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Anderson, Bernie Assemblyman

From: JoNell Thomas [jonell@lvcn.com]
Sent: Tuesday, April 22, 2003 3:35 PM
To: banderson@asm.state.nv.us
Subject: Opposition to SB 433

Dear Chairman Anderson,

I am writing in opposition to SB 433, which will be considered by the Assembly Judiciary Committee on Wednesday, April 23, 2003. Unfortunately, I have a court appearance tomorrow and cannot appear for the hearing.

SB 433 would amend NRS 50.310 and allow reports of a test of a medical laboratory to be introduced as evidence in civil, criminal or administrative proceedings without requiring that the author of the report appear as a witness or swear under penalty of perjury that the contents of the report are true. The bill would also remove virtually all of the requirements existing in the current statute that ensure reliability of the tests.

I believe that the procedure provided for under this proposal is generally a bad idea, and that it violates a criminal defendant's rights of cross-examination and confrontation, and the right to a fair trial.

I am greatly concerned about this bill in light of the Nevada Supreme Court's decision in Sheriff v. Bessey, 112 Nev. 322, 914 P.2d 618 (1996). In that case, the Nevada Supreme Court concluded that police officers could fabricate documents for the purpose of interrogating an accused in hopes of obtaining a confession. The police officer in that case made a false crime lab report and based upon that report, the defendant made a number of inculpatory statements. Justices Rose and Young dissented from the majority decision and stated their fears that falsified documents could take on a life of their own and eventually make their way into court proceedings. The majority rejected this conclusion after determining that "false documents may 'go astray,' but our evidentiary rules are designed to prevent their use in our legal forums." SB 433 would remove any barrier to false documents becoming evidence. While police officers and prosecutors would probably not knowingly use such false documents as actual evidence, it is very easy to see how such reports could be mishandled or misunderstood. As a result, there is a strong probability that innocent people could be convicted based upon false and untrue evidence.

Again, I strongly urge you to vote against SB 433. If you have any questions regarding this matter or if I can be of any assistance, please contact me at your convenience at the above e-mail address or at 702-471-6565. Thank you for considering my thoughts on this issue.

Sincerely,
JoNell Thomas

4/22/2003

ASSEMBLY JUDICIARY
DATE: 4/23/03 ROOM 3138 EXHIBIT 6
SUBMITTED BY: JoNell Thomas