

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Third Session
April 28, 2005**

The Committee on Judiciary was called to order at 8:08 a.m., on Thursday, April 28, 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
Ms. Susan Gerhardt
Mr. Brooks Holcomb
Mr. Garn Mabey
Mr. Mark Manendo
Mr. Harry Mortenson
Mr. John Ocegüera
Ms. Genie Ohrenschall

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Maurice Washington, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst

Risa Lang, Committee Counsel
Carole Snider, Committee Attaché

OTHERS PRESENT:

Michael Ware, Assistant Court Administrator, Civil/Criminal Division,
Eighth Judicial District Court, Clark County, Nevada
Chris Beecroft, Alternative Dispute Resolution Commissioner, Eighth
Judicial District Court, Clark County, Nevada
Valerie J. Cooney, Project Counsel, Volunteer Attorneys for Rural
Nevadans, and Domestic Violence Victims Assistance Project
Dan Wulz, Deputy Executive Director, Clark County Legal Services,
Clark County, Nevada
Paul Elcano, Director, Washoe Legal Services, Washoe County, Nevada
Wayne Pressel, Executive Director, Nevada Legal Services, Inc.
Andrew List, Executive Director, Nevada Association of Counties
Sue Meuschke, Executive Director, Nevada Network Against Domestic
Violence
Gerald J. Gardner, Chief Deputy Attorney General, Nevada Department of
Justice
Terri Miller, Training Coordinator, Nevada Coalition Against Sexual
Violence

Chairman Anderson:

[Meeting was called to order and roll called.]

**Senate Bill 52 (1st Reprint): Revises provisions relating to adoption and
enforcement of certain ordinances by local governments. (BDR 14-369)**

Senate Bill 52 is more properly heard in the Government Affairs Committee than it is in our Committee. So with the permission of the Committee, I would like to move the bill from here and re-refer the bill to Government Affairs. This is the one that authorizes counties and cities to designate certain persons to prepare signs and serve citations. It really deals with the ordinance process and belongs with Assemblyman [David] Parks' committee.

ASSEMBLYMAN HORNE MOVED TO RE-REFER
SENATE BILL 52 TO THE GOVERNMENT AFFAIRS
COMMITTEE.

ASSEMBLYMAN MABEY SECONDED THE MOTION.

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

Let's turn our attention to Senate Bill 41.

Senate Bill 41 (1st Reprint): Revises provisions governing priority of certain liens. (BDR 9-133)

Senator Maurice Washington, Washoe County Senatorial District No. 2:

S.B. 41 deals with a lien problem with the tow companies, financial institutions, and insurance companies. There is a proposed amendment we have been working on with the financial institutions and tow companies. You can see that all we did was raise the fee from \$1,000 to \$2,500. But there are some concerns, so I would like to ask the bill be rescheduled until we can work out the amendment. There is another bill that is coming up tomorrow which is S.B. 175 which also deals with liens, and we need to work out this amendment between both parties so they are in agreement and the bill is not lost. There is a need for the bill because it has not been codified or updated in sometime. We just need to make sure that both parties are in agreement with the assessment and the days being notified as far as vehicles being stored on the property.

Chairman Anderson:

The other bill is in our Committee tomorrow?

Senator Washington:

Yes, it is in your Committee tomorrow.

Chairman Anderson:

Therefore, there is no need for this bill?

Senator Washington:

No, I'm saying there is a need for the bill. We need to take a look at both bills at the same time and make sure the language comports.

Chairman Anderson:

Let's try to understand what the need is here on this particular piece of legislation. It's a pretty simple idea of \$1,000 to \$2,500.

Senator Washington:

The problem is in the notification between the banks being notified by the tow companies or the storage companies and vice versa, so that they can have an

opportunity to respond to the lien or the vehicle that is being stored on the property. I believe the tow companies have a problem also with the vehicle being stored in excess of 60 days. So that is why it went from \$1,000 to \$2,500, because they have to pay the lease on the property. It is just a small glitch but we can go through the process of a hearing so you can hear both sides. I know time is of the essence and we are all under a crunch. With both bills coming before you, I know we can resolve the issue.

Chairman Anderson:

So the purpose of moving the dollar figure forward from \$1,000 to \$2,500 is so that when these vehicles are stored they will comparatively reflect what the actual storage charges are over a long period of time.

Senator Washington:

That is correct.

Chairman Anderson:

That is the reason for the dollar increase.

Senator Washington:

That is correct.

Chairman Anderson:

Typically, the daily storage charge runs somewhere in the neighborhood of \$50 a day.

Senator Washington:

The tow companies will tell you the exact amount.

Chairman Anderson:

I'm not sure we will get another opportunity to hear the bill. That is the reason why I want to make sure when we get to the work session, which is a week from yesterday, we will be able to work out whatever needs to happen.

