MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Third Session
April 21, 2005

The Committee on Judiciary was called to order at 8:12 a.m., on Thursday, April 21, 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
Mr. John C. Carpenter
Mr. Marcus Conklin
Ms. Susan Gerhardt
Mr. Brooks Holcomb
Mr. Garn Mabey
Mr. Mark Manendo
Mr. Harry Mortenson
Mr. John Oceguera

COMMITTEE MEMBERS ABSENT:

Ms. Barbara Buckley (excused)
Ms. Genie Ohrenschall (excused)

GUEST LEGISLATORS PRESENT:

Senator Mike McGinness, Central Nevada Senatorial District

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Risa Lang, Committee Counsel

Carole Snider, Committee Attaché

OTHERS PRESENT:

Arthur E. Mallory, District Attorney, Churchill County, Nevada
Karen Baggett, Deputy Director, Administrative Office of the Courts, Nevada Supreme Court
Laurel Stadler, Chapter Director, Mothers Against Drunk Driving, Lyon County, Nevada
Cornelius Sheehan, Licensed Social Worker, American Comprehensive Counseling Service, Reno, Nevada
Walter Dimitroff, Licensed Social Worker, American Comprehensive Counseling Service, Reno, Nevada
Dr. Michael R. Freda, Licensed Therapist, The Ridgeview Group, Reno, Nevada
Tim Hamilton, Co-Director of Clinical Services, Safe Nest, Las Vegas, Nevada
Stephanie Liester, Co-Clinical Director, Safe Nest, Las Vegas, Nevada
Tamara Utzig, Victim Advocate, Safe Nest, Las Vegas, Nevada
Rebecca Thomas, Chairperson, State of Nevada Committee on Domestic Violence
Carlos Brandenburg, Ph.D., Administrator, Division of Mental Health and Developmental Services, Nevada Department of Human Resources
Bobbie Gang, Legislative Advocate, representing Nevada Women's Lobby, and National Association of Social Workers
Jone Bosworth, Administrator, Division of Children and Family Services, Nevada Department of Human Resources

Chairman Anderson:
[Meeting was called to order and roll taken.] Let's turn our attention to S.B. 75.

Senate Bill 75: Allows use of audiovisual technology under certain circumstances for counseling and evaluations required for certain offenses. (BDR 15-188)

Senator Mike McGinness, Central Nevada Senatorial District:
These bills came out of the Legislative Commission subcommittee to study the criminal justice system in rural Nevada and transitional housing for released offenders. Members of the committee were myself, Assemblyman [John] Marvel, Senator [Dean] Rhoads, Senator [Maurice] Washington, Assemblyman [Bernie] Anderson, and Assemblyman [Rod] Sherer. We held

5 meetings including a work session. Four of the meetings were held in Carson City with video conferencing to Las Vegas. One meeting was held in Ely and the Advisory Committee met one time.

[Senator McGinness, continued.] The Advisory Committee was a tremendous asset. It included three district judges, Michael Griffin of the First Judicial District Court, John Davis of the Fifth Judicial District Court, and Dan Papez of the Seventh Judicial District Court. The Advisory Committee also included Max Bunch, Justice of the Peace in Battle Mountain, Argenta Township; Bill Teurman, Municipal Judge, Fallon Municipal Court, who has since retired; Donna Bath, County Clerk, White Pine County; Winifred Smith, County Clerk, Elko County; Art Mallory, District Attorney, Churchill County; Gary Woodbury, District Attorney, Elko County; Gene Hill, Sheriff, Humboldt County; Bernie Romero, Sheriff, White Pine County, Bernie Curtis, County Commission, Douglas County; William Kirby, County Commission, Esmeralda County; and Ron Titus, Director, Administrative Officer of the Courts.

Regarding S.B. 75, the Committee recommended a number of issues including asking for funding for a new court house in Ely which to my surprise actually made it into the Governor's budget. It is now being debated in other committees that deal more with money.

Another recommendation regarding S.B. 75 is to amend *Nevada Revised Statutes* (NRS) to allow counseling and evaluation requirements to be conducted through the use of video conferencing. In an effort to provide further relief to those citizens residing in rural Nevada who have difficulty complying with counseling requirements, the Committee recommended a bill draft request to expressly allow counseling and evaluation requirements in NRS 200.485, NRS 62E.620, and NRS 484.37943 to be conducted through the use of video conferencing for offenders where services are not available within 50 miles of their residence.

Senate Bill 76 amends *Nevada Revised Statutes* regarding the evaluation of a child who committed certain acts involving alcohol or controlled substances. The Committee heard testimony from Judge Papez and others indicating that all juveniles who violate *Nevada Revised Statutes* pertaining to DUI [driving under the influence], controlled substances and alcohol, must undergo an evaluation to determine if they are abusers of alcohol or drugs. Qualified individuals to conduct such evaluations are often not available in rural locations. Consequently, the juvenile must travel long distances to be evaluated which is a costly burden to many local jurisdictions and their parents.

[Senator Mike McGinness, continued.] The Committee recommended a bill draft request that amends NRS 62E.620 to allow judges discretion in ordering a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or drugs. Such discretion would apply only to first-time offenses and instances when a child committed the unlawful act of using, possessing, selling, or distributing controlled substances or the unlawful act of purchasing, consuming, of possessing an alcoholic beverage in violation of NRS 202.020.

In an email dated February 25, 2005 from Judge Papez to Senator Mark Amodei, Chairman, Senate Judiciary Committee (Exhibit B), he stated, "I'm writing in support for the passage of S.B. 75 and S.B. 76. As you are aware, I served as Vice Chairman of the Commission on Rural Courts and was also an Advisory Board Member to the Criminal Justice in the Rural Nevada Committee. Nevada law mandates evaluations and/or counseling for convictions in several types of offenses including domestic violence, drunk driving, and possession or use of alcohol or drugs by juveniles. It is very difficult to meet the mandates of these laws because of the scarcity of certified counselors in rural Nevada. Rural Nevadans often must drive great distances at considerable expense to perform their mandated counseling. For indigent people, it is often too expensive for them to travel for the counseling order by the court and would truly be unjust to further penalize indigent citizens because they are financially unable to travel to a mandated counseling session."

This only gives the judges flexibility. They have the opportunity to do it or not. The judges want people to have counseling and they want them to have face-to-face counseling. Many people have to take a day off one day a week. What we are doing is to have some flexibility in the counseling requirements to be able to do that twice a week rather than once a week. If these people had a vehicle and if they had a job, they would have to take one day a week off to do that. We even talked about having a first-time meeting with a counselor and we have also spoken with Carlos Brandenburg, Ph.D., Administrator, Nevada Division of Mental Health and Developmental Services, who works with the Rural Clinics. Judges Steven Dobrescu and Dan Papez, of the Seventh Judicial District, have met with Clay Poplin, Director, Ely Mental Health Center, to try to have certified counselors. Ely Mental Health Center also serves Lincoln County and Eureka County as well.

Chairman Anderson:
I want to compliment you on the work and effort done on these issues. While not all the tasks assigned to this Committee were completed, it was a daunting study in terms of the overall task requirements. We clearly heard some of the real issues that face the rural courts of the state in order to bring a program

together with a real need. The distance question was clearly one of the major problems that does not have an economic solution to it, unfortunately. That became very clear when we tried to go to Ely once and was snowed out. Of course, the folks in Ely didn't understand how a little snow could keep us away. Clearly, the drive out there reminded me once again driving Highway 50 and how difficult it is to have these kinds of face-to-face services. It was an important study and a real awakening how difficult it is to bring some of these meaningful programs into place.

