

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

**Eighty-Second Session
April 5, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8:07 a.m. on Wednesday, April 5, 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:

None



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Nadia Wood, Judge, Las Vegas Justice Court
Lea Case, representing Nevada Psychiatric Association
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office; and representing Washoe County Public Defender's Office
Elyse Monroy-Marsala, representing National Alliance on Mental Illness, Nevada Chapter
Jennifer P. Noble, Chief Deputy District Attorney, Legislative Liaison, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association
Beth Schmidt, Director-Police Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department
Greg Herrera, representing Nevada Sheriffs' and Chiefs' Association
Sara Ralston, Private Citizen, Las Vegas, Nevada
Michael Alonso, representing Caesars Entertainment
Danielle Barille, Vice President, Online Poker, Caesars Digital, Caesars Entertainment

Chair Miller:

[Roll was called. Committee protocol was explained.] We have two bills on the agenda this morning and will take them out of order. I will open the hearing on Assembly Bill 405, presented by Judge Nadia Wood.

Assembly Bill 405: Revises provisions relating to court programs for the treatment of mental illness or intellectual disabilities. (BDR 14-729)

Nadia Wood, Judge, Las Vegas Justice Court:

Assembly Bill 405 aims to expand mental health treatment in the state of Nevada. The purpose of this bill is to clarify that justice court has jurisdiction to establish a mental health court program, and clarify that any individual who is granted probation by a sentencing court can also receive mental health treatment regardless of their underlying crime, and finally to clarify that mental health courts have the authority to impose intermediary sanctions, including incarceration, consistent with clinical recommendations [page 2, [Exhibit C](#)].

I would like to start by briefly talking about the cost of not treating mental health issues here in the state of Nevada. In 2021, Clark County spent \$286,998,563 to incarcerate

2,854 individuals in the Clark County Detention Center [page 4, [Exhibit C](#)]. Approximately 20 percent of the inmate population at the Clark County Detention Center is estimated to be medicated for mental health issues. Why do we need this bill? The Las Vegas Justice Court, which is currently the largest justice court in the state of Nevada with 16 justices of the peace, is seeking to create a mental health court. Before moving forward with the creation of a mental health court, we are seeking cleanup language to clarify our jurisdiction to create such a court.

The current statute, *Nevada Revised Statutes* (NRS) 176A.250, allows the court to establish a mental health court program [page 5]. That is the statutory authority for mental health court programs in the state of Nevada. However, NRS 176.030 defines "court" as the district court. As the language currently is, while it allows courts to establish mental health court, we have another statute that potentially limits that definition of "court" to only district courts, not justice courts or municipal courts. *Nevada Revised Statutes* 176A.250 does reference NRS 174.032 which allows justice courts to establish programs. Based upon that reference, it does appear that it was the intent of the Legislature to allow justice courts to establish mental health court. However, as currently written, because it used the word "court" and the word "court" is defined by our NRS as meaning the district court, the statute could be interpreted not to grant jurisdiction.

This creates a problem for us going back to the fact that we want to establish a mental health court in the justice court. Our concern is that if we establish the mental health court and then it is determined that we do not have jurisdiction, we have to stop in the middle of the process; we have already applied for grants; we would need to return the grant money. It would create essentially a bureaucratic nightmare. We want to make sure we have this jurisdiction before we move forward with creating this mental health court in the Las Vegas Justice Court.

The reason we need a mental health court within justice court now is because as it currently stands with only district court potentially having jurisdiction to create mental health court, individuals who commit more serious crimes can enter mental health court [page 7]. District court has jurisdiction to accept justice court applicants, but every justice court applicant who goes into the district court program limits the ability of the district court to accept district court applicants. These programs do not have infinite size. Essentially every time justice court were to refer someone to district court, that is a district court seat that we are taking, and somebody with a more serious crime who may have more serious mental illness who needs supervision, they cannot have that supervision of the district court mental health court. Additionally, our size is growing. Nevada is a fast-growing state, and we have determined that based on our growing population, the need exists for a lower-court mental health court. Our goal is to treat individuals who are committing misdemeanor crimes before they escalate to committing felony crimes. The goal is early intervention, early deterrence, to prevent crime.

There are three main things that the statute does. One is establishing the justice court jurisdiction. Second is clarifying who can participate in the program. The sex offender language is for district court participants. Currently, there are two ways to participate in mental health court [page 9, [Exhibit C](#)]. One is as a condition of probation or supervised release. In this circumstance, the defendant is adjudicated guilty prior to being placed on probation or admitted to the mental health court; the defendant has a conviction; there is no dismissal of charges; and going through and completing mental health court is simply an additional requirement of probation. Second, pursuant to statute, is a diversionary program that would defer adjudication and dismiss the case. In this case, the defendant would not be adjudicated prior to entering the mental health court program, and if they successfully complete the mental health court program, they would eventually receive dismissal of their charges.

Nevada Revised Statutes 176A.260 prohibits any participation in the program for category B sex offenders. While there are two different ways to participate in the program, because it was the goal to make sure that category B sex offenders were not receiving the deferred adjudication or the eventual dismissal of charges, the language that was put in was that they could not participate at all. However, as just laid out, there is absolutely a way for individuals to participate without receiving that deferred adjudication or without receiving eventual dismissal of charges. Mental health court, in that circumstance, is just an additional supervision requirement. It actually puts greater requirements on the individual participating. They have closer monitoring, closer supervision, and the court is making sure they are compliant with their medications, doing everything they need to do. It is a greater level of supervision than simple probation.

