

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

**Eighty-Second Session
March 8, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8 a.m. on Wednesday, March 8, 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.

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:

Assemblywoman Shea Backus, Assembly District No. 37



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Devon Kajatt, Committee Manager
Traci Dory, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

Benjamin Orzeske, Chief Legislative Counsel, Uniform Law Commission
Keith A. Rowley, Professor of Law, William S. Boyd School of Law, University of Nevada, Las Vegas
Brigid J. Duffy, representing Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children
Serena Evans, Policy Director, Nevada Coalition to End Domestic and Sexual Violence
Jason Walker, Sergeant, Patrol Division, Washoe County Sheriff's Office
Christopher M. Ries, Detective, Las Vegas Metropolitan Police Department
Regan Comis, representing Awaken
Lauren Boitel, Executive Director, Impact Nevada; and Chair, Nevada Policy Council on Human Trafficking
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office
Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office

Chair Miller:

[Roll was called. Committee protocol was explained.] We have two bills on the agenda today. I will formally open the hearing on Assembly Bill 231.

Assembly Bill 231: Revises various provisions of the Uniform Commercial Code. (BDR 8-604)

Assemblywoman Shea Backus, Assembly District No. 37:

I am a Nevada commissioner to the National Conference of Commissioners on Uniform State Laws, often referred to as the Uniform Law Commission (ULC). It is my pleasure to introduce Assembly Bill 231 with Ben Orzeske, chief counsel for the Uniform Law Commission, and Keith Rowley, professor of law with the William S. Boyd School of Law, University of Nevada, Las Vegas. Professor Rowley is also a ULC commissioner. Professor Rowley and I are appointed to the ULC pursuant to Chapter 219 of the *Nevada Revised Statutes* (NRS) as well as Assemblyman Orentlicher and Assemblywoman Cohen, who are also on this Committee.

Prior to walking the Committee through the bill, I want to provide you with a brief history of the Uniform Law Commission. The ULC was established in 1892 to provide states with

nonpartisan, well-conceived, and well-drafted legislation. The Uniform Law Commission's deliberative and uniquely open drafting process draws on the expertise of commissioners but also utilizes input from legal experts, advisers, and observers representing the views of other legal organizations and interests that will be subject to the proposed law. The Uniform Law Commission stays up to date by addressing important and timely legal issues such as the need for an amendment to the Uniform Commercial Code to address emerging technologies [[Exhibit C](#)], including adding a new article.

Before I turn this over to Mr. Orzeske and Professor Rowley, I want to give a high-level introduction to the Uniform Commercial Code, commonly referred to as the UCC, so that you have an understanding as to what this bill is exactly amending. The UCC is a comprehensive set of laws governing all commercial transactions in the United States and has been universally adopted by all states. While parties to any particular transaction can agree to the terms of their contract, the UCC is essentially default rules and provides legal certainty, giving strangers confidence to conduct business.

At this time, Nevada has enacted ten UCC articles, which are codified in NRS Chapters 104 and 104A.

- Article 1 provides general terms.
- Article 2 governs sale of goods.
- Article 2A governs leases of personal property, such as construction equipment.
- Article 3 governs negotiable instruments such as a check.
- Article 4 governs bank deposits and collections.
- Article 4A provides a comprehensive body of law on the rights and obligations connected with fund transfers.
- Article 5 governs letters of credit, which are typically issued by a bank or other financial institution to its business customers in order to facilitate trade.
- Article 7 covers documents of title to personal property such as bills of lading.
- Article 8 provides a modern legal structure for the system of holding securities through intermediaries.
- Article 9 provides a statutory framework that governs secured transactions involving personal property. I just learned from the Secretary of State that that department collected nearly \$3.5 million in revenue from UCC filings last year.

At this time, I will turn this presentation of [A.B. 231](#) over to Ben Orzeske who will walk you through the sections of the proposed bill as well as Professor Rowley. Both will be here to answer any questions you may have.

Benjamin Orzeske, Chief Legislative Counsel, Uniform Law Commission:

I want to thank Assemblywoman Backus for her excellent introduction of this bill. I will not go over the same ground. I do want to point out that the UCC is a law—while it operates without most of us thinking about it from day to day, we all benefit from the fact that it is there and uniform in every state.

For instance, when you order something off of Amazon or eBay, generally we do not worry about what state the seller is in because the law is the same. If something goes wrong with that transaction, you need a warranty claim or a refund or something; the rules are going to be the same under the Uniform Commercial Code. Similarly, Nevada businesses benefit from that uniformity because they can sell to customers in any state with the confidence that the rules will be the same. This is the reason why Americans have confidence generally to do business with strangers, which is not the case always in the rest of the world and why our commercial markets have thrived relative to places elsewhere.

The bill you have in front of you is the first significant set of amendments to the Uniform Commercial Code in 12 years, and it has to do with emerging technologies that necessitated a few changes. Some of the changes are mundane. It is something as simple as changing the word "writing" to "record," which will account for electronic documents and electronic signatures. The fact that you can now take a photo of your check and email it to your bank as a method for depositing it, that is a practice that the law had not caught up with and now it will with these amendments.

The most significant addition is the new UCC Article 12 and the changes to UCC Article 9, both of which have to do with new types of property that we have termed "controllable electronic records." This is an umbrella term. It includes blockchain assets such as virtual currency and non-fungible tokens. We have defined it in using generic terms, a controllable electronic record, so that it also will include maybe other types of similar property that are yet to be invented but will be over the coming years. Control is kind of the key element of this definition. Normally with an electronic record, which would just be a document or a photo—some piece of data—you could have as many copies as you like. We could all have a copy of a pdf document, and they would be identical. With a controllable electronic record, one person retains control of that. For instance, with virtual currency, if you own Bitcoins, only you can use those Bitcoins to spend them or transfer them to somebody else. When you do, then the other person becomes the controller of those records.

