Chair Miller:**

Continue.

**Dorothy Jean Davis:**

That is basically it. That is my brief statement there on this important issue.

**Chair Miller:**

I will now open it up to anyone who wishes to testify in opposition to A.B. 227. [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] Assemblywoman Cohen, would you like to make any final remarks? [There were none.] I will now close the hearing on A.B. 227.

The last item on today's agenda is public comment. [Public comment was heard.] We are adjourned at [10:44 a.m.].

RESPECTFULLY SUBMITTED:

---

Connor Schmitz  
Committee Secretary

APPROVED BY:

---

Assemblywoman Brittney Miller, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a fact sheet regarding automatic record sealing, submitted by Assemblyman Cameron (C.H.) Miller, Assembly District No. 7, regarding [Assembly Bill 160](#).

[Exhibit D](#) is a proposed conceptual amendment for [Assembly Bill 160](#), submitted by Assemblyman Cameron (C.H.) Miller, Assembly District No. 7.

[Exhibit E](#) is a proposed amendment to [Assembly Bill 160](#), submitted by Teresa Benitez-Thompson, Chief of Staff, Office of the Attorney General.

[Exhibit F](#) is written testimony dated March 7, 2023, submitted by Teresa Benitez-Thompson, Chief of Staff, Office of the Attorney General, in support of [Assembly Bill 160](#).

[Exhibit G](#) is written testimony dated March 7, 2023, submitted by Annette Magnus, Executive Director, Battle Born Progress, in support of [Assembly Bill 160](#).

[Exhibit H](#) is a letter dated March 7, 2023, submitted by the Nevada Open Government Coalition, in opposition to [Assembly Bill 160](#).

[Exhibit I](#) is a chart titled "Total Felony Drug Charges in Washoe County 12/01/2021 - 12/31/2021," submitted and presented by Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office, regarding [Assembly Bill 170](#).

[Exhibit J](#) is a proposed amendment to [Assembly Bill 170](#), submitted by Assemblywoman Danielle Monroe-Moreno, Assembly District No. 1.

[Exhibit K](#) is written testimony dated March 7, 2023, submitted by Annette Magnus, Executive Director, Battle Born Progress, in support of [Assembly Bill 170](#).

[Exhibit L](#) is a letter dated March 7, 2023, submitted by Amber Falgout, Private Citizen, Reno, Nevada, in support of [Assembly Bill 170](#).

[Exhibit M](#) is written testimony dated March 7, 2023, submitted by Marcos Lopez, Outreach and Coalitions Director, Nevada Policy Research Institute, in support of [Assembly Bill 170](#).

[Exhibit N](#) is a proposed amendment to [Assembly Bill 227](#), submitted by Assemblywoman Lesley E. Cohen, Assembly District No. 29.