What we are seeing is that some sentencing judges, who in circumstances where there is an agreement between the parties—between the state and the defendant—that an individual is to be placed on probation, or if the judge is deciding to exercise their discretion and give an individual probation, they can place them on probation [page 10], but they cannot add that additional layer of supervision and monitoring that comes with placing them in the mental health court if they believe the individual has a mental health issue. There was frustration with that, that essentially some category B sex offenders who have mental health issues are being subjected to fewer restrictions and less monitoring than other types of offenders who have mental health issues. As it says here, NRS 176.260 does not prevent category B sex offenders from getting probation. There are multiple category B sex offenses that are eligible for probation. They are just not eligible for the additional supervision of mental health court.

The clarifying language would clarify that category B sex offenders do not qualify for deferred adjudication or dismissal [page 11]. They will be convicted; they will be sex offenders. This is not an attempt to give them leniency. This is an attempt to allow judges to order offenders to complete mental health court as a condition of probation, to have that additional supervision, to make sure they are receiving the treatment they need, receiving the medications they need, and to make sure they are compliant with their mental health treatment.

I want to add one more thing about this section and this proposal to the bill. Yesterday, the Nevada District Attorneys Association, which is a stakeholder, reached out and let us know that they do have some concerns about this portion of the bill. Specifically, they let us know they are concerned that some of the language could be interpreted as allowing category B sex offenses to be sealed after the completion of mental health court. They also have concerns about category B sex offenders being in treatment with individuals who do not commit sex crimes.

As to the first concern they had, I reviewed the bill, and we had a productive conversation. While that was not the intent of the bill, I do think the bill only seals—this was preexisting in the mental health court statute—individuals who receive that deferred adjudication and dismissal. We understand the concerns, and that was not the intent of the bill. We have absolutely no problems adding an amendment that clarifies that category B sex offenders will not have anything sealed, just the same way we added the language about no deferred adjudication and no dismissal. We have no problems with an amendment that clarifies that to address that concern.

As to the second concern about intermingling the offenders, we are working with them on that language. We have had some productive conversations. We anticipate continuing to have productive conversations to hopefully alleviate those concerns and see if there is some language we can work out that would alleviate their concerns.

The third thing the bill changes is the sanction language [page 12, [Exhibit C](#)]. Due to the challenges that individuals with drug, alcohol, and mental health disorders face, the National Association of Drug Court Professionals recommends intermediary sanctions for minor violations of court rules prior to escalation to termination from court programs. Currently, the language of the bill—again, this is clarifying language—is ambiguous as to whether for a first minor violation an individual has to be terminated from the program or whether the court has the jurisdiction to issue intermediary sanctions. This is just clarifying language that the court does have jurisdiction for intermediary sanctions and also clarifying language that those intermediary sanctions may include incarceration as a sanction, which is sometimes recommended. The language clarifies that incarceration should be used as a sanction consistent with evidence-based guidelines from the National Association of Drug Court Professionals.

Finally, this bill does not have a fiscal impact [page 13]. Nobody is requesting any funding for this. Justice court has sought independent grant funding. We are not requesting any funding from the Legislature. This is purely a bill for language to clarify the statutory authority, to clarify whether category B sex offenders can receive mental health treatment, and to clarify that intermediary sanctions are permissible and that incarceration, pursuant to evidence-based guidelines, is permissible as an intermediary sanction.

The goal of this bill is to reduce the cost of incarceration through treatment of mentally ill individuals. That is my presentation on this bill.

Chair Miller:

Before we get to questions, we would appreciate if you would submit that clarifying amendment on the two components you discussed. I think that would add more comfort and clarity for everyone.

Judge Wood:

This is my first time presenting a conceptual amendment. Would you like me to present that now or for a work session?

Chair Miller:

If you could write down those two clarifying bullet points and submit it to the Committee, we will have it written up as an amendment.

Judge Wood:

Yes, absolutely.

Chair Miller:

Are there any questions from Committee members?

Assemblywoman Mosca:

Can you share if there is a backup right now in the district court's mental health court? How would this help alleviate that?

Judge Wood:

I will be honest; it ebbs and flows. I could not tell you precisely at this moment whether there is a backup. But yes, historically we have seen backups in the district court's mental health court. We have had individuals sometimes waiting months in order to enter the district court mental health court. The judge there has done everything she can, and she has implemented a lot of measures to try to alleviate that. We have seen some success with it, but the reality is we just have such a growing population here in the state of Nevada, and particularly in Clark County, that we need more.

Assemblywoman Cohen:

Throughout the bill, but even in section 1, there is reference to the program "for the treatment of mental illness or intellectual disabilities." Whenever I hear this issue discussed, I hear the discussion of mental illness and drug issues and alcohol issues. Is there anything that the court is doing in particular having to do with defendants who have intellectual disabilities as opposed to mental illness or drug issues?

Judge Wood:

Yes. The court does accept individuals who have intellectual disabilities. We do see a fair amount of that in the criminal justice system as well. In fact, just as an example, tying it back to the category B sex offenses, a category B sex offense is statutory sexual seduction. If an individual who is 21 years old is having consensual sexual contact with somebody who is 15 years old, what we will often see is individuals with intellectual disabilities who are

below average in terms of their intellectual functioning will often just hang out with individuals who are younger than them. It is just a natural thing that occurs because their intellectual functioning is lower, so they tend to hang out with their intellectual peer groups rather than their physical peer groups. That is one thing that we see a lot of, and one thing that the court can address is working with individuals and getting them resources. There are resources they can be given to help them with their quality of life and help them find jobs. There are certain places that they can work. These are all things that can be done, and we can teach them that, listen, even though you might identify with these individuals more and that is kind of your understanding level, you cannot be hanging out with teenagers; you need to be associating with individuals in your peer group—things of that nature.

Chair Miller:

I do not see any other questions from the Committee. With that, I will open it up for testimony in support of Assembly Bill 405.