These amendments became necessary because the old rules of the Uniform Commercial Code did not work very well for these new types of property. Under the current unamended UCC, virtual currency is classified as a "general intangible." The only way you can perfect a security interest if you want to loan to somebody and use virtual currency as collateral, is by filing with the Office of the Secretary of State. There are some disadvantages for doing it that way. Under the new amended UCC, the lender can take control of the virtual currency by depositing it in their own account or maintaining a multi-signature arrangement so that it cannot be spent without their permission. That way the lender is better protected in the event a loan goes bad and they need to repossess the assets. There is actually a way to get at them, which there was not under the old rules.

Just an example of why these rules were necessary. There is something in the UCC called a "take-free rule." An example is probably the best way to illustrate it. If you are a merchant, a grocery store, and you sell a cart full of groceries for \$200 to a customer, under the UCC, that sale is final, and you do not have to worry about it being unwound as long as

a few conditions are met: that you have given value in exchange for the money, and you do not know of another claim on the money. If the next day a police detective walks into the grocery store and says that customer did not spend their own cash, they embezzled it from their employer, the rules are clear: the grocer is the innocent party in that situation and that transaction is final. The grocer cannot be sued to get the money back because they have given value and they did not have knowledge of another claim.

Those rules were not in place for virtual currency transactions, which is probably why most businesses do not want to accept virtual currency and why most banks do not want to lend against it. With the new rules, the rules for those transactions will be clear and it should allow these markets to expand in a responsible and more mainstream way than they have currently been able to do so. With that, I will stop. I am going to remain on the hearing and would welcome your questions after the testimony of Mr. Rowley.

Keith A. Rowley, Professor of Law, William S. Boyd School of Law, University of Nevada, Las Vegas

I have been teaching UCC courses for the last 22 years at the University of Nevada, Las Vegas. I am a ULC commissioner and a member of the American Law Institute, both of which are the bodies that are responsible for the UCC. I participated in this process, not as a member of the drafting committee, but as a very interested and active observer, as was the case with the 2010 amendments to UCC Article 9 that modernized some of the rules in Article 9 to try and deal with issues of identifying debtors for purposes of perfecting security interests and other things.

Mr. Orzeske mentioned virtual currency, which obviously was an important driving force in motivating the bodies to undertake first a study and then the drafting process to update the UCC. Another type of controllable electronic record that gets a lot of buzz in the news is a non-fungible token (NFT), which is not necessarily something that is spendable like virtual currency is or could be but is also in the eyes of many a valuable asset that would make up part of a person's portfolio of assets. Just as virtual currency can be a controllable electronic record, so can an NFT under the amendments to the statute.

Mr. Orzeske did not mention, and I think it is worth mentioning—if for no other reason than based on my prior experience testifying before the Legislature about amending the UCC and about other types of uniform laws related to my areas of specialty—21 states and the District of Columbia have already introduced bills to enact these amendments. Those bills have passed at least one chamber of the legislature in half a dozen or more of those states and both chambers in one state. The train is rolling, and Nevada does not want to be left behind for the reasons that Mr. Orzeske mentioned. Availing Nevada businesses and Nevada consumers of the protections that the UCC provides, or at least as uniform as we can get it, is highly beneficial.

The current version of the code, without getting too granular, does allow for personal property security interests in what we are calling now in the amendments "controllable electronic records," including virtual currencies and NFTs. But the only way to perfect that

interest, which is a key consideration for a lender who might be willing to take them as collateral, is by filing a financing statement with the Office of the Secretary of State in the relevant jurisdiction or its counterpart under the statutes of another jurisdiction. That is just not what "crypto natives" expect. They do not expect to have to move outside of the cryptocurrency space or the NFT space and go to an analog; even if it is electronic filing, they would still think of it as an analog, if not antiquated, separate system for filing notification of security interest that also is a significant concern about privacy.

Part of the reason why some of these assets are so interesting to so many people are their ability to engage with them pseudonymously without having to give away all of their personal information. If a lender were to take a security interest in somebody's holding of say, ether, one of the popular virtual currencies, in order to perfect that interest, the lender would have to file a financing statement against that person with that person's name and that person's address listed on a financing statement filed with the Office of the Secretary of State. That is problematic for many people.

The idea of control as a substitute for or as an addition to filing—and indeed a preferred addition to filing a financing statement—allows for a method of protecting the security interest within the environment of cryptocurrency and blockchain technology without having to go outside. These assets will still be perfectible by filing as well, and anyone who is properly perfected by filing prior to the effective date of these amendments would still be perfected and would have a grace period within which to obtain perfection by control so as not to lose their priority over security interests of other parties that might have been perfected by control after control became available.

Another motivating factor was dealing specifically with Bitcoin because of the definition of money that is in the Uniform Commercial Code in Article 1. As soon as El Salvador adopted Bitcoin as legal tender, Bitcoin fell out of what Article 9 deems to be money and there became no way to perfect the security interest in Bitcoin. Given that it is the most valuable and highly sought after of the cryptocurrencies, that is a problem for a lot of people. We needed to come up with a way to enable a party holding Bitcoin to perfect the greatest security interest to be perfected in Bitcoin, and control is the solution.

As Mr. Orzeske mentioned, there are a number of other changes to the code, but most of them are minor. Some of them are in places that do not directly have to do with evolving technology but fixed some things that had rules that had created problems for the courts and reflect an antiquated worldview. I am happy to take questions about any of this either now or to respond to any questions or issues that are raised by subsequent testimony, either during the hearing or subsequently by email, telephone conference, or in-person meeting. I am your Nevada Uniform Commercial Code law professor. I am the only person who teaches these courses and have been for more than a decade at the William S. Boyd School of Law at the University of Nevada, Las Vegas.

With that, I will stop rather than trying to wave through the 120 pages of the bill pointing out all of the changes that matter. Let me just say that it matters; it matters to the proper

functioning of commercial law in the state of Nevada. It matters to the ability of Nevada parties to take full advantage of the broader commercial law and commercial transaction system in the United States. I strongly urge the Committee to approve these amendments and pass them along to the next stage.

[[Exhibit D](#) and [Exhibit E](#) were submitted but not discussed during the hearing and will become part of the record.]

