

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

**Eighty-Second Session
March 17, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 9 a.m. on Friday, March 17, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Brittney Miller, Chair
Assemblywoman Elaine Marzola, Vice Chair
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:

Assemblywoman Shannon Bilbray-Axelrod (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Devon Kajatt, Committee Manager

Minutes ID: 499



Aaron Klatt, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

Bryan Holloway, Director, Financial Crime Unit, BHG Financial, Fort Lauderdale,
Florida

Chair Miller:

[Roll was taken. Committee rules and protocol were explained.] Good morning, everyone. Welcome to Assembly Judiciary. I know that the agenda says that we have two bill hearings and three work sessions, but it is actually going to be just one bill hearing today. We will not be hearing Assembly Bill 300 today.

Assembly Bill 300: Revises provisions relating to domestic partnerships. (BDR 11-146)

[Agendized but not heard.]

With that, I will open the hearing for Assembly Bill 291. This will be presented by Speaker Yeager and Bryan Holloway, who is on Zoom. This measure revises provisions relating to the prosecution of certain crimes.

Assembly Bill 291: Revises provisions relating to the prosecution of certain crimes. (BDR 15-473)

Assemblyman Steve Yeager, Assembly District No. 9:

It is a pleasure to be with you here this morning to present Assembly Bill 291. As you indicated, I have a special guest joining us on Zoom this morning, and I want to thank him for being here. What I would like to do with your permission, Madam Chair, is take you through the bill at a high level and then hand it over to Mr. Holloway, who is actually the one who brought this bill idea to me about a year ago. He then can give you a real-world perspective on why this bill is needed. I hesitate to say it is a simple bill, but I think it is a straightforward bill.

This involves the prosecution of certain crimes and obtaining money under false pretenses. When you look at the text of the bill, the new language on page 2, it says that to be able to prosecute someone for a violation, you do not have to establish that all of the facts constituting the crime occurred in the state of Nevada or within a single city, county, or local jurisdiction in this state, and that it is not a defense in a criminal prosecution that some of the acts might have occurred outside of the state. What we are really trying to get at here is financial crimes that are perpetrated on the Internet. What you see in existing law is a twentieth century law in an era of twenty-first century Internet financial crime.

Mr. Holloway will give specific examples, but if you think about a situation where you have a Nevada resident who is taken advantage of on the Internet; they may get a solicitation of some kind, or someone reaches out to them with an investment they would like the resident to join in on. The Nevada resident may say, Well, I do not have any money, to which they may respond, I can get you a line of credit. Go ahead and fill out these forms and send them to me. Those perpetrators are not necessarily in the state of Nevada. Often, they are in other places in the country. Sometimes they are overseas, which is a whole different ball of wax that the federal government needs to get involved in. However, the goal here is to prevent the hesitancy of local law enforcement from wanting to pursue cases like these. They may think that if some of the stuff happened in another state, they might not be able to work up a case and be able to have a prosecution that actually sticks. That is what the bill does.

It has been enacted in several other states. Mr. Holloway can speak to that. He was the one who suggested we model this bill on North Carolina law that did the same thing recently. With your permission, Madam Chair and Committee members, I will hand it over to Mr. Holloway, who is the Director of Financial Crime at BHG Financial and he can give a little more context for the bill.

Bryan Holloway, Director, Financial Crime Unit, BHG Financial, Fort Lauderdale, Florida:

At a very high level, I would like to present to the Committee what we see on a regular basis. My company will see about 350 fraud loans per month [page 2, [Exhibit C](#)]. My company provides commercial and consumer loans, and we also offer credit card services; however, the core of our business is business and consumer loans. Of that we are exposed to approximately \$30 million of losses per month in loan fraud and we lose a very small portion of that, but as you see, it is still quite a bit of money at \$250,000 a month. All of our business is originated online, which makes us a big target for fraudsters.

What they are typically providing us is a manipulated income verification or bank statement document. It is very easy to manipulate these documents. People can walk you through how to do it on YouTube, and they will always put the tag line that it is for "entertainment purposes" so it covers their end of it, but it is designed to defraud large and small financial institutions alike.

My team and I are investigating these acts of fraud when we do take losses. Oftentimes we can go to the police or the sheriff's office and present a case where they would be able to obtain an indictment just based on what we have. We cannot subpoena bank documents nor interview the suspects like the police can, but we can provide enough information for them to have a good idea of where to send those subpoenas and whom they need to speak with. As Assemblyman Yeager stated, because the specification of jurisdiction is not called out, there are elements of the crime that could take place outside of the state.

