MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-third Session
March 10, 2005

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 8 a.m. on Thursday, March 10, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Valerie Wiener
Senator Terry Care
Senator Steven Horsford

COMMITTEE MEMBERS ABSENT:

Senator Dennis Nolan (Excused)

STAFF MEMBERS PRESENT:

Nicolas Anthony, Committee Policy Analyst
Kelly Lee, Committee Counsel
Gale Maynard, Committee Secretary

OTHERS PRESENT:

Rob Buonamici, Chief Game Warden, Department of Wildlife
Fred Hass, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
Mike Ebright, Acting Deputy Chief and District 1 Administrator, Division of Parole and Probation, Department of Public Safety
Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada

David Kallas, Nevada Conference of Police and Sheriffs; Las Vegas Police Protective Association Metro, Inc.
Robert E. Romer, State of Nevada Employees Association; American Federation of State, County and Municipal Employees, Local 4041
Anne C. Leonard, Vice President, Las Vegas Police Protective Association/ Civilian Employees
Allen Lichtenstein, American Civil Liberties Union
Janine Hansen, Nevada Eagle Forum
Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State
Gary H. Wolff, Teamsters Union Local 14
Nancy J. Howard, Assistant Executive Director, Nevada League of Cities and Municipalities
Cheryl Blomstrom, Nevada Consumer Finance Association
Alan Glover, Recorder's Association of Nevada
Karen Baggett, Deputy Director, Administration, Office of Court Administrator, Nevada Supreme Court

CHAIR AMODEI:
This meeting of Senate Judiciary will come to order. I have before me a Committee Bill Draft Request (BDR) 2-522. This bill is an act relating to civil actions increasing certain fees charged in connection with a civil action in a district court; increasing certain fees that boards of county commissioners may impose for the filing of certain actions in district courts and justices' courts; providing that certain fees charged in connection with a civil action in a district court may be used to support programs for alternative methods of resolving disputes; and providing other matters properly relating thereto.

BILL DRAFT REQUEST 2-522: Makes various changes concerning fees charged in civil actions. (Later introduced as Senate Bill 177.)

SENATOR WIENER MOVED TO INTRODUCE BDR 2-522.

SENATOR CARE SECONDED THE MOTION.

CHAIR AMODEI:
Keep in mind that if the Committee decides to introduce this bill, with a unanimous vote from those present, this would not imply you support the measure or plan to vote for it in Committee or on the Senate floor. Is there any discussion on the motion to introduce BDR 2-522?

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
We will now open the hearing on Senate Bill (S.B.) 136. Department of Wildlife Personnel, please come forward, identify yourselves and proceed with your testimony.

SENATE BILL 136: Revises provisions of Interstate Compact for Jurisdiction on the Colorado River. (BDR 14-402)

ROB BUONAMICI (Chief Game Warden, Department of Wildlife):
Currently, our game wardens patrol the entire Colorado River, Lake Mead and Lake Mohave system. The language in *Nevada Revised Statute* (NRS) 171.079 states "on the body of water" is where we have concurrent jurisdiction. As it stands, this poses potential problems we would like to address and be proactive in these matters.

One potential problem is stopping a boat on the river. It is difficult with the water flow to address citations, and a boat we pull over will sometimes go ashore in Arizona. We have had instances where the individuals run and end up well into Arizona, and our officers are on land in their territory making an arrest for operating under the influence (OUI) or some other offense. We would like to clarify this issue. We have conditions on Catherine's Landing on Lake Mohave, which is the only boat ramp available at that end of the lake, and it is on the Arizona side. When our officers are making an arrest on the water or shoreline, we have to take the suspects to Catherine's Landing, dock our boats and transport them over to Laughlin. We are well into Arizona during this transport phase. If anything should go wrong during transport of the suspect, we may need to take other action, but we are in another state. We would also like to have this language clarified.

There are unavoidable events we run into when we make boat stops that appear to be minor in violation. We have had instances at Davis Camp, just below Davis Dam, where citations were being issued on the shoreline and a domestic incident broke out in the camp. Our officers were summoned to intervene and address the situation. We handle these types of situations routinely. We

contacted approximately 18,800 people on the Colorado River system last year, issued a little over 1,700 citations and over 3,400 warnings. This gives you some idea of the volume we manage, not just isolated instances.

