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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

FAMILY COURTS & SERVICES CENTER

601 NORTH PECOS ROAD

LAS VEGAS, NEVADA 89101-2408

WILLIAM O. VOY
DISTRICT JUDGE

DEPARTMENT A
(702) 455-5990
FAX: (702) 455-5989

April 28, 2003

Mark Amodei
Chair of Senate Judiciary Committee
401 S. Carson Street
Carson City, Nevada 89701

Re: AB 365

Dear Senator Amodei and Members of the Judiciary Committee:

On May 1, 2003, AB 365 will be reviewed by the Senate Judiciary. While I cannot be present, Jennifer Henry, the Guardianship Commissioner for the Eighth Judicial District Court will be present. I trust that she will adequately answer any questions regarding the substance of this bill and how the bill will enhance the current state of the guardianship laws. She will also be able to explore the impact these changes will have on the Court system, which are minimal.

I recently resigned as the presiding judge over guardianship matters in Clark County. However, having practiced as an attorney and presided as a judge over this area of law, I know the current condition of the Nevada Revised Statutes contained in Chapter 159, the guardianship section, is antiquated and inadequate. The issues being presented for determination by the Court are growing in sophistication. Chapter 159 has not had a meaningful, substantive redraft since 1981. The time to make the needed changes is now.

As an example of the continuing and overwhelming short-comings of Chapter 159, I would like to focus on the lack of legal authority to allow the guardianship judge, in jurisdictions where there is a Family Court, to entertain issues regarding trust matters. In light of judicial economy, the right of the public to obtain timely resolutions, and the imposition of "One Judge, One Family," specific statutory authority is needed to remedy an obvious oversight. AB 365 includes this needed language in section 93 of the bill.

EXHIBIT J Senate Committee on Judiciary

Date: 5-1-03 Page 1 of 2

Mark Amodei
Page 2
April 28, 2003

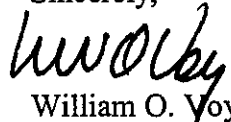
Likewise, there must be logical events in the life of a guardianship when an appeal may be taken. Currently, all orders issued throughout the life of a guardianship case are considered interim orders from which no right of appeal attaches. It would appear that the Supreme Court will entertain an appeal upon the termination of a guardianship, but not before. Without a change to the law, the effects on a ward and his family can be devastating.

Portions of AB 365 purport to make Chapter 159 self-sufficient and comprehensive. In an on-going case over which I presided, the Nevada Supreme Court opined that a practitioner's reliance on a portion of the probate statutes was misplaced. Use of the probate code by analogy in a guardianship case is a common practice due to the inadequacy of Chapter 159. In light of the directive from the Supreme Court, it is time to enact AB 365.

In closing, I encourage you to consider passing AB 365. I know that Ms. Henry and a group of interested attorneys, guardians and judges or judicial officers across the State, have been discussing the particulars of this bill with interest. I am not aware of any adverse positions to this bill.

Thank you for your support and consideration of a very timely and important piece of legislation.

Sincerely,



William O. Yoy
District Court Judge

WOV/lis