For example, what I will see on a regular basis is somebody who submitted us documentation. Moving to the next slide [page 3], you can see an example of this documentation. In the black there on the left is the original version of a pay stub. We have

a tool that is called Inscribe, that is sometimes able to identify the manipulated portions of the document. You can see the portions that are highlighted there; those have been manipulated. You can see it went from a \$78,000 rate of pay to \$215,000 on the right. We would have received the \$215,000 document and we would send this amount of money to the borrower thinking that they make this much money when they actually do not make anything close to it.

If I go to the Las Vegas Metropolitan Police Department and present this to them, I will say you have a resident here who submitted this to us and they will ask me, Well, where is your bank located. I tell them that we are in New York and in Florida and they will then tell me, You need to go to your officers in one of those jurisdictions and file your charges there. So, I go to either the Syracuse or Davie Police Department in Florida and say, We have this case. Somebody just got \$100,000 from us and they stole it essentially. Can you go and prosecute them? They will kindly tell me, Your suspect is in a completely different part of the country that is well outside of our jurisdiction. We do not have anything to do with this. This fact is very well known to the fraudsters, and they will take advantage of this. They know there is a very low risk of their being caught or charged. If that even does happen, they know local prosecutors will have this type of situation where they are not fully sure they can obtain a conviction and they will just decline to investigate or prosecute the matter at all.

I also have another example here of something that is a little less obvious [page 4]. We get these all the time where they will have spelling mistakes. We have "Taxable martial status" in this example, where it obviously should say "marital." We will have a "statuary" deduction, as opposed to a "statutory" deduction. There are very clear hallmarks on these, but as we are getting so many loans, there is really no way that we can stop one hundred percent of them.

This is the real-world example of what we are seeing, and all we are asking with this legislation is to follow North Carolina's lead. As Assemblyman Yeager stated, this would help the law enforcement agencies by allowing them to fight twenty-first century crime when, as of right now, we have primarily twentieth century laws on the books. That is my testimony, and I am happy to answer any questions you might have.

Assemblyman Gray:

I am just wondering if there is anything that establishes that either the crime has to have taken place in Nevada, the victim has to be a resident of Nevada, or the perpetrator has to be a resident of Nevada? I can think of cases where people are lured out of Nevada for the crime to take place. I appreciate the clause in there that says, "not all of the acts" have to, but is there anything that says any of the acts have to?

Bryan Holloway:

The idea is that if I am sitting at my computer in Nye County, for example, and I upload the document in Nye County and transmit it from Nye County, that is the part of the criminal act that took place within the state of Nevada. Therefore, that should be able to be charged by Nye County prosecutors. Due to the money going across state lines, being received over

state lines, or the bank or victim residing in another jurisdiction, that is where law enforcement and prosecutors get confused. It is my opinion that this legislation is not technically required for them to investigate it. However, from a practical sense, the clarification is not really laid out in any statutes when it comes to this type of criminal activity.

When this law was originally written prior to the Internet, all the acts of this type of crime would have taken place within a bank. Say it was a bank in Las Vegas, you would have the victim in Las Vegas, and you would have had the perpetrator in Las Vegas. It would have been no question of where this criminal act occurred. It is because we have this aspect of the Internet now where one party is in one location and another party is in another location. That is where the lines get blurred.

This specifies that wherever the acts took place, if they are illegal as they happen in that location, it would allow law enforcement and prosecutors to pursue charges in that specific locale. If somebody is lured out of Las Vegas after they received an email, I would argue that this would apply to that as well, if it could. However, I am not sure if Nevada has a long arm statute or something similar that would allow somebody to be brought back to face those charges. Nevertheless, what this focuses on is that wherever the illegal steps or acts take place, it does not preempt law enforcement from pursuing charges against those individuals.

Assemblywoman Cohen:

Are there any interstate compacts regarding prosecution of these types of crimes?

Bryan Holloway:

To my understanding there are not. I would argue, from a legal perspective, that the federal government should cover these types of crimes. I would argue that, technically and legally, the FBI or other federal agencies would have jurisdiction over this type of matter. I think that is why there are no compacts or treaties. Practically, the FBI will not even listen to anything that I have to say to them as far as financial crimes go unless the losses are in the millions of dollars. Typically, it will be \$2.5 million to \$3 million before they will even look at it, which is obviously quite a bit of money. My cases that I deal with on average are about \$100,000.

