MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Third Session
March 30, 2005

The Committee on Judiciary was called to order at 8:17 a.m., on Wednesday, March 30, 2005. Chairman Bernie Anderson presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Bernie Anderson, Chairman
Mr. William Horne, Vice Chairman
Ms. Francis Allen
Mrs. Sharron Angle
Ms. Barbara Buckley
Mr. John C. Carpenter
Mr. Marcus Conklin
Mr. Brooks Holcomb
Mr. Garn Mabey
Mr. Mark Manendo
Mr. Harry Mortenson
Mr. John Oceguera
Ms. Genie Ohrenschall

COMMITTEE MEMBERS ABSENT:

Ms. Susan Gerhardt (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman John Marvel, Assembly District No. 32 (parts of Humboldt, Lander, and Washoe Counties)
Assemblyman Scott Sibley, Assembly District No. 22, Clark County (part)

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
René Yeckley, Committee Counsel
Jane Oliver, Committee Attaché

OTHERS PRESENT:

Bill Uffelman, President and CEO, Nevada Bankers Association, Las Vegas, Nevada
Jack Coronel, Director, Compliance and Strategic Development, FortuNet, Inc., Las Vegas, Nevada
Dennis Neilander, Chairman, Nevada Gaming Control Board
Amy Wright, Chief, Division of Parole and Probation, Nevada Department of Public Safety
Mike Ebright, Acting Deputy Chief and District Administrator, Division of Parole and Probation, Nevada Department of Public Safety
Patricia Hines, Advocate for Criminal Justice Reform
Buffy Dreiling, Legal Counsel, Nevada Association of Realtors, Reno Nevada

Chairman Anderson:
[Called the meeting to order and roll called.]

Assembly Bill 243: Revises definition of "securities account" for purposes of Uniform TOD Security Registration Act to include investment management or custody accounts with trust company or trust division of bank. (BDR 10-809)

Assemblyman John Marvel, Assembly District No. 32 (Parts of Humboldt, Lander and Washoe Counties):
We're here with A.B. 243. This revises the definition of the transfer, on death, of certain securities. This is another leg up to avoid probate. I don't know how many of you have ever gone through a probate, I have. Let me tell you they are very expensive. This is why I've been very meticulous in getting into trusts so that at least I will preserve something for my sons, daughters, and grandchildren. With that, Mr. Chairman, I will turn it over to Mr. Bill Uffelman with the Nevada Bankers Association and he'll explain the technicalities of the bill.

Bill Uffelman, President and CEO, Nevada Bankers Association, Las Vegas, Nevada:
As Mr. Marvel has said, this is a simple little bill that basically adds to the list of items that can pass without going through probate. Currently, as explained in the Legislative Counsel Bureau Digest, securities and brokerage accounts could have beneficiary designations but your trust account in the bank can't. This would make your trust accounts, being administered by a trust department of a bank or trust company, equivalent to the brokerage accounts being handled by your broker.

In the bill, the addition of cash equivalents at line 3 [on page 2] in the printed version of the bill, are investments easily converted into cash, treasury bills, treasury notes, money market funds, savings bonds, short-term instruments, and other short-term obligations.

The changes in Section 1, subsection 2, explain that an investment management or custody account with a trust company or bank, in effect, has the same treatment that your brokerage account would have with your broker and pass without probate, thus, avoiding probate fees.

Chairman Anderson:
What you're really telling us is that in the event of a death in the family, you're going to be able to have access to the accounts without going through several big legal hurdles, which is not unusual under these kinds of circumstances. The bank is concerned that the assets are at least held to meet those creditors that might come forward, so it can't be raided by somebody who is up to no good. At the same time, you want the family to have access to the funds for the necessary internment and other kinds of issues that come.

Bill Uffelman:
Exactly, Mr. Chairman.

Chairman Anderson:
So, this is going to aid in accomplishing that, where trusts are concerned?

Bill Uffelman:
To the extent that the creator of the trust designated beneficiaries, it will pass to them virtually immediately.

Assemblyman Marvel:
I think this is just another way to preserve the estates of decedents so that the families will enjoy the fruits of somebody's estate.

Assemblyman Horne:
What's the minimum amount of time for a CD [certificate of deposit]? I thought it was 3 months but I may be wrong.

Bill Uffelman:
I don't know specifically, but that sounds right. I've seen 90-day CD rates posted, so that's probably so.

Assemblyman Horne:
In the statute it says less than 3 months.

Bill Uffelman:
I'm not seeing that in this section, Sir.

Chairman Anderson:
The Chair will entertain a motion.

> ASSEMBLYWOMAN ALLEN MOVED TO DO PASS ASSEMBLY BILL 243.
>
> ASSEMBLYMAN MORTENSON SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Ms. Buckley and Ms. Gerhardt were not present for the vote.)

Let's turn to Assembly Bill 357.

Assembly Bill 357: Revises provisions relating to gaming. (BDR 41-1273)

Assemblywoman Allen, Assembly District No. 4, Clark County (part):
I am going to turn these comments over to Jack Coronel. He is from FortuNet and he's going to share with you the impetus and the history behind this bill.

Jack Coronel, Director, Compliance and Strategic Development, FortuNet, Inc., Las Vegas, Nevada:
Our interest in this bill is fairly straightforward. Keno and Bingo are impacted very greatly by changing technology.

In these games now, the prizes that can be won are much higher. There's much greater interest in these games and much greater play of them; therefore, like

most games that are offered in Nevada casinos, they represent an opportunity for people who aren't honest to potentially take advantage of them.

[Jack Coronel, continued.] Currently, under NRS [*Nevada Revised Statutes*] 463.650, you see gaming devices and the regulatory structure for licensing addressed. Over the last few years, you have seen fit to expand and modify NRS 463.650 at least twice. First, by including cashless wagering, and second, by including interactive gaming systems.

Those manufacturers or individuals, who wanted to bring forth those types of products, now have to be licensed. You deemed it necessary that those products—technology had evolved to such a point—needed to be elevated into the licensing structure.

What this bill suggests is that the games of Bingo and Keno also enjoy that status, and should be raised to that. What we're suggesting in this bill is that if you want product in this state, if you want to come under the banner of being able to claim and market, and your product is in Nevada, then you ought to be willing to step up and subject yourself to licensing. You ought to endure the rigors of being a licensed manufacturer, like many of us have done.

If something goes wrong with those products, if there's a scandal, those who suffer are the licensees. It's our industry and we're the ones who end up with a black eye.

What we're suggesting for your consideration is that we know and can certainly say on the record that Keno and Bingo have evolved technologically to a point where a scandal is possible. Therefore, if you're going to introduce these kinds of products to the Nevada market, then you ought to be willing to be a licensed manufacturer.

Chairman Anderson:
Are we going to be dealing with who manufactures ping pong balls with this bill? Are we concerned about whether they're used in tournament play or whether they're repainted and striped for the weight of the ball and the numbering system on them?

Jack Coronel:
I think our concern is slightly different. The issue of paper or the actual balls is really not our concern. As you point out, Mr. Chairman, a $25,000 game in Keno and Bingo was a big thing. Today, it's $100,000 and it's a progressive.

[Jack Coronel, continued.] What drives these games are computers. It isn't the paper or the balls and that isn't our concern. Our concern is the technologies in the computers that can impact and has impacted the game. This sets us up and sets the industry up to potentially get a black eye when something goes wrong.

Licensed manufacturers understand we have a stake in the state of Nevada. We have a stake in this business and we are diligent. Sometimes we make mistakes, but we're diligent because we understand what it means to bring a new product to market, and if the product is not up to par, what the impact is to all of us. Our concern is that there are manufacturers who don't have that incentive. Nevada is only a marketing sign that they will take to other jurisdictions and say, "Look, our product is in Nevada, it must be good," when in fact, that is not the case.

From a licensee standpoint, we're a partner in the structure; it's what has created this into an industry. We want to preserve the integrity of it. Nevada is the model and we think that if you're going to play here, you ought to be willing to step up and be licensed.

Chairman Anderson:
Is this your amendment (Exhibit B), and could you explain why we should do this only for Keno and Bingo, as compared to listing the long list of all the various games that are in existence?

