MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Third Session
May 11, 2005

The Committee on Judiciary was called to order at 8:14 a.m., on Wednesday, May 11, 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 Oceguera
Ms. Genie Ohrenschall

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Risa Lang, Committee Counsel

Allison Combs, Committee Policy Analyst
Carole Snider, Committee Attaché

OTHERS PRESENT:

Joan Neuffer, Staff Counsel, Administrative Office of the Courts, Supreme Court of Nevada
Joe Tommasino, Staff Attorney, Las Vegas Justice Court, Las Vegas, Nevada
Kathleen Delaney, Deputy Attorney General, Bureau of Consumer Protection, Attorney General's Office, Nevada Department of Justice
Rocky Finseth, Legislative Advocate, representing the Nevada Land Title Association
Sergeant Bob Roshak, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada
Ben Graham, Legislative Advocate, representing the Nevada District Attorneys Association
Ron Dreher, Legislative Advocate, representing the Peace Officers Research Association of Nevada
Sergeant David Della, Detective, Northern Nevada Repeat Offender Program, Reno Police Department, Reno, Nevada; and Legislative Advocate, representing the Peace Officers Research Association of Nevada

Chairman Anderson:
[Meeting was called to order and roll taken.] Let's turn our attention to S.B. 450.

Senate Bill 450 (1st Reprint): Makes various changes to provisions governing temporary and extended orders for protection against stalking, aggravated stalking, harassment and domestic violence and for protection of children. (BDR 15-1407)

Joan Neuffer, Staff Counsel, Administrative Office of the Courts, Supreme Court of Nevada:
We are here in support of S.B. 450. The changes and amendments that were added as of April 20, 2005, are included in S.B. 450. These are cleanup provisions.

Joe Tommasino, Staff Attorney, Las Vegas Justice Court, Las Vegas, Nevada: Senate Bill 450 attempts to clarify various aspects of the law relating orders for protection. Under the *Nevada Revised Statutes* (NRS), there are four different types of TPOs [temporary protective orders]. In NRS Chapter 33, there are orders for protection against domestic violence, against harm to minors, and against harassment in the workplace. In NRS Chapter 200, there are orders for protection against stalking. Currently, the different language between the TPO types creates unnecessary ambiguity or hinders the most efficient protection of victims. There are essentially nine changes in S.B. 450. Each of these changes is intended to make the four TPO types consistent.

The first change would be a clarification to the stalking TPO statute to say that this remedy is in addition to any other remedy provided by law. This language appears in the other three TPO statutes.

The second change is to the stalking statutes, to conform to more recent language that was used for the harm to minor TPOs. Specifically, Section 1 says that if TPO scope of protection includes, but is not limited to, a member of the household or family of the victim, the change would be that you can say the defendant would have to stay away from the victim's boyfriend, even if that person is not a member of the household or family of the victim.

The third change relates to a miscellaneous type of relief. The domestic violence TPO and the workplace harassment TPO both contain a form of miscellaneous relief that gives judges greater flexibility in protecting victims. This catchall language needs to be incorporated into the stalking and harm to minor TPO types; specifically, the language would require a defendant to comply with any other restriction that the court deems necessary to protect victims. For example, the court could order a defendant not to harass the victim's employer in an attempt to get the victim fired.

The fourth change is under the domestic violence and workplace harassment TPO types. The law clarifies that notices related to extended order hearings must be served pursuant to the Nevada Rules of Civil Procedure. Senate Bill 450 would add this language to the stalking and harm to minors statutes.

The fifth change is that the domestic violence and workplace harassment statutes both say that the standard TPO penalties apply unless a more serious penalty is prescribed by law for the act that constitutes the violation of the order. This language would be incorporated into the stalking and harm to minors TPO types.

[Joe Tommasino, continued.] The sixth change regarding the workplace harassment statute includes a basic penalty for violating a TPO, which is a misdemeanor. However, if the violation is accompanied by a violent physical act, the court must impose additional punishment, including a $1,000 fine or at least 200 hours of community service; imprisonment for five days or up to six months; and reimbursement for costs, attorney's fees, medical expenses, and professional counseling. Because the domestic violence TPO statute also has a basic misdemeanor penalty for a violation, we believe that the additional punishment should apply to the workplace harassment TPO for consistency.

In the seventh change, the stalking and harm to minor TPOs currently require an intentional violation before criminal penalties apply. This language is proposed to be incorporated into the domestic violence and workplace harassment types so that inadvertent violations would not constitute a criminal offense.

In the eighth change, domestic violence and workplace harassment statutes currently require an officer to arrest a defendant if the officer has probable cause to believe that the defendant was served with a copy of the order and that the order was violated. However, the stalking and harm to minors statutes distort this requirement, so that an officer merely has to have reasonable cause—which implies a lesser standard than probable cause—and that the defendant receives a copy of the order, as opposed to having the defendant served with the order. For example, a victim could mail a TPO to the defendant, and even if the defendant received it, that would not be a valid service. The intent in this section is to make all the TPO types refer to probable cause and service.

Finally, three of the TPO types say that when a person files for an extended order, the temporary order remains in effect until the hearing on the extended order is held. Because the workplace harassment statute does not contain this language, the temporary order could technically expire before the hearing on the extended order, and the victim could become unprotected. Senate Bill 450 would close this loophole.

In summary, those are the nine essential changes in S.B. 450, and we support this bill.

Chairman Anderson:
This statute attempts to clarify or reestablish the rules of civil procedure, so that these TPOs tell the person that there is going to be a hearing before the order is put into place. It will be one of the major accomplishments of this particular piece of legislation.

Joe Tommasino:
Two of the TPO types already clarify that service has to occur pursuant to Nevada Rules of Civil Procedure. The other two TPO types don't refer to service. The idea is to make them all consistent.

Chairman Anderson:
So that it extends to the other two and occurs in all cases?

Joe Tommasino:
That is correct.

Chairman Anderson:
The rest of it is to clarify, so there is a uniformity to the process?

Joe Tommasino:
Yes, that's correct.

Assemblyman Carpenter:
In Section 3 on page 3, where it talks about if the violation is accompanied by a violent physical act, there is a fine imposed, or 200 hours of community service is to be performed. It also says that he can be imprisoned for five days and not more than six months. It seems to me that if it is a violent physical act, it would rise to a higher offense, so is this making it easier on them? In other areas in this statute, it says they can actually be sentenced to a felony.