As Assemblyman Yeager said, I am also currently pursuing action by the Arizona Legislature as it has been done in North Carolina. One of the reasons I am looking to have this done in as many states as I can is that if every state has a law like this, then there will be essentially a de facto compact. There are crimes that are organized.

I can think of a fraud scheme that did impact a resident of Nye County, who was basically contacted by somebody who ran a crypto scam. They said, All you have to do is give me your information. I will create a bank statement for you. I will create a pay stub for you. You just let me control your email and once you get the money, you can invest it into my crypto deal and then you will become rich off that. He did this with five or six very young individuals, all between the ages of 20 and 23, in five different states. When I put all those

cases together, it did add up to about \$3 million, but in order for me to do that, I have to go to each law enforcement agency individually, have them investigate it, and if even one of those agencies does not investigate, I do not get to that \$2.5 million to \$3 million range.

To answer your question, I believe the FBI should cover this. Practically, they just do not have the resources or the manpower to have these small \$100,000 cases be investigated. That is something that is my job; I look at that as my responsibility; to bring that information to them, to file appropriate suspicious activity reports (SARs) that can help them identify these types of cases. We do not want to ruin these kids' lives, but we do want to hold them accountable in some form, and without the local law enforcement's ability to bring these suspects in, we are at a disadvantage. We want to hopefully use their testimony to go after the really big fish out there who are really reaping the benefits of these types of scams.

Chair Miller:

I like to make sure we all know the acronyms and lingo that we are hearing. When you say SARs, you are referring to a suspicious activity report that the bank or investigator, like yourself, would report when they suspect some type of suspicious activity, correct?

Bryan Holloway:

That does mean suspicious activity report. That is something that I am legally required to ensure is filed with the Financial Crimes Enforcement Network anytime I see anything that is potentially related to money laundering or violations of the Bank Secrecy Act.

Assemblyman Yeager:

I think the problem we are trying to get at is getting somebody to file charges. We have different states pointing to other states and then the federal government saying that this does not really rise to the level of something they care about. With respect to compacts, I do not know if it is a compact or an agreement, but certainly the states work together on extraditing offenders. We may have a charge filed in Nevada, but if the individual against whom the charge is brought is in another state, we have the issue of how we get the person back here to Nevada to face the charges. If Mr. Wilkinson were here, he would probably know the answer to that question. I do not know if there is a formal compact or agreement, but it is very typical for states to honor extradition requests from other states. If it rose to the level of a felony, Nevada could make an application for extradition and notify local law enforcement in a different state that they are looking for somebody. Once that person gets arrested, there is an extradition process to be able to get them back to Nevada.

I know not everyone on the Committee practices criminal law, but charging is one thing, getting the person here to answer to the charges is another thing, but the states have been very good about cooperating on that process. That is probably an example of the states working well together. It is just a matter of which state is going to actually file the charges, and that is the complication that this bill is trying to solve.

Assemblywoman Gallant:

It seems like this bill is targeting credit and loan fraud for banks. However, I see fraudulent situations a lot in my district where somebody gets a text with a link to click on—in fact, it has happened to my mom. They seem to target the elderly. I just want to make sure that that type of situation I just offered is covered under this umbrella of loans, banks, and fraudulently obtaining that money.

Bryan Holloway:

I would argue that this specific statute is so broadly stated that it would impact those types of situations. For Nevada it could go either way. If you have a bad actor in Nevada trying to scam somebody in Idaho, California, or another state, and it is found out that he transmitted or conducted that type of scam from Nevada, Nevada authorities would then be able to hold that individual accountable for those acts. If there were a way to extradite that individual from another state, where the victim is in Nevada, I would also argue that Nevada would be able to hold that individual accountable under Nevada law because part of the act did occur within the state. Due to my background and expertise being more in financial crimes related to banking and financial institutions, I cannot speak to that with certainty. But I would imagine that anything that would meet the elements of this particular statute, whatever the situation is, would apply to those types of scenarios.

Assemblyman Yeager:

Let me give you an example of a real-life situation where I think it would apply. As a public defender, we had an elderly lady in Nevada who started communicating with somebody online and the person said, I need you to do me a favor. I do not have the ability to cash checks where I live, so I am going to send you a check for \$5,000. Can you take that check and then buy gift cards for me and send them back to me? Well, that happened, and the elderly lady was then prosecuted because it turned out to be a fake forged check. She did not know that and was not sophisticated enough to understand the scam. That case worked out well, thankfully, and ultimately, she was not prosecuted because she really was taken advantage of.