Assemblyman Carpenter:
Is there a counselor in Ely?

Senator Mike McGinness:
I don't believe there is. The judges, both Judge Papez and Judge Dobrescu met with Mr. Poplin who is the new Director of the Ely Mental Health Center. Their primary focus is rural mental health. They do not have qualified counselors at this time. We met with Mr. [Dale] Capurro [Nevada Human Resources] who is optimistic about getting Rural Clinics some assistance but they have some budget restraints as well.

Chairman Anderson:
Did you wish to speak about S.B. 75?

Senator Mike McGinness:
Senate Bill 75, provides that the court may authorize who is required to participate in a certified program for the treatment of persons who commit domestic violence, to participate via closed circuit video or video conferencing if the person resides more than 50 miles from the nearest location. As you can see on page 2, line 32 states that the first offense within 7 years require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months but not more than 12 months at his expense, in a program for the treatment of persons who commit domestic violence.

At the top of page 3 it states, "If the person resides more than 50 miles from the nearest location at which counseling services are available, the court may allow the person to participate in counseling through the use of audiovisual technology." We are not saying audiovisual technology is even available but there are a couple locations at the Great Basin College in White Pine County and the Department of Transportation Maintenance Station in Ely. This is only an option and it is up to the judges in those areas to determine if the video conferencing is available and if it would be appropriate. What this is trying to do is give the judges more options and give them a chance to be a judge and make that determination.

Chairman Anderson:
This is permissive legislation which, at the discretion of the judge, he may allow this to take place but not required to do it.

Senator Mike McGinness:
Absolutely.

Chairman Anderson:
For those who say it is an economic hardship or the distance is so great I couldn't possibly do this, they would have to do something. It doesn't seem to be a problem for district court judges. The justices of the peace, we often found, don't follow the state law. It is hard to imagine that. We just recently discovered that counseling is ignored, especially in domestic violence by some of the rural court judges, because it is not available. One of the justice courts in Clark County indicated we needed to change the law so they would be doing what was legal. In reality, what we are trying to do is get this service to the people or at least an option.

Senator Mike McGinness:
It authorizes those judges to do that. Many times a justice of the peace or a district court looks at the situation if there is domestic violence. If the family is barely getting by and the offender is mandated to go to Elko for a session one day a week, that is a tremendous burden. The person may lose their job over this. We are just giving them an option to try and work out something else for the benefit of the offender, the victim, and the counselor.

Assemblyman Horne:
Do you have a counselor or someone who can address the feasibility of this type of counseling through video?

Senator Mike McGinness:
I believe somebody will address that. There are people who are opposed to this. I'll be the first to admit that video counseling is not the best. Face-to-face is absolutely the best. There are even indications that if I was an offender and you were a counselor, they would rather have three or four other people so that there is some group dynamics. Many times in rural Nevada, that just doesn't happen. I would be the first to say that video counseling is not the best. There has been some testimony that no counseling is better than video counseling. That has yet to be proven to me. I can't imagine that. You will probably hear from some opposition to these ideas.

Assemblyman Horne:
Is this type of video counseling done in other jurisdictions?

Senator Mike McGinness:
I can't answer that.

Assemblyman Horne:
I'm trying to imagine counseling in that type of medium. Sometimes we have video witnesses from Las Vegas. Just the interaction between them is difficult, in just simple testifying. That's why I asked if it was done in any other jurisdictions. Are there any other counselors who will say this is possible? It's just short of a telephone call.

Senator Mike McGinness:
Absolutely. I agree with you. I think it is an interim step. I don't believe any jurisdictions in the state of Nevada are doing this. If they are doing it in other states, I can't answer that.

Chairman Anderson:
Part of it may be the fact that we mandate a level of counseling that is somewhat higher than some other states. We don't differentiate between the large metropolitan areas as this is a statewide law. It is not one that is predicated based upon population. Many of laws are based upon population.

Senator Mike McGinness:
These bills were meant to address that. There is a tremendous gap between what happens in Sparks and Fallon as to what is available in Ely, Pioche, or Eureka.

Senate Bill 76 just gives the judge the discretion to allow a juvenile who has had no previous record whether he should have an evaluation or not. It does not mandate that they have to have an evaluation. It just mandates "at the court's discretion." We have heard many times from judges that we tie their hands so this is just a loosening of the handcuffs. We are not totally going to take them off. We are going to let them wiggle out if they can.

Chairman Anderson:
It still mandates the evaluation if the juvenile is caught in the unlawful operation of a motor vehicle.

Senator Mike McGinness:
Absolutely.

Chairman Anderson:
So that doesn't change and, of course, has not previously been found guilty of two or more offenses.

Senator Mike McGinness:
Just the first time the judge is given the option.

Assemblyman Carpenter:
Did you or anyone contact like the Vitality House in Elko where they might be able to send somebody down once a week to give counseling? That might not be an option as there might not be enough people in the Ely area that need this type of counseling.

Senator Mike McGinness:
We heard that someone was going to facilitate counselors going to rural Nevada. I am not familiar with the details but they were going to come out of Carson City or Reno. Because of the limited use, the program dissolved; there were not enough people to go into the rural areas every week. That is part of the problem that there was not enough use for a counselor to go to White Pine or Eureka County every week.

Chairman Anderson:
During the time of our hearings it was hopeful that the counselor program would go forward and be able to generate a client list. I think there is still hope for it.

Senator Mike McGinness:
I am hopeful something like this would work and we were going to meet with Dr. Brandenburg. They do have some funding problems with the rural clinics. In fact, some of their recent funding problems were recently exacerbated. So we are going to try and assist them.

Arthur E. Mallory, District Attorney, Churchill County, Nevada:
As Senator McGinness pointed out, Churchill County does not necessarily have a problem in this area. I was one of the advisory members of the Committee on Rural Courts that met throughout the state and looked at the problems. I am speaking not only on behalf of the District Attorneys Association but on behalf of many of the rural counties.

I don't think any of us here wants to weaken or dilute a very good domestic violence law which we have. What we are facing here is there is some reluctance and hesitancy by some members of the judiciary to make a finding of guilt of domestic violence when they know the punishment is going to be an impossibility. It's just not going to happen. The counseling is extremely important. Personally, I think these people who commit domestic violence need to have to face someone every day, once a week, 6 months, or 12 months and talk about the fact that they have done something that is not acceptable. Right now we are not getting it done.

[Arthur Mallory, continued.] We are requesting is that we have another option to use, so that we won't be having reluctance by some people in our system not to make a finding of domestic violence because they say, we can't make them comply. So this is just an audio/visual option to be put into place until such time as face-to-face counseling is available.

The point was raised do we have other jurisdictions where counseling is done by audio/visual techniques. We do, in this state, have a common legally acceptable practice, which is to do child support hearings telephonically. They are not the best, but they are better than not having child support hearings at all. I would urge the Committee to take into consideration what Senator McGinness has said on behalf of the victims of domestic violence in rural Nevada. That is to allow them to have some type of help in taking the perpetrators of this violence out of the system and allow them to get some type of confrontation even if it's audio/visual. I have also spoken with the University using audio/visual teaching, distance-learning techniques where video conferencing can be used. True, it is not as effective as being in the classroom with your students just like counseling is not. But it is better than nothing at all.