Lea Case, representing Nevada Psychiatric Association:

We are in support of Assembly Bill 405. The Nevada Psychiatric Association strongly supports any programs or resources to help folks who are diagnosed with a mental illness get the treatment and the medications they need to live a full and healthy life.

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

Having a mental health court within justice court would be a great solution for us. There are often times where somebody is accused or convicted of a lesser crime, a misdemeanor, and we do not want to move them up to district court. But there are not a lot of solutions at that justice court level. This would create that pathway for solutions. When I originally presented to the Committee at the beginning of session, I said one of the issues that we have in the state of Nevada is there is not a lot of front-end care. There is a lot of back-end care for drug abuse, and unfortunately, mental health issues actually happen in the court system. Hopefully, some point soon we will move forward to a different model. But for now, this is the model we have been using in the state of Nevada. This will provide us with another good tool for that.

As far as the sex offense goes, there is no intent in this bill to defer adjudication for those crimes. There is a way to complete mental health court, and most people do without getting deferred adjudication. Frankly, you have to get the district attorney to even agree to defer adjudication. We call it a "straight mental health court plea" where if a client does complete mental health court, the case will get dismissed. In my 11 years of practice, I think I have done that two times. I have gotten the district attorney to agree to that. Happy to say that both clients completed that program, though. That is not often a thing.

The other thing of concern is when you have somebody on probation with a sex offense in the rare occasion—because that is not something that happens frequently—you have to get the judge to agree, but you also have a staffing hearing where all of the staff, including social workers, court coordinators, everybody involved in the mental health court process, have to

approve to let that person into the court, and then the court will monitor them. It is a very stringent program. In fact, mental health court is our most stringent court program where people get the most services and have pretty high success rates. If we let them in that program—sex offenders, that is—they get good supervision. They would be more supervised on probation. That is something to look out for. Nobody here is trying to get rid of that offense at the end of the completion in the rare event that person did get probation.

As far as Assemblywoman Cohen's question, we need more robust services for intellectual disability. Sometimes somebody does not have an Axis I diagnosis, but they do have a severe intellectual disability, and that is impeding their ability to be successful on probation and in the community, and we do not have enough services for those folks. That is something that perhaps we could address at a later date.

Elyse Monroy-Marsala, representing National Alliance on Mental Illness, Nevada Chapter:

To Mr. Piro's point, Nevada really struggles to provide front-end services to people who are living with mental illness or these diagnoses. Oftentimes these people end up involved with the criminal justice system and with law enforcement. Ensuring that there are services and supports for those people when, unfortunately, they do become involved with the criminal justice system, is something that the National Alliance on Mental Illness supports. National Alliance on Mental Illness is also working in this building really hard to ensure there are those front-end supports. Until we are able to increase access to services and supports like supportive housing or treatment services and treatment options, we need to ensure that folks are able to access supports if and when they get involved with the criminal justice system.

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?

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

Although we are at the table in opposition, I want to thank Judge Wood for talking about some of our concerns with us. Hopefully, we can work through some of those. We are opposed to the portions of A.B. 405 that pertain to sex offenders. As written, section 3, subsection 4, paragraph (b) of the bill contemplates including category B sex offenders in our specialty courts. Now, the judge mentioned statutory sexual seduction, and that is one category B sexual offense, but I want you to keep in mind these other offenses that are category B probationable offenses when we are talking about putting these folks in mental health court with other people who may be vulnerable because of mental illness or intellectual disability. The category B offenses include: child abuse involving sexual exploitation under NRS 200.508; preparation, distribution, or advertisement of child pornography under NRS 200.725; lewdness with a child who is 14 or 15 years old, and this,

of course, is any nonpenetrative sexual touching of a child in that age group under NRS 201.230; possession of child pornography of a child under 16 pursuant to NRS 200.730; luring a child or a person with mental illness or intellectual disability under NRS 200.300; and sex trafficking of an adult under NRS 201.300.

There are instances in which prosecutors have to strike a very imperfect balance by pleading a category A sex offense to a category B offense, usually to avoid putting the victim through the further trauma, especially children, that a trial is going to present. At times, the negotiations do allow the defendant to request probation. But as a matter of principle, we object to the inclusion of these sex offenders in specialty court programs where many of the participants will be particularly vulnerable due to mental illness or intellectual disability. Additionally, I would question the nexus between the offender's qualifying diagnosis and the behavior that they have engaged in, especially when it comes to perpetrating offenses against children.

The judge did mention, and I appreciate it, that section 4, subsection 3 allows for automatic sealing of category B offenses, including those I just mentioned, after specialty court has been completed as a condition of probation. It is not deferment, it is not dismissal, but it is sealing, and we do not believe that any sex offense should be subject to automatic sealing without the ability of the victim, law enforcement, or prosecutors to object. It is my understanding that will be amended out of the bill.

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

We are in opposition to A.B. 405 as written. To be clear, we do support more front-end mental health care. We agree with the Nevada District Attorneys Association's concerns. Our additional concern is that as the bill is written, the county jails versus Nevada Department of Corrections may have to absorb the financial and the manpower costs of incarceration for violators of state parole or probation. We will work with Judge Wood on clarifying why these individuals would not go to the Nevada Department of Corrections for no more than 25 days.

Greg Herrera, representing Nevada Sheriffs' and Chiefs' Association:

Our position and concerns regarding A.B. 405 are in line with the Nevada District Attorneys Association and the Las Vegas Metropolitan Police Department.

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 for any concluding remarks.