I think this statute would very clearly allow Nevada authorities to try to go after the perpetrator who was not in the state of Nevada. I believe he may have been somewhere in the country, or he may have been overseas, which is a little trickier, but I think for any of these situations where someone is obtaining money under false pretenses, this would apply.

We talk a lot about the Internet because that is typically how these things start, but text message scams, as you mentioned, through cell phones happen as well. There still must be a couple of requirements: one, there has to be some act that happens in Nevada; and two, there actually has to be a crime committed or an attempt to commit a crime. Usually that is going to involve someone losing money, but just someone attempting to defraud someone or obtain money under false pretenses could be prosecuted. However, in the real world, those are hard to get law enforcement to be interested in just because they have so much other stuff that they are working on. I think this is broad enough to apply to any of these circumstances. The trick will be figuring out who the perpetrator is and how to get them back to Nevada.

Assemblywoman Gallant:

We seem to keep coming back to there being a bank involved. What happens often in the elderly communities is, they get a text message that says your credit card has been compromised, click on this link, and we will send you an \$800 iPhone; or this iPhone is on its way and if you want to stop it, click on this link. That last scenario is what happened to my mom. Would this cover those types of situations where it is not necessarily a fraudulent check or fraudulent bank statement, but some act in disguise like the examples I just provided?

Assemblyman Yeager:

I am not entirely sure. I think there are statutes that cover it, but if you look at section 1 of this bill, it specifically speaks to the crime of obtaining money under false pretenses. What you see at line 2 is there must be a false representation, and then there actually has to be a defrauding of the person. I think it would depend on what the outcome of that is. The false representation would be the fraudulent link, and if they are able to then obtain money somehow through that process, I think a prosecution could be in order. If there was not a loss, I assume law enforcement or prosecutors would not take the case.

There may be other statutes that cover this as well, but this is specifically for covering situations when there is a false representation made and then there is an obtaining of money because of that false representation. So, there may be some technical issues to tie those two together in the circumstance that you are thinking about. I think they could try to bring that type of charge, and it would be up to the court to decide whether it comports with this language or not.

Assemblywoman Mosca:

What is the prevalence of this in Nevada? Looking at the BHG Financial exhibit [\[Exhibit C\]](#), it is not clear if that was just their national numbers or in Nevada, but do we need this to even have that tracking?

Bryan Holloway:

The company I work for, BHG Financial, does have offices in Las Vegas, but our customers are all over the country. I would probably say once a fiscal quarter I will investigate a loss that comes out of the state of Nevada. I have worked with Nevada authorities, and it typically takes me about three to five hours in speaking with various deputies and law enforcement officials to convince them that they do have jurisdiction. I do get a lot of pushback around the topic we are discussing today. I know of one arrest that has been made in Nye County, but I do not know the outcome of that case. I do not know if the prosecutor has declined to file charges or is going to move forward with charges, but I do see it and we do have office space within the state of Nevada.

Assemblyman Yeager:

This is a little bit of a federal tie in, but when we had the pandemic with unemployment insurance, every state dealt with a fair amount of fraud. I am not going to say we have more than any other state, but we definitely had our fair share of fraud. What we would often see

is people from out of state filing claims and then establishing a post office box or something here in the state where those benefits would be sent. That is probably an extreme example because that was the federal government infusing a lot of money into the state to be able to help during a really difficult time. I think it is instructive that whenever there is the opportunity to do this, with the sophistication and the Internet, we can expect people to attempt it. To your point, I think it would be helpful. We do not have this on the books right now. My hope would be, with this statute, we will see more prosecutions and be able to get an idea of what the issue is.

Mr. Holloway can speak for BHG Financial, but you have got to think about all the other banks and financial institutions that operate here—particularly the larger ones. Bank of America and Chase, for example, I am sure could probably provide numbers on a nationwide basis. I do not know if they could break it down by state, but certainly as a whole, I think that the amount of attempted fraud or actual fraud is probably a lot higher than we think.

Assemblywoman Considine:

In the initial presentation, it seemed like we were going back and forth between criminal and civil. I just wanted to clarify whether or not in this situation, is this in lieu of civil remedies? If there are federal prosecutions on fraud, and there is a victim who is like a pass-through, does this take care of that victim situation? For example, if there is a loan or something, would there be any civil remedies that are going to come down the line to somebody who is a victim?