Senator Washington:

I do appreciate your time constraints. I just figured since you had the other lien bill tomorrow you could allow both parties to come to the table and express their concerns.

Chairman Anderson:

It is your intention that you believe the bill we have tomorrow is going to be the instrument that is also going to carry this particular issue?

Senator Washington:

You could if you wanted to. They could be amended into one bill.

Chairman Anderson:

S.B. 175 is the instrument you will be hoping is going to carry this question. You will be with us here tomorrow?

Senator Washington:

I will.

Chairman Anderson:

The hearing on S.B. 41 is closed and will be heard tomorrow. Let's turn to S.B. 177.

Senate Bill 177 (1st Reprint): Makes various changes related to fees charged in district courts and justices' courts. (BDR 2-522)

Assemblywoman Buckley:

I would like to disclose that there is a section of this bill that would help legal aid agencies and for that reason, I will be abstaining.

Michael Ware, Assistant Court Administrator, Civil/Criminal Division, Eighth Judicial District Court, Clark County, Nevada:

I would like to point to your attention that we have an amendment to this bill ([Exhibit B](#)). Briefly, S.B. 177 with the proposed amendments you have before you will serve to eliminate Section 2 which is a direct civil filing fee with an increase from \$9 and \$6 ([Exhibit C](#)). It will also increase Section 5 which was another direct filing fee increase for the cost of doing business in justice courts. Section 1 will provide the language necessary to streamline eligibility for indigent legal aid and automatic fee waivers. Sections 2 and 4 will provide enabling language to county commissioners to increase fees by \$5 per session for indigent legal defense in district and justice courts, respectively. Section 3 will provide enabling language for county commissioners to increase fees not to exceed \$15 for programs of Alternative Dispute Resolution or ADR.

The Eighth District Court believes that the ADR program is very important to our overall strategy for providing timely access to justice. There are 2,633 case filings per judge, and 1.9 judges per 100,000 people make it very difficult to adequately process cases and proceed to trial in a timely manner. We need the ADR programs just to maintain our current service levels. We believe this

request is reasonable and even prudent. We do ask for your support on S.B. 177.

Chris Beecroft, Alternative Dispute Resolution Commissioner, Eighth Judicial District Court, Clark County, Nevada:

In 1991, the Legislature authorized the initiation of Alternative Dispute Resolution programs through S.B. 366 of the 66th Legislative Session in an effort to provide timely resolution and justice to civil matters with a lesser monetary value. It decided upon an experimental, mandatory arbitration program with a threshold of \$25,000 per plaintiff. At the same time, the Legislature resolved to fund this program with a fee of \$5 per filing. The program was intended to be self-funding and supported solely by the litigants utilizing these programs.

The Legislature's experiment turned out to be both successful and self-sufficient. I commend you for authorizing this program. While the arbitration program was self-sustaining during its infancy, the program lost its self-sufficiency when the threshold was increased from \$25,000 to \$40,000 in 1995 and it has not been self-sustaining since then. Notwithstanding, we have added two new programs that we administer—the short-trial program and court connected mediation.

We come before you today with S.B. 177. The enabling language in Section 3 of S.B. 177 will empower the county commissioners to return the ADR programs to self-sufficiency through a small filing fee increase. We have provided you a copy of a faxed sheet on S.B. 177 ([Exhibit D](#)). On page 2 of the faxed sheet, you will see tables 3 and 4 which compare the economic health of the ADR programs with a fee increase of \$10 and without. It is clearly demonstrated through these tables that an increase of \$10 in filing fees will return the ADR programs to self-sufficiency. Without the increase, Clark County alone will have to absorb a \$1.8 million in projected expenditures over the next 4 years. The enabling legislation is an important step in returning ADR Programs to the original objective of having them solely supported by those litigants using the program and not the general public.

Valerie J. Cooney, Project Counsel, Volunteer Attorneys for Rural Nevadans and Domestic Violence Victims Assistance Project:

I have provided you with a copy of testimony to be offered today ([Exhibit E](#)). There are a few matters I would like to let the Committee know about. We refer to Volunteer Attorneys for Rural Nevadans as VARN and the Domestic Violence Victims Assistance Project as DVVAP. VARN is a 501(c)(3) nonprofit corporation located in Carson City, Nevada. VARN's DVVAP was established and created in 2000. It was created for the purposes of providing free legal

services to victims of domestic violence in Nevada's rural counties. We service 13 to 14 of the 17 counties in the state of Nevada with the exception of Clark County and Washoe County, which have their own projects in services. VARN believes that all people should have access to the civil justice system. Our mission is threefold and that is to provide free and reduced fee civil legal services to persons of limited means; to provide free legal services to survivors of domestic violence and their children; and to encourage and facilitate the provision of legal services by volunteer local attorneys on a wide range of legal topics.