Joe Tommasino:
The violations for stalking and the harm to minors TPO types are dependent upon whether it is a temporary order or an extended order. If it is a temporary order, it is a gross misdemeanor. If it is an extended order, it is a felony. Those TPO types are distinct because the penalties are more severe. If you are looking at the two TPO types where the base penalty is a misdemeanor, those are the workplace harassment TPOs and the domestic violence TPOs. Currently, in the workplace harassment statutes, NRS 33.350 says that the base penalty is a misdemeanor, but if there is a violent physical act, then additional penalties apply. Since you have the one TPO type with a base misdemeanor and these heightened penalties, the domestic violence TPO—which also has a base misdemeanor—should also have similar heightened penalties.

Allison Combs, Committee Policy Analyst:
I would note that in the provisions on the same page, lines 25 and 26, it provides that this is a misdemeanor unless a more severe penalty is prescribed by law. This might provide the option if it is a higher crime.

Chairman Anderson:
It is my understanding that this gives them the opportunity to move to a higher crime if one is there. In addition, the peace officer is going to have to base it on probable cause rather than reasonable cause, which is a higher standard. On the question of domestic violence and whether it is physical battery, the district attorney or the city attorney would still have an opportunity to utilize a different statute. This is just in the TPO area.

Assemblyman Carpenter:
It says, "...if the violation of the order is accompanied by a violent physical act." It seems to me that a violent physical act rises to a higher standard than telephoning the victim. That should rise to a higher penalty.

Chairman Anderson:
Ms. Lang, in Section 3, subsection 2, if there is a violent physical act, do you think we need to clarify it further?

Risa Lang, Committee Counsel:
As Allison Combs indicated, in those cases where it is a violent physical act and somebody were injured, it would probably be prosecuted under a different statute because it would have a higher penalty. Other protection orders have different penalties, which I think Mr. Carpenter is looking at. It is a matter of policy for this Committee to decide whether they all need to be the same, but currently, this is consistent.

Chairman Anderson:
Mr. Carpenter would like to see us modify that section. If there is a violent physical act, they should be charged in addition to the violation of the TPO.

Risa Lang:
If you look in Section 5, in the existing language, that is what they were indicating; they were making those two statutes consistent for harassment in the workplace and domestic violence.

Chairman Anderson:
Can we look at clarifying that section? I don't see much of a difference either, but I think that's the whole point. They want to make sure that harassment in the workplace is a violation of the TPO. What you are focusing on is the violent physical act and wanting to make sure that the violent physical act is an event that needs to be prosecuted. The fact is that the violation of the TPO is one event. The violent physical act is a second event.

[Chairman Anderson, continued.] Mr. Carpenter, we will see if we can get clarity from our Legal and Research staff if we are to move on the bill.

Assemblyman Carpenter:
It seems to me that we are making it easier if you violate the order and there is a violent physical act. If you harm somebody, you should not get off with this kind of a penalty.

Chairman Anderson:
What they are focusing on is the violation of the TPO, and what you are focusing on is the violent act itself. It should be a separate cause of action, unless there is a more stringent area that they can be charged under.

Joe Tommasino:
I wanted to make the point that a lot of times the prosecutor charges multiple offenses that may constitute one cause of action. Sometimes, if a person violates a TPO, the prosecutor would still charge the more serious, physical act and the TPO violation. Through plea bargaining, if the prosecutor wants them to agree to the lesser charge, they are going to be sentenced on the TPO violation. They would still be punished for the violent physical act if this language in Section 3 were added.

Joan Neuffer:
In following up on Mr. Tommasino's comment, the violent physical act language and the clarification of all the statutes does not preclude the prosecution from going forward in pursuing other causes of actions. It doesn't prevent the prosecution from acting in a way that is appropriate in each case, and it still maintains discretion of the prosecution. The clarification to make these bills consistent is the whole point of S.B. 450, as Mr. Tommasino pointed out. We want to make these different provisions covering TPOs consistent with each other.

Chairman Anderson:
I appreciate the fact that we are trying to bring consistency to the TPOs. I think that the Committee is concerned about the batterer being punished and not being plea-bargained by the district attorney to something less. If there is a felonious act, we will see if we can't bring clarity to the question here, because we are not willing to come away with a lesser penalty in domestic violence cases.

We want to make sure that the person committing the felonious act or battery is punished that way. I understand you want to bring consistency so the court can function more easily. We don't want to disturb that, but at the same time,

we want to make sure we are not lessening the penalty against somebody who is a batterer.

[Chairman Anderson, continued.] Mr. Tommasino, how many of these do you do a week?

Joe Tommasino:
I don't know how many we do a week, but we do hundreds of them a year. In the Las Vegas Justice Court, we don't have jurisdiction to do the domestic violence TPOs. We only do the other three TPO types.

Chairman Anderson:
Is there anyone else wishing to speak on S.B. 450? Is there anyone in opposition to S.B. 450? I'll close the hearing on S.B. 450 and bring it back to Committee. We're going to get clarification for Mr. Carpenter on whether we need to put in an amendment to clarify this section so we're not lessening the status of these crimes. I'll ask both Research and Legal to come up with a potential recommendation.

Let's open the hearing on S.B. 489.

Senate Bill 489 (1st Reprint): Makes various changes to provisions concerning protection of consumers. (BDR 15-108)

Kathleen Delaney, Deputy Attorney General, Bureau of Consumer Protection, Attorney General's Office, Nevada Department of Justice:
[Ms. Delaney read from prepared testimony, Exhibit B, which is incorporated herein.]

Assemblyman Mabey:
On page 11, line 11, it says that the court "may" require. Why not "shall" require?

Kathleen Delaney:
With all of the provisions within the Deceptive Trade Practices Act, it's important for the court to have the discretion to determine what is appropriate, given any particular violation. The Deceptive Trade Practices Act is a very broad statute that applies to everything from technical violations to incredibly egregious violations. Arguably, if you're in the criminal arena, there is some level of intent that's been able to be proven. We felt it was important to allow these offenses to be at the court's discretion for what is appropriate, and not

necessarily make them mandatory. That is consistent with the other penalties, civil provisions, et cetera, that are in the Deceptive Trade Practices Act now.

Assemblyman Mabey:
It would be better to have "shall" require, if somebody had to go through all that.