Bryan Holloway:

I do get this question quite a bit from law enforcement with respect to the criminal and the civil aspect of it. It is all about the intent of what someone was trying to do. If somebody obtains a loan from us, and they do not pay it back—they lose their job or stuff does not go their way and they were not able to be make the payments on the loan—that is a completely different scenario from somebody who provided documentation that was manipulated or fraudulently changed in some way. That is where it switches from being a civil matter to a criminal matter. Obviously, from my position, I would like to get that money back from the criminal who stole it from us, and I would ask for restitution to be imposed by a criminal court for us. But there is no civil component once they actually alter the documents.

In my view, this would have no impact on somebody who took out the loan with good intentions and just could not make those payments. That is not the same. That is not something I ever go after individuals for. As Assemblyman Yeager stated earlier, I will not even call the police or contact them unless we have a loss on the books and I can show by a preponderance of the evidence that they intended to make us believe that there was a situation with their financial life or livelihood that is different than as it is. From my perspective, this would not impact anything from a civil perspective. This would only be a criminal matter, and there would obviously need to be enough evidence there to show that criminal intent was there when the loan was taken out.

Assemblywoman Summers-Armstrong:

I am concerned about the 20- and 23-year-old young adults whom you were speaking of who were tricked into this activity. To be charged criminally at such a young age, we know can have some long-term effects on their abilities to move forward. I do not want us to be too hasty, especially if someone is being defrauded or being manipulated. Can you please give us some more details about what happened in that case, if you can talk about it?

We have a very diverse community in Nevada, and we are growing. We have a lot of immigrants in our community, and I am concerned that someone, like these young men, could be taken advantage of. For example, someone who is trying to start their business and there is an advisor who is advising them to participate in this, and that person may not understand the impact and end up in trouble with you. How do you deal with those types of situations?

Bryan Holloway:

In the two cases that I referred to earlier, one arrest was made in Nye County, one arrest was made in Oregon, and there are currently charges pending before the Maricopa County Attorney's Office in Arizona. All four of them were involved with the same individual, and in the interviews that were done with law enforcement in Oregon and in Nye County, both suspects confessed. Both of them said, I knew what I was doing was wrong. I was trying to make a quick buck. This person called me and claimed we could make this quick buck together and we would both benefit from it. I understand being young, I made very poor decisions as a young man in my life, but I think when you get to the age of 20 to 25, you know the difference between right and wrong. You know that what you are doing is or is not a crime, and you are trying to obtain something of value for nothing essentially. I do believe that there should be accountability for that.

In my time here with this bank—around two years—I have been able to make about three criminal prosecutions. In each of the cases, I have worked with the prosecutors to basically get it down to a misdemeanor conviction if I can. But I do believe that a felony charge is appropriate in this specific case. Even if you are young, you know what you are doing when you are obtaining this much money. We are talking about potentially hundreds of thousands of dollars. That is not something that I believe any reasonable person can determine to be okay to do if they have not tried to obtain this loan properly. Again, these loans are obtained without any intention of paying them back, using documentation that has been manipulated. I do empathize with those individuals. I understand that they can be manipulated, but they still own the responsibility to determine for themselves what is right and what is wrong.

From my perspective, we all make choices in our life, and our choices have consequences. I will work with law enforcement and prosecutors to ensure that their lives are not ruined, hopefully, from one bad decision. However, there are also people who make this a pattern of behavior; this is their livelihood; this is how they determine that they are going to get through life. In those cases, I do believe that felony charges are very appropriate. Furthermore, depending on the amount of money that is involved, prison sentences in some outlier types of situations would also be appropriate.

To the young men and women who are "victims," I look at it like they are saying, Officer, he stole my marijuana, type of a situation where they know what is going on. Maybe marijuana is a bad example in Nevada these days. Perhaps with cocaine or whatever illegal substance or entity that somebody was involved with that was stolen, you cannot really go to the police and make those types of claims. I empathize with those individuals, but I would argue that they should be held accountable when they make these poor choices.

Assemblywoman Summers-Armstrong:

The second part of this was manipulation of those folks who might not understand what the documents are saying. As I said, we have quite a large immigrant community here. If someone is trying to start a business and they are being advised and that advisor is helping them, telling them to do these things, who is your target for repercussions? Is it the advisor or is it the person who is being manipulated by that advisor and taking the loan out in their name? I am telling you this because I have lived in Nevada a long time, and before the housing crash in 2008, there was so much of this going on. The people who were advising people to lie about their income to manipulate documents were the people in the industry who were benefiting. Then of course, all hell broke loose, and we ended up with a financial crash that we all had to suffer for. There were a lot of regular people who were really being taken advantage of, and I am concerned about that happening in this instance.