Chair Miller:

Are there any questions from Committee members?

Assemblywoman Cohen:

Proudly, I am a commissioner, but that does not mean I am a commercial code person. Approximately how many meetings or how many hours did the committee work on this update of the UCC?

Benjamin Orzeske:

There were over three years of about 18 meetings that started out in person and then, during the pandemic, moved to Zoom meetings. Those meetings included upwards of 250 observers representing all parts of the banking industry, virtual currency attorneys, and virtual currency holders. They helped us to craft these rules. In addition to those 18 full meetings, there were probably another dozen or so subcommittee meetings of people who were working on specific issues such as the definition of "controllable electronic record" to kind of stress test and make sure that the rules we were drafting worked for everybody. The archive of all of that history is available on the Uniform Law Commission's website including all of the various iterations that the draft went through before the final amendments were approved.

Assemblywoman Cohen:

Were these lawyers, judges, technology experts, members of different states, legislative counsel bureaus, and other experts in these fields from all over the country?

Benjamin Orzeske:

Yes. The commissioners who were appointed to the committee were all attorneys, volunteers, from the various states like yourself, who work as commissioners and offer some expertise to come to the table, but the committees are open to anyone in the public. You do not have to be an attorney, and so a lot of people who are just involved in the virtual currency industry and wanted to make sure that the law evolved in a useful direction also participated. Certainly, the committee sought out stakeholders from all of the groups that you have mentioned, anyone who would be affected by this, to make sure that they were in the room and they could see the process and have a hand in developing what these amendments would become.

Keith Rowley:

If I may add, for those who could not be in the room for a particular meeting—whether it was a live room, an in-person room, or virtual room—the committee also received numerous

emails and letters from various individuals and groups who were interested in certain aspects of the proposed amendments. Those were taken into consideration as well as what was said during the drafting meetings, and there were lively exchanges of emails among the committee members as well. This was extremely carefully considered and a lengthy process that was designed to address all of the issues that were raised and come up with the best possible solution for adhering to the spirit of the Uniform Commercial Code.

Assemblywoman Cohen:

Technically on the bill, in practice, how does perfection work when we are talking about something that is crypto? If a bank perfects a lien against me, and I own widgets, and they can get my widgets and resell them, how does that work with an NFT or cryptocurrency? How do they get what they are owed in this new realm we are working in?

Benjamin Orzeske:

You put your finger on the problem, exactly. There was no good way for the bank or the lender to take control of assets that were intangible around a blockchain. All they could do, when they were categorized as a general and tangible to perfect their security interest, was to file a financing statement that did not really give them control. If the loan went bad, they were still vulnerable and might not be able to collect on it.

What the new rules do is create this separate category of controllable electronic records and give priority to the lender who has control of assets over a lender who has only filed for it. There is a transition period so that anyone who has filed under the old system is grandfathered in and maintains their priority until they have time to adjust to the new rules and adjust their lending agreements. That was the problem. Under the new rules, a lender can take control of the assets—meaning they could either deposit them in their own account, the lender's account, and hold them for the life of the loan or they can have an arrangement where there is a joint holding, multi-signature type agreement between the bank and the owner so that the owner cannot spend these or transfer them without the bank's permission. Either of those are permitted under the new rules.

Keith Rowley:

If I may add, the rules for controllable electronic records actually put a bank or other lender who has taken a security interest in the cryptocurrency or another form of controllable electronic record in a better position than they would be. To use Assemblywoman Cohen's example, had they taken a security interest in widgets—nobody knows exactly what a widget is but we assume that it is a tangible object that we use as a placeholder—if the bank files to perfect, there are two ways to perfect the security interest in a tangible asset; one is to take possession of the asset, which is impractical. In many cases, the construction business does not want to give possession of its earthmover and bulldozer to the bank while it pays off the loan that it has secured with those items and wants to use them and the bank wants them to use them so that they can make money to pay off the loan, which is the bank's ultimate goal. The other is to file a financing statement. If you have done that in the proper place and in the proper way, you perfected your security interest, and then if the debtor defaults on the loan, you have the right to assert that security interest through the process of either foreclosure or

repossession. That still requires going out and getting the bulldozer and the earthmover or holding a sale of them without having possession of them, which tends not to produce a particularly good outcome in a foreclosure sale.

With the controllable electronic records, including but not limited to cryptocurrencies, the lender would have the credentials of the person to whom control of the electronic record belonged at the time the loan was created and would be able to, upon default, initiate a transaction that would move that value without having to go through the process of repossession or without having to conduct a foreclosure sale. That just makes it far more efficient, which makes controllable electronic records a much more attractive type of collateral for lenders than these electronic assets currently are. That will enable people who own them to borrow against them more easily and on better terms than they currently can.

You do not go to the grocery store, typically speaking, and pay for your groceries in Bitcoin, because Bitcoins are far too valuable to break up and the grocery stores would not know how to break up something as valuable as a Bitcoin. You can borrow against that—or at least you will be able to borrow against that once these amendments are enacted—hold on to the upward value, the appreciation of value that the asset might realize, and use it to collateralize a loan that you can spend on day-to-day expenses.

Assemblywoman Bilbray-Axelrod:

I have heard anecdotally, and I know you at the ULC do not deal in anecdotes at all, but there have been stories where people have lost their credentials and therefore lost their Bitcoin. Last session we dealt a lot with blockchain technology and heard a lot of those stories. Would this offer any consumer protection? I am guessing with the banks having credentials when it has to do with loans, but what about your everyday person who purchased Bitcoin and then loses their credentials and from what I understand, once again, anecdotally, it is gone forever?

Benjamin Orzeske:

I do not think these amendments will help with that situation, unfortunately. It is a problem that is inherent in the system. The whole system is built on your having an access code, a key in order to access your Bitcoin or whatever it is on, on the blockchain. When people lose that code, unless the blockchain system itself has set up a system where there might be some way to recover it, but under the early blockchains, Bitcoin and others, there is no way to do that, and this bill will not change that.