The other issues are injuries or fatalities caused by boating accidents, if they are transported to Bullhead City in Arizona. The question as to our authority on blood draw comes into play. Therefore, amending the Interstate Compact would address these issues. Currently, Arizona's compact states 25 miles into Nevada and from our perspective, that is overkill; 5 miles is fine with us and what we are proposing. Also, since this has come out, I have been contacted by James Salo, who does not represent the Colorado River Commission of Nevada, but wanted me to convey a suggestion on a language change which is reflected in the handout (Exhibit C), Article III, subsections 1 and 3. After reviewing the bill, our deputy attorney general found out that Arizona has no cap towards claims, but Nevada does. For protection of our officers, subsection 3 was suggested.

SENATOR CARE:
Let me start with the 25 miles Arizona has legislated which does not necessarily give them that right because this is a compact. If we legislate 5 miles and Arizona says 25 miles, does this mean it is five miles for both?

MR. BUONAMICI:
This is correct. We would address the issue in a memorandum of understanding, or a local agreement, for 5 miles.

SENATOR CARE:
In the case where you pull someone over on the body of water and they head towards Arizona, is this to escape the citation or is it because the Arizona shore is closer?

MR. BUONAMICI:
The Arizona shore would be closer; water conditions would preclude going to the Nevada side and the traffic is high. It would be like trying to cross I-80.

SENATOR CARE:
Therefore, you would want to head towards the Arizona side.

MR. BUONAMICI:
Yes. It would be for the safety of the individuals we were citing and all others involved.

SENATOR CARE:
My impression of the notion of reciprocity in a high-speed chase from Nevada to Arizona is the chase can continue into Arizona, which is similar to the legislation now. I do not know if it is done by compact or statute, but evidently the language is not good enough.

MR. BUONAMICI:
To my knowledge, that falls under hot pursuit. We are addressing everyday circumstances where we are affecting lawful arrests on the water and have to transport through Arizona if we have someone run on us who committed a misdemeanor violation or if we end up arresting someone on the shoreline of Arizona, either because we had them pull in or the offender elected to land their boat.

SENATOR CARE:
The language in Exhibit C, Article III, subsection 3, is not clear. It states "law enforcement officer of the other state," and the last line states "established by the officer's own state." This presumes you live in the state in which you are employed. When you say the officer's own state, arguably this could be the state in which he lives or the state in which he works. There could be requirements where if you live in Nevada, you have to work in Nevada. The language in your proposal is ambiguous.

MR. BUONAMICI:
We can clarify the language because there are cases where an Arizona officer has lived in Laughlin.

SENATOR CARE:
If you say the officer's own state, what does that mean? Does this mean where he lives or where he works?

MR. BUONAMICI:
Officer's state of employment may be better language.

CHAIR AMODEI:
Mr. Buonamici, you are asking for concurrent jurisdiction. Does the U.S. Department of the Interior Bureau of Reclamation have law enforcement personnel on the lake also?

MR. BUONAMICI:
No, they do not. I have met with their chief of law enforcement in Washington, D.C., and they are looking into getting some personnel for this. They have some enforcement officers at Hoover Dam, but not at Davis Dam.

CHAIR AMODEI:
For all practical purposes, Arizona and Nevada are doing fish- and game-related law enforcement on the water?

MR. BUONAMICI:
Yes. It is a combination of the typical fish and game enforcement, such as checking fishing licenses and other things. We also do boating enforcement, so we are analogous to highway patrol on the water. Another way we have looked at this is if the north travel lane of I-80 was in Oregon, the south travel lane in Nevada and the medium at the State line, it would create obvious problems for any law enforcement agency if a car stopped on the Oregon side of the median as opposed to the Nevada side. It brings forth questions we felt were in the best interest of the State to address and limit liability.

CHAIR AMODEI:
Who has law enforcement jurisdiction outside of the wildlife things you look for when you get into those neighborhoods?

MR. BUONAMICI:
The Nevada Department of Wildlife has the boating end of it. Non-boating and non-fishing jurisdiction is with the Las Vegas Metropolitan Police Department (Metro) in the Laughlin area which plays a big role. They assist and backup our officers, and we have assisted them.