Kathleen Delaney:
We don't disagree, and it certainly would be a remedy if we felt it was appropriate to ask for. We consistently provide, in the statute, the discretion to the court to order whatever they believe is the appropriate remedy. When it gets into the arena of making these types of remedies mandatory, it usually takes away the court's discretion. They usually don't care for that.

Chairman Anderson:
Dr. Mabey, we have crossed swords with the judges on judicial discretion. I would remind you that, not dissimilar from other professions, they want to have discretion as to the procedure they're going to utilize in their courtroom. It looks like a good piece of legislation. Mr. Conklin, do you see any problems?

Assemblyman Conklin:
I don't see any problems in the bill, and I have to be honest: I don't quite understand subleasing of automobile vehicles. From a statutory standpoint, nothing caught my eye. I would have to agree with Dr. Mabey on the "shall." If they're taking advantage of consumers and getting caught at it, then the court should be obligated to punish appropriately. It's my belief that the vast majority go unpunished because they don't get caught. When you do get caught, we ought to make an example of you.

Kathleen Delaney:
I practice primarily in the civil side of the deceptive trade arena, but I am familiar with these auto subleasing cases. What we've seen is this cottage industry of fraudulent actors that cropped up, who take advantage of people who got in over their head with the lease of their car. They're looking for a way to not fall into default, and this particular industry preys upon that. They offer to facilitate a sublease, which is prohibited by the contractual language in the lease, and then find a person who's looking to buy a car inexpensively. This person is then told if they assume those payments, they'll complete the lease and purchase the car.

In fact, that third party doesn't have the authority to do that. They're often pocketing the change. Other times they make enough payments so everyone in the transaction thinks it's going correctly, as well as the financial institution,

only to abscond with the funds. It has variations, depending on how much fraud the actor wants to perpetrate. For the most part, what you have is one car, one financial institution, and two parties back and forth with the car, neither of whom is acting correctly.

[Kathleen Delaney, continued.] This industry has moved to Nevada because California saw the problem and excised it from their state. These are unwieldy cases, and they often have lots of victims. There's no legitimate basis for this industry to exist. If there were, you'd see a number of people in here opposing our efforts to outlaw it. We're also starting to see this cropping up in home purchases. We're trying to get a handle on that, but we may be back in two years to address that issue. We feel that this is a problem that needs to be specifically stated as being illegal, because there's no legitimate basis for it.

Assemblyman Conklin:
It's ironic. Something like this comes about because there's a specific demand for it. There are people who have purchased cars and gotten in over their heads. I wish there were something in practice not to allow people to purchase a car that they can't afford, but it is so easy to buy a car now.

Kathleen Delaney:
We're talking specifically about a lease situation where the contract for the lease prohibits it to be subleased. There are parties who are facilitating that person's breach of the contract, but more importantly, they are creating mirror victims on either end of a transaction, as well as putting the property owned by the financial institution in jeopardy by placing it in the hands of someone it doesn't belong with. We don't disagree with what you've said in terms of areas that need to be addressed, but if it were true that we were meddling in the car dealership business, you would see people here today to oppose it. In order to deter it from occurring—and not just punish it—we need to make sure this practice is made illegal and follow suit with our sister state.

Chairman Anderson:
Advantages of this bill: it extends, by one year in some cases, for the person who is the potential victim and for the Consumer Fraud unit. It increases the fine from $2,500 to $5,000. It places the Consumer Fraud Division into information-gathering, to give us statistical information on the disposition of these particular types of crimes. This is not currently being done?

Kathleen Delaney:
The obligation to disclose statistics on the number of complaints made against a particular business currently exists in the statute, and it is being done by the Consumer Affairs Division. The timeframe is limited to just one year. What was

expressed to us by the Consumer Affairs Division was a three-year period to actually give a better snapshot of how this business is operating. A consumer would feel much better about doing business if there are no complaints over a three-year period than over the last year. If this company has a history of wrongdoing or complaints, a three-year period was felt to be a much better snapshot of how this business was operating.

Chairman Anderson:
It's a better past-practices picture for the consumer and the Legislature to see whether these protections have had any real effect and are being utilized. There's a follow-up on the disposition within the Fraud Division?

Kathleen Delaney:
That's correct. The Consumer Affairs Division would handle all of the complaints. What exist in the statute are prohibitions against certain disclosures, and what is allowed to be disclosed is the number of complaints that have been filed. The statistics are kept for much longer than one year, but the statute only allows disclosure for one year. We would like to expand that period.

Assemblywoman Buckley:
If someone is setting up a business to broker and facilitate illegal assignments of their leases, I don't have a problem with stiffening the penalties. It does seem extreme for a one-on-one. I shouldn't assign my lease when the contract says I can't, but to criminalize it and put in all these extra penalties for a civil breach of contract seems extreme.

Kathleen Delaney:
That wasn't the intent; if it's drafted that way, it may be something we need to look at. I'm not sure it's drafted that way, though. It's not the party who breaches the contract who would be subject to the criminal penalty. It's the third-party facilitator, that person who does the brokering, who is then not only committing misrepresentations to that person, but is also committing misrepresentations to the party who takes over the car and the payments. After the parties are relatively secure that it's working, this person takes the money and runs with it.

What we're talking about is criminalizing a practice that has no legitimate basis to exist. We tried to figure out why this was happening, why we are seeing an increase in these cases. These are incredibly difficult cases to prosecute, where you have myriad victims and huge amounts of loss. Several years ago, California took this step. That worked, and it moved that industry out of California. Unfortunately, it moved here. We believe it doesn't belong here. It

wouldn't be the individual who breaches the lease that would be subject; it would be the facilitator.

Assemblywoman Buckley:
Could you show me that in the language?

Kathleen Delaney:
In Section 1, subsection 1, it talks about the person who, for compensation or other consideration, shall not transfer, assign, or purport to transfer or assign any right or interest in the vehicle that is subject to a lease contract. It's that broker who is transferring it to the other person, not the individual who hires the broker to do the work for them. It goes on to say that this doesn't apply if the person is a party to the contract or gets the permission of their financial institution.

Subsection 2 goes on to say that the person shall not assist, cause, or arrange for the person to violate it. The intent was to get at the broker, not the individual. We're not seeing the original lessee doing this for compensation. We're seeing the person who they're hiring to do this committing the fraud. Again, the intent was to address the broker, not the individual who is the lessee.