Keith Rowley:

I think the real answer for those problems is to enact something along the lines of the Uniform Regulation of Virtual Currency Business Act, which was introduced in Nevada several years ago but did not proceed and is slowly gaining traction. There are other approaches that are slightly different bills pending in California and Illinois that are inspired by, but are not verbatim, the Uniform Regulation of Virtual Currency Business Act. I think Senator James Ohrenschall is planning on reintroducing an act in this session, but perhaps that ship has sailed. I am not sure what the timing rules are.

To the extent that a third party, a bank or some other entity, is holding your virtual currency credentials for you, they would be subject under this act to the rules in Article 8 of the UCC in the same way that securities intermediaries who hold your securities or your security entitlements, your shares of mutual funds, or whatever they might be, on your behalf—there are rules that govern what they can and cannot do with them. And some of those are designed to protect the ultimate owner of the credentials. We have seen just in the past six or eight months, the failure of a major company platform that took virtual currency credentials from customers who believed that the platform was holding the virtual currency credentials for them. But in fact, the platform that was using the credentials for their own benefit lost them. Now in bankruptcy, in December or January, the bankruptcy court informed all of those installers, customers of the platform, that they did not own anything. They did not own the virtual currency they had parked on the platform because of the way that the transaction between them and the platform was arranged. There is some protection here. It is not as extensive as might be desired for protecting against all manner of things that can crop up when somebody else is holding your money or other valuable asset for you, but there is more available post-enactment of these amendments than there is under current law.

Chair Miller:

You mentioned earlier that this is to catch Nevada up with what the other states are doing. Do you have any idea where it is in the process? How many states have already adopted these amendments or changes?

Benjamin Orzeske:

No state has adopted them yet because they just became available. We published them in the fall. The sessions that began in January were the first opportunity to introduce this bill. Twenty-two jurisdictions—21 states plus the District of Columbia—have bills pending. I am expecting somewhere between 5 and 10 more this year that I know are still in drafting but not yet introduced in states where the sessions run later. I expect that over a majority of states will introduce bills before the 2023 sessions, and where we will have enacted bills and probably most of the rest in the next year.

Keith Rowley:

If I may add, there also are two or three states that jumped the gun, if you will, and enacted legislation based on the most recently available draft of these amendments at the time: Texas; Tennessee, if I recall correctly although I could be wrong about Tennessee; New Hampshire; and at least one other state got versions of these amendments already enacted with a pledge from at least two of them that they would come back—and at least two of them already have—and introduce legislation to conform what they had passed in 2021 or 2022 based on the draft of the amendments to conform their legislation to the final version of the amendment. There is a little bit of this law already on the ground out there, although it is subject to a little scrubbing and polishing. By my count, which I do not think is current, the bills that are pending in one state have passed both chambers and are awaiting action by the governor, and about a half dozen states have passed at least one of the chambers—the chamber in which the bills originated. The states are moving on this, and as Mr. Orzeske

said, moving as quickly as they can, except for the gun jumpers who did not wait for the work to finish because the amendments have only been available for a few months.

Chair Miller:

Thank you for that. Not seeing any additional questions from members, I will open it up for testimony in support of Assembly Bill 231. [There was none.] Is there anyone who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position? [There was no one.] I will close testimony and invite the presenter back to the table for any concluding remarks.

Assemblywoman Backus:

I just want to thank you for your time. I know it was a thick bill with lots of conforming changes. I would also like to thank Mr. Ben Orzeske and Professor Rowley for their time today. I hope we can gain your support on this bill, and I will be available to answer any questions that you may have later on.

Chair Miller:

I will close the hearing on Assembly Bill 231. Next on our agenda is Assembly Bill 238, presented by Ms. Brigid Duffy.

Assembly Bill 238: Establishes provisions relating to commercially sexually exploited children. (BDR 38-323)

Brigid J. Duffy, representing Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children:

I am an assistant district attorney with the Juvenile Division of the Clark County District Attorney's Office. I am presenting Assembly Bill 238 not from me and my position as an assistant district attorney but on behalf of the statewide Coalition to Prevent the Commercial Sexual Exploitation of Children. What I am presenting today is the bill I referred to last Friday when I presented Assembly Bill 183, which is another interim bill that kind of marries the two together. Assembly Bill 183 was about assessments and screening of children to ensure we are providing the appropriate services for victims of sexual exploitation. The bill today is going to be about training and multidisciplinary teams (MDT).

It is a long bill and I have tried to condense it to make it easy to walk through. With the bill in front of you, sections 1 through 3, 5, 6, 13, 15 through 21, 23 through 27, 30, and 32, all require certain persons who interact with children as part of their employment to receive training concerning the identification of and assistance to commercially sexually exploited children and those who are at risk of that exploitation. I saw there are probably about 13 different categories of people to be trained. They would include:

- Foster parents.
- Employees of a childcare facility—more commonly known for a childcare facility are our emergency shelters: Child Haven in Clark County and Kids Kottage in Washoe County.

- Child welfare agency employees.
- Attorneys who represent children who are in foster care as well as attorneys representing parents who have children in foster care.
- Court-appointed special advocates and guardians ad litem.
- Juvenile justice agency employees.
- Employees who work at our state-run correctional facilities for children: Caliente Youth Center, Nevada Youth Training Center, and Summit View Youth Center.
- Parents' attorneys in termination of parental rights proceedings.
- State public defenders who regularly work with children.
- Attorney general and his deputy attorneys general who regularly work with children, including the attorney general ombudsman.
- District attorneys and deputy district attorneys who regularly work with children.
- School district personnel, which would include teachers, nurses, counselors, social workers, psychologists, and resource officers. That would include private schools as well as our public schools.

Those are the categories of individuals we would have receive training in order to identify victims or potential victims of sex trafficking.

Sections 8 to 12 amend *Nevada Revised Statutes* (NRS) Chapter 432C to allow for the creation of multidisciplinary teams to review the cases of commercially sexually exploited children. Section 9 dictates who can create those teams, which would be a child welfare agency or other relevant agency of a local government. The best practices indicate that teams should, when possible, include child welfare representatives, district attorney representatives, law enforcement, school district representatives, mental health representatives, representatives of a local government that supports the needs of commercially sexually exploited children, which would be our victim advocates or other advocates in our community, and then a catchall of anyone else that the team would find appropriate to assist with their work.