Judge Wood:

I would like to conclude by reiterating some of the things that were discussed both by me and by individuals who testified in support. We need more front-end mental health services in the state of Nevada in order to essentially reduce our costs of incarceration right now. That is

why the courts have determined that we need these amendments to this statute. I would like to express that I am authorized to express support for this bill on behalf of the Las Vegas Justice Court and the combined legislative committee for the Second and Eighth Judicial District Courts. The three largest courts in the state of Nevada all support this bill.

Due to what we as judges are seeing—individuals who come into the courtroom every single day, who the primary reason they are in the justice system is due to their mental health issues—we believe it would reduce the impact on the entire state of Nevada if we can get these individuals more services on the front end. That is where justice court is; justice court is where misdemeanors originate. We want to intercept individuals and provide them services before they are escalating to felonies.

I did want to address a couple of the concerns that were expressed. There has been some conversation about sex offenders being admitted to mental health court and being in contact with vulnerable individuals. To that, I would say we have a rigorous screening process prior to admitting individuals into mental health court. All individuals who are admitted to mental health court are vulnerable individuals, even those with serious offenses. If they are being admitted, it is because they have been determined to be vulnerable individuals with serious mental health issues. I think Mr. Piro mentioned it, and it is worth repeating: it is not an abundance of individuals with sex offenses who are being admitted into the mental health court; if they are being deemed appropriate, it is a handful of individuals.

Right now, with the category C and D offenders who are admissible, we are still not just admitting individuals. There is a rigorous screening process, stringent analysis, before they are admitted; there is staffing that occurs, there is consideration of the allegations, and there is consideration of risk to the other participants. The reason I gave that example about the individual with the intellectual disability is because those are the types of special cases where exceptions are made and individuals are being admitted into the mental health court. There has to be a serious underlying mental health issue before we are admitting individuals. We are not just admitting individuals with depression into mental health court if they have category B sex offenses. That is just not what is occurring. The courts believe this bill is necessary in order to reduce recidivism and address the mental health issues we have in our community.

Chair Miller:

With that, I will close the hearing on Assembly Bill 405. Before I open the next hearing, I know we had a work session on the agenda, but there was an additional amendment submitted. In order to give members time to read and digest that, we are going to roll that work session over to a later day.

The second item we have on the agenda is Assembly Bill 380. The presenter of the bill, Ms. Sara Ralston, is on Zoom. I will open the hearing on Assembly Bill 380, and you may proceed when you are ready.

Assembly Bill 380: Revises provisions relating to interactive gaming. (BDR 41-978)

Sara Ralston, Private Citizen, Las Vegas, Nevada:

I am here today to present Assembly Bill 380. Let me start first by thanking Speaker Yeager, who graciously agreed to give me an opportunity to present and discuss this important legislation. I also want to take a moment to give you a little background of me. I am a former business lobbyist in the state as well as a former executive director of the state's Patient Protection Commission. I resigned my post as the executive director about a year and a half ago to pursue my dream of playing poker full-time. I started playing poker 16 years ago, and today I happily sit before you as a professional poker player.

Back to this important legislation, I have prepared some brief remarks and if it is okay, Chair Miller, I would like to read from them so I do not miss anything. Of course I would submit it to your committee secretary for inclusion in today's meeting and distribution as necessary. I will also then discuss the concerns with the bill as written and my proposed amendment [[Exhibit D](#)] and allow time for questions at the Chair's discretion.

Chair Miller:

What we will be looking for specifically is for you to walk us through the amended version and not so much the challenges with the current bill, but let us know what you want it to be, and what you anticipate it would be after the proposed amendments.

Sara Ralston:

What I would like to do is talk about the proposed legislation and the intent. It will make sense when I transition into the proposed amendments. I think you should have received it yesterday.

Chair Miller:

It is getting posted on the Nevada Electronic Legislative Information System. We have it, so you can proceed.

Sara Ralston:

This proposed legislation relates to interactive gaming in our state, specifically with the focus on creating more transparency for online poker. The main goal of this legislation is to increase transparency in the online poker industry while ensuring that the industry remains protected, safe, fair, and competitive. This proposal will help to maintain Nevada's position as a leader in the gaming industry. To achieve this goal, the legislation proposes one change. It requires online poker operators to publicly disclose the status and names of any accounts with a certain threshold, including accounts that have been banned for cheating or other violations of the site's terms and conditions. This would help to deter cheating and other illicit activities by sending a clear message that such behavior will not be tolerated.

This legislation is a significant step forward in ensuring that the online poker industry operates in a transparent, ethical manner while also providing protections for the industry and for the players. This also ensures the state regulations maintain relevance and effectiveness

in the face of technological advances and changing consumer preferences. Transparency in online poker is crucial for ensuring the integrity of the game, protecting players' funds, and promoting fair play. Nevada, as one of the few states in the U.S. that has legalized online poker, has a responsibility to ensure that its online poker industry operates with the highest level of transparency. By providing players with more information about who they are playing with can help prevent fraud and collusion, which are ongoing concerns in the online poker community. Overall, more transparency in online poker in Nevada is necessary to ensure a fair and safe playing environment for all participants and, again, to protect the industry at large.

There are several reasons why being transparent with the names of accounts that have been banned in online poker is an important policy. One, it is a deterrent effect: By publicly disclosing the names of banned accounts, online poker sites can deter other players from engaging in cheating or other illicit activities. The fear of being caught and publicly exposed can discourage potential wrongdoers from attempting to cheat or violate policies in the first place.

Two, restoring trust: When players know that online poker sites are actively monitoring and taking action against illicit activities, it can help restore trust in the online poker ecosystem. This can help to bring back players who may have left due to concerns over game integrity.

Three, level the playing field: Banning players for illicit activity helps to create a level playing field for all players. When players know this behavior is not tolerated and those players are being punished, they can have more confidence that they are playing on a fair and level playing field.