Assemblywoman Buckley:
You do that by having it that they're not a party? They're the assignor, and they're not a party. Is that confirmed with our Legal advisor, Mr. Chairman?

Risa Lang, Committee Counsel:
I think Ms. Buckley's reading is accurate. It does say, "…unless the person is a party to a lease or contract," but they would have had to also have the written consent. If they don't have the written consent, it still would apply to that person. Subsection 2 addresses what you are referring to as the broker.

Assemblywoman Buckley:
You're never going to have assent from your financier to assign it. That's what I'm concerned about. We're not getting just at the broker. If I assign my car to Dr. Mabey, I shouldn't do it, but is that a crime?

Kathleen Delaney:
It was patterned almost identically after language that exists in California. We discussed it with their Attorney General's office. It is only the intent to go after the broker. We read this, in subsection 1 of Section 1, as the person for compensation. The party to the lease is not receiving compensation in these transactions. It is the broker who's making the compensation.

[Kathleen Delaney, continued.] Subsection 2 is not intended to be only the broker, but people who facilitate for the broker, such as the salesmen for the broker. It was intended to get at those people who facilitate the sublease for compensation and are not a party to the lease. We don't believe there would be language here that would allow us to go after the lessee, nor would that be our intent. We would be open to any changes necessary to clarify that.

Assemblywoman Buckley:
Yes, but it says "for some other consideration." The consideration could be that you take over my payments.

Chairman Anderson:
We'll see if we can't clarify this and make sure that is indeed the intent. This is a good piece of legislation, and I don't want to see us lose what the intent is here, in terms of help to the consumer and to make sure this fraudulent practice comes to an end. Ms. Lang, do you think we could clarify it without too much trouble?

Risa Lang:
I'd be happy to look at it. Perhaps even limit it to the (a), and taking out the (b); then you wouldn't have the issue about obtaining permission.

Chairman Anderson:
Ms. Delaney, might I ask you to talk to Legal after our meeting today and see whether we are all coming away with the same intent? That would be most helpful.

Kathleen Delaney:
I would be happy to do that.

Chairman Anderson:
Are there any other questions for Ms. Delaney? We'll close the hearing on S.B. 489 and turn to our Work Session Document (Exhibit C). I'd like to start with S.B. 119.

Senate Bill 119 (1st Reprint): Revises provisions governing privileges of certain medical review committees. (BDR 4-884)

Allison Combs, Committee Policy Analyst:
Senate Bill 119 is under that same tab (Exhibit C). This was a measure heard at the end of April, adding medical review committees of a county or district board

of health that certifies or regulates providers of emergency medical services to the list of review committees whose information is deemed privileged under certain discovery proceedings. The sponsor of the measure testified in favor of the bill, along with the Clark County Health District, and indicated that this is necessary to help them comply with national standards and recommendations.

[Allison Combs, continued.] Subsequent to the hearing, a conceptual amendment was submitted by the Nevada Trial Lawyers Association. It is provided, right behind the overview page, in that same tab (Exhibit C). The proposal is to clarify that these confidentiality provisions apply solely when the committees are conducting functions as peer review committees. It's to clarify the situations in which that would apply. That's the only proposed amendment.

Chairman Anderson:
This is to clarify that the current provisions of peer review at individual hospitals provide that an exchange of that information will still go to the trauma centers, where there are multiple trauma centers in an area. They'll still be able to conduct their peer review without jeopardy. With this amendment, we'll not take that away. It has been agreed to by the primary sponsor of the bill. Are there any questions or concerns for members of the Committee?

> ASSEMBLYMAN MORTENSON MOVED TO AMEND AND DO PASS SENATE BILL 119.
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> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Oceguera were not present for the vote.)

Chairman Anderson:
Let's turn our attention to S.B. 198 (Exhibit C).

Senate Bill 198 (1st Reprint): Revises provisions of Articles 3 and 4 of Uniform Commercial Code. (BDR 8-542)

Allison Combs, Committee Policy Analyst:
Senate Bill 198 revises the provisions of Articles 3 and 4 of the Uniform Commercial Code. Senator Care and Frank Daykin testified in favor of the measure and explained its development and purpose on behalf of the Uniform

Law Commission, stating that most of the bill updated archaic language and reflected new technology.

[Allison Combs, continued.] There was also testimony in support of the measure on behalf of the Nevada Bankers Association. There were no proposed amendments to the bill.

ASSEMBLYMAN CARPENTER MOVED TO DO PASS SENATE BILL 198.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle, Assemblyman Horne, and Assemblyman Oceguera were not present for the vote.)

Chairman Anderson:
Let's turn our attention to S.B. 201, which is the other half of this bill.

Senate Bill 201 (1st Reprint): Revises provisions of Articles 1 and 7 of Uniform Commercial Code. (BDR 8-357)

Allison Combs, Committee Policy Analyst:
Senate Bill 201 revises the provisions of Articles 1 and 7 of the Uniform Commercial Code. A summary of the testimony is provided (Exhibit C). The updates reflect the way business is conducted today. The same individuals spoke in favor of the measure. There was no opposition presented during the hearing.

ASSEMBLYMAN CARPENTER MOVED TO DO PASS SENATE BILL 201.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle, Assemblyman Horne, and Assemblyman Oceguera were not present for the vote.)

Chairman Anderson:
Let's turn our attention to S.B. 199, a similar piece of legislation (Exhibit C).

Senate Bill 199 (1st Reprint): Adopts Uniform Partnership Act (1997) and provides for its applicability on voluntary basis. (BDR 7-358)

Allison Combs, Committee Policy Analyst:
Senate Bill 199 adopts the Uniform Partnership Act of 1997 and provides for its applicability on a voluntary basis. The bill allows an existing or future partnership to elect to be governed by the provisions of either the existing Partnership Act in Nevada law, or the provisions adopted by this bill.

The testimony was similar to that on the other two bills. Senator Care and Frank Daykin testified on the bill and emphasized that the measure allowed an opt-in provision for the partnerships. There were no amendments proposed.

Chairman Anderson:
After the date that the new law goes into effect, if you like the old law, you get to do that anyway. In other words, we're going to do what we want to change, but if you don't like it, you don't have to do it. I thought it was unusual. It seems to me if we're going to do it, we're going to do it on a particular date and make corporations go that way. However, the Senate didn't feel that way. What this is doing is putting off into the future the corporate structure of partnerships. What are the feelings from the Committee?