What they would do is in section 10. They would look at various records, assess and analyze cases, ensure a coordinated response that meets the needs of a child throughout the criminal justice process, and processes to arrange services to the child. They would also make recommendations to improve laws, policies, and practices to better prevent and respond to cases. You might see, in the future, bills coming forward out of those multidisciplinary teams. Another catchall for what they may do, which is to take any action with the purpose of supporting the safety and well-being of children and preventing victimization and preventing the exploitation.

Section 11 would allow for information sharing that would include law enforcement information, medical or mental health information, social or rehabilitative services that have been provided by any social service agency, education information, juvenile justice information, and child welfare information. Section 11, subsection 2 would require the MDTs to make efforts to get written permission of the person responsible for the welfare of the child prior to sharing records. We would make efforts to get the parent, guardian, or

custodian's permission to share records among the agencies, if we are able. They are also to collect aggregated data, which would be data that does not identify specific children that could be used for research for prevention efforts. It also provides for confidentiality and exceptions to confidentiality, which would include criminal investigations and mandated reporting requirements. It also has a penalty for breaching that confidentiality, which would be the gross misdemeanor penalty.

Section 12 creates an executive review committee. This would be an oversight committee of each of the local MDTs that would be created and established by the Division of Child and Family Services (DCFS) of the Department of Health and Human Services. They would create the statewide protocols for the teams. They would adopt regulations to carry out those provisions. They would have their own bylaws created to govern the executive committee. They would oversee the training and development of the local MDTs, and they would also compile and distribute statewide annual reports including stats and recommendations for regulatory and policy changes. You have all these local multidisciplinary teams, and I know in both Washoe and Clark, we have them already operating—I can tell you a little bit about Clark County's if you would like to hear about it—and this would be an overarching executive team where the locals would go and talk to the group there and then ultimately come together to make the recommendations for any policy changes that would be needed within the state.

Finally, in section 14, we have an addition to NRS 62C.015, providing that a child must not be placed in a state or local detention facility if the child is alleged to have violated certain delinquent offenses, or criminal offenses if they were adults—those would be trespass, minor in a gaming establishment, obstruction of an officer, or false information—and there is reasonable cause to believe that a child is a commercially sexually exploited child, which is why you can see why the training is important so that we are able to identify who is actually a victim and that as part of their victimization, they are committing certain offenses.

That is the bill, and I know the MDT part may seem a bit overwhelming, but as I said, we are actually already practicing that in the two large counties. These recommendations that are coming to you were a part of some national groups that looked at what we do in Nevada for our victims of commercial sexual exploitation and made some recommendations to Nevada. Some of the recommendations included the statutory requirement for multidisciplinary teams, statutory training for certain people who worked with children, and what I testified to previously about mandating the screening requirements. With that, I would be happy to take any questions to clarify the bill.

Chair Miller:

Are there any questions from Committee members?

Assemblywoman Considine:

I have a question on the training. I am thinking of foster parents. I am thinking of all of these folks who sometimes already have a hard time finding foster homes. Who is paying for the training, or is this training free for at least certain groups that are already burdened?

Brigid Duffy:

Right now, foster parent training is put on by the child welfare agencies. They have requirements, as you can already see in statute, for certain training. I think most recently we updated the statute for retraining around the LGBTQ community of children. Most of our training is provided online and they can watch it and they are required to update that training yearly. This would just be in addition to that training.

Assemblywoman Considine:

To be clear and I have it on the record, there is no cost for this?

Brigid Duffy:

There would be no cost to the foster parents for this. I do not know what the agency would have to pay to upload a training to them.

Assemblywoman Cohen:

In section 5, subsection 5, the new language about the appointed attorneys who are getting the training, are they attorneys who are representing the parents in an NRS Chapter 432B case? Those are the ones who are getting the training, correct?

Brigid Duffy:

Yes, it would be both parents' attorneys and children's attorneys.

Assemblywoman Cohen:

Okay. Are the parents' attorneys mandatory reporters, and are they going to be required to report after that training? And what is the reasoning behind having the parents' attorneys get this training?

Brigid Duffy:

I know there are limitations on children's attorneys with regard to mandated reporting. I am not sure about a parent's attorney. I will have to pull that statute up unless Legislative Counsel Bureau's Legal Division can tell us. Of course, all of the mandated reporting would be limited by whatever the requirements are that are currently set in statute. Of course, we know that children's attorneys are not required to report things, unless other things are in play. The more people who interact with children who can identify that a child is a victim or at risk of being a victim, the better it is for our children. When attorneys represent parents, in my opinion, I do not know if they have a different one, but I think it would be important for an attorney to recognize why a child might be behaving a certain way so that they are able to guide their own client into understanding their child's needs and why certain recommendations may be being made for their child to do certain things, or why parents might be required to do certain things for their child. We really are a problem-solving court, so if everybody is identifying these things and then are able to counsel their clients on why their child needs this or that and why not to oppose that their child go to certain types of counseling, I think it just makes the system better.

Assemblywoman Cohen:

I want to make sure that we are not doing any unintended consequences when it does come to reporting, but that does make sense.

Assemblywoman La Rue Hatch:

In section 9, it talks about how any agency that is providing child welfare services, or any other relevant agency, can create one or more teams. I just wondered if you could give some clarity there. Are we thinking there are multiple teams for the school district, multiple teams for agencies overseeing foster kids, and multiple teams with the district attorney? If that is all happening, how are we ensuring that they are communicating with that many separate siloed teams?

Brigid Duffy:

That is a really good question, Assemblywoman. During the course of creating the language around the multidisciplinary teams, the reason it is a child welfare agency or other relevant agency is because in some jurisdictions they are led by law enforcement agencies. In Clark County, our local MDT is led by our Las Vegas Metropolitan Police Department (Metro) and they bring everybody together. Now in other counties, the child welfare agency might want to be the lead. We allowed that to be open for each county and how they would prefer to do it.