Four, protecting players and the industry: By publicizing names, online poker sites can protect players from potential harm similarly to how disclosing business licensee information is for the protection of consumers and the business community in our state.

Accountability: Publicly disclosing the names of accounts holds players accountable for their actions. When players know their actions will be public, it can help discourage them from illicit activities and it can send a message to other potential players that ill behavior will not be tolerated.

In summary, being transparent with the names of accounts, including those who have been banned or suspended in online poker, is an important policy and protection for players in the industry at large.

I know everyone usually tends to say things are simplistic, but it is my intent to show you that the proposed amendment [[Exhibit D](#)] is quite simple, and it does two things. It attempts to address certain privacy and liability concerns of operators by removing the reference to "cheating" in section 1, subsection 1. It also clarifies that there is no intent to interfere with

the Nevada Gaming Control Board's excluded persons list and their due process—not as simple as that is for the proposed amendment. With those three bullet points, the goal is to accomplish those things that I just mentioned.

Chair Miller:

Thank you. Does that conclude your presentation?

Sara Ralston:

It does conclude my presentation. I promised to keep it within 10 minutes, and I am thankful for your time and appreciate your indulgence.

Chair Miller:

Thank you so much, and you did a sensational job with keeping it within 10 minutes. We do have a few questions from members.

Assemblyman Gray:

I really appreciate your trying to preserve the integrity of the online gaming. However, it is so much different than actually sitting at a poker table in a casino. When you blatantly say they have cheated, that would be such a high bar to jump and then publishing their names and publicly shaming them. I just have a real issue with that. If you want to do it privately, I support that. But putting those names out there and then along with their birth date, I just have a real hard time with making that information public when it has never been adjudicated. I think it opens you up to liability to lawsuits. People see somebody whom they may have been playing in a room with who has been suspended for cheating, well, they have been cheated as well, not just the casino.

Chair Miller:

Is there a question there, Assemblyman Gray?

Assemblyman Gray:

How do you propose to address those issues, especially when it comes to a liability lawsuit by other players?

Sara Ralston:

The proposed amendment is an attempt to address that. There is some complexity involved with deeming somebody as "cheating." I know online poker operators have a hard time making that definitive category, that they do not necessarily ban for cheating on their site on their terms and agreements. What they do is they usually ban or suspend accounts for illicit activities. Whatever illicit activities those are, up to and including cheating, is what triggers their decision to either suspend an account, temporarily suspend an account, or permanently ban an account. This proposed conceptual amendment removes that definition of "cheating" so there is no burden on the operator to make that determination. Instead, it actually is just asking for more transparency for the poker players and for the industry by having it disclosed

what the status of accounts is—active accounts, inactive accounts, closed accounts, banned accounts, or temporarily suspended—whichever threshold that operator has. It is really important to have some level of transparency for poker players.

What I would like to remind this Committee is that this is for-real money, this is real dollars, and it affects real lives. Poker players have a livelihood they need to maintain and to protect too, and like any other industry we see in the state, there is some level of consumer protection. In the online poker world, we do not have that level of transparency. We do not know whom we are playing against or have the ability to have that type of information that is relevant as a player to decide whom we want to play with and whom we do not want to play with. Again, this is really more about getting some level of transparency and not necessarily to put a definition of "cheater," and definitely not to interfere with the Nevada Gaming Control Board's process in which they have banned people from casinos on their excluded persons list. We do not want to interfere with any kind of criminal activity. The intent is really just to have a list of status of the accounts.

Assemblyman Gray:

It does, but it also brings up another question of complexity. Do you want to make publicly available everybody who has an account and the status of their account, so everybody knows if I am going out playing poker online?

Sara Ralston:

The intent is to have that level of transparency; however, to make it so there are some other business operations and privacy concerns from operators, there is a threshold. The conceptual amendment you will see on bullet point three, it is requiring only the release of accounts with activity that is greater than \$1,000 in deposits or activity in that month. That way, there is more of a delineated list of those who are in this more on the professional side versus on the amateur side where you deposit \$100 or less. There is that threshold there, so you are capturing mainly those who are in this space professionally.

Assemblywoman Newby:

How do we know someone is cheating? Is there a standard? How is that adjudicated and determined that someone is a cheater?

Sara Ralston:

That is one of the reasons why it is important to remove the definition of cheating, but there are abilities for operators and for professional poker players to see patterns. I am not sure if Chair Miller wants me to go into a deeper analysis of the type of cheating that exists online. I think that would be something operators can share with you. I am certainly happy to share some, but I do not know if we want to talk about the specificities of cheating.

Chair Miller:

What we do not want to do is expose any vulnerabilities or present any ideas. It is up to you if you want to briefly describe cheating without giving us instructions on how to cheat.

Sara Ralston:

I think what I can do is talk about it broadly. What I look out for as a poker player, and I think in the community at large, is there are a lot of technological advances, especially in the online platform. Online operators will prohibit the use of heads-up displays or the use of additional software. That does not necessarily mean they will catch it all the time or in real time, but for those who want illicit activity, there is software you can download that will theoretically enable you to have real-time assistance while you are playing. Basically, if you are sitting at the poker table, you do not have that. I am not able to have a computer program with me that tells me exactly what I need to do in certain situations or calculate the hand history of other players.

There is also cheating that could happen in both online and in-person in which there is collusion or there is something called "ghosting." It is widely known there are concerns that there are players who are using accounts that are not their accounts. There are ways that operators I think can detect that. It is suspicious activity; it will likely, in my understanding, get flagged, and then they go through a due process with the operator and that individual licensee or player. I am not sure what the process is if they have been banned or temporarily banned. That is private; that is if something happens from one of the operators and a player has a complaint against it, then that would go through the customer service department of the operator that is not necessarily regulated by the state.

