

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

**Eighty-Second Session  
March 31, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8 a.m. on Friday, March 31, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

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

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Alexis Hansen (excused)  
Assemblywoman Sabra Newby (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Steve Yeager, Assembly District No. 9  
Assemblyman Duy Nguyen, Assembly District No. 8

**STAFF MEMBERS PRESENT:**

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

Minutes ID: 586



Aaron Klatt, Committee Secretary  
Ashley Torres, Committee Assistant

**OTHERS PRESENT:**

Garrit S. Pruyt, Chief Deputy District Attorney, Carson City District Attorney's Office; and Chair, Nevada Local Justice Reinvestment Coordinating Council  
John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts; and representing Nevada Sentencing Commission  
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office  
Tonja Brown, Private Citizen, Carson City, Nevada  
Clinton Zens, Nye County Representative, Nevada Local Justice Reinvestment Coordinating Council  
Anne Marie Grant, Private Citizen, Quincy, Massachusetts  
Julia Murray, Chief Deputy Public Defender, Clark County Public Defender's Office; Commissioner, Nevada Sentencing Commission; and Clark County Representative, Nevada Local Justice Reinvestment Coordinating Council  
Erica Roth, Government Affairs Liaison, Deputy Public Defender, Washoe County Public Defender's Office  
Demar Dahl, Elko County Representative, Nevada Local Justice Reinvestment Coordinating Council  
Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director, Nevada Coalition of Legal Service Providers  
Debra A. Bookout, Directing Attorney, Guardianship Advocacy Project, Legal Aid Center of Southern Nevada  
Catherine Nielsen, Executive Director, Governor's Council on Developmental Disabilities, Department of Health and Human Services  
Steve Walker, representing Douglas County  
Izack Tenorio, representing Valley Health System  
Leanne Wagoner, Manager, Court Advocacy Programs, Douglas County  
John P. Michaelson, Cochair, Rules Committee, Nevada Permanent Guardianship Commission  
Ammon Francom, Private Citizen, Las Vegas, Nevada  
Rachel S. Tygret, Private Citizen, Las Vegas, Nevada  
Amber J. Handy, Private Citizen, Gardnerville, Nevada  
Dara J. Goldsmith, Private Citizen, Las Vegas, Nevada  
Tracey Bowles, Public Guardian, Washoe County  
Elizabeth Brickfield, Private Citizen, Las Vegas, Nevada  
Travis Clark, Private Citizen, Reno, Nevada  
Kathleen Jones, Public Guardian, Elko County  
Egan Walker, Judge, Second Judicial District Court

**Chair Miller:**

[Roll was called. Committee rules and protocol were explained.] Good morning, everyone. I would like to welcome you to Assembly Judiciary. Today, we have two bills, and we are going to take them out of order on our agenda. We will start with Assembly Bill 388 which is sponsored by Speaker Steve Yeager. I must say Mr. Speaker, it is always good to see you back in Judiciary. With that, the hearing on Assembly Bill 388 is open.

**Assembly Bill 388: Makes an appropriation to the Department of Sentencing Policy for the purpose of funding certain grants awarded by the Nevada Local Justice Reinvestment Coordinating Council. (BDR S-1049)**

**Assemblyman Steve Yeager, Assembly District No. 9:**

It is good to be here with you this morning. I have Mr. Garrit Pruyt with me, who is the district attorney here in Carson City. I will present the bill as briefly as possible, and then I will hand it over to him for some remarks.

Assembly Bill 388 makes an appropriation of \$3 million. However, before I can talk about that appropriation, I feel the need to give a little bit of a history lesson and a rundown of Assembly Bill 236 of the 80th Session, which was the Justice Reinvestment Initiative from 2019. I am not going to spend a lot of time talking about what was in that bill, but I do want to talk about the driver of that bill, where it came from, and a specific provision of the bill that resulted in the legislation in front of you today. Now, I realize with the legislative turnover, only a handful of people that are still on this Committee were present in 2019 when this Committee vetted that policy. I think maybe three or four of you were on this Committee then. For those of you who were not, I want to just give you a little bit of background because much has been said about the bill over the past three or four years, but I want to give you some facts about it. By the way, you have several exhibits on the Nevada Electronic Legislative Information System that I have posted. I did not bring paper copies because I wanted to save the trees this morning, but I will reference some of those and you certainly can look at them at your leisure.

I want to start with a letter from the Office of the Governor that you should have [[Exhibit C](#)]. Back in 2018, our state leaders, led by Governor Sandoval, sent a letter asking for help. They sent a letter to the federal government asking for technical assistance from the Crime and Justice Institute, which is a public-private partnership between the Bureau of Justice Assistance and the Pew Charitable Trusts. The letter was signed by the Senate Majority Leader, Aaron Ford; the Speaker of the House, Jason Frierson; and the Chief Justice of the Supreme Court, Michael L. Douglas as well. In this letter dated May of 2018, they ask for assistance to help with Nevada's ongoing efforts to effectively use government resources to reduce crime, enhance public safety, and increase opportunity.

The letter is three pages long, and I am not going to go over all of it, but they highlighted a couple of things that were going on in the state of Nevada. They had indicated that over the last decade the Nevada Department of Corrections (NDOC) budget had seen an increase of 12 percent, Nevada's Division of Parole and Probation budget had grown 28 percent, and that

those costs were driven by a growing prison population where they had seen an overall increase of 11 percent in the prison population between 2010 and 2016. They noted a staggering 35 percent growth among female prisoners during that same time. They asked for help because they were projecting an additional 15 percent growth over the next ten years. They noted that that growth in prison population had not resulted in improved outcomes, with recidivism rates and re-offense rates remaining very high in the state.

Frankly, I think the state leaders were worried about the cost to the state. There were proposals that we would have to build new prisons in the state if that population continued. Ultimately, that letter asking for help in rebalancing Nevada's public safety portfolio was sent and thankfully, Nevada was chosen for that technical assistance. This started a very long process that took probably about 14 months where folks came into our state, looked at our system, crunched all the numbers, and ran all the data to figure out how we can do things better.

Now, where I come into the picture is with the Advisory Commission on the Administration of Justice (ACAJ), which was a committee tasked with handling this work in the interim before the 2019 Session. The committee served its purpose and no longer exists. This committee had just about everybody on it including criminal justice folks, Supreme Court justices, district court judges, justice court judges, district attorneys, public defenders, and victim advocates. The attorney general was also on it, and we actually met both before and after the election, so first it was Attorney General Adam Laxalt, then after the election it became Attorney General Aaron Ford. The idea was to figure out what we could do better, and that process took a very long time. In fact, I want to thank the legislative staff who had to staff all those meetings because we had many of them.

Ultimately, we got to the 2019 Session, and we finally got this bill, Assembly Bill 236 of the 80th Session. It was a very large bill with a lot of things in there. The bill, like many bills do, went through the legislative process and had a lot of changes, which is to be expected with a bill of that magnitude. Ultimately, the final version of the bill received bipartisan support. At its final hearing in the Senate, nobody testified in opposition to the bill and in support were more traditionally conservative groups such as the Reno-Sparks and Las Vegas Chambers of Commerce, the Retail Association of Nevada, the Nevada Trucking Association, and Americans for Prosperity Nevada. The Las Vegas Metropolitan Police Department had been opposed to the bill originally, and they came in as neutral after some changes were made.

I did want to point out that there was one other letter that I do not know if all of you have seen or not. With the original version of the bill, before it got changed, there was a letter of support that came in from some, what I would characterize as, very conservative groups around the country [[Exhibit D](#)]. That letter advocated for members of the Legislature to support the initial version of the bill before it was amended to address some concerns. The authors of this letter—R Street Institute, the American Conservative Union, Americans for Tax Reform, the Faith and Freedom Coalition, FreedomWorks, and Right on Crime—had indicated that Nevada was projecting a 9 percent increase and that the taxpayers would pay

\$770 million more over the next ten years if we did not pass some reforms [page 1, [Exhibit D](#)]. They also mention that the recommendations we had in the bill had proven successful in many states like Texas, Georgia, South Carolina, Mississippi and Utah, as well as, and I will quote from this letter [page 2], "By adopting the recommendations of the ACAJ, the Legislature can follow the lead of President Trump and conservative states across the country, getting Nevada's justice system back on a sustainable track." The reason I read that to you is, I very much believe, as I always have, that criminal justice reform is not a partisan issue. If you look around the country, there are conservative states and there are liberal states that are doing criminal justice reform. It is a matter of, how do we use government resources effectively, and how do we get outcomes and results?

I wanted to give you a little bit of background of where [A.B. 236 of the 80th Session](#) came from and how it ended up passing into law in 2019. Now, I will mention, as many of you know we had something really cataclysmic happen in the country in March of 2020 and that was the COVID-19 pandemic. Most of the provisions of [A.B. 236 of the 80th Session](#) did not go into effect until October of 2020. Therefore, some of the promise of that bill has not truly been realized because of the pandemic and the disruption it caused. You see, [A.B. 236 of the 80th Session](#) had a unique provision in it called the Justice Reinvestment Act. Just by the language itself, the idea there was, we would take those costs that were avoided—the \$770 million as initially projected and I will update that—but we would take those avoided costs and we would reinvest them on the front end of the justice system; for example, trying to help people not have to go to jail or not have to go to prison.

Part of this bill requires a tracking of how we are doing in terms of avoiding those costs. In 2019, it was projected that if we enacted this bill, \$640 million would be saved essentially in the next ten years. That is through NDOC costs, such as building new prisons and staffing prisons. [Assembly Bill 236 of the 80th Session](#) included a mechanism to measure the outcomes and asked the Nevada Sentencing Commission (NSC), which I think now is the Department of Sentencing Policy (NDSP), to collect and analyze data. It also tasked the NSC to develop a formula to measure the cost avoided and make recommendations for how we should reinvest those funds. [Assembly Bill 236 of the 80th Session](#) also created—this is what the purpose of this bill is directly related to—The Nevada Local Justice Reinvestment Coordinating Council (Council). The Council is required to administer grants to fund programs and treatment at the county level. The Council comprises members from each county. Each county appoints one member of the Council including two members from Washoe County and Clark County. I have included for you as one of the handouts the current membership of the Council [[Exhibit E](#)], and I happen to have the chair next to me, who can talk more about the Council and answer questions.