So we would urge the Committee to consider this simply as a stop gap measure until such time we can get counseling in place. We think overall for rural Nevada, which I assure you is a different world than Clark County or Reno, we would really appreciate consideration. We are all on the same team here. We want to do all we can to stop domestic violence. The debate is just on what technique might work best. That is what we are asking you to consider.

Assemblyman Carpenter:
What happens if the judge sentences someone for domestic violence with the requirement to go to counseling? Either they don't go or they can't go, then what is the next step for the judge to take?

Arthur Mallory:
At this time, it is totally up to the judge. They can certainly hold that person in contempt for failure to follow an order of the court. They can put that person in jail for failing to follow an order of the court. They can give them another chance to do the counseling or they can fine them. What we are finding, unfortunately, is that nothing is being done. That is the sad part. We can't put court monitors in every single justice court in the state to make sure these things are done. We can provide an alternative so it will make it easier for these people to fulfill these obligations.

Chairman Anderson:
The question of domestic battery has always been difficult to deal with. Many

times the victims do not wish to prosecute or do not wish to follow through, because it means a disturbance of their family life or their children in terms of economic need. They have a roof over their head and they are willing to put up with clearly unacceptable behavior. Do you think that it is more pronounced in the rural area because of the lack of a program? Is there a differentiation because of the rural setting that those of us living in a metropolitan area may not be aware of?

Arthur Mallory:
The dynamics of domestic violence are much more complex than people would think of on the surface. There are many factors that go into a domestic violence situation. A high percentage of factors involve economic considerations, or economic stressors. In the rural areas, many of you know the economy is cyclic, oftentimes, with the mines or other enterprises either booming or not working at all. These are called stressors on families. When you have this in effect, it is harder to find employment on occasions in rural areas which would increase the stress which could potentially increase domestic violence. At the same time, when you don't have any outlet for people to go and talk about their problems, whether it's marriage counselors or domestic violence counselors, you increase the possibility or the likelihood of having these types of events. It's just a matter of making resources available to them.

Karen Baggett, Deputy Director, Administrative Office of the Courts, Nevada Supreme Court:
The Supreme Court has a Judicial Council that is made up of the Supreme Court Justices, the district judges, the justices of the peace, and many judges throughout the state. The JCSN [Judicial Council of the State of Nevada] in April 2002 created the Commission on Rural Courts. The Commission met on several occasions throughout rural Nevada and talked about the issues facing the judicial system. On that Committee, in addition to district judges, justices of the peace, district attorneys, sheriffs, county commissions, and court clerks, all brought their expertise to the panel.

From that, of course, a commission on the S.C.R. 32 Committee [S.C.R. 32 of the 72nd Legislative Session] was created and from there several recommendations were made. I'm here today representing the Administrative Office of the Courts in support of S.B. 75 and S.B. 76. We also recognize the fact that face-to-face counseling is important as has been stated earlier. It just doesn't work when you have to travel 200 to 250 miles one way to get the resources.

Additionally, I would like to point out one of the other recommendations out of the S.C.R. 32 Committee was the Rural Court Coordinator. We have put that in

our budget and it is going through the budget process as a new position that would be added to the Administrative Office of the Courts. The position would help specifically with rural courts in things such as counseling and coordination of resources.

Chairman Anderson:
The study you are talking about preceded the study that the Legislature undertook after the 2001 Session. This is the one that was presented in 2003 and reflected some of the counseling needs of the rural courts that they now have been talking about for 4 years. This is not the first time we have heard about these particular issues relative to the problem. This is the first time we have managed to get them back to the table with a potential solution.

Karen Baggett:
I think it is important to note that we are all on the same side here, and we are just trying to get the issue resolved and try to come up with some alternative ideas to address the situation.

Assemblyman Horne:
Do you have counselors now that say they can do video counseling? If we pass this, do we have counselors that know how to do counseling via video?

Karen Baggett:
I'm not a counselor but there are several people here who are. We have been told, when we were trying to resolve this problem earlier, that we were looking at a possible circuit counselor. The problem is just getting counselors out there. As far as someone that has expertise in video counseling, I do not know. There are counselors here that are probably going to say no. We have been told that they will not be certified to do video counseling.

Chairman Anderson:
If we give them the opportunity, will they be able to create a program? Or if there is already a program in place, then we rubber stamp the certification upon it. I guess what they are saying is first they should have the permission to proceed this way, before they can find somebody who will do the job.

Assemblywoman Gerhardt:
I guess my concern is for the victims. If we make this option available, how are we ever going to draw counselors out to the rurals to give them the counseling and support options that they need?

Arthur Mallory:
I feel personal counseling is much better as I am sure we all do. You could add a

sunset provision that once a counselor is available then this is no longer an option. Once a counselor is physically present in that particular county, then video counseling is no longer allowed. I don't think any of us would have an objection to that.

Assemblywoman Gerhardt:
It sounds to me as though we need to encourage the judges to enforce the counseling component. It sounds like the counselors are willing to come, but the judges have to enforce the counseling component. Is that the way you see it also?

Arthur Mallory:
I am very hesitant to ever try and tell judges what to do. However, I cannot disagree with anything you just said.

Chairman Anderson:
I get along with judges, but I don't have to practice in front of them and Mr. Mallory does. Quite frequently we have pointed out to them that they are not playing by the rules that we have set down. We write the rules. They are only supposed to interpret them. That, to them, has a different meaning. We often disagree.

Assemblyman Carpenter:
I think the problem is there are not enough clients for the counselors to go to these rural communities. We probably should get some statistics that show how many domestic violence situations occur in the rural areas. If the judges mandate counseling, we would have some insight into what kind of a client base they have.

Chairman Anderson:
Miss Baggett just finished a study in this area (Exhibit C).

Karen Baggett:
I would like to read out of the Commission on Rural Courts report (Exhibit D).

> Concerns have been voiced that mandatory sentences requiring counseling have a disproportionate impact on rural residents because of a lack of available treatment providers in those towns. An example cited a major employer in one town only allows an employee to miss work a certain number of days per year. Missing too many days results in the employee being fired. This has been a dilemma for the court and sentencing such employees on charges that require counseling when counseling is only available in another

> town. Judges know if the person has already missed some work to attend court and must miss more to attend required counseling for 6 months, that person simply will not be able to complete the sentence without losing his or her job. When the person is fired, there will be no funds to pay for the counseling and no way to fulfill the statutory obligations. The consequences of possible revocation of probation and/or a jail or prison term includes the potential secondary consequence that the person's family may have no other resource of income and require government sponsored services.

[Karen Baggett, continued.] I hope this answers your question that they are caught between a rock and a hard spot.

Laurel Stadler, Chapter Director, Mothers Against Drunk Driving, Lyon County, Nevada:

I am here today in support of S.B. 75. We support new technologies that are available. In this case, it can be used for alcohol and drug evaluations. I am here to support the sections that are addressing the youth evaluations and the DUI offenders. We are not addressing domestic violence as that is not part of our purview.