Bryan Holloway:

My target would be the ultimate person initiating the criminal activity. In your scenario, I would be going after the advisor. That would be my main target, and I would argue that the advisor in that situation would likely have many multiples of individuals working on his or her behalf. It would not be just one person, one business owner, or one person trying to get something started. Typically, in those types of scenarios, there are quite a few of those individuals.

In order to get enough information or enough evidence against that advisor, we need to start with the person whose name is on the loan. Maybe in another scenario, if I am talking about a cocaine trafficking operation, the police are going to target the low-level dealers, arrest them, and then use their testimony to go after the true perpetrators, which are the kingpins and the high-level traffickers. Essentially, this would give law enforcement the ability to formally file charges against the person. We can then work with that person to get the party who is really responsible and causing systemic risk to the financial industry in some cases, as you mentioned, regarding the 2008 financial crisis. There are millions and millions of dollars of this happening every day, and the big fish often end up getting away because we cannot go after the smaller fish in order to get the information we need to go after the bigger fish.

If they are putting numbers on a piece of paper saying that I make this much money, that person knows how much money they make, and if that number is larger than what they make, they know that that is a false representation. They may have been manipulated or may have been swayed by somebody who is convincing, but they know that it is false to say they make this much money when they really only make a smaller amount of money; or saying they

work for this corporation or company, but they really work for another. Even if you are somebody who does not have a lot of formal education, whether you are an immigrant or not, you know whether what you are saying is truthful or not.

There are also ways for us to work with those individuals to make sure that they do not suffer the full brunt of the criminal justice system. I am not about ruining people's lives. I am just about holding individuals accountable for their part in the act, and if their part is very small, their punishment should mirror that and should be very small as well. The true target of my investigations are the people who are really driving the criminal activity. Sometimes we just need to obtain their testimony or their cooperation to hold those larger people accountable for their portion of it.

Assemblywoman Hansen:

I noted that you mentioned you do not necessarily think that law enforcement needs this quantified, that there might be existing law that would allow law enforcement the ability to enforce it. I noticed that in this bill we are referencing *Nevada Revised Statutes* (NRS) Chapter 205 that has to do with fraud and more specifically swindling and credit by false representation. My question is regarding our existing law in Nevada, which might be the umbrella that law enforcement could and does already use to enforce this. I want to know, in relation to the existing statute we have that I will cite, how this bill either strengthens it or reiterates it. *Nevada Revised Statutes* 171.020 states, "Whenever a person, with intent to commit a crime, does any act within this State in execution or part execution of such intent, which culminates in the commission of a crime, either within or without this State, such person is punishable for such crime in this State in the same manner as if the same had been committed entirely within this State." Does that statute give us comfort that law enforcement is doing this already, and is this law needed to reinforce that? Help me understand the necessity for this bill.

Bryan Holloway:

I would argue that that language is applicable and in line with this change. However, practically, where this does not happen is when a police officer is going through the criminal statutes, trying to determine if a charge fits, they are going to the specific statute that they are investigating. The law that we are currently looking to change here and in the NRS is not necessarily referencing other statutes. What this does is explicitly state within the statute that in the totality of the elements of the crime, only one element of the crime needs to occur within Nevada. If you have an officer who is going through every statute and looking specifically for a way to charge a crime, this change, from a technical aspect, covers what we are trying to do today. When I am speaking with officers in Nevada and outside of Nevada, they say that is not what is right in front of their face, and so they do not know where to go and look for it.

What you just referenced is very close to what we have in Arizona as the long arm statute that does allow them to bring people and hold them accountable if certain things take place without it being within the jurisdiction. I think the importance of this is that when we have these types of crimes, as the law enforcement agencies or the prosecutors are looking through

this, it is clear-cut that they absolutely do have jurisdiction and they can investigate or prosecute this type of activity. As somebody stated earlier, they have thousands of cases like this and sometimes it is months before we even hear back after filing a complaint. Many times, it is just pushed to the side because they think they do not have a chance to prosecute this because it is not stated directly within the law which applies to this specific crime.

I would still say that this amendment is necessary for this offense, specifically because this type of offense is predominantly committed via the Internet. There are still shady deals that are happening in person, but these types of fraud schemes are predominantly online, and I believe that will be the case for the rest of my career. So, I would say technically it does apply, but this change is more in the practical sense as opposed to the technical sense.