Jack Coronel:
Currently, today, Keno and Bingo fall under the rubric of associated equipment. It's a different classification of equipment.

Chairman Anderson:
In what way? You need to be to be more specific.

Jack Coronel:
Gaming equipment and gaming devices are specifically defined in NRS [*Nevada Revised Statutes*] as requiring a whole host of licensing and regulatory elements, in order to be able to be marketed and presented.

Associated equipment is a lesser category of equipment. Its level of scrutiny, if you will, is less. It has been historically because, and the following comments are based on my knowledge of history as opposed to anything else, cards, chips, and products that you see in a casino were deemed by the Legislature and Gaming as not requiring the same review as a slot machine, cashless wagering system, or something of that means would.

[Jack Coronel, continued.] There is a large category that falls under associated equipment. In all of those items, at least in our opinion, technology has not come along and raised it to the level of a gaming device. We believe that today, Keno and Bingo are in that category. The technology today has changed the game so that those people who want to bring forward these products, ought to be looked at with a higher level of scrutiny.

The manufacture of cards really hasn't changed much over the last 50 years. You can put Saddam Hussein and a cast of characters on the face of the card, but it doesn't impact game play; whereas, this type of equipment technology does change the way.

When you were a Keno writer there were no such things as computers to display or monitor. Today, that's reality. That is the game today. One shouldn't close our eyes to that. That is the reality.

Chairman Anderson:
Actually, there were. Even in the 1960s.

Jack Coronel:
From the player's standpoint, the player would have a device in which they themselves had the ability to monitor. Today, that is modern game play.

Assemblyman Mortenson:
If your bill passes, is this going to prohibit a local church from running a Bingo game where they don't have computers, and they just put ping pong balls in a glass bowl and pick them out?

Jack Coronel:
I don't believe it will. Under current regulation, to the extent that the church can operate that type of game, I believe that the bill will not impact those people. I think it goes only to the issue of product that would appear in casinos, not in this carved-out category of charity. It isn't our intent to involve that. I'm not aware currently of any charity game in the state in which electronic equipment is used. We certainly support any type of exclusion.

Assemblyman Mortenson:
Your word "believe" bothers me, so perhaps, Mr. Chairman, Legal could determine whether or not this would exclude a private charity like a church operating a Bingo game. I would like to know that.

Chairman Anderson:
Is the nature of this discussion that as a manufacturer you have to meet certain state requirements currently?

Jack Coronel:
Yes.

Chairman Anderson:
You're concern is that people who produce other instruments that are utilized in the gaming industry, such as equipment manufacturers who are making cards, ping pong balls, and dice, don't have to meet those same requirements because there are certain precautions that the Gaming Control Board doesn't take relative to those things. Those folks don't have to meet these same requirements because they're used in other kinds of games like Monopoly. You're concerned about those folks, and that they should have to meet the same requirements that you're meeting? Is that what the nature of this issue is, so that we can cut down to it?

Jack Coronel:
Yes, our concern is not for paper manufacturers, dice manufacturers, or ball manufacturers, that isn't our concern. Our concern is the manufacturer who produces some electronic component in Keno and Bingo that can have a great impact on the game.

Assemblyman Conklin:
I'm struggling with this bill. The original bill and the associated equipment language is, for me, too broad. In the amendment, it almost appears to be, at least in my eyes, too narrow, with the exception that we might be including in the definition some things that we don't want to, like the ball manufacturer and so on.

I'm just curious if you'd consider some other language more specific to what you're talking about that is broad enough to capture those that manufacturer the electronic components that can have an impact in the dynamics of wagering, and still exclude the traditional manufacturer of balls and Bingo cards? I don't know if you have a comment for that or if you have a suggestion?

Jack Coronel:
I think, Assemblyman Conklin, you're correct. We would support restricting the language to exclude components such as traditional manufacturer's balls, paper, and things like that. We would restrict it only to electronic products in the Keno

and Bingo space. I recognize your concern, and that's reasonable, perfectly reasonable.

Assemblyman Conklin:
Rather than putting the words Keno and Bingo, we could add something in there like, "In any electronic equipment associated with gaming that has an impact on gaming outcomes." Legal would certainly have to look at that. Is that too broad?

Jack Coronel:
It may prove to be too broad. We can speak to the issue in the two specific games of Keno and Bingo. Associated equipment does cover a number of other areas. For example, today chips are a hard plastic product, but it's not secret and it's publicly known that, in licensing, Shuffle Master has acquired patents for what are called RFID [radio frequency identification] chips. I don't know, personally, how gaming is going to deal with this issue. I wouldn't want to have an amendment to this bill impact, or even suggest that we're trying to cover chips, or do something at all in that space. This amendment (Exhibit B) really is brought with the licensees for two specific games: Keno and Bingo.

You may augment this to include RFID technology, chips, and other associated gaming equipment. I don't know that, and I think that would be too broad to address today. I think if we left it to electronic products in Keno and Bingo, it would narrow the scope.

Chairman Anderson:
That somewhat deals with my problem of listing a particular game. I note your suggested amendment (Exhibit B) to your own bill.

Dennis Neilander, Chairman, Nevada Gaming Control Board:
I'm here on behalf of the Board to oppose this particular measure as written. I know you have an amendment in front of you which I have not seen that appears to narrow it down, but the bill as written would require licensing of all associated equipment manufacturers.

I'd like to give a clear understanding to the Committee of how the system functions now. Under existing law, if something is deemed to be a gaming device, then the manufacturer of that device has to go through a licensing process before the product itself can even be submitted to our laboratory for testing, to ensure that it meets all the technical standards for a gaming device.

A gaming device is defined by statute as something that determines win or loss and has certain electronic components. It's basically what you would think of as

a slot machine. Those are the things right now that the existing law requires that the manufacturer be licensed, as well as the product being reviewed. You have a two-step process.

[Dennis Neilander, continued.] Other things that are determined to be associated equipment would be cards, dice, bill validators, card shufflers, and all manner of things you would see associated with a game, but they don't determine win or loss. Those things are categorized as a matter of law as associated equipment. On that side, the people who manufacturer those are not subject to mandatory licensing like the slot machine manufacturers are. They are subject to discretionary licensing.

The Board and Commission [Nevada Gaming Commission] have a mechanism in place in Chapter 463 of *Nevada Revised Statutes* (NRS) that allows us to call someone forward in the event that we determine there may be an issue with respect to their suitability, but they're not in a mandatory licensing position.

However, all of those products that they develop are reviewed by the Board and tested. Cards, dice, bill validators, card shufflers, even cash registers that keep track of the Casino Entertainment Tax Footers, are things that we review within our laboratory environment. They are tested and in some cases they must undergo a field trial. We focus very much on the products on the associated equipment side. We don't focus on the people who manufacture those unless we have some reason to. If there is a reason to we call them forward for licensing. Just so it's clear what the existing system is.

Within the system for associated equipment manufacturers, the first time a company or individual submits a request for approval of associated equipment, we run them through a criminal background check. We want to make sure, obviously, there isn't anything of a criminal nature that would be associated with those particular companies. That's how it works right now.

With respect to the broad spectrum of associated equipment, I cannot see any appreciable benefit to the State of the cost associated in having to license all of those people, when, in fact, we're already focused on reviewing the products. The system that is in place now works very well. The bill, as it's written right now, is very broad.

There are about 250 associated equipment manufacturers today. The bill as written would require each and every one of those to be licensed in order to offer any product. Again, cards, dice, and Bingo ball blowers are included in that, and there is no transitory language, so that if we had to license all of those

individuals and companies, the gaming industry would not be able to get any product in the interim period while we are licensing all these people.

[Dennis Neilander, continued.] I don't know if you have the fiscal note yet but we did prepare a fiscal note. Mr. Chairman, I know this Committee is not as concerned with the fiscal impact, but from a policy perspective I would tell you that this Legislature has always weighed the cost of licensing for the State versus the benefit that you would get from licensing all these manufacturers, and the decision has always been that cost would outweigh the benefit.