We understand the geographical challenges throughout our state. We provide programming, school assemblies, and victim impact panels throughout rural northern Nevada. We travel those hundreds of miles out to Battle Mountain and rural areas to provide programming which we think is very successful and very useful for those rural communities. We do support the use of the video conferencing for these applications and others that may surface. I would just like to reiterate a concern of Assemblyman Horne's. The video conferencing does need to include both the video and audio. I would like to make sure the wording of this bill makes it clear for this to take place and they would have to have video and audio. A telephonic consideration of this would not qualify under this statute because we believe it is so important that the evaluator needs to be able to see the client, see their body language and facial expressions. With that consideration, we do support this because we realize the challenges in the rural areas.

We have been here for many years and heard many people talk about these treatment providers and counselors getting a rural bus to go around to the areas. Apparently, that hasn't worked out as there have been many considerations over the years as to how we can best serve those offenders in the rural areas. We would definitely need to at least take a look at this option and see if it would work and try it. We believe some sort of evaluation and treatment for those rural offenders would be better than none.

Cornelius Sheehan, Licensed Social Worker, American Comprehensive Counseling Service, Reno, Nevada:

I am appearing before the Committee in opposition to S.B. 75. It may not be quite clear exactly what goes on in a domestic violence treatment group as to what some of the subtleties are. I thought, perhaps, a valuable role I could serve would be to address some of those subtleties of the assessment, and how you get a feeling for the risk that a certain perpetrator in treatment presents as they attend group.

Presently, I am conducting 10 groups per week with approximately 14 clients per group. The initial stage of those groups is the people come in and there is a check in process. During the check in process, you get a sense of where people are. There is often some pre-group banter. There is some body language. With counseling skills developed over the years and some practice at doing this, you start to get a sense of where people are and even their sense of readiness to engage the process. I am emphasizing subtleties for a very specific reason. I believe I would lose the vantage point to observe those subtleties via some type of video or other than one-to-one personal interface with a client. I believe that would be compromised.

I believe a consequence of that compromise would be a risk to the victims. That's a leap I ethically couldn't take. I see my foremost charge is to victim safety and to public safety. I think we run the risk of compromising public safety if we are not continually assessing the dangerousness that someone presents either by nonverbal or verbal communications that they bring with them to each session. Trained counselors in this field are trained to assess those things on an ongoing basis. That is one factor that is important in consideration.

I question the leap made from current applications of video technology, for instance, video in the classroom. It is a much greater leap in going to video as a means for counseling in this type of intervention where there is so much subtlety. We are trying to assess resistance to change and people's motivation to change. The goal of this type of work is to affect a behavioral change. The behavioral change is simple but complex. The simple part of it is its definition and we hope someone will cease the behaviors that are abusive under the law. While the leap is tempting, I think it is a mistake to make that leap because in that leap there is an assumption that a purely educational curriculum based format for conducting this type of work would be affected.

In my view of the literature and my experiences as a clinician, I have no indication that a purely educational redress of the problem of domestic violence and perpetration is affected. With that, I have a real problem with the argument that something is better than nothing. It is because of victim safety.

Assemblyman Conklin:
I have two questions. You used some interesting terms. Have you done any counseling via teleconference?

Cornelius Sheehan:
I have not.

Assemblyman Conklin:
You have no experience there. This is just based on your experience in person. Correct?

Cornelius Sheehan:
That's correct.

Assemblyman Conklin:
You are trained as a counselor and over the course of time, experience has set in so that you can read body language because you recognize a person interacts with you in a certain way in face-to-face. Correct?

Cornelius Sheehan:
Yes.

Assemblyman Conklin:
Don't you think there are similar interactions via teleconferencing? They might be different but there are still certain types of interactions via teleconference that could be learned and understood equally as well.

Cornelius Sheehan:
No, I don't believe that would be true.

Assemblyman Conklin:
You think a person is just completely random in their interaction through teleconference?

Cornelius Sheehan:
No, I don't believe that either.

Assemblyman Conklin:
So if it's not random then it can be learned.

Cornelius Sheehan:
I'm not sure I understand your question.

Assemblyman Conklin:
What I am trying to get at here is I understand where you are coming from. I always prefer personal interaction. Like my colleague, Mr. Horne, it is difficult when you see people on TV. Part of the difficulty is we rarely interact with people through the TV. We are accustomed to interacting with people in person just like you are. Just like we have learned how to interact with each other face to face, it can also be learned to interact with each other via the TV. We may not be there yet because we haven't done it enough. I think that there are consistencies in the way that people react via the TV that can be learned just as learning to read people's communication face to face.

Cornelius Sheehan:
I'm impressed by the picture of some of the inmates I do work with. I do counseling groups in custody. I watch them try to communicate emotional content to their loved ones through glass or over the television monitors. I'm often there at those sessions. Something is missing.

When I have a chance to ask some clients what they thought about the idea of me appearing before them with my co-therapist over video, the response is universally very negative. They felt that they couldn't express emotional content and know that the receiver was there giving eye contact to the type of transaction we are having right now and have some confidence that what they were expressing was being received. It is that confidence in being able to express emotional content and work through difficult issues. The confidence has to be there that it is going to be a confidential communication and received by an empathic and caring respondent.

An example would be a soldier in Iraq talking to their loved ones. As you watch them, I have been impressed by the fact that something is not quite the same. You can see the longing for the personal connection. I don't hear anything in your discussion that the personal connection is not favored. My understanding is there is a better solution proposed for the problem that has been presented. I support a different solution than the current one.

Chairman Anderson:
The better solution is going to be presented by whom?

Cornelius Sheehan:
I don't know exactly whom.

Chairman Anderson:
Nor do I.

Chairman Anderson:
That's a problem.

Cornelius Sheehan:
Have I answered that question satisfactorily?

Chairman Anderson:
I think that dialogue can go on for a long, long time without having a focus. Ultimately you have to bring it down to a yes or no answer.

Walter Dimitroff, Licensed Social Worker, American Comprehensive Counseling Service, Reno, Nevada:
I just did an analysis of whether or not there is a precedent set for this in any other domestic violence standards across the nation and there isn't an exception for video counseling across the nation. Primarily, I believe, that is true because of a therapeutic alliance in counseling. About 60 to 80 percent of change can be attributed to a therapeutic alliance that can be developed between counselor and counselee. I believe that is impaired here.

I'm in opposition to this bill primarily because I don't see it producing any results at all and pending any further possibility of counseling in rural areas that might be effective.

Dr. Michael R. Freda, Licensed Therapist, The Ridgeview Group, Reno, Nevada:
I am a provider for domestic violence batterers intervention programs as well as the current president of the Nevada Domestic Violence Treatment Providers Association. We are in opposition of this bill for a lot of reasons that have already been mentioned. More importantly, out of all the ways we communicate with each other, only 7 percent come from our words. The other 93 percent comes from our body language and questioning techniques. That is missing through the video conferencing.

I am aware of much of the technology today except I'm not aware of any technology that would convey scent over the communication. That is one of the things that we also use. When somebody checks in we check to see if they smell like alcohol or other types of drugs that do carry a specific scent to it. So we would miss that through video conferencing. If you have someone sitting in treatment that is under the influence they might as well not be there at all. We have no way of knowing whether they are or not under the influence. We wouldn't be able to test that.

In doing this type of work, we do develop that alliance with our clients and set that tone for trust and understanding. So when we see these subtle changes

that are going on with them, that is what helps us break through the resistance, as well as continued reinforcing the positive changes they are making.