[Valerie Cooney, continued.] By late 2001, the VARN organization was painfully aware of the enormous need for legal services for victims for women and children involved in violent relationships and the need for themselves and their children to find safety to break the cycle of violence. In response to this need in 2002, VARN established the DVVAP for the sole purpose of providing free legal services to these survivors and their children. DVVAP's ultimate goal is the creation of an ongoing rural legal services network to assist survivors of domestic violence and their families in a variety of legal needs. They also provide direct legal access and legal representatives to victims of domestic violence in rural Nevada communities where no other services currently are available, which is a critical part of our goal. DVVAP currently employs two attorneys, myself and Suzanne Garcia who is present here today with us. We have four people in our office. We have a program coordinator that operates the VARN Program and is also present today. That is Odessa Ramirez. We also employ one advocate. The attorneys and our director work without a legal secretary or any form of secretarial assistance. Needless to say, we do it all ourselves.

DVVAP's attorneys have provided services in 13 of Nevada's 15 rural counties. These counties include all counties except Nye County, Lincoln County, and Esmeralda County, except I do have a case in Lincoln County. I also represent an individual in Pahrump, Nye County, but I would prefer to see those cases be handled by individuals providing services in the south.

VARN including DVVAP is funded by a number of small grants from local and state organizations, donations, a small portion filing fee, and federal grant assistance. In 2004, VARN and DVVAP's personnel expenses were roughly \$178,000 for four full-time employees. Non-personnel expenses were roughly \$50,000 for a total budget of \$225,000. Unfortunately, without any notice a significant portion of our funding was abruptly ended in October 2004. I do believe this Committee has heard about the state's loss of our funding and the devastating effect that it has had on several of our legal services programs.

[Valerie Cooney, continued.] Because VARN is a small program with fewer financial resources, the loss of funding was catastrophic. The loss meant that VARN would not be able to add to its staff a badly needed secretary. More importantly, it would have resulted in the reduction in our staff, possibly by losing one attorney position. As you can imagine, this would have been devastating to us. Fortunately, the State of Nevada Administrator for the Victims of Crime Act grant was able to provide emergency one-time financial assistance to us which basically provides some gap funding for us to make it into 2005. Hopefully, we will regain some of our funding.

As we all know, Nevada has one of the fastest growing populations in the nation and ranks in the top 5 states in the nation with percentage of women killed by men. The majority of those deaths are due to domestic violence. The problem in our state, as I am sure you are all aware, is an acute and devastating problem. There are statistics that are provided in my information for your review. They talk about the number of cases of domestic violence throughout the state. It is broken down by county. I would like to point out for each year of DVVAP's existence, 2002, 2003, and 2004, we have doubled our caseload on an annual basis. In 2004, we served 160 people in the rural counties. We anticipate that number will be over 200 for 2005. Much of our work and services includes travel. Travel is one of our large expenses.

We are here today in support of S.B. 177 and particularly Section 3 which deals with a small but very important increase in the imposition of filing fees that a county commission may impose should they choose to do so. I think it is important for the Committee to recognize that this is not a large increase. We are not requesting a great deal of money to be attached additionally to the filing fee. It would double it. It is currently \$5 and would go up to \$10. Doubling that amount would increase the monies to our organization significantly and may even allow us to hire a secretary and perhaps another part-time individual.

It is important that VARN, DVVAP, and organizations such as ours, including those other organizations in this state that provide these vital legal services, have a continuous and reliable source of income. With this filing fee, it will help to ensure at least one stable source of funding for our project. As we know, federal funding comes and goes and there are occasions the amounts we receive vary greatly from year to year. By imposing or increasing this filing fee, I believe we will work towards achieving a more reliable source of income that will support our work.

Chairman Anderson:

What we are trying to do is to take the dollars that we have lost when the federal funding was withdrawn from these kinds of legal programs by giving the

county the option to set these filing fees to generate funds for this program. Is it predicated upon the belief that each of the counties will do the right thing?

Valerie Cooney:

The reality is that in the rural counties, there are only three counties that have adopted or imposed any filing fee under *Nevada Revised Statutes* (NRS) 19.0312. That is the provision that is specific to funds for the abuse of neglected children and for domestic violence. Those counties include Carson City, Douglas County, and Lyon County. None of the other rural counties have imposed such a fee. We are in the process of trying to establish a plan to go out to some of those communities and speak to their county commissioners for imposition of those fees.

Chairman Anderson:

Clearly, the money is needed and I recognize that the need is great and real. The reality is for fear of raising a fee that we may end up losing a bill. Is that a fair statement?