With respect to Bingo and Keno, on a more narrow focus, the existing law makes a distinction in our view with respect to what it is that drives the game. In the traditional Bingo game you have, as you said, Mr. Chairman, the ball, you called them ping pong balls, but the thing that draws those is called a ball blower. That's the traditional Bingo game. There's still a lot of people who want to see that ball fall and they want to hear the person call "B7." There is also another aspect of that which is now electronic Keno, and if I could explain further how that works.

The newer Keno games and some Bingo games select the winning number by using a random-number generator. That random-number generator is similar to, and in some cases the same as, the random-number generator that you might see in a slot machine that determines the winning combination.

What we have done at the Board is, if any particular game uses a random-number generator, we have classified it as a gaming device and we have required those manufacturers to have a license. We do see that common characteristic. That's the existing way the Board treats Keno or Bingo if it uses a random-number generator to pick the winning number. The manufacturer is required to be licensed, and that particular device goes through as a gaming device as opposed to associated equipment. That's how we're handling that right now.

I would submit to you that the existing provisions in the law adequately cover this, and for those reasons we are in opposition today. I would be glad to answer any questions you might have.

Chairman Anderson:
The nature of this amendment (Exhibit B) would limit the associated equipment to Keno or Bingo. Is the Gaming Control Board seeing a dramatic change or even modicum of change, in those games that raises your concern to do this in anyway?

Dennis Neilander:
As with any piece of associated equipment, it's not just Keno or Bingo, technology is driving associated equipment to where it is more sophisticated. Some of this equipment relies on, perhaps, some cutting-edge technology. The way we've handled that at the Board level is we've amended our standards to keep up with the technology. It's really, for us, all about how we review those products. We thoroughly review all of the products.

You have to get back to the distinction that this is not a question of whether or not we are thoroughly reviewing the associated equipment, we are. We have a series of testing provisions in place. What this bill is asking you to do is make it mandatory to license the people who develop those products.

Assemblyman Conklin:
Mr. Coronel spoke about this and I think he was very kind to talk about public trust and so on and so forth, but at the end of the day this is a business issue. I think the issue that might be out there that concerns some folks, like Mr. Coronel is, does my competition have to go through the same licensing requirements that I am currently doing, because I use this random-number generator or whatever, thereby giving his competition an advantage, and possibly disadvantaging people who come to game honestly in a system that they trust.

When you use the term "random-number generator," is it possible for someone to be out there who doesn't use a random-number generator in their Keno game? The manufacturer knows the outcomes and so does the person who buys the games, but everyone who plays that game doesn't know. Does that make sense? I'm just trying to get at the heart of the issue here.

Dennis Neilander:
That makes sense. Your initial comment, I think, was that it's a business decision and certainly there are business decisions that have to be made in that regard. Something may be out there that someone may be able to take advantage of, or attempt to take advantage of.

There is an instance that did occur about two years ago where we had a Bingo company that had an individual create something that was not a random-number generator, it was associated equipment outside of that. There was an individual who, after the Board had reviewed all of the equipment, did manipulate that equipment in the field later after the Board had reviewed all of that equipment. We did, in essence, require that company to come forward and file an application for licensure. In that case, whether that company was licensed or not wouldn't have mattered. That individual still would have been

able to do exactly what he did. The fact that they had gone through licensing or not, would not have made an impact on that. That's always going to be the case. You're always going to have people out there that may try to take advantage of something.

[Dennis Neilander, continued.] The licensing process is one way that you can try to address that, and we do that. It's also the actual review of the equipment itself.

Assemblyman Conklin:
If we change the language of the amendment to specifically restrict this to manufacturers of electronic devices in pursuit of Keno and Bingo, have we defined that narrowly enough that you think it's necessary, or is this just a bad thing all the way around?

Dennis Neilander:
I don't know that you can draw that line with Bingo and Keno. Again, I haven't seen the amendment (Exhibit B) so I'm not going to comment on that until I've had a chance to study it. There are lots of associated things that go with gaming that use electronic equipment that someone, if they are nefarious enough, and they put their mind to it enough, might try to take advantage of it. Do you want to cast that broad of a net in order to address what might be an isolated situation? In a broader sense, that's what I would consider you take a look at in terms of the amendment.

Chairman Anderson:
On April 8, we'll be having several pieces of legislation dealing with the gaming industry. We might be seeing you again. [Closed the hearing on A.B. 357.]

Let's move to Assembly Bill 366.

Assembly Bill 366: Requires Division of Parole and Probation of Department of Public Safety to charge persons placed under its supervision fee for training its employees. (BDR 16-1035)

Amy Wright, Chief, Division of Parole and Probation, Nevada Department of Public Safety:
I'm here this morning for A.B. 366. This bill would enable the Division to assess a one-time $10 fee for each offender placed under the supervision of the Division. This fee would then be placed in an account and used for the training of the Division staff.

[Amy Wright, continued.] Currently, our training budget is severely under-funded in this category. In FY2005 we had a total of $55 per FTE [full-time employee] for all staff in the Division. Our current budget in that area is $24,543.

The Division really recognizes the need for specialized training for our Parole and Probation staff in the areas of sex-offender management, substance abuse, mental health, dual diagnosis, improved supervision tools, and effective practices that will affect outcomes and reduce recidivism.

In addition, we would like to see more training for leadership and management and be able to provide the training opportunities for all of our staff, both sworn and civilian. We hope to increase our professionalism, our efficiency, and above all, our effectiveness.

Assemblyman Horne:
I heard you say that this was a one-time fee, but I don't see that actually in the statute. My concern is particularly in the area of lifetime supervision of certain persons, your sex offenders. They would have this one-time fee as well, or throughout their lifetime, I guess? If it's not in there, I wonder if it would be alright to put it in.

Amy Wright:
We provided amendments to our bill (Exhibit C) already that include the lifetime supervision. The intent of the Division was to only incur a one-time fee upon that offender placed under the supervision of the Division. Mike Ebright from the Division did provide amendments (Exhibit C) that include lifetime supervision.

Chairman Anderson:
We'll take a look at the amendment (Exhibit C), Chief Wright, and see if Mr. Horne's concerns are heard.

Mike Ebright, Acting Deputy Chief and District Administrator, Division of Parole and Probation, Nevada Department of Public Safety:
I don't think that we're opposed to adding additional wording in there to make that a little clearer. Our intent is to charge the $10 one time, when a person is placed under our supervision for one instance of supervision. There are those offenders who will continue a term of supervision, although their status may change with us if they go from an inmate program, and then they're granted a parole. We only want to charge that person the one time, $10, when they're released from the prison and start the term of residential confinement as an inmate. We don't intend to charge them again when they are granted that parole.

[Mike Ebright, continued.] The same can be said for the person who finishes a term of parole and then starts a term of lifetime supervision. If you wish to include that to make it a little clearer, that's very acceptable. Other than that, I think the Chief covered the bill.

Chairman Anderson:
We want to make sure it's clear that you're picking this up once. What happens, with somebody who left the system, goes on parole, and then breaks that and is pulled back into the system? When they're put back out on the street again, are you going to charge them the second time? I guess with your amendment (Exhibit C), under community supervision that gives the opportunity for the county folks to do this also?

Amy Wright:
The intent was that each instance be placed under the supervision of the Division. If an offender was placed on parole and then his parole was revoked and he was reparoled again, that would constitute another period of community supervision. He would be required to pay the $10 fee.

In reference to community supervision, our intent was that the community supervision term be under the Division of Parole and Probation.

Assemblyman Carpenter:
How much money is this going to raise?

Mike Ebright:
Because this is something new we have to make some projections and a good educated guess. We calculated that we had 9,662 new instances of supervision in 2004. Reducing that by the number of parolees who absconded, that left us with 8,925 new instances of supervision at the $10 rate. Realizing a collection rate of approximately 85 percent, we've calculated that we should collect approximately $76,000 annually, which is approximately three times the amount of money that we have now appropriated to us for training.

Chairman Anderson:
Could you explain the nature of your second amendment, (Exhibit C), "Inmate released on judicial program, or sex offender on lifetime supervision," rather than the language that was suggested by bill drafter? Is there some reason why you want them specifically broken out in such fashion, (a), (b), (c), (d), and (e), which makes the statute longer rather than shorter?