Assemblywoman Hardy:

My question has to do with the amounts. We are not saying that there is any minimum that it must be before you can do this or that they cumulatively have to add up to a certain amount, correct?

Assemblyman Yeager:

For this particular crime, it can be any amount. Once it rises to \$1,200 or more, it is a felony, but if it is under \$1,200, then it is a simple misdemeanor as indicated on page 2 of the bill. Obviously, the more money involved, the more likely you are going to get an investigation and prosecution, but we are not setting a floor, so it could be any amount. It would just be determined whether it is going to be a felony or a misdemeanor charge depending on whether it rises to \$1,200 or more.

Assemblywoman La Rue Hatch:

I would like to follow up on my colleague Summers-Armstrong's question because I am also concerned about our immigrant and elder populations. You spoke about an older woman who was charged with check fraud when really, she was a victim. I understand that a lot of these crimes are happening across state lines. I think a lot of our vulnerable populations are targeted from people with text messages or emails coming in, and I just want to make sure we are not accidentally catching them in this law. Mr. Holloway, you said they would know they are participating because they know that their income is different, but I am concerned about someone who is being told something like, Quick, you have to sign this paper and turn it in right now. They may be elderly, confused, and stressed, and they go and turn in this false paperwork. I understand we want to use the small fish to catch the big fish, but it sounds like we are going to ruin the life of someone who is vulnerable to only potentially get to the person who is behind it. Can you just speak to that concern?

Assemblyman Yeager:

As many of you know, I was a public defender for many years, and it is not unusual to get a case where I would talk to my client and sincerely believe that they were taken advantage of. There are many examples when it comes to folks who speak English as a second language or folks with cultural issues different than the majority of the population. I do not think this bill changes the fact that there are going to be people who are going to be

prosecuted and arrested under the allegation that they committed a crime, when in fact, they did not have the mental state necessary to commit the crime. On paper it shows they did something wrong, but generally speaking, not always, I think the criminal justice system does a pretty good job of parsing that out.

When I brought that case forward with the elderly woman, I said to myself this was a lonely woman who got taken advantage of. Of course, there needs to be some proof of that, and in the interview we were able to lay that out, and ultimately for her, they dismissed the case. However, they did try to use the information that she provided to figure out who the person perpetrating the crime was. It is not perfect, and sadly, there are people who get prosecuted every day who do not have the requisite mental state. But generally, the system works to say, That person really is not worthy of being convicted because they did not have the mental state required for the crime. Obviously, that requires strong defense counsel and prosecutors who are willing to entertain those sorts of things, but I think when we talk about cases like this, this is where we see it all the time.

I share that concern, but I do not think this bill is going to further that issue. I can tell you from when I started as a public defender to when I left that office after eight years, I saw a real change of philosophy. It was not about getting convictions; it was about doing justice. I have hope that people who did not really commit crimes will not have to be held accountable for something they did not truly mean to do, but will be able to assist us with information to go after the people who are victimizing our communities.

Bryan Holloway:

I have been working in this industry and type of profession for about 22 years. We see many more victims than we do bad actors, and we do our best to make good decisions when choosing which cases are worthy of prosecuting and which ones are not. It is much more likely that I am going to say we are not going to go after this one because we do not think it is in the interest of justice to do that. In 22 years, I have not met one person who works in my line of work who feels or thinks any differently. So again, from a practical sense, this is going to be holding those bad actors accountable, not the victims; not anybody we think was truly taken advantage of, who did not know right from wrong or who did not have the forethought to commit a criminal act for personal financial gain. We consider the context of a situation much like law enforcement and prosecutors do as well.

Chair Miller:

With that, I will go ahead and open it up for testimony in support for A.B. 291. [There was none.] I will open it up for opposition testimony for A.B. 291. [There was none.] Then I will go ahead and open it up for testimony in neutral of A.B. 291. [There was none.] Then I will go ahead and close testimony, and with the bill presenters choosing not to make any final remarks, I will go ahead and close the hearing on Assembly Bill 291. Next on our agenda is a work session. We will start with Assembly Bill 122.

Assembly Bill 122: Revises provisions relating to tobacco. (BDR 32-728)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 122 was sponsored by Assemblymen Yeager and Hafen and heard in this Committee on February 16, 2023 [[Exhibit D](#)]. This bill provides an exception to the age verification requirement governing the sale, distribution, or offering for sale of tobacco products within areas of a casino where persons under 21 years of age are already prohibited from loitering.