As to whether or not there would be different teams running, that is a possibility. However, there are so many different requirements of the team so there could be an MDT that is really just looking for the research and development of practices. The child welfare agency could create an MDT in order to identify the specific needs for kids that were missing within the community. Law enforcement in Clark County right now, our MDT is created to make sure that we are giving the appropriate services to our victims, that they are coordinated services, especially in the cases going to court, so that they have the advocate with them, and they are able in court to prosecute the sex trafficker. We have all of those different things. Yes, there could be multiple teams. I think that the creation of the executive committee is really going to be that umbrella organization that oversees what is going on and is able to guide that training and responsibility.

Assemblywoman La Rue Hatch:

I know that you created that umbrella organization that you just described, but it says in this bill that that will be created from the members of the multidisciplinary teams. I am wondering how can that organization organize all of this, if that organization cannot be created until all these other teams are created?

Brigid Duffy:

The Division of Child and Family Services will create that executive team, and then they will pull the members from each of the teams that are in place. We already have teams in place in Clark County and Washoe County. We can already identify who the members are of those teams. This practice is already going on. We are now just making it a statutory requirement so we can get some uniformity about who was supposed to be there and what we are

supposed to be doing. I do not think there is going to be that issue of not having anybody to start pulling into the executive team. Also, we already have in place the Coalition to Prevent the Commercial Sexual Exploitation of Children, and in the conversations when creating the recommendations for this bill, we see the Coalition becoming that executive team because they are already in place. The DCFS already helps guide us through that Coalition. They would just naturally turn that into the executive team and then we would all fall underneath of it.

Assemblyman Gray:

How many hours are foster homes already required to have for their licensing? And how many hours would you envision this training adding to that?

Brigid Duffy:

I am sorry, I do not know how many hours each foster parent is required to have. I can definitely get you that information, since I work closely with child welfare agencies, and let you know. There is not a specific time amount. It is just a requirement for every 90 days and then annually thereafter. I know that the training that I do along with others for juvenile probation officers is a two-hour training. It could be up to two hours in order to get the message out there of what needs to be looked at.

Assemblywoman Mosca:

In section 10, it says "a multidisciplinary team shall," and you shared that we are already doing this. With reference to section 10, subsection 1, paragraph (c), I am curious, for the "coordinated response that meets the needs of the child throughout the criminal justice" system, how long is that typically taking? Are we hoping that this helps with that time? How many young people are we talking about right now?

Brigid Duffy:

I just want to clarify if I may, do you mean how long is the coordinated response taking? Is that what the question is?

Assemblywoman Mosca:

Yes.

Brigid Duffy:

Right now, in Clark County, we have a fantastic coordinated response. When Metro's Vice Section identifies a victim of commercial sexual exploitation, whether that be because they have solicited, they are a minor in a gaming establishment after hours, or because they are trained to identify, they have a process where they call out advocates to the scene to meet with that child. That process is already starting. Actually, I have a multidisciplinary team meeting for this population of victims scheduled tomorrow afternoon when I return to Clark County. All of those children who have had contact will be on this list and we will make sure where we are within the court process of processing any identified trafficker, making sure the advocates will tell us how they are working with the child and what services are being put in place.

Sometimes we talk about other services that are needed; random services like, sometimes a child will mention she wants her tattoo removed because she will be branded or tattooed. It all happens pretty quickly, and we meet monthly on the multidisciplinary team. But the coordination in Clark County is immediately upon identification because our advocates are working in the middle of the night to go out to the scene. Pretty soon it is going to be our child welfare agencies making sure they are coordinating in there.

Assemblywoman Mosca:

How many young people are we identifying through this process?

Brigid Duffy:

On my MDT calendar, there are probably about 20 children. Sometimes they are duplicated because we can bring the same child back; not because they have been identified twice, but just to follow up. I think we average probably about 20 cases we review a month. I know our Metro Vice Section has those numbers for last year. I think they have identified a little over 100 children through law enforcement contact. Our child protective services hotline does not require law enforcement contacts, so anybody in the community can call if they believe that they have identified a child who is a victim or at risk of being a victim. That number is larger than 100. I am not exactly sure how many we are getting a month, but that is the addition of those mandated reporters in NRS Chapter 432C—teachers, doctors—they all need to be reporting, and then a regular citizen can report as well.

The common theme, as somebody who has been living this system and trying to figure out how to best help and protect these children, is there are a lot more; we are just not identifying them, which is why that bill from Friday came out that we need to do better identification because the faster we can get services in and the faster we can get them to get out of that cycle they are in, the better chance we have at success for them.

Assemblywoman Hansen:

Having been involved over the last maybe six or seven months with the Nevada Human Trafficking Coalition and attending some of those meetings, I have become painfully aware of what I wish I did not know. Understanding the psychology, I really see the need for this training because I was surprised at how there were things I never would have thought of when it comes to how you might identify this child, the behaviors, some of the pushback you might even get from these children. I am really glad Clark and Washoe Counties are doing this, but how will this impact the rurals? Is this going to be a heavy burden on them with these multidisciplinary teams? Have you engaged with the rurals on this bill, and what has been the response?

Brigid Duffy:

We did have rural representation on the statewide Coalition. We had a subgroup that worked on the language and then it was taken to the full Coalition, and any concerns that were raised during the working of the language have been identified. For example, one of them was around making sure parents were involved if we are getting private health information and

making sure that we at least made efforts to notify parents and guardians of that. I have not heard of any other concerns that were raised outside of that, and maybe today we will hear some; I do not know.

Assemblywoman Summers-Armstrong:

We heard about a similar piece of legislation last week. It dealt with folks who provide services in shelters. One of the issues was consistency in training. There is a different way to do things in the south and the north and also in the rurals. Is there any discussion with those groups, because these are similar populations that need to be served, so that the education that is being given has some basis in consistency? There may be some changes or things that are just slightly different as people get older or the circumstances are different, but I am concerned that the training might, as my colleague said, just not be consistent, and people are in silos when they are doing this. What is this going to look like for human capital? Are we talking about expanding teams in the district attorney's office with more employees, more employees for the state that will have to run this, and more police personnel to do this type of work? How is this going to affect the need for human capital?