SENATOR CARE:
Under the proposed amendment, am I to understand that Nevada law would follow the Nevada officers as long as it is on the body of water or within five miles of the border? It is my understanding, from the way S.B. 136 is

presented, that Nevada law applies in all instances at all times as long as the Nevada officer has charge of the situation.

MR. BUONAMICI:
That is correct. We have had to apply Nevada law to cases that originate on the water, and we will not apply Nevada law if we are fueling our boat in Bullhead City and clearly observe a robbery. That would fall under Arizona law and not Nevada law. In the instances where the initial action takes place on the body of water and there is a similar law in the state of Arizona, then our law applies and vice versa.

SENATOR CARE:
Would it ever happen where the chase starts on the Nevada side, or in the middle of this body of water, and you end up in Arizona, where now there are both Nevada and Arizona officers involved? Is there a way to distinguish whether to apply Nevada law or Arizona law? Do you look to see where the incident began?

MR. BUONAMICI:
We look at where it began. An example would be if we made an OUI boat arrest and transported the suspect to Arizona, the individual escapes, steals a car and commits a hit and run. Obviously, Arizona law would take precedent on the hit and run, but Nevada would still have the charges on the OUI.

FRED HASS (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):
We are in support of this bill.

CHAIR AMODEI:
Is there anyone who wants to testify on S.B. 136, either in Las Vegas or here in Carson? Seeing there is no further testimony, we will close the hearing on S.B. 136 and open the hearing on S.B. 137.

SENATE BILL 137: Revises provisions governing parole and probation officers. (BDR 14-757)

MIKE EBRIGHT (Acting Deputy Chief and District 1 Administrator, Division of Parole and Probation, Department of Public Safety):
Senate Bill 137 is cleanup language to get us into compliance with statutes. Prior to 1999, presentencing investigation reports were prepared by parole and probation officers. These are the reports we present to the courts in order for them to pronounce sentencing on the defendant. The statute before you lists parole and probation officers performing this function. In 1999, we began a pilot project in which we had non-sworn staff perform those investigations. The project was successful, and in 2001, we were given the authority to reclassify those positions from a sworn officer to what is now known as a parole and probation specialist. We also have positions in our central office that provide supervision to the interstate compact cases that the Division of Parole and Probation has transferred out of Nevada; they also handle our warrants caseloads and perform our prerelease functions. Again, certain statutes indicate parole and probation officers perform those functions instead of civilian staff and it was something we neglected to do. A district court judge in Winnemucca bought this to our attention and stated that we were not within the law by having these non-sworn personnel perform these investigations. Therefore, the bill was drafted to change the language so we may be in compliance.

Since that time in 2001, we have reclassified 61 positions throughout the State in the area of presentencing investigations and 30 specialist positions in the central office. In a rough estimate, we have saved the State $500,000 per year due to this reclassification in salaries alone. It is also a win-win situation for our employees because we now have a position they can promote to and maintain a career with us without having to become peace officers.

SENATOR WIENER:
I noticed in section 3 of the cleanup language where the amendment to NRS 213.1075 refers to all information obtained by "a parole and probation officer" was changed to "an employee." Did something prompt that, or did something happen, where you felt you needed a broader net for protection of information?

MR. EBRIGHT:
What prompted this bill was the judge's report to us and the need to clean up the language in section 1. When we saw the need to change the wording from "parole and probation officer" to "Division" in section 1, we went through the other statutes to see where the term parole and probation officer was used that

no longer applied to what we were doing. We have specialists who perform the supervisory functions who are not sworn staff. With the information they receive and the work they do, we want them to fall into the same criteria we have with the officers.

SENATOR WIENER:
Again, the intent would be the receptionist, the intern or anyone who walks through the door as an employee. This is how I understand it. Am I correct?

MR. EBRIGHT:
Yes, this is correct. All information we obtain is confidential regardless if you are an officer or support staff.

SENATOR WIENER:
Were the people in the office aware they were handling sensitive information and should not share this information outside the office prior to legal mandate?

MR. EBRIGHT:
Yes. Our policies indicate all information obtained during the course of an employ is confidential, and training has been provided to all staff when hired under the confidentiality rules.

SENATOR CARE:
I read the legislation the same as Senator Wiener. Would you agree there is no reason for some personnel to access sensitive information? A receptionist might be an example.