The next thing I wanted to point out is in August of 2022, you have a report called Projected Amount of Costs Avoided, put out by the NDSP [[Exhibit F](#)]. Based on the current projections, they updated that number of \$640 million in savings to be \$470 million in savings [page 4, [Exhibit F](#)]. Part of that was because when the COVID-19 pandemic happened, we had a drop in prison admissions for a lot of reasons. The NDSP at that point recommended intensive and focused funding to agencies and programs that would help

reduce recidivism, such as NDOC, the Department of Public Safety Division of Parole and Probation, and the Housing Division [page 6]. Additionally, the NSC, at that time, recommended funding of \$3 million to the Council for that purpose [page 6]. As we sit here today, the Council has not received a dollar to be able to grant out. Part of that was the COVID-19 pandemic in March 2020 where we had to come and cut a huge portion of our state budget and, as a result, there were simply not the funds to do it.

Then, just to update you, a report in December 2022, titled "Statement of Costs Avoided Report" was again submitted by the NDSP [[Exhibit G](#)]. They provide a full analysis comparing the projected prison population and then the actual prison population since [A.B. 236 of the 80th Session](#) went into effect [pages 3-4, [Exhibit G](#)]. Just a quick note, we try to project the prison population years and years ahead of time, so the state generally consults with a company that does those projections. Therefore, when we came into [A.B. 236 of the 80th Session](#), we saw where the trajectory was going, and we wanted to figure out how we could flatten out that trajectory to avoid building additional prisons in the state.

The recommendation to fund \$3 million was developed by the Council, who meets on a quarterly basis, and they have been meeting since September 27, 2021. The Council has developed the recommendation based on reinvestment in programming in other states [pages 5-7, [Exhibit H](#)]. The Council has also researched programs and treatments in Nevada that could be funded by the grants they would administer [page 8]. Specifically, at the May 2022 meeting, they talked about the cost of establishing the Mobile Outreach Safety Team (MOST). In 2019, there was a bill that would have appropriated \$2 million to fund those teams in the rural counties, but unfortunately, that bill did not pass [page 8]. However, funding these MOST teams would provide support for responding to mental and behavioral health issues for people who otherwise might be involved in the justice system. If you think about calls coming in to 911, sometimes you can send a behavioral health professional out there and avoid having to arrest the person or avoid having to put them in the hospital.

To get to the bill, it is straightforward as far as bills go; it proposes \$3 million. I think it is an exciting step in marking the progress and success of [Assembly Bill 236 of the 80th Session](#), but it also fulfills the promise of reinvestment. If you do not reinvest, you are not going to see the results of what this body did in 2019 with [A.B. 236 of the 80th Session](#).

Finally, I did want to note, I was hoping we could get a certain gentleman here in person, but travel plans did not allow for it. However, he did submit a letter for the record; a letter of support from the executive director of the Utah Criminal Justice Coordinating Council, who does similar work, Mr. Tom Ross [[Exhibit I](#)]. Their council's name is different and just as long as ours, but they do some good work. You have a letter of support from him advocating for us to fund our Council to achieve the results that they have seen. I would obviously urge your support, but before we take questions, I want to hand it over to my esteemed guest, Mr. Garrit Pruyt, and thank him for the work he has been doing on the Council.

**Garrit S. Pruyt, Chief Deputy District Attorney, Carson City District Attorney's Office;  
and Chair, Nevada Local Justice Reinvestment Coordinating Council:**

As was stated, I am the chair of the Nevada Local Justice Reinvestment Coordinating Council, and our purpose is set forth in *Nevada Revised Statutes* 176.014. We get about seven subsections of statute that more or less set out what we are supposed to do, and I can tell you the first few sections of those is simply who will make up the Council. We get about one line that says our purpose is to identify county-level programming treatment needs to reduce recidivism. As was noted, our Council is made up of members from across the entire state. We have some that are county commissioners, district attorneys, public defenders, and other stakeholders in the criminal justice system from court personnel to counselors; all sorts of different members to make sure we have the fullest perspective possible on the situations we have before us.

What the Council has been up to for approximately the last two years is first determining exactly how it is that we would set forth what we need to do, for example, what are the issues that we have, and what we found consistently is that three areas that contribute greatly to our recidivism problems involve mental health, absences of treatment, or holes that are associated with that treatment. Since we are composed of persons throughout the state, we also noted that the issues that may plague Clark County or may plague Elko County are far different than what may plague us here in Carson City. Therefore, what we are designed to do is essentially plug those holes on a local level. There are lots of different types of legislation that obviously can address issues on a statewide level and appropriate necessary funds to do that. However, what we are designed to do, especially with the grants that we would have, is allow different counties to apply for grants that would address or plug the holes in their local community.

To give an example, we had issues in some of our rural jurisdictions with transportation where Nevadans would struggle to meet mental health or other substance abuse counseling appointments. This was not the same issue that we had in Carson City. Given the much smaller size of our jurisdiction, most of our resources are within walking distance. Thus, that issue is different for us than it would be for them. What we would do to overcome this is set forth a number of different types of funding that would be available.

Now, the other thing that we had to look at was, how do we track this? We have had quite a few presentations from different groups, and one of those that we have more or less settled on with NDSP is a tentative partnership with justice courts to keep track of the data to determine whether the money we spend is really helping and doing what we want it to do. We certainly understand that not everything is perfect. Obviously, our goal is to reduce recidivism each and every way that we can. Therefore, as we look back after we award a grant, we are going to be able to track if that grant accomplished its slated goal. If it did not accomplish its slated goal, obviously, it is not something we are going to renew or something we would continue to pursue.

Therefore, in arriving at the number before the Committee, we started looking at the similar types of committee that we are, as they are in other states. The way they are composed is very similar, and they operate under the same rubric. The number of budgets that they have varies widely. We have some that deal with upwards of \$300 million down to some that deal with \$3 million or even a little bit less. We started on the smaller approach, looking to plug those holes instead of essentially being an umbrella that administers all this money across the state, so that we can fine-tune our processes. That is how we arrived at the number that we have before this Committee today. It is our goal to start plugging those holes in each of the communities so that we have a reduced amount of recidivism, and then we can finely tailor the solution to each county as they need it.

**Assemblyman Yeager:**

I, again, want to thank Mr. Pruyt for his work. In groups like that, it can be hard to get everyone on the same page, so I appreciate his efforts. We are available to take any questions at this point.

**Assemblywoman Mosca:**

Thank you, Speaker, for this very important piece of legislation. I appreciate the focus on outcomes to show the impact. What kind of nonprofit organizations, if there are specific ones you are thinking of or ones that have approached you, are to help in this endeavor? Also, will it include both in-state as well as out-of-state, or just in-state nonprofits?

**Garrit Pruyt:**

What we consider when we are looking at partners is if they have the present ability to help. Most of the ones that we have found have been on the local level because they are in the best position to administer the help that is needed. I can probably give you the best examples of those here in Carson City because that is where I work and what I see. When I think of the mental health options that we have available for people, apart from the Mallory Crisis Center that we have here in town, there are several programs. We have a program called the ACT [Assertive Community Treatment] program which deals with persons on an outpatient basis for mental health who have been diverted by our MOST team to those types of programs. Another program we have is called the First Episode Psychosis program, which helps individuals who are perhaps experiencing their first psychosis episode as an adult to reintegrate and avoid the criminal justice program altogether.

Therefore, it is not that we would be opposed to organizations outside the state that are willing to come in and provide those services. However, what we are going to want to see is an organization that is there now with the present ability to make the difference, as opposed to looking at something way out in the future.

**Assemblywoman Cohen:**

Speaker, could you address the work that will be done when the reports come into the Interim Finance Committee and the Legislative Commission, and talk a little bit about our legislative auditors, that team, and the work that they do?



**Assemblyman Yeager:**

If I am not mistaken, Assemblywoman Cohen, I think you chaired the hearing on Assembly Bill 236 of the 80th Session back in 2019; thank you for that. It was a long hearing. The question is a good one. Basically, this money gets appropriated to the Council and the Council can grant it out, and there is some reporting that comes back to the Legislature and particularly to the Interim Finance Committee (IFC). If you do not know what that is, it is a committee, among a couple of committees, that meets in the interim. The one that deals with money is the IFC, and generally, they would meet when state agencies have emergencies and need additional funds. There will be a reporting that will be made; that way the IFC knows what the money was spent on and basically how it was used. I think there is some benefit, with these local grants that are made, if we start to see things that are very successful, it may be things we want to replicate on the state level. We also may not, because they could be individual to the county's needs. Bottom line, there will be a reporting and an accounting.

Then the next part of the bill, which is on page 2, section 1, subsection 2, paragraph (c), talks about the Legislative Commission. The Legislative Commission is another interim group that meets, and they deal with not so much the money but the regulations and process. Under this particular bill, the Legislative Commission and its auditors, if they have concerns about the way the money was spent, may require any grantee agency to provide information and provide their books in relation to the grant. Basically, legislative auditors would come in and make sure that the money was used the way it was supposed to be used. I do not know how many of you have experience with our legislative auditors, but I will tell you, I think they are absolutely the best in the business. You should go on their website and read some of the reports because one of the great things they do is performance audits. They go in and look at programs, and rather than just reporting how the money was used, they will offer ideas on how you could do better through recommendations—generally to state agencies. In this circumstance, if we needed them to come in, they would have the ability to do that to make sure that the state's money, the \$3 million, is being applied as designated by the Council and that there is a safeguard there to be able to come in and look at it if we have any concerns.

**Assemblywoman La Rue Hatch:**

I think this is critical legislation and I appreciate this investment on the front end to try to catch problems before they become much larger. We have the letter from our neighbor to the east and you mentioned that this program is in effect in other states as well. What I like about this is the idea that there is local investment, you can try new things, and you can see how they work. Do you have any data available on how this has improved criminal justice systems, recidivism, or other related metrics in the states that have done this?

**Garrit Pruyt:**

The Council does have data on this subject, and we can provide that to the Committee. We have seen several presentations from other states; the most recent one we had was from the state of Oregon. Obviously, many of the programs they are administering are different than the ones we may administer here, but they are a state with one of the largest budgets.