Mike Ebright:
Yes, when we reviewed the bill as drafted we realized that there may be a system that's creating unfairness to some offenders by not being included. By simply indicating persons placed under residential confinement we were excluding inmates who were on the drug court program, who are inmates that we supervise in the community, but aren't on residential confinement.

Additionally, the lifetime supervision offenders are also not necessarily on residential confinement, and we wanted to make sure that we captured all of the folks that we provide supervision to. I realize that we try to keep things brief, but in order to cover all the bases we felt that it was necessary to request this amendment.

Chairman Anderson:
So, [subsection] (d) (Exhibit C) is intended to capture those individuals who are paying for their own program, generally speaking, they have to pay for drug court? In addition to having them pay for their treatment you also want them to pay for your training?

Mike Ebright:
Yes.

Chairman Anderson:
The whole purpose of this is to add [subsections] (d) and (e), rather than the terms that were suggested by bill drafting, and that's to pick up the people from drug court.

Mike Ebright:
Yes, that's correct.

Amy Wright:
In reference to the inmate that is placed in that judicial program, those are the Program 184 inmates that are placed under the drug court program. It is my understanding that those inmates do not initially pay for that drug court program, but will progress to it, so they are paying some but not all.

Chairman Anderson:
This bill is not going to reach the folks who are in regular drug court and the DUI schools, who are paying for their treatment program?

Amy Wright:
The intent is that every offender that is placed under the supervision of the Division would pay this $10 one-time fee. There will be many offenders that will

be involved in drug court. We do supervise offenders in specialized treatment and in specialized caseloads, that are involved in drug court.

Chairman Anderson:
That could conceivably also indicate those people in mental health care programs and several others, besides just the drug treatment programs.

Amy Wright:
Yes, it could conceivably, but also there is provision in this bill that allows the Division to waive those fees in instances of economic hardship.

Patricia Hines, Advocate for Criminal Justice Reform:
I'm speaking in opposition to this bill. My two questions I had have been answered. The one-time fee and the amount of money that you're hoping to glean by this.

I had two other concerns. Will there be statistics kept on this? If so, by whom, and how can the public access it? Why wasn't it proposed in their budget?

There is designated a fund of $4,500 in NRS for loans for people on probation and parolees. I believe that bill came in 1977. Perhaps this kind of money making that's made off of these people could go back to helping some of them so that when they get out they have their $25. Now you want to impose $10 more on them? They need help. Many of them have to pay for an evaluation which costs anywhere from $100 to $300 and they have to pay rent and all the necessary things, so I hope you'll consider these things in your evaluation of this bill and see if it's really necessary.

Chairman Anderson:
The point that Chief Wright was trying to make relative to the need in Parole and Probation, was the specific training of officers who need their background training relative to the diverse group of individuals that they're dealing with. Do you see an advantage in not raising the training dollars for folks in Parole and Probation, particularly to the area group that you've shown concern of in the past?

Patricia Hines:
I was appalled that they didn't ask for more staff and more money in the first place. I'm not averse to more money being given to Parole and Probation. Quite frankly, I will support any extra money they get because I think they need it, but by using this method of again usurping the inmates themselves, they have a hard enough struggle. When they get out with $25 they don't even have enough money to buy a bus pass to go look for a job for a month.

Chairman Anderson:
Let me close the hearing on A.B. 366. For myself, I need to find out if we move with the bill relative to the amendment that is suggested and, what the impact is going to be on the community programs and the drug treatment programs where offenders are currently paying for different kinds of programs. This is another form of fee fines and forfeitures in terms of a cost question. I'd like to see if there are some answers to those questions and the issues that were raised.

It appears to be another forfeiture kind of question relative to somebody who's there, and a money generator. I would anticipate that this bill will be picked up by Ways and Means if we were to process it since it deals with a budgetary amount. I guess the question was, again, how come it wasn't put forward? The other question was relative to why they didn't include the training element in their own initial budget. So, we would like a response from Parole and Probation.

We're now moving into work-session mode for the day.

Allison Combs, Committee Policy Analyst:
Assembly Bill 50 is the first bill in the work session document (Exhibit D). It's a measure that was heard last week on March 22, 2005, and it came out of the Legislative Committee on Children, Youth, and Families in the interim.

Assembly Bill 50: Makes various changes concerning State Register for Adoptions. (BDR 11-674)

It establishes a procedure under which the State Register for Adoptions receives updated medical history from natural parents, and then that information can be transmitted confidentially to the adoptive parents, or the adopted child, if that child is over the age of 18.

Senator Carlton testified on the measure on behalf of the interim committee and advocated the need for such a process, to allow adoptive parents and adoptees to make well-informed medical decisions.

There were some issues raised by those with concerns on the bill with regard to the expanded roll of the State Registry, but there were no formal amendments proposed during the hearing.

Chairman Anderson:
This looks like a good piece of legislation to me. I think that we could have moved on it at the time. I think we did it as a level of courtesy to make sure everybody was comfortable with the piece of legislation. It's a product of the Legislative Committee on Children, Youth, and Families which had at least one additional hearing on this particular issue, and then the full recommendation of the Children, Youth, and Families Committee, as represented by Senator Carlton.

> ASSEMBLYMAN CARPENTER MOVED TO DO PASS ASSEMBLY BILL 50.
>
> ASSEMBLYMAN MABEY SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Mrs. Angle and Ms. Gerhardt were not present for the vote.)

Let's turn our attention to Assembly Bill 205.

Assembly Bill 205: Revises provisions governing compensation for victims of crime. (BDR 16-1114)

Allison Combs:
Assembly Bill 205 is on page 9 of the work session document (Exhibit D).

The measure amends the provisions relating to the Fund for the Compensation of Victims of Crime and requires the juvenile court to provide a copy of the investigative or police reports upon the request of the compensation officer. It further specifies that those reports are confidential and must not be disclosed except upon a court order.

The sponsors noted that currently they obtain these records and reports through the juvenile court, and have to go through a lengthy process of seeking a court order, which they are almost automatically guaranteed or granted because they do have a legitimate interest statutorily in receiving these reports.

There were no amendments proposed on the bill but some members of the Committee were concerned about the issue of confidentiality. On page 9 (Exhibit D) it does set forth the provision from the bill A.B. 205 on page 2 of the bill, which does specify again that the "Reports are confidential and must not be

disclosed except upon a lawful order of a court of competent current jurisdiction."

[Allison Combs, continued.] Existing law with regard to confidentiality and documents obtained by the compensation officer is referenced under NRS [*Nevada Revised Statutes*] 217.105 and does specify that the documentation compiled by the compensation officer is confidential but there are some exceptions to that for the applicant or his attorney, administration of Chapter 217, or lawful court order. Those are the confidentiality provisions in comparison.

Chairman Anderson:
So, one would draw the conclusion that the confidentiality question is already taken care of in existing statute and that we need not further amend the bill to that specific provision?

René Yeckley:
I think what it shows is that the language that is in the bill gives a greater protection for the confidentiality of these records concerning juvenile offenders, than what is in the existing statute. By adding this language to the bill you would be protecting those juvenile records more so than what is currently provided in the Chapter.

Chairman Anderson:
We can take the bill without any amendment and we don't need to increase confidentiality? I want to make sure I understand.

René Yeckley:
If the bill was not amended and this language was still included in the bill, then these records dealing with the juvenile offenders would be confidential and could only be disclosed upon a court order.

Chairman Anderson:
So, no amendment is needed. The Chair will entertain a do pass motion.

> ASSEMBLYWOMAN OHRENSCHALL MOVED TO DO PASS ASSEMBLY BILL 205.
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Ms. Gerhardt was not present for the vote.)

Assembly Bill 227: Revises provisions relating to advertising by notaries public. (BDR 19-862)

Allison Combs:
Assembly Bill 227 is on page 11 of the work session document (Exhibit D). It was heard on March 25, 2005. The bill prohibits a notary public who is not a licensed attorney and licensed to practice law in Nevada, from using the term, "notario publico," or other equivalent non-English term.

[Allison Combs, continued.] There was testimony that this term is the equivalent in Mexico of a high-ranking government attorney and that the use of the term may be a little bit misleading to some individuals. The Secretary of State's Office testified in support of the bill and noted that the change would facilitate investigations of complaints involving notary publics, who are not complying with the existing advertising requirements.