Assemblywoman Newby:

Obviously, we have been talking about the online situation where you are playing poker. In the in-person, sort of analogous situation, if someone is cheating in real life, what happens to them? I know we have talked about the "Black Book" but my understanding is that is very limited in terms of the activity you have to do and the process by which you get added to it, so that is very limited. What happens in real life when someone cheats in a casino?

Sara Ralston:

I believe you are asking me in relation to poker. I really want to just emphasize the difference between poker and gaming. One point of clarification is the licensees or operators operate in a different manner than any other part of their gaming license in which they are a facilitator. Poker is a skill-based game between peers. It is player-to-player, and the operator acts as a facilitator for that game. In-person, what typically happens if there is a player who has violated whatever terms that operator has for that poker room, they have a poker manager or floor manager who comes in to assess the situation and they make a ruling right then. Usually a player will get a warning, but if after a warning it does not change anything, then the operator will decide to ban a player outright or kick them out of a tournament or remove them from the room, and that either happens for the day, for the tournament, or lifetime bans. That is done individually, privately, between each poker room or operator.

Assemblywoman La Rue Hatch:

I have similar concerns about privacy, especially posting the name and date of birth of every person who is participating in this. I think the analogy to real-life poker versus online poker

is a good one because I do not know that when I enter a casino there is a list of every person who has been kicked out of a poker room. It sounds as if people are being banned from online; we just do not have a list. What about those individuals who have their account suspended because they put in the wrong information or because they made some kind of simple mistake that is being investigated and they might be brought back? What happens when they are now listed as banned or suspended, and everyone in the community now knows that and now there is a big blowup on social media? What kind of protections are there for those individuals?

Sara Ralston:

Let me give you a scenario in another business industry. As a consumer, I have a right to know if a contractor's license is active, inactive, or suspended. I may not know why. I do not know why a business license may be shut down, but I can look up and see if a business license is active and there is a historical perspective on it. That is relevant information as a consumer that I have to then decide how I want to proceed in doing business with that business or person or contractor. That is what this bill is proposing to do for the online poker industry. It is intended to provide some level of transparency for poker players. No poker player is going to make accusations out in this world so boldly because we hold our reputation in such high regard, just like any other industry. I would say having that level of transparency, the benefits of having that for protection not only for players but for the industry at large—we are the gaming capital of the world—and having high standards is worth the risk just like for consumer protection in any other business.

Assemblywoman La Rue Hatch:

Then understanding that this is about protection for players, are you proposing that we also create a list of everyone who is banned from in-person poker?

Sara Ralston:

That is not what this legislation is intending to do, although that is actually a great suggestion for the industry at large. This is really related to just interactive gaming and that jurisdiction. I would like to go back one more step. In the proposed amendment [[Exhibit D](#)], item 2 removes the release of the person's full name and date of birth from section 1, subsection 2 of the bill. This is really just a necessary first step, and what it is seeking to do is ask for just the user account name and the status thereto. That information is already out there now. I can see active accounts and information based on somebody's username; that is not new. It is not like I can privately go onto a site and not see that person's username. Also, when the user is in a tournament and they win, that information is publicly posted too. There is some level of information that is shared publicly already and usernames are out there. This is just asking for the other side and an additional level of transparency for account statuses. I believe your initial concern with the date of birth and the full name is addressed in the conceptual amendment.

Assemblywoman Hardy:

As I understand this, when a person signs up to play online poker, they register and agree to the terms of service which has a list of things they are not allowed to do, et cetera. Again, as I understand, these systems are monitored 24/7 and they are looking for illicit activity and such. An account may be banned or suspended for a variety of reasons. We do have our Nevada Gaming Control Board that investigates suspicious and illicit activity and such in all of gaming. Where is this public list? Is the Nevada Gaming Control Board going to be publishing this list, or the entity, or the establishment? As I understand, any suspicious activity is sent to the Nevada Gaming Control Board to investigate and then they are the ones determining the cheating, et cetera. We have this great oversight in our state currently; if you could just help me understand this list, it is public—where is it? I think we have great transparency and oversight in our gaming. I am just trying to understand a little bit more of the intent here.

Sara Ralston:

I think I understand what you are asking, but a point of clarification: there is no list right now. That is what this proposed legislation is seeking to accomplish, to have a list by the operators requesting that they submit it to the Nevada Gaming Commission. This bill outlines or enables the Gaming Commission to establish regulations on how that list is then published. That is to be determined. This is just authorizing legislation for two things: one, requiring the operator submit it to the Gaming Commission, and two, the Gaming Commission outlining a regulatory process on how they are going to distribute or publish that list.

The second point, when you talk about the Nevada Gaming Control Board's oversight in general, gaming at large, for those who may be put on a cheating list or a banned list—I believe the proper name is the excluded persons list—the intent is not to interfere with that process. In fact, we do not want to interfere with that process. This list may be an additional source of information for the Gaming Commission to consider having a deeper investigation for certain persons just as they would when they are doing their normal course of review about who should be on that list and who should not, and they have a separate due process for that. The intent is not to interfere with that process at all.

Assemblyman Orentlicher:

I appreciate your removing the release of legal full name and date of birth. That is good for privacy purposes. I am not clear how that works with your purposes. Now you will know their game name, and if they have been banned—obviously, you are not going to play with them because they have been banned—what prevents them from going to another site and using another public name since you cannot see their full name and their date of birth? How does this avoid that problem, just hopping from site to site?