[Michael Freda, continued.] I was involved with Judge [Harold] Albright [Reno Township] who is putting together the program to service the rurals with counseling through the Administrative Office of the Courts. Those of us who are providers with the Counseling Compliance Program of the Reno Justice Court did divvy up the rural areas. We were going to provide services to those areas but nobody ever got back to us. The rurals could not guarantee a minimum amount of people to be in those programs to make it worth somebody's time to go out there and provide those services. There are other options.

Chairman Anderson:
That is the very point of the study that was conducted and that it is the smaller communities like Eureka and Ely that were having a difficult time trying to provide a counseling program other than for the people who are incarcerated there and are receiving appropriate counseling.

Assemblyman Carpenter:
Would any of you gentlemen volunteer to a trial basis of video conferencing so we would know whether it would work or not? I remember when they started video conferencing for education there was a lot of naysayers but it worked.

Cornelius Sheehan:
I would not support this bill and the reasons have to do with professional ethics. One ethical potential problem is for confidentiality with an electronic transmission. I appreciate you use the word experiment. When I think of experimental protocol, one of the things implicit in an experimental protocol is that you clearly elaborate all of the risks to all parties who may be harmed by an experimental protocol. One party who may be harmed by this experimental protocol might be the victim by having less effective counseling. In other words, a practice that is an experiment rather than a known best practice. I wouldn't be able to proceed with that unless I could assure myself that the victim is aware of all the risks. Of course, if the risk included re-perpetration, I would not want to be part of that.

Assemblyman Carpenter:
Are all your domestic violence clients successfully treated?

Cornelius Sheehan:
How would you define successful?

Assemblyman Carpenter:
That they don't perpetrate again.

Cornelius Sheehan:
No, they are not. There is recidivism.

Chairman Anderson:
I would anticipate that even 50 percent success rate would be considered very successful.

Michael Freda:
I also teach at the University of Phoenix and they do have online teaching there as well. One of the things that we have discussed as faculty at that institution is teaching counseling classes over the Internet. That is something the university as well as the faculty have adamantly opposed because of things that have already been said, like missing the subtleties within the students. If we cannot do that successfully with the students, I can't imagine how we can be successful with perpetrators.

Tim Hamilton, Co-Director of Clinical Services, Safe Nest, Las Vegas, Nevada:
[Exhibit E was submitted.] We are really aware of the resource problems the rurals face. I oppose part of the bill identified as Section 1, subsection 2 (b), as a program supervisor for the Batterer's Intervention Program, for the following reasons.

The public perception of Nevada leniency on crime against persons is that this would be a step backwards. Having reviewed the standards of 10 other programs nationwide, I have found none that allow for video conferencing with their clients. There is a potential violation of confidentiality through electronic media. Everybody has heard stories of identity thefts and other kinds of thefts over electronic media. This would provide or would allow for potential liability for confidentiality breaches through electronic theft. With the Health Insurance Portability and Accountability Act of 1996 (HIPAA) becoming more stringent, that would be a consideration for those of us that are supervising programs.

For a program supervisor, there must be the ability to see the interaction from both sides of the dynamic between the co-facilitators, as well as the group members and all the body language between all of them. This would assure that victim safety is not being violated or potentially violated by collusion through the individual group members or, hopefully, not the group members and the facilitators.

[Tim Hamilton, continued.] The optimal conditions for learning are interrupted through the video conferencing. The optimal learning conditions require 3 components—cognitive, affective, and psychomotor. While the cognitive would not be affected necessarily, the affective and psychomotor or the nonverbal dimensions would be affected.

I respectfully request the Committee to delete the above named section of the bill for the reasons noted.

Chairman Anderson:
Would no counseling be better than some counseling? What is your opinion, Mr. Hamilton?

Tim Hamilton:
My opinion is the perpetrator would feel less engaged and feel less necessary to answer with their complete person.

Chairman Anderson:
No counseling or some counseling?

Tim Hamilton:
No counseling.

Chairman Anderson:
Therefore, the judges who are not utilizing the law because counseling is not available in their community are doing the right thing?

Tim Hamilton:
I would agree with the person who suggested that perhaps we should address the lack of following the law.

Chairman Anderson:
I would like them to follow the law too. We mention that to them quite frequently. I will have your letter submitted for the record (Exhibit E). I also have a letter from Stephanie Liester and will have it submitted for the record (Exhibit F).

Stephanie Liester, Co-Clinical Director, Safe Nest, Las Vegas, Nevada:
There is probably only one sentence from my letter that hasn't been covered earlier. I think we need to look at facilitating a culture of accountability within rural communities. One way of doing this, including the criminal justice system, is in having them hold the perpetrator accountable. I truly believe the services will move out. We have a commitment to move the services out to the rural

communities but in the past, when we have done things like that, there haven't been any clients that showed up. So where is the court mandate?

Chairman Anderson:
I guess if the court doesn't think you are going to be there, they are not going to mandate it. That would be my response from having sat on the committee that heard this during the interim.

Stephanie Liester:
Speaking from my own experience in driving to Laughlin and facilitating batterer's treatment for 1 1/2 years, I would spend 2 days there staying overnight. We eventually shut the group down because we only had 1 or 2 mandated to counseling.

Chairman Anderson:
That is tragic. I have a fax from Tamara Utzig that will be submitted into the record (Exhibit G).

Tamara Utzig, Victims Advocate, Safe Nest, Las Vegas, Nevada:
I just want to make a comment on what I have heard from victims. Abusers are so able and charming. There is concern from people who watch abusers behavior, when they enter the building, how they interact with staff before they get in the room and sit down. If it is video conferenced, all you will see is what is in front of that camera at the time. Again it is going to reaffirm to victims that abusers can manipulate the system.

Chairman Anderson:
Let me ask you the same question that I asked Mr. Hamilton. Is no treatment better than video treatment?

Tamara Utzig:
Yes.

Chairman Anderson:
I wish you had been at our hearings for the last 2 years when we met to discuss these issues. It might have been helpful.

Rebecca Thomas, Chairperson, State of Nevada Committee on Domestic Violence:
The State of Nevada Committee on Domestic Violence is also known as the Batterers' Treatment Certification Committee. We are the committee that certifies and monitors the treatment programs that receive the court-ordered perpetrators in the state. I would be that person who is testifying as to an

alternative solution.

[Rebecca Thomas, continued.] We were not aware of this committee and had we been perhaps we could have addressed this a little sooner. As soon as we found out about this bill, we started thinking how the committee could address this problem. We agree this is a problem that there aren't services provided.

Chairman Anderson:
You were not aware of the two-year study that was done by the court system for which all the judges in the state and the district attorneys participated in the 2003 Session? The courts and district attorneys made their presentation here in the last Legislature?

Rebecca Thomas:
No, sir. I did not.

Chairman Anderson:
There is no monitoring of the legislative intent with the interim study that was undertaken in 2003 Session or the regular posting of those things?

Rebecca Thomas:
I was not aware of those.

Chairman Anderson:
You work for whom?

Rebecca Thomas:
I am the Chairperson of the State of Nevada Committee on Domestic Violence.

Chairman Anderson:
Are you out of the Attorney General's Office?

Rebecca Thomas:
Yes. When we heard this bill was introduced, we decided to look at what we could do to find a solution to this problem that didn't involve the video conferencing for all of the reasons that you have heard.