There is one proposed amendment to this measure sponsored by Assemblymen Yeager and Hafen. They proposed to amend section 1, subsection 3 of the bill to clarify that the exemption from the electronic age verification is only on the casino floor of resort properties.

Chair Miller:

Are there any questions? Not seeing any questions, I will entertain a motion to amend and do pass Assembly Bill 122.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 122.

ASSEMBLYWOMAN HARDY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BILBRAY-AXELROD
WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblyman Hafen. Next, on the work session, we will go over Assembly Bill 101.

Assembly Bill 101: Revises provisions relating to informants. (BDR 14-228)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 101 was sponsored by Assemblywoman González and heard in this Committee on March 1, 2023 [[Exhibit E](#)]. This bill provides that the office of a prosecuting attorney must maintain complete and systematic records of any case prosecuted by the office in which testimony or information was provided by an informant pursuant to a cooperation agreement.

There is one amendment proposed by Nathaniel Erb, a policy advocate from the Innocence Project, which does the following:

1. Amends section 4 to clarify the definition of a cooperation agreement to include a person who was in jail or prison;

2. Amends section 5 to clarify the definition of an informant;
3. Amends section 6 to revise the records that must be maintained by the office of the prosecuting attorney; and
4. Amends section 7 to clarify what information the prosecutor must file and serve if the prosecutor intends to use testimony from the informant.

Chair Miller:

I will say that these are friendly amendments that have been submitted by Assemblywoman González as well. Do we have any questions? Not seeing any questions, I will take a motion to amend and do pass.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 101.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG SECONDED THE
MOTION.

Any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BILBRAY-AXELROD
WAS ABSENT FOR THE VOTE.)

I will assign the floor statement to Assemblywoman González. Last on our list is Assembly Bill 121.

Assembly Bill 121: Revises provisions relating to incarcerated persons. (BDR 16-138)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 121 was sponsored by Assemblywomen Considine and Anderson and heard in Committee on February 23, 2023 [[Exhibit F](#)]. This bill requires the Department of Corrections to provide an offender with the original physical copy of mail addressed to the offender. Additionally, the bill ensures that an offender completes a medical release of information form at the time of intake and can update the completed form as necessary. The bill provides that certain persons are required to be informed about the health status of the offender within four hours of a serious or critical medical condition. The bill requires that prescriptions are filled in a timely manner. Lastly, this bill imposes similar requirements to be taken at county and city jails and detention facilities.

There are two proposed amendments to this measure.

1. Assemblywoman Considine proposed adding Assemblywoman Bilbray-Axelrod as a cosponsor of the bill; and

2. Assemblywoman Considine proposed the following amendment to the bill, which does the following:
 - a. Amends section 3, subsection 2 to clarify that if an offender is hospitalized or diagnosed with a serious or critical medical condition and is staying in a hospital or medical center overnight, the Department must inform certain persons within 24 hours;
 - b. Amends section 3, subsection 3 to provide that if an offender is hospitalized or diagnosed with a serious or critical medical condition, and is released the same day, the Department must inform certain persons within four hours;
 - c. Amends section 3, subsection 4 by deleting "serious" and defining the term "critical medical condition;"
 - d. Deletes section 6 of the bill; and
 - e. Amends section 7 by imposing similar requirements upon local jail and detention facilities.

Chair Miller:

Do we have any questions? [There were none.] I will go ahead and take a motion to amend and do pass Assembly Bill 121.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 121.

ASSEMBLYWOMAN HANSEN SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYWOMAN BILBRAY-AXELROD
WAS ABSENT FOR THE VOTE.)

I will assign that floor statement to Assemblywoman Considine. With that, I will close the work session for today. We will move on to our final business item on the agenda which is public comment.

[Public comment was heard.]

I will go ahead and close public comment. We have finished our business for today. I hope everyone has a splendid rest of your St. Patrick's Day. We will begin Monday at 9 a.m. With that, we are adjourned.

The meeting adjourned [at 10:04 a.m.].

RESPECTFULLY SUBMITTED:

Aaron Klatt
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 copy of a PowerPoint presentation titled "Financial Crime Unit, Testimony on Amending NRS § 205.370," submitted by Assemblyman Steve Yeager, Assembly District No. 9; and presented by Bryan Holloway, Director, Financial Crime Unit, BHG Financial, Fort Lauderdale, Florida.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 122](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 101](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 121](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.