MR. EBRIGHT:
In performance of their duties, some personnel may hold positions that have no reason to obtain some information, but in the course of doing day-to-day work, information goes across desks on several levels. Although a receptionist may not have active access to the files, they work in the office and the files are exposed.

SENATOR CARE:
Is the information treated as privileged information in the office? You spoke of information coming across desks, as opposed to being left on a desk.

MR. EBRIGHT:
It is treated as confidential and privileged information. We maintain file cabinets and we try to keep those documents secure. Most of the information we have on our offenders is held within our system electronically, and passwords are needed to access certain information. However, all of our personnel have passwords and can access portions of information. Even though it may not be their job to work on a particular case, or access information about that case, they do have the capability. We maintain control over what people are viewing.

SENATOR CARE:
They have the ability, but are they cautioned not to access information unless by instruction?

MR. EBRIGHT:
Yes they are. This is part of the training we provide. The privilege has been misused, and when this happens, disciplinary action is taken.

SENATOR HORSFORD:
This is unrelated to the bill. You were here before and spoke of the number of new positions about to be created and the difficulty in recruiting. What is the requirement for parole and probation officers? Is there some prior experience needed in order to qualify?

MR. EBRIGHT:
In simple terms, parole and probation officers are required to have a four-year bachelor's degree in either criminal justice, social work, psychology or one of those related fields, or a combination of education and experience. We can look at people who have a two-year associate's degree in the aforementioned areas plus two years serving in either any law enforcement field or as a caseworker at a prison, a counselor in a drug treatment program or in similar employment or experience dealing with offenders. We also have a provision where we allow a person with a high school diploma and a minimum of four years with that type of experience to qualify as a parole and probation officer.

SENATOR HORSFORD:
If you have a four-year degree, there is no direct requirement to have experience working with the ex-offender population.

MR. EBRIGHT:
We recruit and hire students from college who have just obtained their bachelor's degrees.

CHAIR AMODEI:
If there is no further testimony on S.B. 137, we will close the hearing. What is the pleasure of the committee on S.B. 137?

SENATOR CARE MOVED TO DO PASS S.B. 137.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS McGINNESS AND NOLAN WERE ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
We will open the hearing on S.B. 150.

SENATE BILL 150: Prohibits false or fraudulent complaint against public officer or employee. (BDR 23-1168)

RONALD P. DREHER (Government Affairs Director, Peace Officers Research Association of Nevada):
We represent over 32 law enforcement associations and professional peace officers in the State. I am here to urge your support of S.B. 150. I have a prepared statement for the Committee's review (Exhibit D).

CHAIR AMODEI:
Are there any questions for Mr. Dreher?

SENATOR CARE:
The bill is written in conformity with the case you cited, and it goes to public officers. Looking at NRS 281, I am not sure if it would include what goes beyond the realm of police. It might include me as a Legislator. Let us go to a case where an interview is on videotape and the criminal defendant files a complaint saying an officer jumped him during an interrogation for no reason and knocked out the defendant's two front teeth; the problem is he still has his

teeth. It is obvious there is no truth to the story and no thorough investigation. Testimony from previous sessions is that these types of investigations are costly and time-consuming, and in some cases, the same person makes false allegations. At some point, does law enforcement have some discretion to see these claims are without merit and not bother to investigate, opposed to the need to look into the matter?

MR. DREHER:
There is discretion. However, it has been my experience, being involved with internal affairs of law enforcement, the agencies do investigate all complaints including the example you just cited. They want to be able to show an investigation was conducted and the investigation revealed the charges were false. It is done so everyone knows we are doing our job and a citizen has the right to complain. This legislation, hopefully, would deter the instance of someone saying "my teeth are missing," although it is clear they still have them.

DAVID KALLAS (Nevada Conference of Police and Sheriffs; Las Vegas Police Protective Association Metro, Inc.):
I understand the example Senator Care made, but this goes beyond what Mr. Dreher said. We have a duty and responsibility to investigate all allegations, regardless of the nature. Certainly, in this day of liability and civil suits, the departments are aware that if they do not conduct at least a preliminary investigation to moralize their findings, someone can accuse them of hiding something. With the advent of the citizens' review board, there is also the opportunity for the individual to appeal the department's findings for the lack of an investigation. Regardless of how absurd the allegation, the department has to expend some sort of manpower to avoid placing themselves in a position of liability.