Brigid Duffy:

I appreciate the issue around the consistency in training. I think that is a very big issue. We do not address in this bill that everybody has to do the same training; it is, find training that works and get it done. Within the statewide Coalition, we had a subgroup around training so that we could find a training that would work across the state and statewide. I think that is still a mission within that group to make sure that we can tell everybody there is a catalog of training that is evidence-based, best practice, informed for that different population. Within the district attorney's office, as far as training, we put on our own continued legal education (CLE). We specialize them. For the juvenile division, there are relevant topics for me that may not be relevant to criminal and that I want all my attorneys trained on, like childhood brain development and adverse childhood experiences. This will be a natural fit for me to just have that CLE brought in.

The issue was raised to me by my public defender friend: who do we foresee is going to be doing this training? Of course, in Clark County, I would partner with the public defender's office. We can sit and do the same CLE. Attorneys have to get a certain number of credits each year. For the police, they already have a training, which is virtual. We discussed this during the creation of this bill when probation departments asked where to find this training. Our police departments already have a training catalog. This is one of the training pieces that peace officers have. They are able to use that same catalog of training. Child welfare agencies incorporate this already in Clark County in training new employees. They will just expand it out to their current employees.

But it is not all consistent, which is your point, and I get that. If there is any way we could find a way to make it consistent, I am a hundred percent on board for that. I think that is going to take the statewide Coalition to say this is what we want everybody to be trained on, this is what the training looks like, and then putting that out there. One big issue is that nothing that we do for this population of children has come with any money. Everything we

do is a ragtag team of people trying to do the best they can. Yes, we could pay for really great training, but nobody is providing the funding to do that. This is a policy committee; this is good policy. I cannot force people to buy a certain catalog of training, but we will do our best. Any little bit helps.

Human capital, I do not see a need. I do not see that we are going to be creating new teams of anybody. Most of this is already going on. It is just not statutorily required. It was recommended by national organizations looking at our state to say, You need to require this because it is only as good as the people who are in the positions they are in now, and we need this to be ongoing after that.

Assemblywoman Gallant:

I think this is amazing that you are all working together and especially with no money. I know that is difficult. I am curious though, is there any thought about reaching out or offering, with the various organizations and the training that they are providing, for some organizations that have not been named but would see children? Off the top of my head, I am thinking of libraries. It is a place to stay cool or warm, have free Internet, and that would be a place where kids would go sometimes and where the librarians could identify this—probably not at this mass population, but in my mind, one is better than none. Even with the statewide Coalition that you are looking at or with the various municipalities and the police departments, is there any opportunity for organizations that want to have this training, like the libraries and what not, to just be part of the team and part of this grassroots effort?

Brigid Duffy:

When we looked at who to require having this training, we looked at the members of the Coalition, which included the Office of the Attorney General, for instance, and felt we had, I will use the word "jurisdiction" to make it required. I thought it was a little bold; we were even stepping into the schools, but I know that the Clark County School District has already talked to me about the mandated reporting requirements, training, and things like that. We took that bold step to say, Hey, you have 300,000 of our children in your care every day; you are our biggest population of identification. We need you on board for this. Libraries, I think we would feel like we are just going out too far. But if anybody ever wants it, and not statutorily required, we would be happy to come out or I would be happy to find somebody to come out and talk to them.

Chair Miller:

It is interesting because there has been such a combination of different professions. We have members of the Office of the Attorney General, attorneys, school personnel, foster parents, a huge group of people—the ones who are primarily involved with children—and yet the training will be inconsistent in the material and the content as well as the delivery. When we talk about the schools, they are basically the number one reporters, not just mandated reporters, but because of literally spending so much time with children and learning children's behavior. I never ever want it to go unsaid that other students are the real "most valuable players" in this, because other students are always stepping up to ask for help, report things, let staff know what is going on; they really do a remarkable job helping their fellow

students as well. I know in 2019, it was reported, in either this Committee or Assembly Committee on Health and Human Services, that when it came to suicide prevention among youth, 51 percent of reporting was coming from the schools. We know that during COVID-19, when the buildings were physically shut, child protective service reports just plummeted because again, the number one reporting is coming from the schools.

Based on what is already happening and the training that is already there, I guess my question is, what is the expectation then? Because we already know the reporting and services are happening. Is there a belief that we will find so much more percent of trafficking? Is the intent of this to really deliver services to the youth or to be able to, on the criminal side, get to the arrests and convictions of the perpetrators? What is the real essence of this? I know that this bill came through the Department of Health and Human Services and many of us were not privy to those discussions during the interim.

Brigid Duffy:

The last purpose in my mind right now is about prosecution of traffickers, that is, with regard to this bill with training. With the training portion of this bill, the purpose is for that early identification so that they can first do the assessment and then obtain services. Identifying a victim of sex trafficking is not the same as identifying a victim of child abuse. Sometimes symptoms overlap but sometimes they do not: certain things like a child's tattoos—dollar signs on the hands, neck tattoos, which are a trafficker's way of identifying their property; multiple cellphones; a child who is suddenly coming to school with additional money or looking like they have things they did not have before; a child who is sleeping in class a lot; or a combination, because they have been up all night being trafficked, but they still go to school. Our girls and boys still go to school.

A combination of all of those things together says, Oh, I should probably call the hotline, report that I have some concerns, let the hotline—hotline being a child welfare agency which is required by federal and state law—experts take those reports and identify whether or not this child needs an additional assessment and then provide services if they are deemed to be a victim or at risk of being a victim to their families and the child. So that is the purpose of this bill. I am not worried about the criminal prosecution at all. It is really just making sure that all eyes are on our kids and we are identifying them early.

Chair Miller:

Maybe it was my misunderstanding, but I thought I did hear you say, Ms. Duffy, that it was about the prosecution.