There was some question on the bill relating to the existing requirement that a disclaimer or a notice be included. The notice is on page 2 of the bill and it specifies there that the person is not an attorney in the state, and he's not a licensed attorney to give legal advice and does not accept fees for giving legal advice.

There was testimony that some advertisements that are not in English may include this language, in English, so you have an advertisement in one language but the disclaimer in another. There was question about whether or not the law was adequate in that area.

I did speak to Renee Parker with the Nevada Secretary of State's Office after the hearing. She clarified that in those instances they do investigate those complaints and do enforce the statute in that area. They are covered in that area. If someone does advertise in one language and includes that disclaimer in English, the Secretary of State's Office, if they receive a complaint, can go after that individual.

Assemblyman Carpenter:
I received a letter from Renee [Parker] from the Secretary of State's Office where she confirmed what Allison said that they do in fact make the disclaimer in the language of the advertisement and I think that's fine. I went a little further and had people that work for me put in Spanish that disclaimer, to make sure that it didn't include any words that we didn't want in there.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO DO PASS ASSEMBLY BILL 227.

ASSEMBLYWOMAN ANGLE SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Gerhardt was not present for the vote.)

Chairman Anderson:
Let us turn our attention to Assembly Bill 232.

Assembly Bill 232: Revises provisions concerning concealed weapons and firearms. (BDR 15-301)

Allison Combs:
Assembly Bill 232 is on page 12 of the work session document (Exhibit D).

It was heard on Monday, March 28, 2005. It's a bill that amends Nevada law to comply with the federal law's Enforcement Officers Safety Act of 2003 and provides that a law enforcement officer, or a retired officer who is authorized by the federal act to carry a concealed weapon or firearm, is not prohibited by state law from doing so. So, the bill facilitates that.

The bill also authorizes the sheriff to provide the certification to the retired law enforcement officer. The bill also defines "upon a person" for the purpose of Nevada's concealed weapons and firearms statutes.

There were 3 proposed conceptual amendments on the measure, one of which was to add the cosponsors from the similar measure, Assembly Bill 258, to this bill, and that's listed there under number 1.

The second issue related to the definition of a "container" and there was a proposed amendment conceptually which is included on the yellow pages [page 32] (Exhibit D). It is modeled after a law in Arizona which doesn't define "container," it more addresses whether or not a weapon is concealed and states that "wholly or partially visible." That's an area, with regard to the amendments, that may need some clarification for drafting purposes if the Committee should go with that amendment.

Finally, there was some discussion, the effective date, and making the bill effective upon passage and approval.

Chairman Anderson:
Ms. Yeckley, we were concerned in the hearing relative to what constituted "upon the person." Because it's not unusual that people carry their weapons about in the state in a safe fashion that would protect the weapon and carrier. We wanted that not to mean you had to have a concealed-carry. Do you want to give us an opinion here whether we can clarify this a little bit?

René Yeckley:
If the Committee were to go with this amendment, I think we could work with the concept that's presented in this proposed amendment, so that we could clarify when a person would be considered carrying a concealed weapon.

Assemblyman Conklin:
I appreciate the proposed conceptual amendment number 1 (Exhibit D) for those that worked on Assembly Bill 258 and include it into this particular bill. I'm concerned about the container language. Conceptually, I agree with it. It needs to be clear enough so that if somebody has a handgun in a scabbard, and then they wear a coat over it, is that concealed or not? I want to make sure that it's very clear for the gun owner so that he can read the language in the bill and understand when he is in violation or not in violation of a conceal and carry law.

Chairman Anderson:
We had these discussions at length some time ago when law enforcement had maintained, if it was not visible then it was concealed. That discussion has not taken place in the last 10 years.

Assemblyman Conklin:
The language that's on page 32 (Exhibit D) where it says, "wholly or partially visible," how do you determine what is "wholly and partially visible?" Particularly, the "partially."

Chairman Anderson:
If we're going to clarify and move with the bill, we need to clarify the "container" part of this bill, in terms of a definition, so that we're all comfortable with it. We're going to probably need to see the "container." Ms. Combs, do you have a suggestion?

Assemblyman Horne:
My concerns were right along with Mr. Conklin's, particularly, the "partially concealed" language. I'm not comfortable with it.

Allison Combs:
I would suggest two possible courses of action. One is if the Committee would like to address this in some way in the bill, and is of the mind to amend and do pass the bill, taking the vote, and then seeing the amendment before it goes back to the Floor. Or, asking if Legal would be able to draft an amendment before the Committee takes action on the bill, that the Committee could review. Either way, the Committee is to review language proposed by the Legal Division, if that were acceptable.

Chairman Anderson:
We can do it either way; it's up to the Committee.

Assemblyman Conklin:
Mr. Chairman, I'm prepared to vote in favor of it but I would just like to see it before the Floor.

Chairman Anderson:
The point is I'm not trying to force a vote on this particular bill. I want to make sure that we're all comfortable with the question of "container" and whether it's visible or not visible and how we can craft this language. I think it's going to be very carefully crafted and that's the reason why I'm a little hesitant about taking a motion until we fully explore the whole question. I don't want the bill drafter to go through the exercise of putting together an amendment that we substantially agree with and then we may have points of disagreement.

Let me suggest, Ms. Yeckley, that we ask you to draft a potential amendment for us rather than take a motion on the bill, to clarify the suggestions put forth by Mr. [Beau] Sterling.

René Yeckley:
I would be glad to prepare that proposed amendment.

Chairman Anderson:
If we could do that, it would be most helpful. It would appear that we're going to put Assembly Bill 232 to another work session document.

Assembly Bill 166: Revises certain provisions relating to offers of judgment in civil actions. (BDR 2-564)

Allison Combs:
Assembly Bill 166 is on page [9] of your work session document (Exhibit D).

[Allison Combs, continued.] The measure revises the formula for determining when a party obtained a more favorable judgment by requiring the court to compare the amount of the settlement offer with the sum of the judgment, and the taxable costs of the party who received the settlement offer incurred before service of that offer.

There was discussion that this statute was amended in 1999, and the language placed into the statute was not what was intended. It was done so in error. There is a Nevada Supreme Court Rule, Nevada Rules of Civil Procedure Number 68, which contains similar language that the Supreme Court is looking at revising as well.

The sponsors of the bill requested permission from the Committee to further amend the bill to clarify the calculation for offers of judgment. There's an amendment in the work session document (Exhibit D) that was prepared by our Legal Division.

René Yeckley:
The proposed amendment (Exhibit D) amends subsection 5 to slightly change the calculation in paragraph (a). It also provides in paragraph (b), when you're trying to determine whether or not a party received a more favorable judgment than what was offered in making that determination, you would consider the cost of the claimants and not the cost of the party who made the offer. If you look at the bottom of that proposed amendment you also see a definition of "claimant" there to mean a plaintiff, a counterclaimant, a cross-claimant, or third-party plaintiff.

Chairman Anderson:
The Chair will entertain an amend and do pass motion. The amendments being those that are presented from Legal for subsection 5 of Section 1 of the bill.

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 166 WITH THE AMENDMENTS PRESENTED BY STAFF.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Ms. Gerhardt was not present for the vote.)

Chairman Anderson:
Let's turn our attention to Assembly Bill 91.

Assembly Bill 91: Revises the provisions governing the fees of reporters of district courts. (BDR 1-472)

Allison Combs:
There are quite a few amendments in the work session document (Exhibit D) that were in the Committee during two hearings. This is a measure that increases certain fees paid to court reporters in district court. Existing law establishes those fees and there is a proposal to increase them.

[Allison Combs, continued.] To go back through a couple of the issues that had been raised, there were some questions as far as what the rate of inflation had been since 1999 when the fees were last changed. There was an average annual inflation rate of about 2.55 percent, a total of approximately 13.4 percent.

County clerks and county recorders are required to charge $1.00 per page for copies.

Finally, there was a question on judicial days as the bill changes the fee for sitting on a Sunday and now also a Saturday. The law provides that judicial business can be transacted on any day except Sunday. So, there are a couple of exceptions there.