This legislation, and why it has been expanded to all public officers, is an issue of integrity. I have been molded into dealing with facts, and the one most important characteristic any public official has is their integrity. If an individual is given an opportunity to compromise or impugn the integrity despite the allegations, that action has the ability to render us ineffective. We are not talking about perceptual issues as Mr. Dreher has spoken about, but the serious allegations.

I have a stack of papers from Metro's Internal Affairs Section in which a lot of man-hours have been expended. One example is of a man who came to Internal

Affairs and accused two officers of stealing $4,700 from him at a minimart in Las Vegas. This is a serious theft allegation. Internal Affairs conducted an investigation by taking the complaint and gathering information by talking to individuals at the minimart. The complainant was seen in a vehicle in the parking lot, but no one recalled seeing any officers with him. As the investigation continued, the complainant was again questioned, and under further questioning, the complainant admitted he had lost the $4,700 gambling and thought if he said a couple of police officers had taken it, he might find a way to get the money back without making excuses to his family. This is just one example of many that include sexual assault and other misconducts.

This is not a perceptual matter where someone criticizes the Legislature for not taking or seeking the appropriate remedy for a tax issue that could end them up in incarceration. This is not about disagreements with individuals or public officials; this is about serious allegations that are compromising and can make you ineffective. If anyone had accused a member of the Legislature of a serious allegation, sexual harassment, theft or anything else, this would make the newspapers. Regardless of the foundation of such allegations, or even if somewhere down the line it can be proven false, it will have an impact on your ability to be reelected. If an officer is accused of a false allegation, even after being exonerated, the information is going to be used against him, either in a court of law or within the department where it is going to be tough to gain mobility. Every time a supervisor opens up a personnel file, they are going to see that a complaint was filed for theft, misconduct or sexual assault. A supervisor will consider whether he or she wants an officer with some allegations or an individual who has no allegations logged.

It creates a hardship for me or any other public officer. With this in mind, I urge the committee to support S.B. 150 and make it a misdemeanor to knowingly file a false complaint or allegation of misconduct against a public officer in the course or scope of their employment.

SENATOR WASHINGTON:
Would this include false allegations that are filed for domestic violence? This has an impact on officers who carry a firearm. What impact would this have?

MR. KALLAS:
An allegation of any type of criminal activity would have an impact. If it is proven false, the officer is not going to lose his or her job; rather, it is going to

have an impact on that officer during the course of that career when a supervisor looks at the file or if he or she wants to be promoted. But if it is proven true, the officer may lose his or her job because he or she would lose the right to carry a weapon. Also, I do not think it would have any standing in regard to the bill we are trying to pass.

CHAIR AMODEI:
For the purposes of the last question, the Legislative Counsel's Digest says "for conduct in the course and scope of the peace officer's employment. I am assuming in the case of domestic violence, it would not be in the course and scope pursuant to the language in this bill.

SENATOR CARE:
The way the bill is drafted, I do not understand "a person who knowingly files," and it does not say where it is filed. I do not know if this means filing a false report within the agency itself, or a lawsuit that has no merit. This could mean if a person knowingly files a false report with the Commission on Ethics. This is the way I read this. When we talk about filing a report, what does this mean to you as far as where and what kind of a report?

MR. KALLAS:
I am not sure what the avenue would be for someone to file a complaint against a Legislator or any other public officer. If someone was to file a civil suit, you would have recourse through the courts, and if the suit was baseless, you could ask for attorney's fees and reprimands. In law enforcement, the oversight committee is the internal affairs division. In this case, we are talking about an individual who comes to a body that has oversight of the individual on which the complaint is logged, and that this complaint is filed internally and the complaint is knowingly false. The intention of the bill is for internal matters.

ROBERT E. ROMER (State of Nevada Employees Association; American Federation of State, County and Municipal Employees, Local 4041):
We are speaking in favor of this bill and encourage the Committee to pass this legislation.

ANNE C. LEONARD (Vice President, Las Vegas Police Protective Association/ Civilian Employees):
Our association represents over 1,400 employees including 91 different classifications. Some of these classifications include crime scene analysts,

abuse and neglect detective specialists, 911 dispatch specialists and public service representatives. In the course of performing their duties, some of these civilian employees have had false complaints made against them. We urge you to support the passage of S.B. 150 on behalf of all public employees.