I think they deal with over \$380 million a year in grants. What they do with the grants they have given out is they keep track county by county of how the recidivism numbers are affected. They do it somewhat on a macro scale, and not in the sense of individual programs or if they are the right ones contributing statewide. What they look at and what they track is how much money was awarded to this county, and then they look at those numbers and ask; are they reducing, are they staying the same, are they going up? That analyses then determines how much money may be awarded to those counties in the future, and we can get that information for you to take a look at.

**Chair Miller:**

Could you submit that to the Committee because I know everyone would be interested in that data?

**Garrit Pruyt:**

Yes, we can.

**Assemblyman Gray:**

Mr. Pruyt, just a quick ask for you, sir. I noticed in the roll call sheet Lyon County has not filled my seat yet. Please reach out to them and get Andrew Haskin, the county manager, to fill that seat on their next agenda. I enjoyed my time on there, and I really appreciated that opportunity. It was a good experience, and they are doing good work.

**Assemblyman Yurek:**

I really appreciate the efforts to be proactive; especially in the area of what seems like the priority, mental health issues. My colleague asked for some data to see how this is helping other jurisdictions, but just to help me understand, can you give us a couple of examples of when these grants have been given to local entities and the types of programs that they have gone to that have targeted mental health? Give us an idea how this money might be spent to get the results that you are telling us have been achieved.

**Garrit Pruyt:**

One of the areas that we saw an expansion of was what are called MOST teams, Mobile Outreach Safety Teams, which is the pairing of an officer generally with a social worker to respond to mental health calls. As this body is likely aware, there are several MOST teams that are in many of our larger counties throughout the state. Many of our smaller counties do not benefit from having MOST teams, but we have also seen them deployed in many other states. I can say that here in Carson City, we have had those teams for many years now because it was a priority for our sheriff.

When an individual calls who is in mental health crisis, generally that MOST team is who is sent out to respond to that incident. What that has done is reduce the number of arrests that have taken place. Every so often, if things escalate to a level that we would not want to see or it becomes a public safety issue, depending on what is happening, sometimes an arrest does take place. Many of these people are helped by MOST teams to the Mallory Crisis

Center, or they otherwise connect them with family members. They are able to do a lot of things that otherwise has not been done traditionally. We saw funding used for that reason in other states as well.

We also saw an expansion of just simple treatment services. One of the portions that I believe I saw in Washington State was an expansion of telehealth. The majority of the mental health providers have congregated in larger cities, leaving rural jurisdictions with less access to those resources. Thus, in one of the smaller counties, I think this example was in rural Oregon, it was simply setting up a computer platform in an area that was safe where they could participate in those telehealth appointments. The local needs vary so much, and that is why I point to some of the other states because they experience many of the same issues that we have. Therefore, by allowing the counties to basically submit their own proposals, it allows them to specifically address the problems they have.

**Chair Miller:**

With that, I do not see any additional questions. I will now open it up for testimony in support of Assembly Bill 388.

**John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts; and representing Nevada Sentencing Commission:**

I am appearing today in my capacity as the Administrative Office of the Courts' appointee to the NSC and on behalf of Chief Justice Stiglich, who is currently the chair of the NSC, to throw our support behind this bill. I think Speaker Yeager covered everything well, but I would like to indicate that this is continuing the intent that started with the creation of the NSC and the provisions in A.B. 236 of the 80th Session. It is an important step forward.

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

Assembly Bill 236 of the 80th Session, as Speaker Yeager said, was a watershed moment that most of you were here to help get across the finish line. Moving forward in a data-driven fashion and reinvesting those funds so that our community becomes safer, our recidivism rate goes down, and that things become better for our citizens is absolutely essential to moving forward. This bill would help accomplish that goal, so I urge your support.

**Tonja Brown, Private Citizen, Carson City, Nevada:**

I am with Advocates for the Inmates and the Innocent, and we strongly support this bill. We would like to thank Speaker Yeager and the presenters for bringing this very important piece of legislation forward. I am just going to echo everybody's comments about this, and I would just like to add that anything that would help to reduce recidivism would be beneficial to the taxpayers in this state. Mental health is a huge ongoing problem, and we really need to reach out and get the support. Most people do not know this, but I did have a brother who suffered from mental health problems. He was a paranoid schizophrenic, and about a year and a half ago, I received a call from the Lyon County Sheriff's office that they had found his body. He was homeless, living under a bridge in Dayton, and he suffered mental illness most of his

adult life. Funding linked to this kind of legislation would be beneficial to everyone, especially those with mental health issues and their family members. You will hear officers tell you they are not equipped to deal with mental health issues and a lot of these people wind up seriously injured and some dead because of this. Therefore, we strongly support this bill.

**Clinton Zens, Nye County Representative, Nevada Local Justice Reinvestment Coordinating Council:**

I certainly wanted to get this opportunity to voice my support for this bill. Being a mental health professional myself in my very rural county for the last ten years, I find it very exciting that this concept is even up for debate. The thought of getting grant funding that can bolster our mental health capacity to help the people of Nye County, which is greatly needed, as well as be able to help the sheriff's office with a mental health professional to respond to those crisis calls instead of a police officer going out and ultimately having to make an arrest because they were not able to handle a situation otherwise, is very exciting to us. Therefore, I echo everybody's comments and am definitely in support of this bill.

**Anne Marie Grant, Private Citizen, Quincy, Massachusetts**

On behalf of Advocates for the Inmates and the Innocent, I echo the other testimony of those in support of the bill, and I support the bill as well.

**Julia Murray, Chief Deputy Public Defender, Clark County Public Defender's Office; Commissioner, Nevada Sentencing Commission; and Clark County Representative, Nevada Local Justice Reinvestment Coordinating Council:**

I am here today to voice my strong support for A.B. 388. The Council, since September of 2021, has been actively engaged in researching and collecting information both from direct members of the counties it represents, but also from agencies statewide and out of Nevada. The reason for doing so is because A.B. 236 of the 80th Session relies on data in order to see its full potential come into capacity in reducing recidivism in the state of Nevada. The next step to this is funding. Without funding, we are unable to move forward and achieve our goals of assisting the actual communities of this state and addressing their individual, recognized needs in accessing transportation, counseling, or whatever it may be that will allow each county to look at their issues that affect recidivism and address them head on.

I look forward to helping entities and organizations in each county across the state apply for the funding that would be offered if this bill is granted. This money will have a direct impact for the people of our communities. While I am excited to see what this money could do for a county such as my own, I am significantly more excited to see what this money can do in the areas of Nevada that truly lack resources. Our smaller rural counties have access issues, and this money can directly change that. Your support of this bill will allow the Council, in turn, the NSC, and in turn, the people of Nevada to take an active step against continued acts of crime and towards reducing recidivism in our state.

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

I am calling in support this morning. I want to thank the Speaker for bringing this forward and simply echo the comments of my colleagues in the south. I urge your support.

**Demar Dahl, Elko County Representative, Nevada Local Justice Reinvestment Coordinating Council:**

We here in Elko County strongly support A. B. 388 and would appreciate your support as well.

**Chair Miller:**

We will now move into testimony in opposition of Assembly Bill 388. [There was none.] Then I will go ahead and open it up for testimony in neutral of Assembly Bill 388. [There was none.] Then with that, I will welcome Speaker Yeager and Mr. Pruyt back up for any final remarks.

**Assemblyman Yeager:**

I am excited about the support that we heard. We heard support from across the entire state, and that probably tells us we are doing something right. I want to express appreciation for those who serve on the Council, and I did forget to mention that Assemblyman Gray was on the Council before he became a member of this body. I am sure they will get that seat filled soon.

Again, this is about reinvestment, and it is hard sometimes because what we are doing is we are avoiding spending money. It is not like we have that money, it is not actual savings, so that can be hard philosophically to say, Well, let us spend that money on something else. But that was the central premise of justice reinvestment; we save, we reinvest, and hopefully we solve some of these problems. The latest projection is we are going to save \$470 million over the next ten years. This appropriation is \$3 million, so that is less than 10 percent—my math is not great—it is probably closer to 7 or 8 percent, of what that projected savings is.

My sincere hope is that if this were to be approved, we will be back in front of this Committee next session and hopefully asking for more because we were able to demonstrate that this actually worked the way that it was intended. I just see this as a win all around for the state, and very much appreciate the time of the Committee this morning to be able to talk about something that happened 4 years ago, which now feels like 40 years ago, and to continue this important work. Again, I appreciate your time and am always willing to answer any questions you may have after the committee meeting ends today.

**Chair Miller:**

Always a pleasure to have you back in this Committee. With that, I will officially close the hearing on Assembly Bill 388. Our next hearing is Assembly Bill 381, and this bill is presented by Assemblyman Nguyen and his copresenters. I am going to let Assemblyman Nguyen introduce the folks who are participating in this presentation. With that, the hearing on Assembly Bill 381 is officially open.

**Assembly Bill 381: Revises provisions governing guardianship. (BDR 13-302)**

**Assemblyman Duy Nguyen, Assembly District No. 8:**

Good morning, Assembly Judiciary Committee. Here beside me is Mr. Jonathan Norman, Statewide Advocacy, Outreach, and Policy Director with the Nevada Coalition of Legal Service Providers (Coalition) and Ms. Debra Bookout, Directing Attorney of the Guardianship Advocacy Program with the Legal Aid Center of Southern Nevada. In the audience, we also have the expertise of District Judge Egan Walker, who serves as the cochair of the Permanent Guardianship Commission (Commission) and has been a strong supporter of the guardianship realm ever since.

Adult guardianship matters hit close to home in my district. I represent the most culturally diverse district in the state of Nevada. Many of those families observe the tradition of caring for their loved ones in their home as they grow older. Nevada set a national standard for adult guardianship with groundbreaking reforms implemented in 2017 with the advent of the Protected Persons' Bill of Rights. This has been vital for alleviating the barriers faced with adult guardianship. Former Speaker Barbara Buckley has even stated that, in some cases, guardianship was being filed against vulnerable adults by people they have never met before in their lives. Empowering these individuals with the support of affordable legal counsel was the first step, and Assembly Bill 381 takes it further by protecting the rights and interests of vulnerable adults throughout every step of the guardianship process.