Sara Ralston:

I think you are highlighting exactly what we are trying to accomplish, which is some sort of player protection and oversight. There is no way to necessarily know if somebody has hopped over from a site to a site; they could use a different username. It would be better if

we had the actual full name attached to it, but I do understand that operators have privacy concerns. Starting somewhere and having a necessary first step, and having it attributed to information that is already out there, taking it a step further with the status of the account is really the starting point. The username, even just having that level of transparency and that information, is important for someone like myself who may play a couple of tournaments but wants to enter one of the higher stakes cash games.

Usually in a higher stakes cash game particularly, it is a ring of six players. Oftentimes online poker players will play more than one table at a time. You are looking at playing against five other usernames. I should be able to then look at a list and see if that username was ever banned, temporarily banned, suspended, or had any issues with their account. That gives me a level of information in which I can make a more informed decision about whether I want to play with that particular individual on that particular site. That is really helpful. It is, Do I want to do business with this person? Do I want to play with this person? Where can I check to see if they are in good standing or have they always been in good standing?

If you start this list, then we will have a historical perspective of each username. Theoretically, you are not able to have your account closed and then reopen it because you would not be able to submit into a new username. That level of transparency and information is really helpful for poker players online, particularly in some of those higher-stakes, low ring games. Tournaments are a little bit different because you might be playing against thousands of people; it is a little bit harder. But particularly in the cash games, I can see a lot of players finding this very useful and also see this as a deterrent for those who are trying to enter into the cash game and have ill intent.

Assemblywoman Cohen:

I was going to ask how important the username is to people. With in-person poker, there are endorsements and things like that. And I would still be interested in that. But then you were saying that someone should not be able to change their username. I just want to make sure I have that right. We are not having people going and changing usernames frequently; that is not going to be an issue. Having their username out there would be enough to help you and other poker players in making sure there is transparency, correct?

Sara Ralston:

That is correct. My understanding, unless an operator allows it privately, is a poker player is not allowed to change their username. You can use whatever username you would like, but you are not able to change it. Once you sign up to an account, you have a username, that is attached to you as a person, and it stays with you.

Chair Miller:

I do not see any additional questions for members. I will open it up for testimony in support of Assembly Bill 380. [There was none.] I will open it up for testimony in opposition of Assembly Bill 380.

Michael Alonso, representing Caesars Entertainment:

We are in opposition to A.B. 380 as written. The proponent did provide us with a copy of the conceptual amendment, and Caesars has looked at it and is opposed to the amendment based on our reading of it. Danielle Barille, who is the Vice President of Caesars Digital and manages WSOP.com, will address what Caesars does to keep the online poker environment safe for its customers and its employees.

Caesars is currently the only licensed operator of online poker in the state of Nevada that is actively operating a poker site. Caesars operates the site in a heavily regulated environment, working with the Nevada Gaming Control Board on a daily basis. Caesars is doing everything it can reasonably do to keep bad actors off the site based on its terms of service. In other words, that bad actor should not be on the site; you should not be playing against him. The proponent is looking for transparency, and on the surface that is a laudable goal. But Caesars is concerned that the bill as proposed and the proposed amendment may provide actual less transparency than what is there, at a very significant cost to Caesars and its customers. Caesars believes that publicly listing its customers will only lead to expensive and burdensome litigation for damaging someone's reputation or from players who think they lost money to an alleged cheater and want compensation. No licensee to my knowledge has ever been required to do this in a brick-and-mortar or online casino. We have always had to rely upon the Nevada Gaming Control Board to go after bad actors through law enforcement processes, the courts, and where there is due process provided to those who are accused of wrongdoing.

While we appreciate the attempt to make A.B. 380 better with the proposed amendment, we believe it is actually worse for Caesars and its customers. The proposed amendment seems to require Caesars to publicly display its entire customer list with account status so now everyone, including our competitors, can see and use our customer list. She tried to clarify the names, and we are not sure how that would work, but we would have to provide our customers and put them out there with their account status whether or not they have done anything wrong. We are not aware of any business that has been required by statute to publicly display its customer list for any competitor to see and use.

Also, many of our customers want to play online poker and be afforded privacy or anonymity through the use of the screen name, and we do not believe it is good public policy to require a customer to be listed on a public site just for being a customer.

Before I turn it over, I just wanted to address some of the questions that were asked about cheating. Cheating is set forth in *Nevada Revised Statutes* Chapter 465 already. That is really within the purview of the Nevada Gaming Control Board to determine whether someone is a cheater. We cooperate with them and provide them with whatever information we are required to provide. We provide them with suspicious activity reports, but we do not make that determination. They are a law enforcement agency and they go through a due process to make sure it can be proven that they were cheating, and they can take whatever

action that regulators want to take. Again, to the in-person thing, we do not put those things on a list. We are not required to publicly shame anybody when we have eighty-sixed them from our property for whatever activity they have done. We do it under our terms of service.

Danielle Barille, Vice President, Online Poker, Caesars Digital, Caesars Entertainment:

I have been managing WSOP.com since launch in 2013 and maintaining integrity of the game has been of utmost importance. While we do not disclose security protocols, every hand played on WSOP.com is monitored through advanced algorithms in our software and a dedicated full-time staff. We flag things like sharing a device with another player, running prohibited software while playing, Internet Protocol address changes, and physical movements. We monitor gameplay patterns to previous patron history and investigate every accusation made to our customer service. As a private, heavily regulated gaming business, today we are aggressive in terminating accounts based on reasonable suspicions to violations of our terms of service. For instance, we have terminated dozens of accounts for repeatedly running Zoom while playing on WSOP.com even though we cannot prove it was used for collusion during gameplay.