SENATOR CARE:
I understand where, for whatever reasons, a criminal defendant has a grudge and files a report. But you are with the civilian employees; who are not wearing uniforms, is this correct?

MS. LEONARD:
We have our abuse and neglect specialists who are plain-clothed, but perform investigations; arrests are made based on these investigations.

SENATOR CARE:
When someone files a report against one of your 1,400 employees, where is that report filed? It would not be the Internal Affairs Section, would it?

MS. LEONARD:
It would go through Internal Affairs, as it does for our commissioned police officers.

SENATOR CARE:
The same people who would investigate a complaint against a uniformed officer would be the same to investigate a complaint against a civilian employee, is this correct?

MS. LEONARD:
Yes, this is correct.

CHAIR AMODEI:
Are there any other questions? For purposes of our records, I have an e-mail submitted by Mr. Michael Neville supporting S.B. 150 on behalf of the Washoe County District Attorney Investigators' Association (Exhibit E).

ALLEN LICHTENSTEIN (American Civil Liberties Union):
This bill comes out of the ruling by the federal courts in the Eakins case, *Eakins v. Nevada*, 219 F.Supp. 2d 1113 (2002), which struck down the

previous version of this bill and made it a misdemeanor to file a false complaint against a police officer.

The court ruling was based on several grounds, not simply for police officers versus any other public official. Part of the reason it was struck down was due to the vagueness. Senator Care asked earlier what it meant to file a false and fraudulent complaint.

There is no definition here. This applies to every public officer and public employee. What does it mean to file? Does it mean to write a letter to a Senator or an Assembly member saying a lie was told? Does it mean filing a complaint against the janitor? The vagueness is in terms of what it means to file a complaint. Maybe some agencies have formal processes. This bill does not specify that. Can it be interpreted to apply to newspapers?

The only specification is that it must be written. Other than that, it is left wide open, and based on vagueness alone, this bill will not carry. We have had several cases at the American Civil Liberties Union (ACLU) with laws that tend to insulate public officials, politicians and candidates. Carving out special protections for those in government has been rejected. In a Supreme Court case from about ten years ago, a report said "libel is prescribable, but not libel just against public officials." This is what you have here. Everyone, either in public life or in private life, has concerns about his or her reputation.

One of the ways people deal with this is through laws against depredation. Anyone who feels they have been slandered or libeled has the right to file suit. What we do not have is any specific justification why people who are public officials or public employees need special protection, or why, somehow, their reputations are any more important than mine or anyone else's in the State.

What we have is a reason not to have this legislation. There is a long-standing belief that criticism of public officials is part of our system that is an important check and balance on the government. The language says false and fraudulent, it does not say it has to be material. Just as someone who files a complaint, but has certain facts wrong, such as the incident took place at 10 rather than 11:45, this particular bill does not make any distinction, just false and fraudulent.

The language also says "knowingly files." It does not say knowingly false, it says "knowingly files." In terms of the language, by using the word knowing, you have to simply know when to file, although filing is not defined.

There is no doubt if this bill is passed with the current language, there will be another lawsuit, and based on the previous case, the result will be the same. This bill will be declared unconstitutional in terms of its vagueness and in terms of its carving out a special protection for people in government that is unjustified.

SENATOR CARE:
In the Eakins case, the statute could not stand because it was content-based and it went to police officers. Why did the court not go further and discuss simply filing a false complaint as we have here, stating all public officers or employees? This was not the question before the court, and you are talking about a second suit, but it seems to me the court could have at least discussed some of these matters in that case.

MR. LICHTENSTEIN:
I do not disagree and would have been happy if the discussion went further to preclude this kind of thing. I do not know what the thinking was of the judge other than the fact the preceding law did not involve anything other than police officers. The court, being conservative, dealt with the question before it. As other questions come about, the courts deal with them, and that is the purpose of judicial review.

SENATOR CARE:
The sense I am getting, at least among law enforcement, is the opinion is narrow and could be read as an invitation to try again with a separate statute that does precisely what is sought in the language before us.