Michael Ware:

Actually we have taken a proactive approach and we have scaled back our request to the bare minimum. I feel comfortable that the local governments will support us. It is a very good effort to do pro bono legal services for people who can't afford it, who are abused or neglected children or victims of domestic violence. Rather than take the chance on direct filing fees that there may or may not be much of an appetite for this session, we thought it would be prudent to more or less enable the local governments to help us out in this mission.

Chairman Anderson:

We are not abandoning the state's position that this is a good program. All we are doing is setting the cap where the counties are willing to go to. We are not abrogating to the county the control of the program.

Michael Ware:

Absolutely.

**Dan Wulz, Deputy Executive Director, Clark County Legal Services,
Clark County, Nevada:**

Clark County Legal Services is the largest legal aid organization in Clark County ([Exhibit F](#)). We currently employ 18 attorneys. Six of those attorneys provide representation to abused and neglected children. Currently, 3 1/2 attorneys provide representation to victims of domestic violence. One attorney runs our pro bono program where we match volunteer lawyers with low income citizens who need civil legal help. As you have heard from the other witnesses, legal aid

continues to remain under funded and we turn away thousands of clients each year with meritorious cases. In fact, only half of abused children are provided representation even though federal and state law requires they be represented.

[Dan Wulz, continued.] We could increase significantly the number of individuals receiving pro bono help if we had enough staff to screen clients and find lawyers to assist. As you have heard, our federal funding which went towards the domestic violence project was suddenly and without warning cut in October 2004. S.B. 177 will help provide a stable source of funding for such a program. As you can imagine, when we had 3 1/2 attorneys representing victims of domestic violence, they have hundreds of cases ongoing at any one time. To have such funding removed without notice creates a hardship not only for the program but certainly the clients as well.

In 2003, Clark County Legal Services assisted over 1,000 victims of domestic violence in Clark County. S.B. 177 would help provide the funding to secure those services. It would provide a \$5 increase in funds which would ensure that legal representation would be given to victims of domestic violence as well as abused children and to improve pro bono representation. As you know, this funding could be implemented only upon approval of a board of county commission. If you pass S.B. 177 and Clark County again exercises its local option to provide Clark County Legal Services with an additional \$5 portion of the filing fees, Clark County Legal Services would use these funds to meet the legal needs of individuals who need an attorney. It would prevent victims from being left in a dire state caused last year by the federal government.

Chairman Anderson:

Clearly, the need is great and the workers are few.

Dan Wulz:

That is correct.

Chairman Anderson:

In the south do you rely upon pro bono help from the bar?

Dan Wulz:

In-house we have 3 1/2 attorneys dedicated to victims of domestic violence and 6 to represent abused and neglected children. Our pro bono project director matches volunteer lawyers in those areas. We provide training in those areas to members of the local bar. We provide free training if they will agree to accept one case in exchange for attending the training. The funds will be used not only in-house at Clark County Legal Services but to help educate and find attorneys in a private bar who will handle these cases.

Paul Elcano, Director, Washoe Legal Services, Washoe County, Nevada:

We have been in business for 40 years and basically the key areas you need to discuss in this bill deals with neglected and abused children, which is a separate and distinct area from domestic violence. Currently, in Washoe County, we have over 1,000 children that have been in the care of social services. They need representation for where they live, who they see, where they get their education from, counseling and medical services, and the like. Currently, we have a full-time lawyer handling those cases. We get about 100 cases a year done so we are doing 10 percent of the need.

Domestic violence is a similar story. We turn away 1,500 to 2,000 cases a year. We handle about 500 cases. We are constantly balancing; do we take the hard cases or the easy cases? How many people can we handle? The third area is pro bono. While it sounds easy to get the bar to handle cases for free, it is not so easy in terms of administrating them. You need to devote time to cultivating relationships with the bar, calling people up, tracking the cases, making sure the people are getting good representation, and the like.

The key to this funding is it lets the counties be responsible so we can go to our commissioners and ask for fee increases. It allows legal service organizations some help in several areas. It provides them with stability. One of the difficulties is you are funding ebbs and flows, people come and go, you have to retrain, and that makes you inefficient. It would decrease, hopefully, our dependence on federal funding. The county that has problems existing can be responsive to those problems instead of relying on somebody in Washington, D.C. to provide you with funding or taking your funding away.

It allows us to leverage funding. In the private sector when you are a 501(c)(3), as we are, you have to apply for grants. Those grants require you to meet oftentimes their funds with additional funds. These county funds can be used as matching funds. That allows the 501(c)(3)s to leverage their funding through the grant system. In Washoe County, we have had a decrease in filing fee revenues unlike some of the other counties in the state. This legislation would allow us to recoup some \$30,000 or \$40,000 in lost funding due to some mechanics we have in our county, which have resulted in fewer filing fees. We currently have a staffing of 13 people and 4 full-time lawyers.