These advances align even more with the Patient's Bill of Rights in the way of helping preserve individual independent privacy and the ability to correspond and visit with people, having their financial and health care wishes carried out as they choose, and [unintelligible] restores rights and autonomy to those seeking to terminate a guardianship. Right now, it is still harder to escape guardianship than is to be placed within one or at times, have one forced upon you without your consent.

Assembly Bill 381 preserves both their dignity and autonomy throughout the process that was set forth through those first reforms and ensures protections even further. When the court appoints a guardian to make decisions on behalf of an adult, we need to instill checks and balances that will ensure they are put there because of an appropriate, verifiable need, and that a guardian also must be held accountable to not take advantage of the person appointed to their care. Strengthening the system with transparency and oversight will ensure, even more, that their lives and livelihoods will not be trampled upon. Now, I would like to turn it over to Mr. Jonathan Norman, who is a strong advocate for this work and can go over more background on the bill.

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

I want to thank Assemblyman Nguyen and this Committee for hearing us today. I am not going to go over some of the comments that I had because I think the Assemblyman covered them. I will say that when I think about adult guardianship in our state, I think of two points in time when two articles were published; I think of one by *The New Yorker* and I think of

one by *Bloomberg*. The reason I think of those is because they both published articles on the state of guardianship in Nevada. *The New Yorker* article came out some time ago and was highly critical of the abuses that were happening to people in guardianships that were approved by the courts. The *Bloomberg* article highlights where we are today and all the good work that has been done by the Commission and advocates around the state. I want to make it clear, yes, we have these reforms, but I think we are a model in the country for how guardianship should be done well, and I think that is through the hard work of our attorneys at Legal Services and the Commission.

I want to start by making clear what we mean when we say protected person and proposed protected person. If somebody is not able to make decisions and take care of themselves—let us say my father is aging and he fits that description—I may choose to file a guardianship. At the point I file a guardianship, my dad is a proposed protected person. Once that guardianship is granted, he would be known as a protected person.

Something that gets misconstrued oftentimes is people thinking individuals who are under a guardianship have no rights, but our state has decided and is committed to preserving as much individual liberty for that person that is appropriate, given their unique circumstances. Therefore, what you will see in the Protected Persons' Bill of Rights are phrases like, “Engage in any activity the court has not expressly reserved for a guardian,” “Receive telephone calls and personal mail and have visitors,” “Maintain privacy,” and “Be granted the greatest degree of freedom possible . . . and exercise control of all aspects of his or her life that are not delegated to a guardian specifically by a court order.” That is the balance; we are trying to protect people and preserve their individual liberty. These rights are protected by the mandatory appointment of counsel for all protected persons and proposed protected persons at any given time.

In the Coalition is Northern Nevada Legal Aid, The Senior Law Program, Volunteer Attorneys for Rural Nevadans, and Legal Aid Center of Southern Nevada. At any given time, we are representing around 2,500 individuals who are either proposed protected persons or protected persons. I am joined by Debra Bookout, who is the directing guardianship attorney at the Legal Aid Center of Southern Nevada. She manages a team of 25 individuals; 15 attorneys, paralegals, and legal assistants, and they represent protected and proposed protected persons in Clark County. Ms. Bookout and I presented to the interim Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs (interim committee) on June 28, 2022, regarding changes we felt would bring the rest of *Nevada Revised Statutes* (NRS) Chapter 159 more in line with the Protected Persons' Bill of Rights. The Coalition is made up of advocacy law firms, and we are grateful to that interim committee for taking up this bill and to this Committee for hearing it today.

I would like to stress that our guardianship statute is solid. In fact, we are an example that other states are emulating. Nevertheless, there is room to improve, and I think these changes reflect that. I am now going to turn it over to Ms. Bookout to walk us through the bill.

**Debra A. Bookout, Directing Attorney, Guardianship Advocacy Project, Legal Aid Center of Southern Nevada:**

I am going to run through the bill quickly for you. Section 1 requires phone and email information for the petitioner and proposed guardian be included in the petition for guardianship. Section 1 also conforms the physician certificate and needs assessment by requiring that both be included with the petition and both may be prepared by the same person. Section 2 requires that before appointing a guardian ad litem (GAL), the protected person is provided a notice of the potential appointment and an opportunity to object. This section also requires the order appointing a GAL to specify the scope and duties and further requires the court to set the rate of pay.

Section 3 requires the petitioner seeking a temporary guardianship identify the specific risk or specific medical need the protected person is facing. Then, section 4 requires the court to limit the temporary guardianship to the powers necessary to address those specified needs. Section 5 adds a provision requiring the court to deny a petition for guardianship where there are less restrictive alternatives available to the proposed protected person. Section 6 requires the court to grant a petition where those less restrictive alternatives are not available.

Section 7 clarifies that professionals or other expenses do not include the fees of the guardian's attorney in the guardianship matter, rather those fees are compensable under another provision. Section 8 addresses the burden of proof involved in terminating a guardianship and further addresses fees incurred during a termination proceeding.

Section 9 guarantees the protected person's right to refuse to visit or communicate with anyone. Section 10 clarifies that a protected person cannot be ordered to visit or communicate with anyone if they do not wish to. Section 11 notes that any person opposing a protected person's wishes with regard to visitation carries the burden of proof.

Section 12 further provides clarification regarding attorney tasks which are not compensable from the protected person's estate. It also prohibits the award of guardians' attorney's fees from the protected person's estate where the required notice of intent has not been filed. This section further requires that the order awarding fees must include the reasonableness factors. Finally, section 13 expands guardianship orders that may be appealed.

**Assemblyman Nguyen:**

In closing, before we stand for questions, I would just like to remind the Committee on two important things that we are trying to accomplish with A.B. 381. First, temporary protective orders will review the need for a guardian, setting limits on what can quickly be imposed upon without a critical need. This requires that a petition for temporary guardianship must state specifically why it is needed and only the court will have the authority of temporary guardianship to meet that specific need. This will prevent a protected person from being exploited by the very instrument meant to protect them. Second is to have legal services provided at a reasonable rate. Whenever the court orders that attorney fees must be paid from the protected person's life savings, they will have to consider and review a list of



factors and record written findings related to those factors. This provides some protection and transparency when we are allowing a court to spend what is often the protected person's life savings.

These improvements in A.B. 381 will restore more self-sufficiency for vulnerable adults to be active participants in their life choices and will allow them to have a greater sense of dignity as they grow older. Thank you, and we are ready for questions.

**Assemblywoman Mosca:**

When I was reading this and again, as you mentioned it, in section 5, what are some examples of less restrictive alternatives?

**Debra Bookout:**

The common less restrictive alternatives that we are referring to would be like powers of attorney for health care financial purposes. We have also supported decision-making agreements and representative payee for federal benefits could be less restrictive alternatives. As you know, we now have power of attorney for individuals with disabilities and individuals diagnosed with dementia. Those are some of the types of alternatives we are talking about.

**Jonathan Norman:**

In the Supreme Court-approved forms that are available at the self-help centers, I think there is a list of some of the most common less restrictive alternatives, and when the petitioner is filling out that form, they check whether those exist.

**Assemblyman Yurek:**

Thank you for your continued efforts to try to find that often very difficult to discern balance between protecting this individual and giving them the freedom we know they all want and, quite frankly, deserve. I agree with you, Mr. Norman, that Nevada really does have some amazing statutes, and this is all on the heels of the Commission to Study the Administration of Guardianships in Nevada's Courts and the eventual appointment of the Permanent Guardianship Commission. My question is, did the Coalition consult with that Commission to get their thoughts and input into what you are proposing here? If so, what did they say?

**Jonathan Norman:**

Assemblyman Nguyen had mentioned that Judge Walker is in the audience. He is one of the cochairs of that Commission, and I think he was there when the deep magic was written. He was part of the original Guardianship Commission, and I think he may have written our statutes that we are operating under. We presented to the interim committee, and I think it is a fair criticism that we did not include the Commission as fully as we should have. We did brief the Commission on our goals, but as you know, when language gets dropped, we are on a compressed timeline. Therefore, our team was digesting that language at the same time as the Commission. I do not think it was an agenda item in any Commission meeting.

Judge Walker will get up and speak for himself, but I think he has concerns about this bill regarding transparency. We are in discussions about how we can address those concerns because we are an advocacy law firm, and when we see an opportunity to address something that we think is wrong, we are going to take it. When the interim committee asked us to present, we presented, and we submitted a bill and decided we are going to run with that. The Commission's concerns, by my understanding, are of unintended consequences, so we are talking with them and trying to make sure we are not creating a problem for the courts, which frankly, would mean a problem for our vulnerable citizens. If the guardianship courts are not functioning smoothly, that is a problem for everybody at this table. Could I have done better in the off season? I think so, but we are working on it.

**Assemblyman Gray:**

One of the biggest questions that comes to my mind is preventing the family or the petitioner from using estate funds to pay for the attorney's fees. A lot of families that may need to seek guardianship are not going to be able to afford it, especially in the rural communities. There are other issues too, but I see that as a big barrier, where you may have people continually being taken advantage of by outsiders of the family because there is no way to correct the situation.

**Jonathan Norman:**

I think that hits upon a lot of our concerns. We have great forms at the self-help center for people to file pro se, and the preference in guardianship is to always have a family member receive the guardianship when it is appropriate and when they want to do it. I would say the reforms in here are not saying that fees cannot be sought by the guardian's attorney. What we are saying is when they are sought, we are changing it from a "may" to a "shall" look at this list of factors and that we would like written orders. I think our courts do a great job by and large, but when we are talking about a branch of government potentially having the protected person's life savings spent on something they do not want; we should have that in a written order that we can look at.

**Assemblyman Gray:**

We have heard in this Committee about people being taken advantage of through scams and stuff of that nature. Oftentimes that is exactly what the family members or the interested parties are trying to prevent is their life savings going out the window. It is one of those darned if you do, darned if you do not situations, and I do not know which is better at this point. Any suggestions?