I met with Carlos Brandenburg [Administrator, Nevada Division of Mental Health and Developmental Services]. Thinking the best solution for this, given again all the things you have heard, that there aren't enough clients for a private practice counselor to go out to the rurals. It is not worth their time for the amount of money they are going to receive. The video conferencing is a bad idea when it comes to these services.

[Rebecca Thomas, continued.] What we could do is work with the Rural Mental Health Clinics to set up certified programs in rural areas that would address these problems. There already is a rural mental health clinic in Battle Mountain and has a certified program to treat batterers. They have been very successful. We would like to use that as a model to incorporate this into the other rural mental health clinics. There are problems. We need funding for training but the staff is there but we need to get them some training. We need obviously to work with Mental Health to coordinate how these services would be delivered. We do believe it can happen.

Chairman Anderson:
I find it a little surprising that the Attorney General's Office didn't know of the existence of this study.

Rebecca Thomas:
Perhaps I overstated that. What I didn't realize is this particular issue was not discussed with our committee and that they wanted to find another solution. I would also like to add I have only been the chair of this committee about 18 months. It is entirely possibly that the former chair had some contact that I was not aware of. At any rate, we would like to address this problem in an appropriate way.

Chairman Anderson:
Your solution is ... .

Rebecca Thomas:
To coordinate with the rural mental health clinics, provide some training for their staff in domestic violence provision services, help them come under all the other regulations that are required to be certified so that those services are available in the rural areas, and to provide judges with a certified program they can refer perpetrators to.

Chairman Anderson:
Part of this issue was identified when your position was created. As a matter of fact, the whole question about the need for counseling in domestic violence statewide was one of the major issues that was undertaken. That was what I thought was the primary purpose. It was to make sure there was a coordination of those kinds of programs that were in place, so that it wouldn't apply just in the more metropolitan areas.

In fact, I think that is the reason why parts of this bill originally were sunsetted, so there would be time for the office to gear up. Those programs didn't exist initially in the rural counties. The belief was that they would get there. Here we

are several years later and we are still not there. So there is a certain level of frustration as you can well imagine from a legislative point of view that we put it into the law and then it gets ignored. Of course, it is never pleasing to hear we didn't know you existed.

Carlos Brandenburg, Ph.D., Administrator, Division of Mental Health and Developmental Services, Nevada Department of Human Resources:
We're very neutral on this bill from this perspective. About 4 years ago, the Division actually approached Rebecca Thomas' predecessor and asked to be certified as domestic violence counselors in the rural areas. We were aware that there was going to be a lack of resources out there. We were aware that we had basically 16 clinics in 17 sites in rural Nevada, and it was a natural offset of services that we could provide the community.

The board at that time was very reluctant to provide us with the necessary training and certification for our staff, who are mental health professionals, licensed psychologists, licensed social workers, and licensed marriage and family counselors. They do not have the training that they need to have. When Ms. Thomas approached me, she basically followed up on the offer that we provided. We see ourselves as a venue as to be able to assist the board in providing those services in the rural areas.

As you well know as a Division, we provide psychiatry as an augmentation to the services that we provide. We do this mainly in the rural areas, because we are well aware of the lack of access and lack of availability. It's a very viable option to us in providing those services in the rural areas. As you all know, face to face is the primary method to do any type of counseling. I really take exception to the fact that when people say that it's better not to do any counseling than it is to do video counseling. I see that as somewhat ludicrous.

I'm just here to say to the Committee that we, as a Division, are willing to offer our resources in terms of staffing in the rural areas. But there will be times when some type of video conferencing will most likely be needed in smaller communities such as Eureka.

Rebecca Thomas:
Batterers Treatment Certification Committee is a volunteer committee that is appointed by the Attorney General. We do not work for the Attorney General's Office. We meet quarterly and deal with issues. I also would like to make it clear that this committee was not put together to provide any type of service. Like any other board, the services have to come to us and have to ask to be certified. We are not charged with creating services anywhere.

Assemblyman Carpenter:
Do you have any trained counselors on your staff that might be willing to undertake video conferencing to see if it might work in Eureka?

Carlos Brandenburg:
We are currently doing conferencing out of Silver Springs. In fact, we have a request before the Legislature to expand tele-psychiatry to all the sites in northern Nevada. We actually have been doing it now for about 2 1/2 to 3 years. We will be more than willing to continue our venture. In fact, we are expanding our tele-psychiatry services in the rurals.

Assemblyman Carpenter:
What kind of success are you having?

Carlos Brandenburg:
It's successful. We had some initial problems with some of the clients who felt very threatened and felt very resistant to doing it. But overall, we have had about 90 percent satisfaction. Here again, it is better to have some degree of counseling and some degree of services than having absolutely no services.

Chairman Anderson:
Do you usually start with a face-to-face counseling session and then move the subsequent counseling sessions to video conferencing?

Carlos Brandenburg:
That's absolutely right.

Chairman Anderson:
So the continuity of body language at least is established and a certain level of rapport is also established so you know who you are dealing with.

Carlos Brandenburg:
Our tele-psychiatry counseling program is basically an augmentation to the services we provide. The rural areas are having some difficulty providing psychiatric services. So what we are trying to do is basically ensure those services are there. Once there was an emergency and we were unable to get our psychiatrists out there. So, yes, it starts with a face-to-face counseling session so the psychiatrist has already seen the patient. This is an augmentation to the face-to-face session.

Assemblywoman Allen:
Ms. Thomas, are you in opposition to the bill or are you just here to inform the Committee on how ideally things would work?

Rebecca Thomas:
I am in opposition to the bill, speaking for the committee.

Chairman Anderson:
And Dr. Brandenburg is neutral on the bill.

Assemblywoman Allen:
In your opinion, it is better not to have counseling rather than having it through video conferencing.

Rebecca Thomas:
I am not a clinician so I am not speaking from a clinical point of view, but from what I have been told, I agree with that.

Assemblyman Mabey:
Concerning the video conferencing, do you encrypt that? There was concern regarding the HIPAA policy and people inadvertently being able to obtain the teleconferencing. I know there is encryption technology available, but I didn't know if the state used it or not.

Carlos Brandenburg:
We currently do not use it but we are exploring it. As you know, tele-psychiatry has been in existence roughly for about 15 years. A lot of the states like Arizona and Utah have been using it for many years. So the technology is there for the encryption and we have been able to assure the HIPAA compliance and confidentiality for the services that we are providing.

Chairman Anderson:
One of the major problems that we presume is the distance and the amount of time it takes somebody with the background and training to do this kind of counseling and to travel from Reno, Carson City, or Las Vegas, to Laughlin, Fallon, or Eureka. You are losing 2 or 3 hours going and coming back for a group of clients that may or may not be there in any large numbers. The dynamics of the group is not there. Is that one of the big problems? I want to reaffirm if my understanding of this issue is correct.

Carlos Brandenburg:
We have experience in mental health and psychiatry. We have very little experience in domestic violence. So I will be talking to you from what we have been doing in the area of psychiatry. All my psychiatrists in the rural areas are basically tourists in the rural areas. I do not have one psychiatrist providing services in rural Nevada that resides in rural Nevada. They either reside in Reno or they reside in Las Vegas. The reason that they do that is we have been

unable to recruit the folks in the rurals. In order to provide services to Elko, Ely, and Winnemucca, our people basically spend 2 to 2 1/2 hours in their cars traveling to the rural sites providing services for a 2-day period and then coming back to their community. So, yes, the issue in terms of accessibility and availability in the rural areas is strictly geographic in nature.