Should A.B. 380 proceed, we anticipate being drawn into lawsuits by potentially thousands of players who interacted with a later terminated account and feel retroactively entitled to prize money. We expect lawsuits from terminated accounts trying to clear their name, putting our confidential security controls on public record. For players, we believe transparency is already provided. To establish an account, you need to provide personal information including a social security number. Players whose accounts are terminated are banned permanently and are unable to establish another account without committing identity fraud. Publishing a list of previously banned players does nothing to generate transparency for today's active customers. Everyone playing on WSOP.com is in good standing.

The whole reason we have gaming regulations in Nevada is to protect players, and we think it is working. We have good procedures in place including regular audits of operations and written correspondence of every suspicious incident. We feel best able to deliver a fair poker game as a private business with the right to refuse service to anyone absent operational and legal complications that would result from publicly identifying private citizens. Assembly Bill 380 would be detrimental to game integrity by forcing us to change our approach to protecting the customer to protecting ourselves.

Chair Miller:

Thank you so much for your testimony. Is there anyone else here in Carson City 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.

Sara Ralston:

First, I want to thank Caesars for coming to the table. As Mr. Alonso indicated, I have shared the conceptual amendment with them prior to the meeting in really making sure they understand that this proposal is not specific to Caesars. I think they are doing a great job in

the space, in the climate, and the environment. This is a global issue. This is something you see worldwide for other sites, but this is something that hits a little bit home for the state of Nevada as a gaming capital of the world having the highest standards.

I also want to make a point to say that when it comes to cheating and referencing, Mr. Alonso indicated there is a process to that. That is true. But one thing that was omitted was reminding that Caesars in this capacity and their license as an interactive gaming license, it is a peer-to-peer component. There is no house element in online poker—they are a facilitator—and it is players playing against each other. They do operate as a facilitator, and I know they are doing what they can to protect the game. But there are situations where things are of concern, particularly in the tournament space.

There was a situation that happened last year on WSOP.com and a \$7,777 buy-in for a bracelet event. There were poker players who went in and competed; that is a large amount of money to play. It is highly prestigious. It is very competitive. The person who came in runner-up in that situation made an accusation that the person who won played nearly perfect. It was impressive but there was some allusion to maybe there was some type of assistance. I know that about three months later, it was publicly reported by that individual who won that his account had been banned. I do not know, but that was for a very prestigious event. That is for a bracelet. This is something every poker player goes after. It is a piece of hardware and a great prize. And World Series of Poker will get an influx of poker players each summer who will go after those bracelets online in different ring events. Even though a player is in good standing at that time, maybe they are not in good standing after review or after that tournament and what happens.

I will go back to why this bill is so necessary—the deterrent effect—having something like this, there will be a deterrent effect for players who have ill intent, and also kind of restoring trust in the community. I think it is really important legislation. I really appreciate your indulgence in hearing this. I just want to close by saying the main goal really is to increase transparency in this industry while also ensuring the industry at large remains protected, safe, fair, and competitive.

Thank you so much for your time today. I really appreciate it. I am open to continuing to have a dialogue with Mr. Alonso and any member of the Committee and hope to see this legislation continue to move forward.

Chair Miller:

I will close the hearing on Assembly Bill 380. With that, before we go into public comment, I will ask members to take a pause for a few minutes.

We are able to bring Assembly Bill 340 back onto work session. Members, I know there was an additional amendment passed out earlier in the meeting, but we are not considering that additional amendment. The work session will continue as amended in your work session document with the first amendment that has been submitted. I will ask our policy analyst, Ms. Thornton, to walk us through the bill and amendment.

Assembly Bill 340: Revises provisions governing certain actions and proceedings relating to real property. (BDR 3-77)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 340 was sponsored by Assemblywoman Summers-Armstrong and heard in Committee on March 29, 2021 [Read from [Exhibit E](#)]. This bill repeals the current summary eviction law and establishes a new procedure for the summary eviction of certain tenants who are not tenants of a commercial premise and who default in the payment of rent. There is one amendment to this bill.

Assemblywoman Summers-Armstrong and Jonathan Norman from the Nevada Coalition of Legal Service Providers proposed an amendment which revises the bill to refer to calendar days, not judicial days; revises the bill so that it does not apply to commercial premises; eliminates the distinction in procedures between short-term tenancies of one week or less and all other tenancies; and makes other revisions to the procedure for summary eviction. The conceptual amendment is on the following page.

Chair Miller:

Are there any questions from Committee members? Not seeing any, I will take a motion to amend and do pass Assembly Bill 340.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 340.

ASSEMBLYWOMAN MOSCA SECONDED THE MOTION.

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

THE MOTION PASSED. (ASSEMBLYMEN GALLANT, GRAY,
HANSEN, HARDY, AND YUREK VOTED NO.)

I will assign the floor statement to Assemblywoman Summers-Armstrong.

We will move on to our next item of business, which is public comment. [Public comment was heard.] That concludes our business for today.

Assembly Committee on Judiciary

April 5, 2023

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I want to let everyone know that tomorrow we will not have a meeting in the morning. Instead, we will have a joint hearing with the Senate Committee on Judiciary at 2 p.m. in Room 4100. Again, no morning Committee meeting tomorrow, but we will have a joint hearing at 2 p.m. in Room 4100 with the Senate Committee on Judiciary. This meeting is adjourned [at 9:33 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 copy of a PowerPoint presentation titled "AB 405: Expanding Mental Health Treatment in Nevada," submitted and presented by Nadia Wood, Judge, Las Vegas Justice Court, in support of Assembly Bill 405.

[Exhibit D](#) is a proposed conceptual amendment to Assembly Bill 380, submitted and presented by Sara Ralston, Private Citizen, Las Vegas, Nevada.

[Exhibit E](#) is the Work Session Document for Assembly Bill 340, presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.