**Jonathan Norman:**

I think you hit on it. It is a complicated area and the only thing I can draw attention to, and the changes we are suggesting, that dovetails with that is regarding temporary guardianships, we are asking that they be tailored to the precise need that is identified. We have seen cases where somebody got temporary orders and did exactly what you are talking about. They fleece the person, take hundreds of thousands of dollars, and disappear based on those temporary orders. Therefore, when the issue is a medical issue, then those temporary orders should be narrowly tailored to only give authority for that specific issue, I think this makes

that change. Are we going to catch every scam? It is unlikely, and I think it is a big challenge. I have heard of potential other bills and the Attorney General talking about the work they are doing to address that. It is just something we are going to be playing whack-a-mole with for as long as people are walking this earth.

**Assemblywoman Cohen:**

I appreciate that this is still a work in progress. I do want to address one of the attorney's fees issues in section 8 where a protected person makes a petition to terminate. Sometimes the protected person does need to continue to be a protected person and it may be a family member or a friend who wants to take advantage in the reverse to get the guardianship dissolved. That worries me. If you look in section 8, subsection 7, it states, "If the protected person prevails on a petition for termination or modification, the protected person is entitled to seek reasonable attorney's fees from any person who opposed the petition of the protected person." I want to make sure that we are really clear in that language. I have seen cases where the court says that a person won but the other side was reasonable to oppose their motion or to oppose their case. I want to make sure that we are really clear with the courts that they do not have to award fees just because a protected person won in that situation.

**Jonathan Norman:**

I appreciate the concern, and it is a work in progress. In my notes, I have my change icon next to that section. We are still kicking around the language and figuring out how that should land through talks with stakeholders. We could see it changed to, "any person who opposes the petition of the protected person"; that way when the guardian has an attorney that they are not able to recover fees for their work if they are the losing side, which may be duplicative of what already exists in the law, but we are still working on that, and your point is well taken.

**Assemblywoman Cohen:**

I am also concerned with the attorney's fees section with what the attorney can be paid for. I do not practice normally in this field, although I have done a little bit of it. Some attorneys' offices are small, and the attorneys do all the work. In guardianship cases, they will actually create the affidavits and similar work. Therefore, I just want to make sure that we are not deterring people from working in this field and on these cases where they are offering their services at reasonable rates because they are worried they will not be able to recoup the cost of their services. Now that we have made our reforms, I do not think that people are getting rich off these cases, but they do want to be compensated. This is more of a comment than a question, but I do hope that we make sure that section is fair and that the attorneys can be decently compensated for their work.

**Jonathan Norman:**

I appreciate that comment, and we will keep looking and dialing that in. I think the idea is that you are billing for the appropriate work that you are doing. If you are doing attorney legal work, you are billing as an attorney, but if you are doing administrative or nonlegal work, you are billing for that. That is something we are still working on.

**Assemblywoman Hardy:**

Thank you for this presentation about this issue. I just wanted to follow up on how it has been mentioned a couple of times that these guardianships are tailored to a precise need. Then in the bill there is mention of substantial and immediate risk of financial loss or substantial and immediate risk of physical harm or medical attention. Could you tell us what those precise needs are? Then could you share with us how long a temporary guardianship is in effect, as well as, can they be extended with proper evidence to justify an extension and for how long can they be extended?

**Debra Bookout:**

An example of a medical need on an emergency basis that you might see in a petition for a temporary guardianship would be someone in the middle of psychosis, but they also have diabetes and they need to go on dialysis. That person needs to be stabilized so they can consent to treatment, or if they cannot be stabilized, there needs to be dialysis or they are going to die. Therefore, the petition should specify that particular medical need, and then the order would confine the authority to addressing that specific need.

A temporary guardianship is granted for ten days. Then the court will set the hearing on the tenth day or the eleventh day and then determine whether to extend it. I believe it can be extended up to six months with, as you said, evidence presented that it needs to be extended. Generally temporary guardianships are ten days and then there is a hearing after the ten-day period.

Regarding financial risk, it would be what Assemblyman Gray referred to as a scam. What the petition should specify is what is happening financially to that proposed protected person if it is a scam. For example, they have given their bank account information to someone—the petitioner would then need to specify what is happening currently that is a financial risk or loss and then the order would be tailored to address that, such as an order to close the bank account, freeze the assets, or something like that.

**Assemblyman Orentlicher:**

Thank you for bringing this important bill. I have a question about section 10, subsection 1. I want to make sure it does not inadvertently apply beyond its intent. I see this is not a section about interaction with relatives or persons of natural affection, which makes that a narrow scope. However, section 10, subsection 1 talks about interacting with another person, which does not limit it to relatives or persons of natural affection. The hypothetical I am thinking about is the protected person should be seen by a health care provider for an assessment, and this says a court shall not, under any circumstances, order that they interact with another person. Does that wording have an inadvertent application?

**Debra Bookout:**

I do not know that it does. There is language in NRS 159.328, which is the Protected Persons' Bill of Rights, that specifies the individuals such as persons of natural affection, family, friends, et cetera. This is a little bit broader than that. The idea behind this was simply that regarding those relationships, protected persons could not be ordered to

communicate with someone. Like Mr. Norman said, we are still in the process of working on language. It may very well be that this needs to conform with the language in NRS 159.328. I do not know that I have ever seen a circumstance where a protected person did not want to communicate with the care provider. They might not want treatment but not necessarily fail to communicate. Thus, I do not know that I have an answer for you other than it was not intended to address the familiar relationships as defined in NRS159.328.

**Jonathan Norman:**

I think we can tighten that language up.

**Chair Miller:**

Thank you so much for the presentation. At this time, there are no additional questions from members. I will open it up for testimony in support of A.B. 381. [There was none.] With that, I will open it up for those who wish to testify in opposition to Assembly Bill 381.

**Catherine Nielsen, Executive Director, Governor's Council on Developmental Disabilities, Department of Health and Human Services:**

Guardianship is a legal proceeding that can remove civil rights and privileges of an individual by assigning control of his or her life and aspects of their life to someone else. Many options other than guardianship are available to provide counsel, guidance, and assistance with making decisions. The principles of informed choice, person-centered planning, and self-determination dictate that adults with intellectual and developmental disabilities or other protected persons are respected and supported in making their own life decisions. Individuals who can make life decisions with support from others around them should be enabled to do so.

In 2019, with the hard work of Assemblywoman Cohen, we passed NRS Chapter 162C which confirms that people with disabilities are the best persons to make decisions about their lives. Supported decision-making is recognized as a less restrictive alternative to guardianship, whereby trusted supporters are afforded the legal status to be with adults, participate in decisions, help gather and evaluate information, consider and communicate decisions, so individuals with developmental disabilities understand the situations and choices they face and can make their own decisions without the need for a guardian. The Governor's Council on Developmental Disabilities supports the rights of individuals with developmental disabilities and other protected persons to direct their own lives to the maximum of their abilities through changes to the guardianship system in Nevada that promote the best practices of person-centered planning, informed choice, and self-determination through supported decision making.

**Steve Walker, representing Douglas County:**

I am speaking in opposition to A.B. 381. I am actually pinch-hitting today for Nicole Thomas, the Douglas County public guardian, who had an unexpected schedule conflict. Her testimony is on the Nevada Electronic Legislative Information System (NELIS)

exhibit list for this meeting [[Exhibit J](#)]. I will not pretend I have any expertise in this issue—I am a water guy. Therefore, I would ask the Committee members to review the well-written letter, Ms. Thomas' planned testimony, detailing the opposition to A.B. 381.

**Izack Tenorio, representing Valley Health System:**

Unfortunately, at this point, we must testify in opposition, but I appreciate the dialogue that Strategies 360 has been having with Mr. Norman, and we hope to change our opposition. In 2019, Valley Health System took the lead on behalf of all hospitals and worked with Justice James Hardesty and other members of the guardianship working group to amend Senate Bill 20 of the 81st Session. Our goal was to provide an expedient process where an acute care hospital could work with the district court and a guardian to safely transfer a proposed protected person from one health care facility to another health care facility that provided a more appropriate level of care. Our fear is that some portions of A.B. 381 may work against that effort. We are committed to working with Mr. Norman, and we hope to come to a positive resolution to that concern.

**Leanne Wagoner, Manager, Court Advocacy Programs, Douglas County:**

I am the manager of a GAL program in Douglas County called Special Advocates for Elderly, also known as SAFE. Special Advocates for Elderly is a volunteer-based program supported financially by Douglas County, and it has been in existence for more than ten years. Special Advocates for Elderly volunteers advocate for the best interests of adults during a guardianship proceeding. Currently our district court judges appoint a SAFE volunteer at their discretion, typically when cases of family conflict exists or when there are concerns of financial exploitation, abuse, or neglect. I sit before you today in opposition of Assembly Bill 381, specifically, the section that relates to GALs.

The first proposed addition I object to states that a GAL may not begin any advocacy services for 21 days to allow the protected person to object. While I support the ability of a protected person to object, the proposed delay severely defeats the purpose of an advocate who is assigned on behalf of a vulnerable person who is facing abuse, neglect, or exploitation and may be in need of immediate interventions. The second proposal changes the language that judges "shall" appoint a GAL rather than "may." This eliminates the discretion for judges and will create a burden on our existing program. Not every guardianship case needs a volunteer GAL assigned, and in fact, the majority of guardianships do not. Lastly, section 2, subsection 7 requires the court to set an hourly rate of compensation for the GAL. I am adamantly opposed to this section, and again, I stress that we are a volunteer-based program. Additionally, it will add a financial hardship to the protected person's estate, which has already been talked about this morning.

I appreciate your taking the time to hear from a local rural program in our state. If this legislation passes as written, it will have severe and detrimental impacts not only to our volunteer program but to the people it is intended to protect. I have submitted suggested amendments via email, and I thank you for your time.

**John P. Michaelson, Cochair, Rules Committee, Nevada Permanent Guardianship Commission:**

We have prepared a PowerPoint [[Exhibit K](#)] to present in opposition to [A.B. 381](#). I serve on Nevada's Permanent Guardianship Commission. We handle hundreds of guardianship cases, and I just heard about this legislation 48 hours ago. We submitted in writing a lot of objections to this, but I think it is high time in Nevada that we try to start to get some collegiality and perspective going on guardianship.