> ASSEMBLYWOMAN OHRENSCHALL MOVED TO DO PASS SENATE BILL 199.
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> ASSEMBLYMAN MABEY SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Horne and Assemblyman Oceguera were not present for the vote.)

Chairman Anderson:
Let's turn our attention to S.B. 43 (Exhibit C).

Senate Bill 43: Adopts revised Interstate Compact for Juveniles. (BDR 5-81)

Chairman Anderson:
Mr. Horne chaired this on Monday. I have reviewed the bill, and I didn't see any problems with it. Senator Washington and I are on an Interstate Commission. We do occasionally have problems relative to how these compacts work out. Our great fear here is, if we don't belong within the group, juveniles will be sent here regardless. Then we don't have the protection that the Interstate Compact provides. The Division of Child and Family Services supports this. It's not functioning as effectively 1955 rules, as compared to the twenty-first century. It's the reality of juvenile crime, particularly in certain areas.

The Chair will entertain a motion.

> ASSEMBLYWOMAN OHRENSCHALL MOVED TO DO PASS SENATE BILL 43.
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> ASSEMBLYWOMAN ANGLE SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Horne and Assemblyman Oceguera were not present for the vote.)

Chairman Anderson:
Let us turn our attention to S.B. 64.

Senate Bill 64 (1st Reprint): Makes various changes to provisions concerning conveyance of real property by deed which becomes effective upon death of grantor. (BDR 10-539)

Chairman Anderson:
This is Senator Rhoads' bill. It's an unusual bill. Ms. Combs?

Allison Combs, Committee Policy Analyst:
This measure was heard yesterday and is in your Work Session Document (Exhibit C). It authorizes an owner of real property to convey its interest to a grantee or multiple grantees without the necessity of having the spouse of any grantee file a quitclaim deed or disclaimer. It makes other related changes in the bill.

There was testimony yesterday from the county recorders and the Association of Realtors. The Nevada Land Title Association favored the measure, indicating

that it's designed to help people avoid probate. Testimony also indicated that the bill cleans up 2003 legislation that created the new deed, which allowed the owner of an interest in real property to convey his interest, during his lifetime, to one or more grantees, which then would become effective upon his death. There were no proposed amendments.

Chairman Anderson:
Mr. Horne raised questions yesterday relative to how this was going to operate. He is not here, and I wanted to make sure we clarified that. Does anyone have any problems with this piece?

Assemblywoman Buckley:
If a remaining spouse has a community property interest in the property that they previously owned with the spouse, how does it protect them? I don't think it would apply to the joint tenants. It would automatically go to them, but what if your spouse doesn't put your name on it? You still have a community property interest. You lived there for 20 years. You paid, and then it's going to somebody else? How do we make sure you're not left with something that you, under law, have a legal right to?

Chairman Anderson:
We tried to clarify what happens if you have economic interests that precluded. A subsequent event came along, did the property transfer, and in that particular case, if the deed had been recorded, the restriction would apply. If not, if there was a subsequent assignment, then it would be the most recent document on record, which would be the one that carries the question. I'm not sure your particular issue is one we addressed.

Assemblywoman Buckley:
I know the language says it's just the sole and separate property, but it may or may not be true. Let's say you own your house, but later on get married. The community pays into the house, and it can lose that distinction. If you don't have to sign off on it, how are you going to know that it actually is sole property, as opposed to community property?

Risa Lang, Committee Counsel:
I think they could only transfer the interest that they have ownership of. In the community property situation, it could be a difficulty if they transfer their interest in the property to somebody else. They could only transfer what they had, so if they tried to transfer more than what they had, I think it would be void.

[Risa Lang, continued.] This is allowing you to, if you own an interest in the property, designate in the deed for that property. I think (a) covers if you want to transfer it as tenants-in-common or husband-and-wife, and (b) is now covering if they wanted to designate it to be sole and separate property. I can see what you're saying, though, because they may be paying into it, and their name may not be on the deed, so they may purport to transfer it even though they legally can't do that. I think it would end up being a legal battle.

Assemblywoman Buckley:
I'd rather not put the remaining spouse in the position of having to fight to get their property back.

Rocky Finseth, Legislative Advocate, representing the Nevada Land Title Association, Reno, Nevada:
I don't have an answer specifically to Ms. Buckley's question. If it would help, we can pull together folks to make sure that issue is addressed and bring it back to the Committee.

Chairman Anderson:
Let me suggest that we put S.B. 64 on the Monday work session. We'll see if we can solve some of the issues here and ask whether there are going to be choices. Let's turn our attention to S.B. 331 (Exhibit C).

Senate Bill 331 (1st Reprint): Makes various changes concerning Advisory Commission on Sentencing. (BDR 14-111)

Allison Combs, Committee Policy Analyst:
Senate Bill 331 is a measure to revitalize the Advisory Commission on Sentencing. It provides that the Attorney General would be an ex officio voting member of the commission and serve as the chairman. It authorizes the Attorney General to provide the necessary staff to carry out the duties of the commission. It also adds the Director of the Department of Corrections as a member. Finally, there was a proposed amendment from the ACLU [American Civil Liberties Union], subsequently endorsed by the Nevada Attorneys for Criminal Justice, to add as a member a representative of a public defender's office.

Chairman Anderson:
The Sentencing Commission came into existence because of the great fear that we had when we did the truth-in-sentencing bill in 1995. It functioned in 1997 and 1999. It was taken care of through the Governor's Office, the Department

of Corrections, and the District Attorney's Association. Law enforcement agencies seemed to have a strong voice in those early determinations.

[Chairman Anderson, continued.] One of our concerns was that we were afraid we were going to fill the correctional institutions, and folks were never going to get out. This has proven to be almost true. There are parts of that legislation we're still dealing with, particularly in the area of juvenile crime, which have caused problems for the system. They seem to be unaddressed. The staffing of it became a bigger issue in the Governor's Office, so there was an attempt from the Committee to dissolve it.

The Senate has tried to do that, and we stopped it over here, because we felt there was a remaining need. I've served on it for the last four years, and I don't believe we've even met one time. This is a shame, because there are problems with screening panels of sex offenders that could conceivably be addressed there. There are other groups who would like to have a forum in order to present information.

We might be better served in terms of staffing. I think the suggestion from the ACLU in this particular area—to broaden it to include somebody from the public defender's office—would be helpful for the Committee. There would be somebody to represent the other point of view. I have no problem with the bill, with the amendment of the additional person, and moving the responsibility to the Attorney General's Office. What are the feelings from members of the Committee? The Chair will entertain a motion.

> ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS SENATE BILL 331.
>
> ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Horne and Assemblyman Oceguera were not present for the vote.)

Chairman Anderson:
There are two bills we need to work out. If we decide to take them up in work session next week, Legal and Research must have a clear idea where we're heading and what we intend to do.

Let's turn our attention to S.B. 337.

Senate Bill 337 (1st Reprint): Makes changes pertaining to intoxicating substances. (BDR 3-784)

Allison Combs, Committee Policy Analyst:
Senate Bill 337 was heard on May 5. It provides that a person who is over the age of 18, who unlawfully serves, sells, or furnishes alcohol to a person under the age of 21, is liable in a civil action for damages resulting from the consumption of that alcohol. It also applies to controlled substances. It further provides that the person who is over the age of 18, who has control over any premises, is in a reasonable position to prevent the unlawful consumption of the alcoholic beverage or a controlled substance by someone under the age of 21, and who knowingly and recklessly permits the unlawful consumption, is also potentially liable in a civil action for damages resulting from that behavior.

Under Section 2, the bill also revises the criminal penalties, and included in that revision is a deletion of the exception that currently exists in the law for parents or guardians. There was discussion in the Committee on the criminal portion of the liability. As a result, there is one conceptual amendment in the Work Session Document (Exhibit C). The first would be to reinstate that language to return to existing law for the criminal provisions, so there is the exception for parents or guardians under Section 2 of the bill. The second proposed conceptual amendment, which was discussed during the course of the testimony, was to provide a religious exemption under the bill.

There was also discussion, at the direction of the Chairman, that if the Committee were to choose to pass the bill, there would be statements of intent included in the Floor statement. For example, someone was not required to necessarily card folks who came into their home, as a business might be required to do.

Chairman Anderson:
It's a difficult topic. Parents who put on a "kegger" for the kids at the house and think it's okay because their kids are home are not mindful of the fact that they're putting other kids at risk. The difficulty rests with the broader sweep of this. What happens if wine or something similar is served at a family dinner, there's a traffic accident, and the person under 21 has been drinking more than anyone recognized and is legally drunk? Does their criminality come forward, as well as their responsibility? If you have a dinner party at your house, wine is served, and somebody becomes inebriated, we don't expect you to be liable for their actions. I'm curious as to how the Committee wants to move on the bill.

Assemblyman Mabey:
My concern with the bill, and I brought this up at the time of the hearing, was with Sections 5 and 6. What if a legal group did unlawfully sell or serve to a minor? Are they going to be able to get off? They're going to say, "Under this bill, Sections 5 and 6, I'm exempt." I have concerns that a restaurant or bar who unlawfully serves or sells these beverages may be able to get off. I understand the argument, but it seems like it will give them a way out if they serve liquor to these people who shouldn't be served.

Chairman Anderson:
The only way they would get immunity is if they were provided information that this person was over 21 years of age, and they were acting responsibility in the first place. Is that what you're looking for?

Assemblyman Mabey:
Yes, that would help me. I think you understand my intent.

Chairman Anderson:
Ms. Lang, do we currently do that in existing statute? Does the dram shop owner have the responsibility to determine the age and fitness of the individual to whom he's serving? We've taken the person who delivers and serves alcohol out of it, which I'm surprised about.

Risa Lang:
We do have other laws dealing with that issue, and there is the criminal liability for furnishing as well. This is specifically addressing the civil liability of a person in their home in Section 1. Section 2, of course, applies to everyone.

Assemblyman Mabey:
If I'm misreading it, I don't want to hold up the bill. That was my concern, and if someone can make me feel better, I'll support the bill. If not, I'll oppose it.

Chairman Anderson:
I'm trying to get clarity on where the Committee wants to go for a subsequent work session before the final document. I'm not prepared to take a motion on the bill yet, because I'm trying to figure out what we want to do to solve some of our problems with this bill.

Assemblywoman Buckley:
It's difficult, because if this bill passes, the law would be that if you're a bar, you serve someone who is completely intoxicated, and they hurt somebody, you are not liable. If you are a parent, however, you are. A possible solution would be that if someone knowingly and recklessly facilitates the unlawful

consumption of alcoholic beverage on the premises for someone who is under 21, then they're liable. Someone who isn't actually facilitating wouldn't be caught up.

Chairman Anderson:
Is that not present on page 2, line 20: "...knowingly and recklessly commits..."?

Assemblywoman Buckley:
It is, but maybe we should get rid of everything else.

Chairman Anderson:
So, you're of the opinion that Sections 5 and 6 could be removed without doing harm to the bill?

Assemblywoman Buckley:
I remember that dram shop legislation. It would do harm to the bill; the bill would die. The theory there is that people have an individual responsibility not to drink and drive and that we shouldn't create a guarantor system when someone isn't in a good opportunity to ascertain whether or not someone's drunk.

Assemblyman Holcomb:
This is addressed to Barbara Buckley, because she's an attorney, and to the members of the Committee, regarding the problem I have about the parents. When we heard this bill, I asked the trial attorney if that would also include constructive knowledge. The parent doesn't necessarily have to know, but they could make a claim to say you had constructive knowledge.

To give an example, parents had some alcohol in the refrigerator. They left their son, and their son has occasionally had a party with friends over and drinking. Let's say one of the friends of the kid was hurt, and the son had served alcohol. Under the doctrine of constructive knowledge, an attorney could bring a lawsuit against the parents. It would have to go to court and be tried by a jury to make that determination. I would like to say "actually knew" or "recklessly" and insert "actual knowledge," not constructive. You are opening up a Pandora's box with "constructive knowledge." I would have to vote against this bill because of constructive knowledge.

Assemblywoman Ohrenschall:
I agree with Ms. Buckley, but I also have taken time to do some research. We used to have Temple Beth Shalom in the middle of Assembly District 12. A Passover Seder, usually held at the synagogue with the ladies' group helping get the meal together, requires the consumption of four full glasses of wine during

the meal. It's a very long meal, but anybody over 13 who has had a Bar Mitzvah is considered an adult. It seems to me that if you don't have a religious exemption for Catholics, Jews, and other religions that I haven't researched, you may well find they have a real problem here.