Chairman Anderson:

I have entered into the record the letters submitted by you from District Court Judge Deborah Schumacher, Joni Kaiser [Executive Director, Committee to Aid Abused Women], Susan Meuschke [Executive Director, Nevada Network Against Domestic Violence], and Deborah Armstrong [Executive Director, Safe Embrace] in support of S.B. 177 ([Exhibit G](#)). I am sure they support the need for

legislation and the compromise that has been reached with the suggested amendments.

Paul Elcano:

We agree with the tenor of your remarks.

Wayne Pressel, Executive Director, Nevada Legal Services:

Nevada Legal Services, like Washoe Legal Services and Clark County Legal Services, provide civil legal representation for low-income Nevadans. The difference with us is that we provide service throughout the state in the urban counties as well as the rural counties. My job is to complete the record on the provision of S.B. 177 that provides for an automatic fee waiver for clients of the witnesses you have heard and the lawyers from my firm.

Currently, there is a provision in the *Nevada Revised Statutes* that allows a fee waiver for litigants who are unable to pay the filing fees which, as you see, are ever increasing. In the past, that has been a laborious process of application, affidavit, and paper shuffling. With the support of the court and the support of other legal service providers, we are proposing to you that there be an automatic fee waiver for those clients that are represented by the staff legal services programs and pro bono programs.

I would note that a court may review the granting of this automatic waiver to impose a fee if it chooses as the litigation proceeds. This, however, allows for a streamlining of the court process. That is why it is supported not only by the litigants in front of the court but by the courts itself.

The materials I have presented for the Committee ([Exhibit H](#)) is all the testimony you have heard today on S.B. 177 and is underscored by the simple fact that Nevada has the fastest growing poverty population of any state in the United States of America for the third decade in a row. What this means to various counties is outlined in the document that Nevada Legal Services has produced. I would point out 3 items. The first is a summary that shows (page 1 of [Exhibit H](#)) at 200 percent of poverty, over 500,000 people or essentially 1 out of every 4 Nevadans is below 200 percent of poverty. That is detailed in terms of minimum wage and what that means for a family of 3. You will see that this is not only an issue for Clark County but for Nye County, Elko County, and Carson City.

The second page (of [Exhibit H](#)) is a more detailed outline based on the 2000 census. These are not my estimations but rather the hard, published statistics of the Census Bureau of 100 and 200 percent of poverty and the growth of every county in the state of Nevada. On page 3, the analysis has

been provided by municipality and unincorporated townships counted by the census.

[Wayne Pressel, continued.] There are 3 purposes to the filing fees in this bill—child abuse, domestic violence, and pro bono. Nevada Legal Services also engages in pro bono work and has supplied to the Committee an article (page 4 of [Exhibit H](#)) published just this week in the Washoe County Bar Journal on a new reduced fee program that has given us a new breath of life for providing free services to low income rural residents. This is a program which we provide very limited monies to lawyers to provide very limited, focused services to low income individuals. This has been implemented in Washoe County, and Elko County. It has been implemented in the Seventh Judicial District comprising White Pine, Eureka and Lincoln Counties. We are seeking to spread it to other counties so that there are innovations that are going on for the most effective, efficient use of this money.

Chairman Anderson:

Your document is one that constantly comes up regarding how many people live here. It is a telling factor relative to the percentage of the population that is below the \$27,750 line, and that is frightening. What a negative view of the society in which we live.

Assemblyman Manendo:

I was just looking at this list and I failed to see Whitney. I see Spring Valley, Paradise, and Winchester. I didn't see Whitney. Did you have any figures on Whitney?

Wayne Pressel:

We do not have any specific figures. These are all of the figures that can be supplied by the Census Bureau. They have been checked by the state demographer but I don't have anything further.

Chairman Anderson:

I think there are other documents that would have a complete list from the state demographer. I'm not sure they would have all the population questions.

Andrew List, Executive Director, Nevada Association of Counties:

I would like to indicate our support for the bill. The counties would do this by resolution to adopt the new fee structure if indeed they want to raise those fees to the cap which would be set by this Committee and this Body.

Chairman Anderson:

You're of the opinion that the counties would be looking favorably on this particular kind of question? I know you can't predict any elected body behaving in a straightforward fashion but generally your organization seems to be accepting of this idea?

Andrew List:

Yes, I did speak with them after seeing the amendment, the latest version of the bill, and what has been presented today. They are agreeable with this piece of legislation. Putting the option there for the counties is a good policy decision if they do need this particular type of service for the legal aid or arbitration program, should it become necessary. At this point, as has been stated on the record by some earlier testimony, some of the counties do not have the ADR program. Some of them do not have a legal aid program. Whether or not they would institute this fee at this time I do not know. But simply having it there is a good option, if it should become necessary with the explosive population.