Brigid Duffy:

The multidisciplinary team is different. I was focusing on the training to identify and not about the prosecution. The multidisciplinary team has several goals. One of them is to make sure that we are all communicating for that prosecution of the trafficker. That is one of the goals; other goals include the services and coordination of the efforts to that child.

Chair Miller:

I do not see any additional questions from the Committee at this point. I still have some questions that I can take offline. I think whenever it comes to bills involving training, we always have the same sentiment about consistency, quality, and sharing in the delivery part of the training, and I think that members have echoed that sentiment as well.

Brigid Duffy:

I just want to comment on that. Because we have DCFS as the ultimate hub that oversees our Coalition and the executive MDTs, there could be a fix if this Committee wanted the identification of the training to run through them before being sent out; we would then have one agency with the input of everybody, because that is what we do on the Coalition. Again, I am not the whole Coalition, so I cannot make that decision. But I would love to have those conversations. I know my friends at DCFS are not here today, but I would love to have the conversations with them to see how they feel about putting that in. I am one member of an entire statewide Coalition (CSEC), so it is not the CSEC according to Brigid Duffy, but I am doing my best to send the message from them.

Chair Miller:

Is there anyone who would like to testify in support of A.B. 238?

Serena Evans, Policy Director, Nevada Coalition to End Domestic and Sexual Violence:

As I have previously said before to this Committee, timely intervention and connection to resources is the key to being able to help minor victim survivors escape commercial sexual exploitation and live happy and healthy lives. We also know that exploitation often happens at the hands of a family member or trusted adult, and so many victim survivors do not know how to ask for help or even identify as victim survivors. Increasing the training for those working with children on identifying and assisting the Coalition victim survivors is a positive step in increasing the likelihood that these individuals will get the intervention and the safety planning they need. Additionally, because of the complexities of Coalition cases, multidisciplinary teams and executive review committees will positively impact victim survivors and the agencies interfacing and supporting these individuals. We appreciate the victim-centered measures.

Jason Walker, Sergeant, Patrol Division, Washoe County Sheriff's Office:

We believe the more resources we put into this area, the better in identifying these child victims, and therefore we are in support of A.B. 238.

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

We feel this bill will bring awareness to these crimes. It will help us identify more victims to provide more services and, hopefully, ultimately bring more perpetrators to justice. Assemblywoman Mosca, I will work with my colleague to get those numbers for you. I would also like to thank Ms. Duffy for her presentation and the Joint Interim Standing Committee on Health and Human Services. We support this bill.

Regan Comis, representing Awaken:

I will just echo the comments of the previous speakers and voice our support.

Chair Miller:

Is there anyone on the phone who would like to testify in support?

Lauren Boitel, Executive Director, Impact Nevada; and Chair, Nevada Policy Council on Human Trafficking:

We would like to formally support Assembly Bill 238 as we feel it is important to ensure that any person who interacts with and impacts at-risk children in any way be appropriately and robustly trained. Further, we feel the creation of the multidisciplinary teams with oversight from the executive committee will better protect and serve child victims in a more comprehensive, thoughtful, and appropriate manner according to their unique needs. For these reasons, we respectfully request your support for this bill.

Chair Miller:

Is there anyone else who would like to testify in support? [There was no one.] Is there anyone who would like to testify in opposition?

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

I hate coming up to oppose a bill that is going to be putting good things in place. Pursuant to the rules of the Committee, I am only going to talk about section 9 that creates and codifies multidisciplinary teams. We have a whole juvenile public defender's office that was not consulted with nor talked to about putting some things in place. We are sometimes the people who are closest to this issue. Both our attorneys and the attorneys from the Legal Aid Center of Southern Nevada have done battle with the district attorney's office when it came to locking these young girls up. We have had disagreements, and sometimes we are close to the issue but not brought in to discuss the issues. So that is our problem. If we are going to codify a whole team, I think this team needs to be robust. I think it needs to look at all angles and who could be part of the solution. So that is where it stays there. Sometimes we create these committees and they seem to be law enforcement heavy, and we all come from different perspectives. I think it is important to have diverse perspectives because this team smacks of, "Everybody is talking about me, but nobody is talking to me." I think it is important when we move forward on a piece of legislation that it is going to change something. Hopefully we will get to a point where we can adjust this bill and be in support.

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

I echo the sentiments and statements by my colleague, Mr. Piro. I think it is important to remember that our clients are victims of sex trafficking too, and they need a voice at the table. I will briefly add, as Assemblywoman Cohen touched on, I think there are some concerns regarding conflicts of interest that may arise when we are talking about attorneys who represent parents. Just thinking through the policy objective, and pursuant to

Committee rules, we oppose as written but I think we will be able to get to a place of agreement.

Chair Miller:

Is there anyone else who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position? [There was no one.] I would invite the presenter back to the table for any concluding remarks.

Brigid Duffy:

I want to thank you on behalf of the Nevada Coalition to Prevent the Commercial Sexual Exploitation of Children for listening today.

Chair Miller:

I will close the hearing for A.B. 238. Is there anyone wishing to make public comment? [There was no one.] We will begin tomorrow at 9 a.m. This meeting is adjourned [at 9:28 a.m.].

RESPECTFULLY SUBMITTED:

Traci Dory
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 document titled, "Overview of 2022 Amendments to the Uniform Commercial Code – Emerging Technologies," submitted by Benjamin Orzeske, Chief Legislative Counsel, Uniform Law Commission, in support of Assembly Bill 231.

[Exhibit D](#) is a document titled, "Why Your State Should Adopt the 2022 Amendments to the Uniform Commercial Code," submitted by Benjamin Orzeske, Chief Legislative Counsel, Uniform Law Commission, in support of Assembly Bill 231.

[Exhibit E](#) is a document dated July 21, 2022, titled, "A Summary of the 2022 Amendments to the Uniform Commercial Code," submitted by Benjamin Orzeske, Chief Legislative Counsel, Uniform Law Commission, in support of Assembly Bill 231.