**Chair Miller:**

Okay, sir, this is testimony in opposition. It is very atypical to present. This is not a time to give a presentation. Have you submitted your PowerPoint to the Committee, and is it on NELIS?

**John Michaelson:**

Yes.

**Chair Miller:**

How many slides is it?

**John Michaelson:**

About four or five slides.

**Chair Miller:**

I am going to ask members to pull it up from NELIS, and could you just briefly explain what it is? Again, this is not a part of the presentation, but we do want to hear your opposition, so if you could just briefly explain your points and the members will pull up your presentation and review it, but we are not reviewing the PowerPoint right now.

**John Michaelson:**

I suspect that many people here who are voting on this or even presenting on this have not actually been in a guardianship case recently. For example, there is testimony here about temporary guardianships being granted and people taking their money away, and I do not know if we have granted a temporary guardianship in the north in years—maybe one or two. We have also not had a temporary guardianship granted in the south in quite a while. They do happen here and there occasionally, but the problem is they are used in a scary fashion based on what happened years and years ago to justify even further choking and tightening of a system that is out of control right now. We cannot move forward on things.

This presentation was just to give a little bit of background about us. This is my mother, she suffers from Alzheimer's; it is pretty severe right now, and I am trying to spare her dignity to go in and talk about some of the things that have happened. This is very personal to me. She is in a facility right now. We have a one-minute video that is visceral that I think the Committee members should see.

I think it is just important to see another side of this and the Committee, I am told, might be able to pull up the video. It is a short video.

**Chair Miller:**

Sir, could you speak to your opposition of the bill? We understand there are videos and PowerPoints. I am looking right at their screens, and they have them all up and are reviewing your exhibits. However, could you just articulate your opposition?

**John Michaelson:**

We talk about guardianships as taking away people's rights, but I am the attorney who represents Valley Health Systems, and the flip side of that is the hospitals and other facilities are viscerally criticized for an unsafe discharge. If you put someone out of a hospital and they are not protected, there is liability for that. There are optics involved. It is terrible. The problem is, as new legislation comes forward, we keep making the bar higher and higher, and we present it here as though, We need some transparency. We need an order. We handle hundreds of cases, and I cannot even remember the last time I got fees where there was not an order, but yet that is presented here like we have no transparency and there are not any orders supporting anything.

What I am saying is I am proud of what Nevada has done. We have a right to counsel. Before the pandemic, I was going to all the best conferences around the country and, it is true, Nevada is talked about as one of the model states. What we have done is good but, to use the concept of a pendulum swinging, a lot of people who are involved know that the pendulum has swung way too far. Assembly Bill 381 takes it to a whole other level.

**Chair Miller:**

Sir, I am going to ask you to wrap up your opposition. As I said, everyone is reading the slides right now. Again, this is atypical. I understand it is your first time in this building, but what does not happen is a presentation during opposition. We do not generally have videos and slides. People are more than welcome and invited to submit letters and other exhibits, but a presentation coming from the opposition is not appropriate. So, I am going to ask you now, because you have been granted a nice amount of time, to be concise and tell us about your opposition with the proposed language in the bill.

**John Michaelson:**

It is difficult without context. It is preventing GAL because Legal Aid claims that they are limited to only a client-directed model, which means, as with my mother, they take a position that is whatever the client says, even when medical evidence says they do not have a concept of what they are saying. When they do not believe the guardians, who I represent, who is the family member, the guardians are saying, This is what I want, then the criticism is, Well, you are just after the money. That is why we need a GAL. We need the ability to have a neutral party; in some cases it is going to be an attorney who is paid at their rate to understand these issues to give what is called a best interest perspective. That is another model available.



I will just close by saying that included in the materials I provided is the story from National Public Radio about Oregon and California grappling with these issues. They call it a war of compassion. It is not true that one side is compassionate and the other side is not. I also want to say, as a practicing attorney, the members asked about less restrictive means, and all those answers given are examples, but when it comes to a power of attorney or a supported decision-making document, that cannot be done if the person is already in a facility or if they have lost capacity; it is too late.

I want us to come together, and please run this through the Permanent Guardianship Commission where there are stakeholders there that have different perspectives. If we can do that, I think we can come to an understanding that everyone here wants the best for Nevada and the best for vulnerable people. This is the hardest area in the world to collect attorney fees, and I am one of the last attorneys standing. I was going to tell you why that is. I represent most of the hospitals, and I have had 20 other law firms tell me they refer everything to me. The best way to hurt me is to allow other law firms to come in and practice here.

**Chair Miller:**

Okay, thank you for your testimony, sir. I ask that you reach out to the bill presenters.

**John Michaelson:**

Now that I know about it, I will do that.

**Chair Miller:**

This bill actually did come from the interim Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs, so this was fleshed out last year during the interim process. I encourage everyone to pay attention to the interim committees. People do not realize that we are not legislating only during the session. While we may pass bills and make laws during the session, we have robust interim committees for all of our standing committees. That is where we actually flesh out many different ideas and proposals. This bill came in through and was voted out of that interim committee, so it is not a new idea that came out of nowhere. There was a process where it had been presented, reviewed, and spoken to. It is not legislation that was created in the past 48 hours, but I do encourage you to reach out to Assemblyman Nguyen and Mr. Norman on this. I know that they are always willing to continue working on legislation.

**Ammon Francom, Private Citizen, Las Vegas, Nevada:**

I am an attorney with Michaelson Law. I have been practicing in guardianship for five years. When I started, we were citing the Assembly bill and the Senate bill before they were codified. I have become very familiar with these guardianship statutes and their application. I would urge you not to pass this bill at this time. I believe that the Commission needs to look at these provisions, debate this, and then come to a consensus on this bill so that guardians, the protected persons, the court-appointed counsel, and the judges have their interests represented.

We are only recently coming to an understanding of what the provisions mean, as they are currently written. We are finally starting to get some case law about these provisions, and I think that this is very bad timing to change these provisions and laws because it is going to reset the cycle. The last five years of work at the district court level is going to be rendered moot if these provisions are entered into law and codified. We will have to start over again with going through evidentiary hearings, trials, appeals, and case law. It is a bad idea for the continuity and the purpose of guardianship, and it is bad for protected persons. The uncertainty surrounding this type of law is bad for both protected persons and guardians. We need to be able to counsel them on what we know that these provisions now mean based upon case law and district court orders. In specificity regarding the provisions, in the slides that Mr. Michaelson presented [[Exhibit K](#)], there are bullet points with a lot of my criticisms and Ms. Tygret's criticisms included. The changes proposed are detrimental to guardianship law as it stands.

Temporary guardianships in Clark County were granted regularly four or five years ago. In the last three years, I have had maybe one temporary guardianship granted. Furthermore, I have had one emergency guardianship petition granted. That was in a minor guardianship where the guardian had suffered a stroke and was hospitalized long-term and we needed to get a successor guardian in. That is the one instance I have had in the last three years where a temporary guardianship was granted, and that was minor guardianship law, not even adult guardianship law.

Regarding the GAL provisions, I believe that the proposed provisions are too restrictive. I believe they take away the district court judge's discretion and remove a very valuable tool I have seen the district court judges employ to the benefit and the protection of protected persons. With the implementation of the three-week waiting period, if an objection is lodged, that could mean waiting up to four weeks until there is a hearing on that. You are talking about a seven-week time period. The protected person needs the GAL to get in there, visit with them, figure out what the circumstances are, and report back to the court before seven weeks is over, especially if an objection is lodged.

The other provision that would limit the amount the GAL can be paid to a fiduciary rate will severely limit the court's ability to appoint an attorney to be a GAL, such that the attorney can understand the complex issues facing the protected person and give the court a best interest analysis, representing the protected person's best interest. It is going to limit and curtail the court's ability to get that perspective.

Regarding the restrictive orders and the proposed amendments to restrictive orders, I believe that the current statute is already too restrictive. I have tried to get restrictive orders in place in only two cases, and they were both denied. I believe they should have been granted, but in both of those cases the district court judge denied the restrictive order put in place to stop people from coming to visit the protected person that I and the guardian believed were detrimental to the protected person.

**Chair Miller:**

Okay, thank you, sir. I am going to ask you as well to wrap up your testimony and submit any additional comments you have for the record to us.

**Ammon Francom:**

Okay. Regarding attorney's fees, they are too restrictive as well. I think the definition of clerical tasks is overly broad. We have cases in Clark County where the district court judges have handed down decisions specifically stating what is clerical, what is paralegal, what is secretarial, and what can or cannot be awarded from the guardianship estate. If this law is passed, it is going to erase this local precedent and we will be out of luck again. I think that they are overly broad.

**Chair Miller:**

Thank you for your testimony. I just want to remind people that we typically ask for a two-minute testimony. Therefore, so that there is no question later, the opposition has been given a very fair amount of time per individual.

**Rachel S. Tygret, Private Citizen, Las Vegas, Nevada:**

I am also an attorney in Clark County practicing in the area of guardianship. I am not going to overly reiterate what has already been said, but guardianship is a very nuanced and complex area of law. There are not a lot of attorneys working in this area anymore. My biggest concern is that the bill as it stands will discourage potential guardians from wanting to pursue protection for their family members or loved ones, and that it will prevent attorneys from being able to adequately represent those who cannot navigate the legal system on their own. While we do have a very amazing self-help center, it does not fix the problem that this area of law is not for a layperson to navigate on their own. With that, I do appreciate the Committee taking our opposition at this time.

**Amber J. Handy, Private Citizen, Gardnerville, Nevada:**

I am also an attorney, but I practice in the rural counties of Lyon, Carson City, Douglas, and Churchill. My major concerns deal with section 7 and the restriction of attorney's fees; specifically, the restriction of fees to represent a petitioner or guardian in the guardianship proceedings. We do not have two worlds here; we are not just having a family member petition or the public guardian appointed. In some of these rural counties, the public guardian has taken a position that they cannot be the person or the entity who is petitioning for the need of the guardian. We have family members, neighbors, and even skilled nursing facilities who are in a position where they need to file the petition in order to seek the appointment of a guardian.