Chairman Anderson:

It would seem from the testimony that Ms. Cooney provided to the Committee that oftentimes other parts of the state end up utilizing the services whether they have the fee to do it or not. There is a disproportionate question that comes occasionally from the larger population counties. So this will mean the smaller counties, in terms of population, will have a more difficult time carrying the burden rather than spreading it out over the economy scale. The local counties are going to have a greater burden in meeting the economic need of their particular county because they are not going to be able to raise filing fees, as in the other counties, to meet the needs of the legal services. If there are a thousand cases in Clark County and there is 1 case in Nye County, how is the Nye County program going to stay open if it only has 1 case to fund it?

Andrew List:

That's a very interesting point. Certainly, the court is funded with a lot of different mechanisms. Certainly, that program could be supplanted with general funds. I know that in Clark County the ADR program is not paying for itself. General Funds that go into the court system are funneled to that program. I believe the same thing would happen in Nye County, if that were the case. The Nevada Association of Counties supports this bill.

Sue Meuschke, Executive Director, Nevada Network Against Domestic Violence:

I just want to affirm for the Committee that the domestic violence programs in this state are very supportive of this bill. We will work with VARN to help convince rural counties that this would be a good program to finance.

Chairman Anderson:

The hearing on S.B. 177 is closed.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS
SENATE BILL 177.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED WITH MS. ANGLE VOTING NO. (Ms. Buckley abstained from the vote, and Mr. Horne was not present for the vote.)

Chairman Anderson:

Let's turn our attention to S.B. 456.

Senate Bill 456: Makes various changes to provisions relating to crime of involuntary servitude. (BDR 15-113)

Gerald J. Gardner, Chief Deputy Attorney General, Nevada Department of Justice:

A folder is being distributed that contains 3 documents, including my prepared testimony, a brief table comparing the proposed legislation before you and some existing law, and an annual report from the Department of Justice on the issue of human trafficking ([Exhibit I](#)).

S.B. 456 is a bill we ask of this Committee. This bill would strengthen the already existing laws to combat the increasing and, believe it or not, the very real problem of human trafficking in this country. In July of 2004, United States Attorney Dan Bogden, District of Nevada, invited members of Nevada law enforcement including myself, members of various victim advocacy groups, and members of the education community to attend the International Conference of Human Trafficking in Florida. At this conference and at several follow-up meetings we attended in Las Vegas, we have discovered that this is a very real crime and the real horrors of human trafficking in the United States.

The United States government, in this report I've distributed, reports that there are 14,500 and 17,500 actual cases of human trafficking and human slavery in the United States each year. Victims that are literally sold into slavery for purposes of forced labor in sweat shops, migrant work forces, prostitution, and domestic servitude. Recent cases that the federal government has prosecuted include a Maryland case involving a husband and wife who smuggled a woman

from their home country of Ghana and forced her to work as an unpaid domestic servant. They hid her passport and threatened that she would be deported if she left, or report her if she did not obey every order that they commanded her to do.

[Gerald Gardner, continued.] In Florida, 3 defendants were arrested and convicted of illegally transporting Mexican citizens to work in the fruit fields. They threatened them with beatings and death if they did not work 7 days a week, 12 hours a day or more.

In San Antonio, Texas, federal and state agencies cracked a ring of child prostitution working out of a border bar. The children had been kidnapped and brought from Central America to work as prostitutes out of this bar.

Even here in Nevada, the United States Attorney's Office and the Federal Bureau of Investigations has investigated at least 6 cases in Clark County of human trafficking and has prosecuted at least 1 case involving Asian men and women who were brought over here and forced into prostitution.

At this conference, the Department of Justice provided model legislation to the attendees which form the basis for the proposed legislation before this Committee. Before we chose to submit it for your consideration, we carefully looked at all the existing Nevada laws to see if it was something that was already being addressed. For the most part, we found that Nevada statutes are very strong in regard to punishing this kind of activity. We have kidnapping statutes, involuntary servitude statutes, false imprisonment statutes, and pandering statutes. They are all very strong and provide strong penalties for this kind of behavior. The model legislation did offer some additional elements that would allow and help Nevada law enforcement and prosecution agencies to combat more of what we are now discovering in this modern-day slavery.

There is a table I have provided that gives key points of the legislation (page 3 of [Exhibit I](#)). Under the model legislation we have proposed, we can prosecute the slave traders both for the physical and nonphysical threats that they impose on their victims and the victim's families. This would include threatening to have them deported, removing their immigration documents and passports, threatening to have their families arrested in their own countries, or have their families sued to enforce what they have convinced these victims is a civil contract between them. Often they bring them to the United States and tell them that they have an enormous debt to pay back for bringing them back to their country which will bankrupt their families if they don't work for them as long as they demand.