The first amendment (Exhibit D) summarized on page 2 deals with the language currently in the bill and relates to the fees charged by the court reporter. It would delete the separate fees for criminal versus civil fees, so that distinction would be eliminated in the bill, and return it just to the fees that are represented on page 2 of the bill. The new language on page 3 [of the bill] would be deleted.

The second amendment reduces the proposed new fees as you can see there on the bottom of page 2 (Exhibit D). The fee for the transaction currently is $7.10. The proposal is to raise it to $7.50, if it's within 24 hours after the request for the transcription. Within 48 hours it's currently $5.23 per page and this proposes to increase it to $5.62 under the proposed amendment. For 4 days, it would rise to $4.68. For more than 4 days, after it's requested, and the testimony was that is the most common request, it goes from $3.55 to $3.75.

Page 15 of the document (Exhibit D) includes a chart that compares the fees as they were in 1999 and currently are in the bill with the proposed amendments. The amendments for the transcriptions are approximately a 6 percent increase from the 1999 fees currently in statute. There are also proposals to increase the additional copies that are on the bottom of that chart (Exhibit D) and that are

listed there as well. In the proposed amendment to the bill there are no changes in the new copying fees.

Chairman Anderson:
There's about a 6 percent increase we're dealing with if they're in their overall original transcription that Ms. [Morgan] Baumgartner is suggesting, when we put back in the existing language where civil and criminal are treated the same, so there's a uniformity there. We set these in 1989, 1995, 1999, and now we're here in 2005, so it's been 6 years. That's a 1 percent increase per year. Of course there's been a fluctuating cost in the equipment, but personnel costs have gone up. There's an 82 percent increase for these others. There's a differentiation just because there's a higher cost to have things done in a faster time frame.

Assemblyman Carpenter:
The only thing I question is the cost of the copies when they have to put them out sooner.

Chairman Anderson:
The $.55 to $1 increase, is that the one you're concerned about?

Assemblyman Carpenter:
I'm alright with that dollar, but I'd like to see the dollar remain in all of them. The last one goes to $2 and that's a little much for doing copying, in my opinion.

Chairman Anderson:
The last one is $1.20 currently and that would raise it to $2. I don't have a problem about it one way or another. I think that the dollar differentiation there is just to show there's a difference between standard fee, and then the fact that you're going to do it within 4 days. The faster time frames may require you to bring personnel in that may not be there normally, in order to meet your deadline in time because they're adding in a Sunday to work. Since it's a nonjudicial day, the copy fee may require somebody to work on a Sunday.

Assemblyman Carpenter:
I just feel that if it was all at $1 it would be within a little more reason. I think $2 a copy is a little much even if you need to bring somebody in because I think the copy machines nowadays are pretty fast.

Assemblyman Horne:
I don't see a problem with the increase. As the Chairman was pointing out, the various days of request for your copies are an incentive for you to get your

request in a timely manner. Whenever you ask for a rush job in just about anything, it will cost more. If you just have the same price for everything, then everybody's demanding it to be in 24 hours instead of 48 or 72 hours. I don't see the problem with it being $2, if you want it in a day.

Chairman Anderson:
I'm concerned about the other part of the bill where the licensing is. We're moving the licensing up currently on page 3 of the document (Exhibit D). We see a proposal for the current court reporting firms' license fees to go from $150 to $250 for the original license, from $150 to $175 for annual renewal, and from $150 to $175 for reinstatement. I'm concerned that all of the sudden we're going to give them this $500 leeway for original license by going from $150 to $250 up to $500. It isn't that we like seeing them around us all the time, it's just that maybe we'd like them to come back now and again. I'm not sure that I could see the justification for that, from the $150 to $500.

Assemblyman Conklin:
I share your concern with that, and you're talking about the second half the Court Reporting Firm license fee (Exhibit D)?

Chairman Anderson:
Right.

Assemblyman Conklin:
I share your concern with that. There was also testimony the second time around on this bill that the actual individual licensing fees exceeded the current statutory amount already.

Chairman Anderson:
Right.

Assemblyman Conklin:
Of course that's of concern too because, why did we draft the law if it's not going to be enforced?

I agree that's a stiff potential increase, if the minimum is $250.

Chairman Anderson:
I suggest if we move with the bill under their guise, we send them a very pointed letter from the Committee indicating that they follow NRS [*Nevada Revised Statutes*] guidelines relative to fee structure, and that we were disappointed to learn that they had not been. On page 28, we see the additional information (Exhibit D) in the third paragraph, with the addition of a

$10 administrative fee for issuing the licensing card and increasing testing fees from $100 to $150. The Board has also streamlined its operation by, first and foremost, reducing their full-time [staff]. The need for the executive director's position is what they we're concerned about here.

Assemblywoman Buckley:
What does the language on page 3, number 12 (Exhibit D), "Violated any regulation adopted by the Board regarding the provision of uniform service and the attendance of conflicts of interest" mean? What does "attendance of conflicts" mean?

Chairman Anderson:
That would be a typo.

Assemblywoman Buckley:
It's supposed to say, "Avoidance of conflicts of interest." I'm sorry, I understand now.

Allison Combs:
On page 3, 2(d), (Exhibit D) "Expand the grounds for denial, suspension, or revocation of certificate," number 9, "willfully violating any provision of this chapter or regulation adopted by the Board," the new language may already be covered.

Chairman Anderson:
Ms. Yeckley, did we not already give them this provision? Are they wordsmithing with this in this regard?

René Yeckley:
I think that by putting this in statute it would clarify that these are violations that they could be disciplined for. The change that it would make is that this could not be changed unless they went back to the Legislature to have the statute changed. What's happening right now is that the provisions that they're adding in points 11, 12, and 13, [page 3] (Exhibit D) are existing regulatory provisions, and it doesn't look to me that they're absolutely necessary, but you could add it to the statute.

Chairman Anderson:
I thought it was redundancy at the time, "Licensee to pay the annual fee on or before May 15," to "such date as specified by the Board." The Board was concerned, if I recall, in 2(c) on page 3 of our work session document (Exhibit D) that they were hoping to change it over to your birth date, rather than a specified date, as it is under existing law. I've always been of the opinion

that a specified date set by tradition is always easier to remember than the fact that I have to renew on my birth date. It is always a date of some importance as in this instance and I wouldn't have a problem with this bill. I would fall both ways.

Assemblyman Carpenter:
Looking at the budgetary information, it doesn't look like they really need to go anywhere near as high as where they want to go on this, especially on the annual renewal license. It seems to me that $500 is quite a jump.

Chairman Anderson:
We're not going to do that. We might go to the $250 for original license, $175 for annual renewal, and $175 for reinstatement, but we're not going to give them the leeway to go to, at least I'm not of the opinion that we should go to $500. If we move them to $250 for original license and $175 for annual renewal, and increase reinstatement fee by $25, hopefully, they're going to be able to generate enough money to do what they're looking to do.

They are increasing their original certification fees from $150 to $250 and their annual renewal to $250 and renewal after suspension for failure to renew, from $75 to $125. That should generate at least enough money to meet what their real needs are, for some time.

Let's go to pages 20 to 26 (Exhibit D). I'm of the opinion that those suggestions—to make it a single fee regardless of whether you were in civil or criminal and remove the word "written" to allow them to do computer examinations—seem to be okay. We were going to give them the opportunity to raise their fees to the new proposal, $150 to $250 for original, $150 to $250 for annual renewal, and $75 to $125 after suspension.

For court reporting firms we were going to move the new fee forward to $250 for original license and $175 for annual renewal and $175 for reinstatement, with no range being offered to them and I offered the opinion that "such date as specified by the Board." I think having May 15 as the expiration day gives them a better opportunity to know how to manage their budget. If it's run on a fiscal basis then they know when their fees are going up at that particular date, rather than a long line. I'm not terribly sold on 2(c) [page 3] (Exhibit D). Do we have a feeling from the Committee whether that's a necessary amendment? [Proposed amendment] 2(c) doesn't look like it's needed.

We need to clear up the small typographical error that was pointed out. I'm never happy about redundancy. Ms. Yeckley, do you feel that we're already there but this merely clarifies, if I'm to reinterpret you?

René Yeckley:
Yes.

