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TO ASSEMBLY JUDICIARY COMMITTEE MEMBERS

The Honorable Bernie Anderson, Chairman
The Honorable John Ocegüera
The Honorable Barbara Buckley
The Honorable Jerry Claborn
The Honorable Marcus Conklin
The Honorable William Horne
The Honorable Harry Mortenson
The Honorable Genie Ohrenschall
The Honorable Sharron Angle
The Honorable David Brown
The Honorable John Carpenter
The Honorable Jason Geddes
The Honorable Donald Gustavson
The Honorable R. Garn Mabey, Jr. M.D.
The Honorable Roderick Sherer

RE: AB-13 (BDR 14-197)

FROM: CLARK COUNTY DEPUTY PUBLIC DEFENDER AMY COFFEE

This e-mail addresses the proposed language in the bill that changes NRS 175.556, Section 1, Paragraph 1 to read that if a jury is deadlocked in a death penalty case then "...the district judge who conducted the trial shall sentence the defendant to life without the possibility of parole or impanel a new jury to determine the sentence."

I believe that the clause "or impanel a new jury to determine the sentence" should be stricken. If a jury in a death penalty case deadlocks, the court should default to a sentence to life without the possibility of parole.

Allowing for a default to a sentence of life without the possibility of parole when a jury deadlocks, would promote judicial efficiency, certainty and would be fundamentally more fair to an accused and to the families of victims.

By not having to impanel a new jury, the courts save time and money. Death penalty trials, which are already the longest and most expensive criminal trials, do not need to be made longer and more expensive. Additional penalty hearings with a new jury each time would waste time, money and judicial resources. Every day spent on one case takes away precious judicial resources and delays every other case waiting to be heard. In addition, multiple penalty hearings may potentially bring up more issues on appeal. Since death cases usually are appealed in both state and federal courts, this would also waste precious judicial resources in the appellate courts.

A default to life without the possibility of parole also promotes certainty. With the default, a trial is done once. Witnesses only need to be present for one trial and one penalty hearing. Death penalty trials are emotional for those involved on both sides. Knowing that they may have to testify multiple times is stressful and emotionally

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SUBMITTED BY: Amy Coffee

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draining for the victim's families as well as for the families of the accused. It is only fair to both sides to have a finite end to the process, rather than have to wait while juries are impaneled until a unanimous decision is reached.

The default to life without the possibility of parole is fundamentally fair to all involved. The jury that decides whether an accused lives or dies should be the same jury that heard all of the facts of the case. The jury sat throughout the whole trial, therefore, the jury is most familiar with all of the facts, and is in the best position to decide the appropriate penalty.

If a new jury is impaneled, the jury must start from scratch. If anything, this second penalty phase will be longer than the first, because both sides will want to put on as many facts as possible to "educate" the jury ---facts which the jury hearing the guilt phase of the trial would already know--- and after all, when life and death are at stake, it's only fair that the decision is done only by those with the most information about the case and about the accused.

If a jury cannot decide on a sentence, a sentence of life without the possibility of parole is certainly a severe and just punishment for these kinds of cases. The person accused will never again be a danger to the public at large. The death penalty should be reserved for the worst of the worst, and in such cases the prosecution should have little difficulty convincing the entire jury to vote for death. Remember that when a jury is seated in a death penalty case, they have been through an extensive jury selection process which is meant to eliminate those who are fundamentally opposed to the death penalty.

Finally, the above suggestion is in line with a majority of states which have the death penalty. In most such states if a jury is deadlocked on death, then the defendant automatically gets a sentence of life or life without the possibility of parole.

I respectfully request that the language "or impanel a new jury to determine the sentence" should be stricken.

(The opinions in this correspondence are those of the sender and have not been formally endorsed by the Clark County Public Defender's Office)