[Gerald Gardner, continued.] The proposed legislation also allows prosecution of these middle men, the profiteers who are arranging the coercion or abduction from the home countries, the relocation to the United States, and forcing them into forced labor. These people are the real cause of the crime because they are the ones who profit from it.

While the number of human trafficking is unknown at this time, we do know that it is a growing problem nationwide and we know that Nevada has all of the ingredients for it, particularly, southern Nevada. We have a large immigrant work force. We have a transient community. We have a large illegal sex trade, quite frankly, in southern Nevada. There is no denying that. Last year Las Vegas Police reported over 100 cases of girls forced into prostitution brought over from state lines. Everybody in this room knows that the United States was founded on the principle of freedom. We know that modern-day slavery still exists in this country. There is little doubt that this is happening in Nevada. This legislation was passed unanimously out of the Senate Judiciary Committee, and does not replace the already strong laws in our state. The sentencing provisions do not create additional severe penalties for the already existing laws. They are mostly consistent with the existing penalties. This does provide us with some additional valuable tools that we know will be very helpful in prosecuting these traffickers of human flesh where the traditional statutes currently don't give us the tools that we need.

Chairman Anderson:

In looking at your document of comparison (page 3 of [Exhibit I](#)), Section 3 of the bill creates new provisions of the law relating to forced labor of servitude and allows the prosecution of violent and nonviolent offenses. So what falls into the nonviolent offense? I understand that somebody hires somebody who is an illegal alien and they are being threatened with exposure. Is this a nonviolent offense?

Gerald Gardner:

The nonviolent threats would include threats to have them deported, threat to turn them over to law enforcement authorities for their illegal status, and also threatening economic injury on them and their families. That is one of the things the report shows is very commonplace. They convince the victims that they have a debt to their captors and if they don't continue to work for them, they will bankrupt their families back home or have them arrested.

Chairman Anderson:

So it is the threat of retaliation, not necessarily to them but to somebody who is some distance from them. That is what keeps them here for fear of what could happen to their family back home.

Gerald Gardner:

Yes, many cases involve physical threat as well.

Chairman Anderson:

Physical threat I can clearly see, and now I clearly understand the other one also.

Assemblywoman Angle:

I want to say thanks for bringing this piece of legislation. It is really necessary in our state. I want you to tell me how this dovetails with the federal law, because I know that many of these cases will be prosecuted by the federal agency because of transportation across state lines. Is this going to give us the teeth that we need to enforce the federal laws as well as the state laws?

Gerald Gardner:

You are absolutely right. Most of these cases will be investigated and prosecuted to the fullest extent by the federal authorities. Many of these cases involve multi-state rackets. This will give us the teeth to prosecute the same sort of offense where the federal authorities chose not to prosecute for whatever reason. We certainly have noticed that, particularly in the prostitution cases in southern Nevada. The federal authorities often demur to the local authorities to prosecute those types of cases. This will give us the teeth to pick up the cases that they don't do.

Terri Miller, Training Coordinator, Nevada Coalition Against Sexual Violence:

The Nevada Coalition is a statewide nonprofit organization with 91 representatives from approximately 40 agencies. We are a coalition against sexual violence. We work on issues to establish policies on sexual violence. Because this bill addresses sexual violence issues in regard to trafficking of persons for the purposes of prostitution, we are very much in support of this bill.

The Nevada Coalition has had the privilege of participating in the United States Attorneys' initiative against human slavery and trafficking. Now with the United States Health and Human Services Rescue and Restore Project, that has recently been established here in Nevada as part of the partners in both of these programs, the Nevada Coalition, as the training coordinator, has taken on the responsibility of helping to organize two of the training programs that have taken place here in Nevada. Our commitment is to continue those training programs in helping nongovernmental agencies and governmental agencies to respond to situations of human slavery and trafficking.

[Terri Miller, continued.] That being said, we are just here to put it on the record that the Nevada Coalition is a partner in the battle against human slavery and trafficking, and are very much in support of S.B. 456.

Chairman Anderson:

It seems like a pretty straightforward piece of legislation. Do you think this gives the district attorneys another bargaining chip? Is this something they are going to plead down to or is this something you are going to hold over somebody's head? Is this one that will really be getting to a group that up until now have been able sidestep their position in the sex trade?

Gerald Gardner:

I truly believe that it will give the district attorneys additional tools, particularly to prosecute panderers who often escape because they have set up a corporate structure that distances themselves from certain acts. This would cover it. So I believe it is a real statute that would help cover these people.

Assemblyman Mabey:

I just am puzzled why these people that come to the United States, which is the greatest country in the world, would feel like they couldn't escape from these people. I know there is a threat to their families at home, but I just hope somehow these people, if they are in this situation, would know that our arms are open. We want to make sure they don't get into a situation like this.