Chairman Anderson:
In 2(e), relative to the "unlawful to practice without a license or approval," drop, "with reference to any single proceeding … if he presents evidence to the board that he has one year of continuous experience as a full-time court reporting using any system or manual or mechanical … certificate." This would appear to expand and be particularly helpful for the rural court system.

Requiring firms owned by persons other than licensed court reporters to designate at least one person to be responsible for the actions of the firm [2(f)]. I think they were concerned about some of these court reporting firms that are not owned by court reporters. This revisits that in part, but not entirely. I'm sure that there's a need for 2(f) (Exhibit D) but there's been no complaints one way or the other. Is 2(f) in or out?

Assemblywoman Buckley:
I think you've studied this bill more than anyone else and if you state your motion, I'm getting the sense that we're with you.

Chairman Anderson:
I have trouble with 2(f), not in its entirety but I didn't hear a compelling argument, in my opinion, to change the law relative to those businesses. If I were to move with the bill it would be those conceptual amendments listed on page 2 (Exhibit D): Amendment 1, fee changes; 2(a); 2(b), to eliminate the $500; no 2(c); 2(d) with the correct language; 2(e); and, we will accept their recommended language on 2(f).

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 91 WITH THE FOLLOWING AMENDMENTS:
>
> 1. FEES CHARGED BY COURT REPORTERS.
> 2(a). EXAMINATIONS.
> 2(b). FEES, WITH MODIFICATION TO ELIMINATE THE $500.
> 2(d). EXPAND GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE, WITH THE CORRECT LANGUAGE.
> 2(e). ALLOW COURT REPORTERS IN OTHER STATES OR CERTIFIED BY NATIONAL BOARDS TO PRACTICE IN NEVADA.
> 2(f). REQUIRE FIRMS OWNED BY PERSONS OTHER THAN LICENSED COURT REPORTERS TO DESIGNATE AT LEAST

ONE PERSON RESPONSIBLE FOR THE ACTIONS OF THE FIRM.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION CARRIED (Ms. Gerhardt was not present for the vote.)

Chairman Anderson:
Let's turn our attention to Assembly Bill 123.

Assembly Bill 123: Prohibits the use and possession of electronic stun devices under certain circumstances. (BDR 15-600)

Allison Combs:
On page 6 of the work session document (Exhibit D) is Assembly Bill 123.

It was heard in early March. It creates a new crime for unlawfully using an electronic stun device on another person for any purpose other than self-defense.

It also makes the possession of such a device prohibited for a person who's been convicted of a felony and not received a pardon, or is a fugitive from justice, has been judiciously declared incompetent or insane, has been involuntarily or voluntarily admitted to a mental facility during the previous 5 years, and it also prohibits a child under the age of 18 from using or possessing an electronic stun gun device unless it's used for self-defense.

There was some discussion during the hearing about the need to address the unlawful possession of these types of devices. Concerns were expressed for the penalties under the measure by the members of the Committee. There was general concern for the use of these devices from the American Civil Liberties Union (ACLU), which did not submit any amendments to the bill since the time of the hearing.

There are several proposed conceptual amendments. The first of which was proposed by the Nevada Sheriffs' and Chiefs' Association, and amends Section 1 of the bill on page 2, lines 18 through 22 that governs the possession of these devices by a child. As I mentioned, currently it prohibits possession by a child under the age of 18. The language proposed would be more similar to the current prohibition on the firearms statute and provides that a child 14 years

of age or older may handle or have in his possession one of these devices, if the child is not otherwise prohibited by law from possessing one, and it would be without being accompanied by a parent or guardian, if the child has the permission of the parent or guardian to have the device.

[Allison Combs, continued.] The second area with the proposed amendment is the possession of cattle prods by those who are using them in the agricultural business. It is to allow an exception to the prohibition against possessing these items, if the person is engaged in agricultural work.

On the top of page 7 (Exhibit D) is another area of concern raised by Chairman Anderson with regard to parental responsibility and one query as to whether the bill might need to indicate the parental responsibility. Currently, there are laws in this area with regard to firearms, two of which are set forth there [page 7] in the document (Exhibit D).

Currently, with regard to firearms, existing law provides that a parent can be held jointly and severally liable in certain circumstances for damages caused by a minor using or possessing a firearm. The second one provides a criminal penalty for a person who knowingly permits a child to unlawfully possess a firearm. The first offense is a misdemeanor unless the person knew that there was a substantial risk the child would commit a violent act, and that's a Category C felony currently. A subsequent offense is a Category B. That's the third area of concern with regard to the bill.

Finally, the fourth area relates to the penalties for the unlawful possession of the electronic stun gun device. There was some concern among the Committee whether the penalty should be more consistent, or should reflect the existing laws for unlawful possession of firearms. The chart there [page 7] (Exhibit D) compares what is currently in the bill with what is current law, with regard to the unlawful possession of a firearm. Currently, those penalties are consistent under the bill, for the prohibited possession of the firearm for an adult convicted of a felony, or who is a fugitive from justice. There's not a precise correlation between that and existing unlawful possession of firearms for adults judicially declared incompetent or insane, or voluntarily or involuntarily admitted to a mental health facility during the preceding 5 years. That language is under the statute regarding concealed weapons and requires denial of a concealed weapon permit in those circumstances. The bill provides that's a Category B felony.

A similar issue with regard to the penalty for possession of firearms is currently a Category D felony for someone adjudicated mentally ill or illegally or unlawfully in the United States.

[Allison Combs, continued.] Finally, the bill on page 2, lines 28 through 31 specifies that a child who unlawfully possesses one of these items and commits a delinquent act, may be detained by the court in the same manner as if [an adult] had committed the act. That would have been a felony if committed by an adult. That language mirrors the language under the existing law prohibiting minors in circumstances, or juveniles from possessing a firearm.

Chairman Anderson:
Mr. Horne was the Chair the day we heard the majority of this bill.

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 123 WITH THE FOLLOWING AMENDMENTS LISTED IN EXHIBIT D:
>
> > AMENDMENT 1: POSSESSION BY A JUVENILE WITH PARENTAL PERMISSION.
> > AMENDMENT 4: MAKES PENALTIES CONSISTENT WITH THE PENALTIES BEING THOSE ALREADY CONTAINED FOR UNLAWFUL POSSESSION OF FIREARMS.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Ms. Gerhardt was not present for the vote.)

Assembly Bill 215: Revises provisions relating to disclosure of certain information to purchaser of a residential property. (BDR 10-1004)

Allison Combs:
The measure provides an exception to the existing law that requires sellers of residential property to complete a real estate disclosure form 10 days prior to conveyance of the property.

The bill adds a new exception to this requirement for the sale or intended sale of residential property by foreclosure or deed in lieu of foreclosure.

There was some testimony that the bill was geared towards mortgage companies who had not acquired the title to the property yet and were unable to complete the required disclosure form.

There were some proposed amendments from a combination of the Nevada Association of Realtors, Southern Nevada Home Builders Association, and the Nevada Consumer Finance Association.

[Allison Combs, continued.] Subsequent to the hearing, there was a second amendment that is presented here in the work session document to try to address some of the concerns raised by the members with regard to the need for disclosure to buyers. The amendments are set forth down at the bottom of page 10 (Exhibit D) and the amendment that was submitted is on page 35.

In brief, it would replace the proposed language in the bill on page 2 that says now, "by foreclosure or deed in lieu of foreclosure." The new language would be "by foreclosure pursuant to Chapter 107 of the *Nevada Revised Statutes*," which involves deeds of trust.

The second proposed new language would add to the bill new subsections as proposed on page 35. The first new subsection would state that, "Any person or entity that is exempt under the statute from providing the disclosure form must disclose any defects of which he actually knows to a purchaser of the residential property at the time of the sale."

The second new subsection that is proposed would specify that "The person purchasing the residential property pursuant to the foreclosure exception ... " that's under discussion here in the bill, "acquires that property without any warranty and is foreclosed from bringing any action with regard to any later discovered defects."

Assemblywoman Buckley:
Let's say, for example, a bank takes over a property. They knew that there was a defect, or they came in and restored it. Why would we want them not to disclose anything that they should've known?