Normally, what is required at the filing of the petition is a notice of intent to seek the reimbursement of fees. Those reimbursement of fees are not an automatic thing, and a lot of these fees generally are born by those individuals who are filing the petition. We need to be able to give them the ability if the protected person's estate has sufficient funds, if the judges have determined that the services that have been provided to either the petitioner or the guardian are necessary and reasonable; that is already within the discretion of the court, and

the proposed amendment here removes the discretion from the district court judges and the ability, and frankly the incentive, for many of these well-meaning individuals from filing a petition.

I would also note that my reading of this statute and these changes would also likely discourage many of these well-meaning individuals, whether they are family members, neighbors, or skilled nursing facilities. The burden of these well-meaning individuals to help our vulnerable citizens is going to go to the wayside; thus, the burden of that would go to the public guardian's office. We have a lack of resources in the rural areas, and our public guardians are severely overburdened and underfunded. If we are going to be shifting the burden of the guardianships, the potential for a well-meaning individual like a family member stepping in is going to be eliminated, and the burden will shift to the public guardian's office. That also needs to be taken into consideration. I am happy to provide input and speak with the bill drafters.

**Chair Miller:**

We appreciate that and encourage speaking with the bill sponsors. Of course, everyone is always welcome to contact individual legislators, work with the bill sponsors, as well as submit any additional information that you would want on the record.

**Dara J. Goldsmith, Private Citizen, Las Vegas, Nevada:**

Today, I speak in opposition of Assembly Bill 381. I am a shareholder in the law firm of Goldsmith and Guymon in Las Vegas, Nevada. Goldsmith and Guymon is one of the largest and oldest, 100 percent woman-owned law firms in the state of Nevada. Since 1996 we have actively participated in representing underserved populations. We have been recognized over the years for our work in support of pro bono services by Nevada Legal Services, Legal Aid of Southern Nevada, and the Southern Nevada Senior Law Program. I have served on the State Bar of Nevada Board of Governors for eight years, the Clark County Board of Directors for seven, the Nevada Community Foundation for twelve, culminating and serving as the chairperson for two years. I am a Martindale-Hubbell AV Preeminent-listed attorney and I have been listed in *Mountain States Super Lawyers Magazine's* top 50 women business attorneys list and other statewide regional honors. I was previously trained and served as a mental health hearing master in Clark County for the Eighth Judicial District Court. I have practiced in the areas of elder law, trust, estate planning litigation, and guardianship for more than 31 years. I have represented clients throughout the state. My clients have been private and public guardians, protected persons, professional fiduciaries, and a variety of family members concerned for a loved one. I have not only established guardianships but have successfully terminated guardianships on behalf of protected persons and/or guardians who recognize that guardianship is no longer needed.

**Chair Miller:**

Okay, ma'am? I need you to speak to your opposition of the policy that is being proposed.

**Dara Goldsmith:**

Assembly Bill 381 is not a technical correction to existing statutes. It represents substantive changes which will negatively impact the families and individuals who are in need of guardianship by imposing substantial hurdles in the ability to obtain a guardianship, to retain counsel of their choosing, and to ask for and compensate GALs to review specific issues—that is to speak for the protected person's best interest, provide an unbiased look at the protected person's needs, provide that information to the judge, and most importantly, help families who are being negatively impacted by guardianship proceedings.

These GALs often possess skills, knowledge, and experience that go beyond the day-to-day skills the judges and the counsel for the proposed protected or protected person possesses. Furthermore, the imposition of the additional medical hurdles makes it next to impossible to deal with a protected person's rights unless they are currently institutionalized or hospitalized. Many of these proposed guardianships involve family members whose condition has deteriorated into dementia. Sometimes they face issues like when a husband and wife are named as one another's respective attorneys-in-fact. Even though they are hospitalized, the hospitals are not able to address the affairs of another to the next person in line. Unless the proposed guardian is in a position to have the individual evaluated, it will be difficult for family members to obtain the necessary documentation. Nevada already requires the opinion of a licensed medical doctor, so there is no benefit in requiring an additional hurdle or evaluation.

Second, the limitations on the compensation of GALs and attorneys place burdens and restrictions on the judiciary, families, and attorneys. Lately, fewer and fewer attorneys are practicing in this area. Many of the attorneys are selected to participate due to their experience in estate planning, mental health, first-party special needs trust, third-party special needs trust, pooled income funds, and other specialties that are offered by other states as a vehicle for Medicaid planning, Veteran Affairs licensing, use of annuities, family law, and annulments. When a guardianship petition is filed in Clark County, Nevada, where the proposed protected person does not already have counsel, Legal Aid of Southern Nevada automatically is appointed to protect the protected person's rights. In my experience, they immediately file an objection to the guardian's counsel fees. Many times they have not even spoken to their client.

**Chair Miller:**

Ma'am, please wrap up your comments.

**Dara Goldsmith:**

Many of the adult guardianships are the result of dementia that will result in death. Section 10 of the bill prohibits the judge from putting in place visitation or communications with a protected person. The judges should have this discretion. Families retain counsel in these matters because they are unable to get resolution without judicial intervention and they determine that they need an attorney to help them do this.

**Chair Miller:**

Ma'am, I need you to wrap up your comments, please. You have been speaking for nearly seven minutes.

**Dara Goldsmith:**

I look forward to the opportunity to work with the sponsors of this bill, and I want to point out that none of the members of the Elder Law Section of the State Bar of Nevada were invited to participate, nor made aware of this until this week. I appreciate your listening to me this morning and will close with reiterating my opposition to A.B. 381 as drafted.

[A letter in opposition was submitted, [Exhibit L](#)].

**Tracey Bowles, Public Guardian, Washoe County:**

I am the public guardian in Washoe County. I am here to testify from my office in opposition to Assembly Bill 381. In short, I believe this bill seeks a legislative solution to an administrative problem. Removing the judicial discretion within this bill has unintended consequences in an effort to solve problems in a narrow population within guardianship. This bill does have some specific changes that could add value to a protected person's life, but the sweeping changes where guardians or petitioners are not able to seek reimbursement for court approved legal fees and judicial discretion is reduced are an unnecessary and potentially harmful overreach.

Guardianship is a complicated legal process that families and well-meaning individuals in our community already struggle to navigate, and now this bill seeks to remove any ability for the reimbursement for counsel. This may leave vulnerable persons unprotected or push this burden in the direction of public guardians in the rural counties of our state. This is an unnecessary change in law as the court already has discretion to approve or deny legal fees. Section 8 of the bill fails to identify the burden of proof a petition must meet in termination of the guardianship, while stating the burden of proof for those who seek to oppose the petition.

Furthermore, if the protected person prevails on a petition for termination or modification, this bill entitles the protected person to seek attorney's fees from any person who opposes the petition. Well-meaning family or professional and public guardians would be faced with the dilemma of whether to uphold their duty of acting in the best interest of the protected person while risking the potential financial liability of an adverse ruling or avoiding the financial liability and not upholding their duties as guardians. While legislatively removing the ability for guardians to seek attorney fees and imposing financial ramifications on the guardian may limit a guardian acting in bad faith, it similarly may limit a guardian acting in good faith. Section 12 of the bill further provides that a guardian cannot recover attorney's fees incurred if removed as the guardian. But there are valid reasons why a guardian may be removed, and unnecessarily removing their ability to seek legal fees seems punitive in those circumstances.

We would be happy to work with the sponsors of this bill or, in light of the plethora of comments we have heard today, perhaps the interests of our vulnerable populations would be better served if considered within the Commission.

[A letter in opposition was submitted, [Exhibit M](#)].

**Elizabeth Brickfield, Private Citizen, Las Vegas, Nevada:**

I am an attorney practicing in southern Nevada in the area of guardianship and related fiduciary matters for the past 26 years. I am also a member of the Permanent Guardianship Commission, and to be clear, I am a longtime volunteer for the Legal Aid Center of Southern Nevada. When the article in *The New Yorker* was mentioned, I am, in fact, one of the attorneys who was quoted in that article regarding the condition of guardianships in Nevada at that time. I have submitted a letter [[Exhibit N](#)] and I speak today in opposition to Assembly Bill 381.

I am not going to reiterate the well-reasoned comments that have been made, both for and against, but I want to add some additional comments. First with regard to the extent the bill seeks to have additional information placed into the public record about an individual's medical condition in seeking a temporary guardianship; that can easily be construed as violating that individual's HIPAA [Health Insurance Portability and Accountability Act] rights. We should think long and hard before we extend the statute as to what must be presented in a petition to a judge for a temporary guardianship for medical reasons. Similarly, in a temporary guardianship for financial reasons, to the extent that we put more information and specific information into such a petition, we are simply giving a road map to an exploiter. Of course, I do not think that is the goal of anyone in this matter.

I also want to say, regarding the families' need to visit with their relatives; many of these guardianships in the adult area are the results of dementia and other deteriorating factors. To prohibit a judge from exercising his or her discretion to allow a family member visitation will in fact limit a family's ability to seek closure, to say goodbye, and to come together and recover from this difficult experience. Dementia and the loss of family members, as we all know, is not pleasant. It is a grief experience. All of us, whether estranged or not, should not be prevented from seeking a court's ability to say yes, you may say goodbye to your mother. That is all I have to say, and everything else I have is in my written submission.

**Travis Clark, Private Citizen, Reno, Nevada:**

I am an attorney in Washoe County, and I practice in northern Nevada. I have been working in the guardianship field for about the last five years, and I would like to echo many of the comments that were made today on the record regarding the attorney fees, provisions, and other provisions that are restricting the protected person's rights to meet with other folks.

What I would like to add to this commentary is regarding the private information that is now being sought to put into the petition such as the phone number and email of the protected person. These are vulnerable human beings and to put that information into the public record seems incongruent with the Protected Persons' Bill of Rights in which they have a right of

privacy. Phone numbers and contact information can be placed in ancillary documents such as the family court does with the family court information sheet such that these are protected from public view, but the interested parties who appeared in the matter and who need the information can still access the information. This would prevent putting the protected person's private information out into the world such that they can be subjected to more scams and increased financial vulnerability that they may already experience.