Chairman Anderson:
I would agree. If we're going to move with the bill, we need to clarify the question. I need to know if you want to continue discussion, move it to a subsequent session, or you wish it to be moved to the board.

Assemblyman Carpenter:
I understand where they're going with this, but I have a problem when we start reaching into people's homes.

Chairman Anderson:
Mr. Carpenter is for putting this on the board. [Assemblyman Mortenson, Assemblyman Holcomb, Assemblyman Mabey, and Assemblywoman Angle also indicated it should go on the board.]

Assemblyman Manendo:
I don't think the Committee is ready to deal with it now. I don't want to see it go to the board. I wonder if there are people out there listening who might be able to come up with a solution. I have a problem with a parent who goes out, buys a keg, and sticks it in their backyard to have after-graduation parties serving the kids. There has to be some type of responsibility there. If the parent comes home and there are 40 kids in their front yard drinking, yet they didn't furnish it or know anything about it, that happens. But if the parent or someone 18 or older furnishes all the alcohol, I have a problem with that.

Chairman Anderson:
Mr. Manendo would like to see the crafting of some potential amendments before he would be willing to say. I'm sure we can find some.

Assemblywoman Ohrenschall:
I agree with Mr. Manendo, I would like to see this move to another work session. I really don't want to kill the bill, because there are provisions that have to be looked at. In today's world where both parents tend to work, I don't think it would be unusual for a party to be going on in someone's home and the parents not aware that is happening. [Assemblywoman Allen indicated she would like to see it go to the board. Assemblyman Conklin shook his head negatively. Assemblywoman Gerhardt and Assemblywoman Buckley indicated they would like to see it go to another work session.]

Chairman Anderson:
The majority of you indicated that it should move to the board, which to me means it's not over. We want to see specific language from the primary supporters, clarifying our concerns on the responsibility of the person providing alcohol and the liability questions that are attached. In order to take it up again, it has to have specific conceptual language on the issues that we can deal with. What, specifically, would make it more acceptable?

Assemblywoman Allen:
This makes parents liable for a civil action. We would find parents suing other parents. Another parent would be upset with the parent that allowed this to happen. I see there's a $5,000 fine. Can you elaborate?

Allison Combs:
I don't know that I can answer your scenario, but the liability is for damages caused by unlawful consumption. I couldn't identify the parties involved, but that would be the foundation for the action. The bill would also, as written, make the parents criminally liable. You mentioned the civil liability; I wanted to point out the criminal liability as well.

Assemblywoman Allen:
What happens if you have a loud party, and the police come over and see underage drinking?

Sergeant Bob Roshak, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:
If we respond to a party where there's drinking, we can charge the adult with contributing to the delinquency of a minor. They can be cited or arrested.

Assemblywoman Allen:
Have you reviewed the bill?

Bob Roshak:
I'm not quite up to speed on it.

Assemblywoman Allen:
It seems as though you can penalize them criminally, and they can be assessed with a fine. Would Mr. [Ben] Graham prosecute these parents?

Bob Roshak:
Yes. It would go through the district attorney's office or the city attorney, depending on what jurisdiction it occurred in.

Assemblyman Holcomb:
In response to Ms. Allen's question, yes, under constructive knowledge, parents will be suing parents even if the parent didn't know there was consumption. If there are enough facts, they can bring a claim, hire an attorney, and sue. It would be up to trial court to make the determination whether there were sufficient facts to indicate that there was constructive knowledge.

Chairman Anderson:
The "constructive knowledge" question isn't criminal; it's civil?

Assemblyman Holcomb:
It is a civil concept in tort liability.

Assemblywoman Buckley:
The issue of "actual" versus "constructive" knowledge is an issue in the bill, as well as paragraph 3, which doesn't have any of the "knowing" or "reckless" language. It says that if you did it, you're liable. That conflicts with later language. If we're talking about trying to have something tight, I would have something like "actually knew" or "recklessly permitted" to get at the keg party on the front lawn, where they knew it. If you were at work and had a rule that no one could come in, you're not being dragged into a lawsuit when you weren't the one providing the alcohol and you didn't condone it; you, in fact, prohibited it. It happened anyway. The way it's drafted, it is too broad.

Risa Lang:
For clarification, subsection 3 is dealing with unlawfully serving, selling, and furnishing alcoholic beverages and controlled substances. Subsection 4 is concerned with allowing it to happen on the premises, where you have control over the premises and you are in a position to stop it, but you knowingly and recklessly permit it to occur. Both of these allow for civil action if there are damages that result from the consumption of alcohol. It doesn't limit who can bring the action, but it does tie it to damages. A parent suing a parent could happen if the proper circumstances arose and there were damages to that secondary parent.

Chairman Anderson:
If we're going to move with the bill, we'll have to clarify the questions.

Ben Graham, Legislative Advocate, representing the Nevada District Attorneys Association:
The issue of responsibility for adults that have functions at their house is well-intended. Young people at parties come and go. With regard to the contributing to the delinquency of a minor, there are difficulties to prosecuting

that charge. Frankly, we seldom see those prosecutions go forward at the county level. They may at the city level. I support the idea of trying to legislate responsible adult supervision, but it's really a kettle of worms.

Chairman Anderson:
Let's see if we can add language to bring a comfort level. Seven of you want it to go away, but five of us indicate it still should have life. Let's bring to our attention S.B. 449, a similar piece of legislation (Exhibit C).

Senate Bill 449: Revises provisions governing crime of burglary. (BDR 15-1357)

Allison Combs, Committee Policy Analyst:
This is a measure that adds obtaining money or property by false pretenses to the burglary statute. The testimony indicated that the bill is designed to address the crime of "boosting." The Committee requested information from the people who testified in favor of the measure and from the Police Officers Research Association, and that information has been provided. I believe the folks are here today if the Committee has questions regarding the provided information—specifically, the laws in other states on this issue.

Ron Dreher, Legislative Advocate, representing the Peace Officers Research Association of Nevada:
Sergeant David Della, who brought this bill forward, is here to answer questions. He did the research that the Committee asked for and came up with a list of other states and how they deal with the same issue.

Chairman Anderson:
We don't take testimony at this time, but this was a question that was brought to the Committee. Do you have a solution to our problem that can raise our comfort level, Sergeant?

Sergeant David Della, Detective, Northern Nevada Repeat Offender Program, Reno Police Department, Reno, Nevada; and Legislative Advocate, representing the Peace Officers Research Association of Nevada:
I'd be happy to answer any questions the Committee may have.