Assemblyman Scott Sibley, Assembly District No. 22, Clark County (part):
That's why we amended subsection 2(a) to say, "By foreclosure pursuant to Chapter 107 of *Nevada Revised Statutes*." That specifically deals with the auction that's at the courthouse, at which time the bank doesn't have any right to enter the house prior to that time.

Ninety percent of the auctions at the courthouse do go back to the bank. The property is reverted to them. Then, in that case, the bank would be required to disclose like any other seller of real property. This is just for at the time of the auction, and that's why we referenced Chapter 107 of *Nevada Revised Statutes*

so people couldn't later say, "Well, this is a foreclosure sale." By setting it with the statute it tightens it up for them, I believe.

Assemblywoman Buckley:
That makes sense but I don't know if this language actually does that.

Assemblyman Sibley:
The original language in the bill last session had an exception that when banks did take them back through the foreclosure process they were still exempt. We don't intend for that to happen here. This is mainly for the sale at the courthouse because the sales are "as is," and generally they're sold at auction, and we don't intend for them to not have to disclose. When the bank gets the property back they then would be like any other seller in an arms-length transaction, I believe.

Assemblywoman Buckley:
Okay, I'll look at it. Thank you.

Chairman Anderson:
Ms. [Buffy] Dreiling, can you help us in any way in this area, or Mr. [Jim] Nadeau with your expertise as in this area?

Buffy Dreiling, Legal Counsel, Nevada Association of Realtors, Reno, Nevada:
Her concern was because the statute applies only to the actual sale itself, that individual transaction. In the statute under the disclosure duties, they apply anew every time a sale occurs, and the statute doesn't apply. I would read it that way if it said, "Apply to a sale or intended sale of property by foreclosure or that was acquired through foreclosure." I think that would read that way so I don't have that same concern with this language, but it definitely is our intent to avoid exactly that and clean up the language. How it used to be was, when the banks took it back and then they sold it, they were being exempt under the statute, and I don't think that there's justification for that. Only in this auction scenario, which under subsection 4 we're proposing to add that if they have knowledge about a defect, they would then have to disclose it. That would be the limited context that we're talking about here.

Assemblywoman Buckley:
But, conceptual amendment 2, number 5, on page 10 (Exhibit D) says that, what if the purchaser finds that there was defects. It looks like they're being foreclosed not just against the foreclosure entity but from any entity. That's so wide open.

Buffy Dreiling:
I don't have intimate knowledge about all the aspects of that language in conceptual amendment 2, number 5, on page 10 (Exhibit D). That was not our portion of the amendment. I believe that came from the Southern Nevada Homebuilders' Association. With regard to that, what you have to look at is who has a duty to disclose with any transaction.

Chairman Anderson:
If I'm to understand the nature of the amendment, we would be able to do number 1, "By foreclosure pursuant to Chapter 107 of *Nevada Revised Statutes*." And then by adding number 4 only, "Any person or entity exempt from providing a disclosure form pursuant to paragraph 2 must disclose any defects of which he actually knows to a purchaser of a residential property at the time of sale." That would be sufficient to meet your needs?

Assemblyman Sibley:
That would meet our needs for the problem that we're having at the sale. It would also give the opportunity that if, say, a house was burned down and the bank knew of it, we would disclose it at the time of sale.

Assemblywoman Buckley:
The standard phrase we use in the law is, "knew or should have known." If you should have known that the house burned down, and you just never witnessed it, do you then get out of giving the notice?

Buffy Dreiling:
They don't use that language in NRS 113; they use the language, "any defect of which a person is aware." In my interpretation, that's narrower than the traditional common law standard of "knew or should have known." My understanding of when this has been applied doesn't require a person to go and conduct an inspection. That's what the buyer's purview is. But if a seller is aware of a defect, they have to disclose it. The issue with the foreclosure companies and the actual knowledge language in there is appropriate. When you're dealing with the foreclosure type of transaction, you're dealing with this big entity who some people have one issue, some people have another, and the red flags would be very hard to track in that type of a case. I felt that actual knowledge was appropriate in that limited circumstance. In the rest of the statute, the word that they use is, "aware"; they don't use the other language.

Assemblywoman Buckley:
I think I'd be comfortable with it if Legal could just take another look at it to clarify that it's just this sale and not forever. Maybe it's clear and they could just explain it to us later. They should then include paragraph 4 (Exhibit D) and

track the same language already in NRS 113.140, "of which they're not aware," so we're not changing the standard, and then take out 5.

Assemblyman Sibley:
That would be great, thank you.

Chairman Anderson:
I'm to understand the nature of what we're going to do here, we're going to amend and do pass the bill by reference to "foreclosure pursuant to Chapter 107 of *Nevada Revised Statutes*." We are going to further amend the bill by adding some new language that is going to come from bill drafting relative to "Any person or entity exempt from provisions of disclosure pursuant to ... " the paragraphs properly numbered, and "must disclose any defect which ... " Then we're going to be looking for cross-reference to NRS 113.140 which raises slightly the question of "knowingly" to purchase a residential property, at the time of sale.

> ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 215 WITH THE FOLLOWING AMENDMENTS OUTLINED IN THE WORK SESSION DOCUMENT (EXHIBIT D).
>
> - BY FORECLOSURE PURSUANT TO NRS CHAPTER 107.
> - ADD NEW SUBSECTION FROM BILL DRAFTERS RELATING TO ANY PERSON OR ENTITY EXEMPT FROM PROVIDING A DISCLOSURE FORM PURSUANT TO PARAGRAPH 2 MUST DISCLOSE ANY DEFECTS OF WHICH HE ACTUALLY KNOWS TO A PURCHASER OF A RESIDENTIAL PROPERTY.
>
> ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Ms. Gerhardt was not present for the vote.)

Assembly Concurrent Resolution No. 2: Requests the Nevada Supreme Court to review the manner in which district courts receive and decide petitions to open files and records of courts in adoption proceedings and report its findings to the Legislature. (BDR R-883)

Allison Combs:
[Reading from Exhibit D.] The Resolution requests that the Nevada Supreme Court review the manner in which courts receive and decide petitions to open

adoption records and asked that the court review this process and submit its report to the next Legislature before September 1, 2006.

[Allison Combs, continued.] It was a bill from the Interim Committee on Children, Youth and Families. There was testimony this process may be overly burdensome or even unclear.

There were two proposed amendments. One was, the Administrative Office of the Courts (AOC) wondered whether the bill should have been directed to the AOC rather than the Nevada Supreme Court itself. The AOC would more likely than not actually conduct the study.

The second proposed amendment came from Ms. Helen Foley, who suggested that the bill should be limited to petitions to open records for the purpose of locating medical history information.

Chairman Anderson:
Limiting it to just the medical history question, I think, would be an unfortunate move, in that there are a couple of other questions that the Administrative Office of the Courts may feel would be necessary to include in the study for you to have a meaningful document in the future. I think in limiting the study to only the medical question, while that is clearly our purpose at this particular moment in time, there may be other information that the Administrative Office of the Courts would do.

In the first amendment, clearly it is their function and not that of the Court. On the other hand, I don't want to be directing those people that are their responsibility to direct. It would be an infringement upon the separation of powers. The Chair will entertain a do pass motion on A.C.R. 2.

ASSEMBLYWOMAN OHRENSCHALL MOVED THAT ASSEMBLY CONCURRENT RESOLUTION NO. 2 BE ADOPTED.

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Gerhardt was not present for the vote.)

[Closed work session and adjourned meeting at 11:34 a.m.]

RESPECTFULLY SUBMITTED:

_____
Jane Oliver
Committee Attaché

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 30, 2005 Time of Meeting: 8:17 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Meeting Agenda
A.B. 357	B	Jack Coronel, Director, Compliance and Strategic Development, FortuNet, Inc.	Amendments to A.B. 357
A.B. 366	C	Mike Ebright, District Administrator, Division of Parole and Probation, Nevada Department of Public Safety	Proposed Amendment to A.B. 366
A.B.50 A.B. 91 A.B. 123 A.B. 166 A.B. 205 A.B. 215 A.B. 227 A.B. 232 A.C.R. No. 2	D	Allison Combs, Committee Policy Analyst, Legislative Counsel Bureau, Nevada State Legislature	Work Session Document