Bobbie Gang, Legislative Advocate, representing Nevada Women's Lobby, and National Association of Social Workers:

Both organizations I represent oppose this bill. On behalf of the National Association of Social Workers, I would like to say some of the comments we have heard just from the last two testimonies dealt with counseling in general. We're talking here about domestic violence perpetrators. We are talking about people who are perpetrators of crimes. Sometimes you have to look at the counseling for those individuals differently from other types of counseling.

What I am going to talk about is what the NASW [National Association of Social Workers] has been developing in terms of e-counseling or distance counseling as it is called. First of all, this is a cutting edge medium with no long-term track record. We don't know the potential benefits and risks as has been stated. The results are questionable. As far as NASW and the Association of Social Work Boards are concerned, there are questions yet to be answered.

They are working on standards for ethics and risk management for distance practice. There has been no training developed for social workers in video counseling. Until it is proven, and the risks and liability are known, they are cautioning social workers to be very careful about getting involved in e-counseling or distance counseling. NASW would feel that a better solution would be to increase the counselors available in the rurals. The school of social workers has been talking to Mr. Brandenburg about placing interns and recent graduates in the rurals as counselors. I hope that that can become a reality.

I would like to mention a few things that have not been stated but have been published in NASW. The issues swirling around distance counseling are very complicated and are becoming increasingly complicated. This is a quote from Donna DeAngelis who is the Executive Director of the Association of Social Work Board. "The legal system is years behind in practice and will take time for case law and regulatory law to catch up. While the regulations governing this new practice are not firmly ironed out by the states, the prudent social worker should think twice about doing distance counseling at this time."

There are also quotes by Frederick Roemer who is a prominent social work ethicist, social work professor, and chair of the task force that wrote the NASW code of ethics. He said, "There are potential benefits of distance counseling but

I think distance therapy can potentially bridge the geographical distance between isolated individuals and clients, however, there are overreaching concerns on the bedrock issues of social work itself. Reading a person's body language and facial expressions, all of this has been said before. Without being able to notify all of the people involved with the counseling of the potential risks and the potential benefits, that puts the social worker at risk in his practice and the malpractice insurance could be at risk." That is my testimony on behalf of NASW.

[Bobbie Gang, continued.] I have two remarks to make on behalf of Nevada Women's Lobby. One is the Nevada Women's Lobby is very concerned about the safety of the victim here. Unless the counseling is as most effective as it can be, we are talking about people's lives and their well being.

I also have a comment about the concerns I heard about the employer and the fear that the batterer may lose his job because he has to travel weekly for counseling. I would hope that an employer would be concerned about the victims of domestic violence and be concerned about his own employees. If you have an employee who has a violent tendency, it is very likely they could explode on the job and be a danger to the other employees and even the owner of the business. I think they would be concerned and would want this person to seek the best counseling possible.

Chairman Anderson:
These hearings were teleconferenced to Las Vegas and we are available on the Internet. The reluctance of the judges to mandate counseling in the rural areas for people with domestic violence problems is the very real world in which they live. They are closer to their communities, and people were losing their jobs because of this and counseling was not available. Therefore, they were not mandating it because there are other issues relative to judicial discretion, which was taken away from judges, that they feel very strongly about. This is one of the areas that it happens in.

Do you think that is proper behavior? How can we get judges to recognize this is a serious problem, if we don't give them some options that they are willing to accept? As a member of that subcommittee, it was a motivator for supporting this idea and recognizing that it cannot be nearly as effective as being one-on-one. How are we going to get judges to do the right thing and change their behavior, if we don't give them some options?

Bobbie Gang:
I understand that and I think the best option would be through the rural clinics to provide more counselors. That's another question for another committee. I

understand exactly what you are saying. There is also another problem that I have heard about regarding this whole issue, and that is when the judges have the opportunity to hold people in contempt for not following through on their counseling. They don't do it. So if you are not going to do that, then what makes us think that we are going to do what is best for getting counseling to these people?

Chairman Anderson:
I think that question was asked during the hearings. The answer was they can't take more time off the job and they can't spend 4 hours driving from point A to point B and back.

Bobbie Gang:
If I needed mental health counseling and I was in trouble, and I'm not saying criminal, I would travel a distance to get it because I know what it would do for me. I know what it does for other people. The problem is you have batterers who don't understand and don't want to change their ways.

Chairman Anderson:
I don't think they disagree with that analysis either. They don't know they have a problem and they are not willing to accept the fact they have a problem. Clearly, they don't think they need counseling.

The hearing on S.B. 75 is closed. Let's turn our attention to the second bill of the day, S.B. 76.

Senate Bill 76 (1st Reprint): Revises provisions pertaining to evaluations of juveniles who commit certain unlawful acts involving alcohol or controlled substances. (BDR 5-186)

Karen Baggett, Deputy Director, Administrative Office of the Courts, Nevada Supreme Court:
We are in favor of support of S.B. 76. I just wanted to give discretion to the judges for a first offense so they could have discretion whether or not to send the juvenile for a full-fledged evaluation. This is in the Commission on Rural Courts report (Exhibit D).

For example, in Nye County, the Juvenile Probation Department detained 167 youths in 2002. About 120 of these resided in Pahrump. Although just 62 miles from Las Vegas, that facility is habitually overcrowded and is not available for juvenile offenders from Pahrump. Low-risk juveniles must be

transported 280 miles to a nonsecure facility in Hawthorne, in Mineral County. The high-risk offenders are taken to Douglas County Juvenile Detention facility on the shores of South Lake Tahoe, which is 430 miles from home. Nye County spent $325,000 in fiscal year 2001 to 2002 to detain juveniles not including transportation or medical costs.

[Karen Baggett, continued.] That's just an example of the same situation here with juveniles. That is why the judges just want the discretion on a first-time basis, but that does not include if they are caught drunk driving as this would not apply.

Assemblyman Horne:
I just want to point out in Health and Human Services we passed a bill that required all juveniles to be screened that were at risk. If we were to pass this, we would have a conflict because this doesn't do that.

Chairman Anderson:
I was surprised that bill went there because of that issue.

Jone Bosworth, Administrator, Division of Children and Family Services, Nevada Department of Human Resources:
We were concerned about A.B. 47 because it provides for screening, not a full fledged evaluation. The screening of juvenile offenders takes place when they are taken into detention or a state-operated facility.

One of the concerns we have about this bill is approximately 70 percent of the youth that enter the state-operated juvenile facilities have alcohol and drug issues. Our concern is if we eliminate, when they are first arrested, at least the opportunity to have a screening, even if it's not a full-fledged evaluation, they may penetrate more deeply into the juvenile justice system.

We would just like to express that we do not eliminate that mandatory component of A.B. 47 so the judges would be required to at least ask for screening, if not the full fledged evaluation.

Chairman Anderson:
Assembly Bill 47 was heard in this Committee. We put some time into it and had some concerns to make sure that the evaluations were going to take place in a meaningful way. We wanted to make sure the evaluation instrument was both utilized by all the rurals and the rest of the state. We all consider that to be a very important element. We worked out some compromises making sure the evaluation instrument itself was in effect, so S.B. 76 possibly does stand in conflict.