Chairman Anderson:
Other states around us that are doing this are Colorado, Connecticut, Oregon, and Washington. Is that the way you see it?

David Della:
There seem to be two underlying themes. The states around us either say "entering with the attempt to commit any crime," or they use "to commit any theft." It could certainly be the same thing, since NRS [*Nevada Revised Statutes*] does define theft, which includes both larceny as well as the obtaining statute.

Ron Dreher:
One of the things that Sergeant Della touched on, which I think was crucial, was the element of petty larceny and how it's defined in Nevada law as its own separate section and law. That was the problem here. One of the recommendations could be another amendment.

Chairman Anderson:
The store owner has been deprived of both the goods and the full cost in the original bill. It was explained in the testimony that he's out 100 percent, as compared to other kinds of theft. Where's our amendment?

David Della:
The suggested language (Exhibit D), rather than grand or petty larceny, or obtaining money under false pretenses, would add the words "any theft" and replace the "grand or petty larceny" language currently in the statute.

Chairman Anderson:
You feel that the bill drafter made an error by putting in "or to obtain money or property by false pretenses"?

David Della:
That was my original proposal when it went through the Senate side—obtaining money under false pretenses. However, after doing the research that this Committee suggested, I see that for the most part, every state around us has said "any crime" or "any theft." *Nevada Revised Statutes* 205.0832 is titled, "Actions which constitute theft."

Chairman Anderson:
This would be broader than the narrower language, "to obtain money or property by false pretenses."

David Della:
That is correct. It would be broader, and it would prevent having to come back to this Committee in the future every time a new type of theft was enacted. For example, the identity theft statutes have come up in the last ten years. We

wouldn't have to keep coming back for identity theft statutes as long as the Legislature defined them under the acts which constitute theft.

Chairman Anderson:
What is the pleasure of the Committee? Are there any questions for Sergeant Della? Do we want to broaden it or just take the bill as it's currently written?

> ASSEMBLYWOMAN ALLEN MOVED TO DO PASS SENATE BILL 449.
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Horne was not present for the vote.)

Chairman Anderson:
We will take a look at S.B. 28 (Exhibit C).

Senate Bill 28 (1st Reprint): Prohibits person from knowingly and intentionally capturing image of private area of another person under certain circumstances and prohibits person from knowingly distributing, disclosing, displaying, transmitting or publishing image captured under such circumstances. (BDR 15-8)

Allison Combs, Committee Policy Analyst:
Senate Bill 28 prohibits activity knowingly or intentionally capturing the image of a private area without consent, under certain circumstances, in which the other person has a reasonable expectation of privacy. There are exemptions for law enforcement provided for the purposes of investigation or prosecuting such violations. There was testimony in favor of the measure from Senator Care.

The ACLU [American Civil Liberties Union] testified in a neutral position on the bill and proposed some clarifying amendments. The first one proposed that a person who is a defendant in a civil action and his attorney may have access to the confidential images. There was also a concern raised by members of the Committee with regard to subsection 4 of Section 1, and exemptions for law enforcement for the purposes of investigating or prosecuting the violation of the section. There were questions on whether the language written on those lines was too broad. Finally, there was a question raised by Mr. Horne—it's not

reflected here in the document—of whether the Category E penalty was appropriate. That's reflected in subsection 3 of Section 1.

Assemblyman Carpenter:
Section 4, where it says it does not prohibit law enforcement from distributing, displaying, transmitting—to me, it's just too broad. It gives them too much leeway. If someone was doing it for unlawful reasons, they could say they were just investigating.

Chairman Anderson:
If law enforcement is looking to clarify the bill, we need to have an amendment that indicates specifically that if it's part of an ongoing investigation of police work, it's acceptable. Is that what you're looking for in Section 1?

Assemblyman Carpenter:
If they have an ongoing investigation, they need to make sure that it stays confidential. I think the language is too broad, in that it gives an opportunity to put it out to the public on the premise that they're investigating. It needs to be confidential, and I have a worry whether this is not giving too much discretion.

Chairman Anderson:
I guess the modern world of electronic transfer of information opens up the question of being potentially taken advantage of. The police, utilizing a modern piece of equipment, may be transmitting information over an open area. Even though they don't intend that it be captured, it is captured and subsequently broadcast in the public area. What you're concerned about is making sure the police are adequately protecting the confidentiality of people, relative to the electronic information that they gather.

Assemblyman Mabey:
I agree with Mr. Carpenter. I want the bill to go forward. I hope we can work out the few concerns that are left, because I think it is important that we support this bill and it passes.

Chairman Anderson:
If we're going to move with this piece of legislation, we need to make sure that we have clarification relative to this. I would suggest that law enforcement and the District Attorneys Association give us an opportunity to draft proposed legislation. Ms. Lang?

Risa Lang, Committee Counsel:
On the section Mr. Carpenter was concerned with, the federal law that this section was based on states that it doesn't prohibit any lawful law

enforcement, correctional, or intelligence activities without listing out the specific list of capturing, distributing, disclosing, displaying, and all those things. I don't know if that would address his concerns if we ended it there.

Chairman Anderson:
We'll get a copy of the federal statute for the next Work Session Document, so the questions can be more fully addressed. We can see then that law enforcement is not given a specific immunity that they don't already currently enjoy. This is what I believe you told us, Ms. Lang. Is that the correct interpretation?

Risa Lang:
This list gave examples, but if it worked better for the Committee, we could end it after "intelligence activity" and not go into the specifics.

Chairman Anderson:
We're adjourned [at 10:52 a.m.].

RESPECTFULLY SUBMITTED:

Carole Snider
Recording Attaché

RESPECTFULLY SUBMITTED:

Victoria Thompson
Transcribing Attaché

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE:

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 11, 2005 Time of Meeting: 8:14 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
S.B. 489	B	Kathleen Delaney, Deputy Attorney General, Bureau of Consumer Protection, Nevada Attorney General's Office	Testimony in support of S.B. 489
S.B. 28 S.B. 43 S.B. 64 S.B. 119 S.B. 198 S.B. 199 S.B. 201 S.B. 331 S.B. 337 S.B. 449	C	Allison Combs, Legislative Counsel Bureau	Work Session Document
S.B. 449	D	Sgt. David Della, Legislative Advocate, representing Peace Officers Research Association of Nevada	Proposed amendment to S.B. 449