Gerald Gardner:

That is one of the focuses of the study of this issue. In fact, one of the topics in the conference we attended was education and reaching out to potential victims so that they know they can trust authorities in this country. They may not be aware of that because they can't in their own countries.

Chairman Anderson:

I think that is always one of the great surprises, from my experience as a classroom teacher, is the lack of trust of the government. It seems to be a cultural concept that exists in other nations. They do not understand clearly the different layers of government in the United States, the national government versus the state government versus the county and municipal governments. The cop they are seeing on the street is there to help them as compared to a military policeman who is the national government who is enforcing a political agenda. Most cops don't carry their political badge on their arm. They don't make that as part of their ideological basis for who they arrest and how they treat individuals. It is pretty uniform across the board.

Terri Miller:

I would just like to express that many of these individuals, who are trafficked into this country, are being brought here under the guise of coming here for their dream of prosperity. When that dream is shattered and they find themselves enslaved by these persons, they are under the threat of being reported and they are under the threat of getting in trouble themselves with our law enforcement agency. So their trust is broken down through the traffickers. For these reasons, they don't have trust and they find themselves captive.

Assemblyman Horne:

I was just curious what was discussed regarding the illegal immigrants who come here that I think are part of the problem. Some of them come from places where it is almost better to be enslaved here than the conditions they had at home. Even if they came to law enforcement with this problem, they risk deportation. Is that what your finding is? I don't think we want involuntary servitude for any person.

Gerald Gardner:

Another provision of the federal efforts to combat this is to provide safe harbors and provide visas for the victims of human trafficking. That is a big part of the federal aspect to address that problem.

Assemblyman Manendo:

A lot of us get invited to organizations whether it is labor groups or human rights organizations. We do take our time to go out and listen and learn. One of the things I learned is it is not just the sleazy folks that are out there doing this behind the alleys. There are folks out there who depend on work for a living to feed their families. They go to a job site and they are told instead of \$15 an hour, we are only going to pay you minimum wage when everybody else is paid at a different level. If you complain to anybody, we will report you and your family or we just won't hire you. They don't know where to turn. I know there are a lot of labor organizations that really try to take them by the hand. It is frustrating as these people just want to work and support their families. They are not committing any crimes. I just want to make sure this legislation addresses these types of folks and that type of intimidation and threats as well.

Gerald Gardner:

I absolutely agree with everything you have said. I think this legislation combined with current labor, wage, and hour laws will be one more step towards trying to crack that problem and it is an outrage.

Chairman Anderson:

The hearing on S.B. 456 is closed.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO DO PASS
SENATE BILL 456.

ASSEMBLYWOMAN ANGLE SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Mortenson was not present for the
vote.)

Chairman Anderson:

This would be an appropriate bill potentially for a consent calendar. In order to move it to a consent calendar, we would need a separate motion indicating the Committee's intent.

Assemblyman Mabey:

Personally, I don't like this going on a consent calendar because I would like to speak to it on the floor.

Chairman Anderson:

Then we take this issue as a regular do pass motion. Floor assignment will go to Assemblyman Mabey.

[Meeting was adjourned at 9:39 a.m.]

RESPECTFULLY SUBMITTED:

Carole Snider
Committee Attaché

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 28, 2005

Time of Meeting: 8:08 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
S.B. 177	B	LCB	Proposed Amendment to S.B. 177
S.B. 177	C	Michael Ware, Assistant Court Administrator, Civil/Criminal Division, Eighth Judicial District Court, Clark County, Nevada	General Jurisdiction Courts Civil Filing Fee Comparison
S.B. 177	D	Chris Beecroft, Alternative Dispute Resolution Commission, Eighth Judicial District Court, Clark County, Nevada	Alternative Dispute Resolution Programs Factsheet
S.B. 177	E	Valerie J. Cooney, Attorney at Law, representing Volunteer Attorneys for Rural Nevadans, and The Domestic Violence Victims Assistance Project	Letter to Senator Mark Amodei dated 3-23-05
S.B. 177	F	Dan Wulz, Deputy Executive Director, Clark County Legal Services, Clark County, Nevada	Testimony of Dan Wulz in support of S.B. 177
S.B. 177	G	Paul Elcano, Attorney at Law, Washoe Legal Services, Washoe County, Nevada	Letter to Paul Elcano dated 3-23-05 from Deborah Schumacher, District Court Judge
S.B. 177	H	Wayne Pressel, Executive Director, Nevada Legal Services	Chart of Poverty in Nevada
S.B. 456	I	Gerald Gardner, Chief Deputy Attorney General, Nevada Department of Justice	Letter to Chairman Anderson dated 4-28-05 regarding Gerald Gardner's Testimony