Jone Bosworth:
I think the distinction here is between screening which can be done by a noncertified person. It could be a 15-minute screening instrument which is contemplated in A.B. 47. The amendment to A.B. 47 requires the Division of Child and Family Services to regulate what screening instrument is used.

This bill we're discussing now talks about the evaluation, which really contemplates a much larger process like social interviews with the families and an in-depth interview with the youth. That is the distinction that we would like to raise. There is a difference between a screening and a full-fledged evaluation.

Chairman Anderson:
Your concern is a juvenile who has not performed well in the screening and clearly needs an evaluation. So your concern is the judge will not mandate an evaluation, as it is discretionary.

Jone Bosworth:
Actually, within the continuum, our concern is that we eliminate for first-time offenders, the evaluation component, and replace it with at least a screening component. If we don't do that, we won't have information and referral opportunities for the juveniles.

Karen Baggett:
If I am attributing what the Committee said before, it was the evaluation they had a problem with, because those services for the evaluation were not available locally. It is much different than a screening.

Laurel Stadler, Chapter Director, Mothers Against Drunk Driving, Lyon County, Nevada:
Part of our mission is to prevent underage drinking. I am here today opposing S.B. 76. We worked very hard several sessions ago as part of the A.C.R. 71 Study in 1994 and 1995 to get these evaluations mandated for all juvenile alcohol and drug offenders. The consensus of the treatment community was then, and I believe still is, the earlier the treatment the more effective and successful it might be. [Referred to Exhibit H.]

Line 6 and 7 of page 1 are of particular concern as it states "This bill removes from the mandatory evaluation a child who commits certain unlawful acts for the first time." The big problem here is that it is not most often the first time the crime has been committed. It is the first time the juvenile has been caught. There is a very huge distinction there.

[Laurel Stadler, continued.] Earlier studies tell us that only 2 of every 1,000 occasions of underage drinking results in the drinker's arrest. Only 26 percent of those are adjudicated, which tells us that out of every 2,000 occasions of underage drinking, maybe 1 juvenile receives sanctions. Part of the sanctions is the opportunity for treatment or the evaluation. This is a minuscule percentage of those underage drinkers who are actually being offered that evaluation circumstance. I think our juveniles deserve better. We need to concentrate on those youth. We need to get them at their first brush of the law and hopefully get them into the evaluation, and treatment if needed, so that first brush becomes the last brush.

There is so much focus in our society and I know here in Carson City they have made their number one project to address methamphetamine use. I would like to say if a lot of jurisdictions would address the underage drinking problem, that would address many of the other social problems that we have in our state—the further drug use, the drop-out rate, and the suicide rate. It just goes on and on what that underage drinking problem can blossom to, if it is addressed at a very early age.

In 1996, underage drinking led to an estimated 3,500 deaths, 2 million nonfatal injuries, 1,200 cases of fetal alcohol syndrome, and 57,000 treatments of alcohol dependency. In 2001, there are approximately 119,500 alcohol related visits to the emergency room by those people under 21. Again, I just can't stress enough how important it is to address the underage drinking and underage drug use problems at the first offense. It is not only best for those children, and they are children, but it is best for our state and our whole population.

This Committee heard from the suicide subcommittee in the last couple sessions. When I did research for testimony on those committees, one of the things that came out was that the use of alcohol, particularly in teens, which triggers suicidal thoughts to suicidal attempts. It is again just so important. This bill has been amended to only address those rurals where the evaluation is not available within 50 miles. I think the rural communities are possibly the most important places for those underage drinkers to have the opportunity and have the services provided to them.

That is one of the reasons we supported the prior bill—to provide those kids some access to services for all cases. Do we want to give the judges discretion to authorize an evaluation? Personally and professionally, I don't think judges are trained to determine if a young person needs an alcohol evaluation. I don't think that's part of their training and should be part of their purview. These kids deserve better and they deserve to have us treat their alcohol and drug

involvement early on very seriously.

Chairman Anderson:
Clearly, your concern is will we still be doing both a screening and an evaluation of juveniles who are driving motor vehicles. Your concern are for those youths that would be picked up who have been drinking but not in a motor vehicle so that they both would have screening and evaluation. You don't believe the judges on a first-time event would have them evaluated? If it were a second event, he would have to do the evaluation as he wouldn't have a choice. He should not even be given the choice of an evaluation in the first instance where it is not a driving event.

Laurel Stadler:
You understand me correctly. Again, I don't think the judges have the training to authorize or not authorize substance abuse evaluations. Also, part of our mission is to prevent underage drinking. In the rurals, we did a survey and over 75 percent of the convicted drunk drivers started as underage drinkers.

Chairman Anderson:
The hearing on S.B. 76 is closed.

Apparently, on S.B. 75 there are some people who believe there is some modification that can be suggested that might make the bill a little more acceptable. There is currently counseling work that is being done on the Internet, but there is a difference between voluntary and mandated counseling programs. I'm curious as to whether it is possible that we might be able to put a sunset on some of the requirements to see if there would be anybody who would be willing to come forward and provide this. So I am going to ask Research and Legal to look at whether we could put a sunset question in place relative to the batterers' question. Let's see if we could get some statistics relative to that. I note that the number of domestic violence batteries have gone up dramatically since 2000. In 2000, there were 20,650 domestic violence incidents reported and in 2004 there were 25,000 incidents.

Within the report I made reference to earlier (Exhibit C), there is a domestic violence incidence report that goes back to 1994 which the court had put together for us. As part of that study, we hopefully will take up a resolution encouraging them to do it again. It really is strange. I don't know whether it's the mining industry or particular communities, but in 1994, there were many communities that had higher numbers than they did in 2004. It seems to me there has been a decline in the reported number of events. I was a little surprised in the rural areas. I don't know if the anomaly there is that the courts are less willing to cite that particular statistic or whether the police are not dealing with it. Is there anything else that Research needs to look at on these two bills?

[The meeting was adjourned at 10:15 a.m.]

RESPECTFULLY SUBMITTED:

_____
Carole Snider
Committee Attaché

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 21, 2005 **Time of Meeting: 8:12 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
S.B. 75 S.B. 76	B	Senator Mike McGinness, Central Nevada District	Email from Judge Dan Papez dated 2-25-05
S.B. 75	C	Karen Baggett, Deputy Director, Administrative Office of the Courts, Nevada Supreme Court	Report of the Supreme Court of Nevada Court Funding Commission
S.B. 75 S.B. 76	D	Karen Baggett, Deputy Director, Administrative Office of the Courts, Nevada Supreme Court	Report of the Commission on Rural Courts
S.B. 75	E	Tim Hamilton, Co-Director of Clinical Services for Safe Next, Las Vegas, Nevada	Letter to Chairman Anderson dated 4-20-05 concerning S.B. 75
S.B. 75	F	Stephanie Liester, Co-Clinical Director at Safe Nest, Las Vegas, Nevada	Letter to Chairman Anderson dated 4-20-05 concerning S.B. 75
S.B. 75	G	Tamara Utzig, Legislative Advocate, Safe Nest, Las Vegas, Nevada	Letter to Chairman Anderson received 4-21-05 concerning S.B. 75
S.B. 76	H	Garry E. Rubenstein, M.A., Alcohol and Drug Counselor, Reno, Nevada	Letter to Laurel Stadler received 2-28-05 regarding S.B. 76