**Kathleen Jones, Public Guardian, Elko County:**

I am representing the Elko County Public Guardian's Office. I would like to ditto the opposition testimony of my colleagues, and I would also encourage the bill drafters to have a discussion with the public guardians as we are experts in our field. I believe that we could give a lot of input to this bill if there are any changes. In addition, I would also encourage the rural county guardianship offices to be included in helping with the changes to this bill. I feel that we implement different resources to support our protected persons, and those do differ from the bigger cities.

[[Exhibit O](#) and [Exhibit P](#) were submitted but not discussed and will become a part of the record in opposition to [A.B. 381](#).]

**Chair Miller:**

We will now open it up to testimony in neutral.

**Egan Walker, Judge, Second Judicial District Court:**

I am the aforementioned Judge Walker. Welcome to my world. My cochair in the statewide Permanent Guardianship Commission, Judge Linda Marquis, and I would offer to you our services. We were not aware of the interim meeting. We were aware of some of the concerns that the legal aid communities had raised to the interim committee. I want to be clear; they had made us aware of some of those concerns, but we were not aware of the meeting and the Commission did not give input. I suspect we could have, if we had been aware of it.

All of the actors in this area are very motivated, as you can tell. You would be very proud of the private and public Bar across the state in the guardianship headspace. The movement that has happened in Nevada is remarkable. I have had the privilege of bearing witness to it across six sessions now. I was a member of guardianship commission one, guardianship commission two, and then Judge Marquis and I made Justice Hardesty very angry, so he appointed us cochairs of the current Commission.

I just want to offer our availability to you and to the authors of this legislation. There are some unintended consequences in this headspace anytime you seek to finesse the statutes. Let me be clear, the legal aid communities in this state do magical work. I am so thankful for Northern Nevada Legal Aid, Legal Aid Center of Southern Nevada, and for Volunteer Attorneys for Rural Nevadans. I am also thankful for the guardianship Bar. You would be incredibly amazed by the work the John Michaelsons and others in private Bar do in this headspace. Please however, as you consider any of these legislative changes, reach out to us



in the Commission. Between Judge Marquis and I, we have a perspective across six legislative sessions about how this came to exist, why it exists the way it does, and how it needs to be improved.

I had the privilege of being one of the co-authors—not the primary author—of NRS Chapter 159A. It has a lot of work that needs to be done still—I am the first to admit that—but we need to do it in thoughtful, integrated ways that do not leave my rural colleagues out. I welcome any of your questions.

**Chair Miller:**

We appreciate your testimony and your willingness to come to the table with the bill presenters.

**Tonja Brown, Private Citizen, Carson City, Nevada:**

I am with Advocates for the Inmates and the Innocent, and we are in neutral on this bill. We have heard concerns about unintended consequences and that this is a work in progress. I want to briefly touch on something as an advocate for the inmates and the innocent. I have been made aware of a certain case out of Reno dealing with guardianship in which the daughter obtained guardianship over the mother who was in a facility. This woman's son noticed that she was unkept, lying in her own urine, and had bruises on her. He became concerned. The mother wanted to leave and visit her brother who lived in another state. He wound up getting in contact with an individual who put him in touch with someone who was retired law enforcement. After 30 years he went to the facility with some paperwork, they gave the mother to the son, and they left. Now they are both being charged with felony crimes.

When should a person or a judge put a gag order on an individual who maintains their innocence? This individual has been vocal about his innocence, and the judge put a gag order on him, which he violated; now he has to serve jail time for maintaining his innocence. This is simply wrong. When we talk about a work in progress and room for improvement with this bill, I think you need to look at the following two cases: *The State of Nevada vs. Roger Eugene Hillygus* and *The State of Nevada vs. Stewart Evans Handte*. People who are innocent are being prosecuted because they want to help their loved ones who are not being provided for, and this needs to be investigated. Now, Mr. Handte and Mr. Hillygus could be looking at several years in prison. Throughout the country, advocates dealing with guardianship are looking at these two cases because it could affect them.

**Chair Miller:**

With that, I will welcome back the bill presenters for any final remarks.

**Jonathan Norman:**

Obviously, I have a lot of new friends to talk with today. I represent the Coalition, which is made up of advocacy law firms. We are going to advocate in the Permanent Guardianship

Commission. We are going to advocate when it comes to developing local rules. When we have an opportunity to fix things every other year at the State Legislature, we are going to bring that to this body.

I would like to point out a quote, "Additionally, a court should be required to make specific findings in any order appointing a guardian that includes a conclusion that no other 'least-restrictive means' are available to address the needs of the Proposed Protected Person." This is from the Nevada Supreme Court's Commission to Study the Administration of Guardianships in Nevada's Courts final report, when we underwent those reforms back in 2017. We are in 2023, and if you read the bill, that is what we are asking for. We are asking that the judge "shall," instead of "may," look at this list of factors and give a written order showing the work if you order fees. Why should you take the life savings of someone? We are not saying you cannot seek fees. If there is work to be done, as Assemblywoman Cohen said, about how we are dialing in those fees, we are ready to engage and willing to do that work. However, we are never going to stand for the proposition that there should not be a written order. The reason we are asking this is because we have cases where we are not getting a written order that is showing that they considered that list of factors. We are simply asking that they show the work like in math class.

It is a work in progress, and we have gotten input from the judiciary, the courts, and the public guardians, and we have some things we have changed. We already have a change contemplated in the area that Ms. Wagoner commented on, and I think it will address her concerns. The reality of when language drops, when you are able to amend it, and throwing an amendment up the night before the hearing serves to confuse everybody involved. Thus, we do have changes, and obviously based on some of the comments today in opposition, there were some really good thoughts that we can incorporate.

I want to thank the commenters in opposition, and I look forward to working with them. From our perspective however, we are going to use every avenue we have to advocate for our clients, and where we differ from all the commenters is we represent the protected persons around the state.

**Assemblyman Nguyen:**

Thank you for your patience. As you all said, as well as the testifiers in both opposition and neutral said, this is a work in progress. This is truly still a work in progress. I look forward to working with all the stakeholders and everyone to make sure that we are doing the thing that we set out to do: patient protection. That is why we are here. I got one opposition email last night and I met all the rest of the opposition today. I really encourage all the Committee members as well as all the opposition to be patient with us. We are going to work this out, and we will bring all the stakeholders to the table.

**Chair Miller:**

With that, I will go ahead and close the hearing on Assembly Bill 381. Our last item today on the agenda is public comment. [Public comment was heard.]

I will go ahead and close public comment. We have completed all the business for today. Just want to let everyone know that we will be starting at 9 a.m. on Monday. With that, this meeting is adjourned [at 10:12 a.m.].

RESPECTFULLY SUBMITTED:

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Aaron Klatt  
Committee Secretary

APPROVED BY:

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Assemblywoman Brittney Miller, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a letter dated May 22, 2018, to Jon Adler, Director, Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice; and Adam Gelb, Director, Public Safety Performance Project, The Pew Charitable Trusts, from Brian Sandoval, Governor; Michael L. Douglas, Chief Justice of the Supreme Court; Aaron Ford, Senate Majority Leader; and Jason Frierson, Speaker of the Assembly, submitted by Assemblyman Steve Yeager, Assembly District No. 9, regarding [Assembly Bill 388](#).

[Exhibit D](#) is a copy of a letter dated May 23, 2019, to Jim Wheeler, Minority Leader, Nevada State Assembly, from David Safavian, General Counsel, American Conservative Union; Grover Norquist, President, Americans for Tax Reform; Jason Pye, Vice President of Legislative Affairs, FreedomWorks; Marc Levin, Vice President, Criminal Justice Policy, Right on Crime; Arthur Rizer, Director, Criminal Justice and Civil Liberties, R Street Institute; and Patrick D. Purtill, Jr., Director of Legislative Affairs, Faith & Freedom Coalition, submitted by Assemblyman Steve Yeager, Assembly District No. 9, regarding [Assembly Bill 388](#).

[Exhibit E](#) is a document titled "Coordinating Council," dated February 1, 2023, submitted by Assemblyman Steve Yeager, Assembly District No. 9, regarding [Assembly Bill 388](#).

[Exhibit F](#) is a report titled "Projected Amount of Costs Avoided," dated August 1, 2022, produced by Department of Sentencing Policy, submitted by Assemblyman Steve Yeager, Assembly District No. 9, in support of [Assembly Bill 388](#).

[Exhibit G](#) is a report titled "Statement of Costs Avoided Report," dated December 2022, produced by Department of Sentencing Policy, submitted by Assemblyman Steve Yeager, Assembly District No. 9, regarding [Assembly Bill 388](#).

[Exhibit H](#) is a copy of a PowerPoint titled "Request for Appropriation to Fund Grants Overseen by the Nevada Local Justice Reinvestment Coordinating Council (NLJRCC)," dated May 4, 2022, produced by Department of Sentencing Policy, submitted by Assemblyman Steve Yeager, Assembly District No. 9, regarding [Assembly Bill 388](#).

[Exhibit I](#) is a letter submitted by Tom Ross, Executive Director, Utah Commission on Criminal and Juvenile Justice, in support of [Assembly Bill 388](#).

[Exhibit J](#) is written testimony submitted by Nicole Thomas, Public Guardian, Douglas County, in opposition to [Assembly Bill 381](#).

[Exhibit K](#) is a copy of a PowerPoint titled “Response to AB381,” submitted by John P. Michaelson, Cochair, Rules Committee, Nevada Permanent Guardianship Commission, in opposition to [Assembly Bill 381](#).

[Exhibit L](#) is a letter dated March 31, 2023, submitted by Dara J. Goldsmith, Private Citizen, Las Vegas, Nevada, in opposition to [Assembly Bill 381](#).

[Exhibit M](#) is a letter dated March 30, 2023, signed by Tracey Bowles, Public Guardian, Washoe County, in opposition to [Assembly Bill 381](#).

[Exhibit N](#) is a letter dated March 30, 2023, submitted by Elizabeth Brickfield, Private Citizen, Las Vegas, Nevada, in opposition to [Assembly Bill 381](#).

[Exhibit O](#) is a letter submitted by Marjorie A. Guymon, Private Citizen, Las Vegas, Nevada, in opposition to [Assembly Bill 381](#).

[Exhibit P](#) is a letter dated March 31, 2023, submitted by Michael Keane, Private Citizen, Reno, Nevada, in opposition to [Assembly Bill 381](#).