JANINE HANSEN (Nevada Eagle Forum):
A Supreme Court Justice once said, "It is not the function of our Government to keep the citizen from falling into error, it is the function of the citizen to keep the Government from falling into error." I think we get this turned around. The purpose of the *Constitution of the United States of America* and Nevada's Constitution was to limit the powers of government. The Bill of Rights and our own Article 1 limit the government and protect our individual rights. We lose perspective of this when we think government can solve all of our problems.

The language in S.B. 150 has a broad brush. As I have listened today, it appears to cover you and most other government employees and public officials. It is already intimidating to become engaged in criticizing those who are elected. I was interested to hear about the difficulty suffered when false allegations were made against particular officers. I have been in the public eye for over 30 years; you cannot imagine the number of false allegations that have been leveled at me. Many have impugned my morality and integrity. I did not have a lot of remedies except to go to court, and because I continued to try to be a person with integrity, those have fallen by the wayside.

We can seek to control speech too much and this bill would have a chilling effect. It took my brother, who is a paralegal, six weeks to find out how he could file a complaint against a highway patrol officer. It is difficult when you look at an individual citizen coming up against the government, and because it is our duty to keep the government from falling into error, it is important that we do these things. I am not in favor of filing false or fraudulent complaints and have just as much concern about abuse on their part as I do with the people abusing them.

False claims do not only happen to people in government they also happen to individuals. I have had false claims on a traffic ticket by a police officer. I have been arrested, thrown into jail, served seven hours for petitioning and all charges were subsequently thrown out of court. I am not here for my personal issues. I am sincerely concerned that this will have a chilling effect; as Mr. Lichtenstein has stated, the language is vague and broad. These are issues that can invalidate a law when people do not know how this is going to affect them. Although the objective of this bill may be good, ultimately, our own Nevada Constitution says no law shall be passed to interfere with free speech. It also says every citizen may speak freely, write and publish his or her sentiments on all subjects being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech.

We are responsible when we abuse the right to free speech. There are laws against perjury, which is almost never enforced either against public officers, government employees or against individuals. Perhaps, this is a sign the integrity of our whole society is lacking. I am concerned that this legislation is far too broad. It will create problems and there will be more lawsuits and complaints filed. Instead of protecting the citizens from the power of government, the citizen who has very little power will be imposed upon. The

balance is out of balance, and I encourage you to carefully consider the broadness of the bill.

SENATOR CARE:
What do you say if an officer is exonerated after receiving complaints against him, but in the supervisor's mind these infractions will always be there? Mr. Kallas was expressing that this could end a career, even though this may only be known within the department.

MS. HANSEN:
It is impossible to control all the negative things that happen when people lie. It happens every day, and I have had to deal with false public allegations on the radio and in the newspapers. This may have affected the fact I did not get a particular job, or I did not get the donation needed to run my organization or the volunteers I might have recruited. I am sorry this may have happened, but it is impossible to legislate fairness in the mind of an individual. The supervisor in charge of that police officer may have an unfounded prejudice against that officer, and this is an unfortunate circumstance, but government cannot protect us from life. When we have a free country and people who have the ability to make decisions, some decisions are going to be made that are not as good as others. That is the way it is. Freedom implies a certain amount of responsibility and an amount of buffeting we might take by entering into a free country where we have freedom of speech and people make free decisions. Even if we work for the government, we cannot look to the government to protect us from every ill effect.

I am concerned about more administrative procedures which violate the right to trial by jury when someone is accused. This legislation does not just speak to the issue of free speech, it also speaks to the issue of how you are going to resolve this. If you go to court and have the right to trial by jury, you may be exonerated. But as it is now, people who run for office cannot be exonerated if there is an ethics complaint by exercising trial by jury, because it is not an option. It could be that more of our individual rights are violated.

SENATOR CARE:
You mentioned something about someone running for office. The way the bill is drafted, if a candidate challenging an incumbent files a false report, he is subject to a misdemeanor. However, if the incumbent says something false about the challenger, this is not covered. There is a discrepancy in this bill,

because it only applies if you say it to the person who is already elected, but not to the person who is trying to get elected.

MS. HANSEN:
It is not an equal enforcement under the law. It should not be there at all. In terms of running for office, whether you are the challenger or incumbent, free speech is the best remedy for free speech. This does not impact the police specifically, but this does not speak to the police. This speaks to all government officials and all public employees. If I am criticizing someone from the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) because I feel they have unfairly incriminated me, what happens to me?

There are a lot of administrative proceedings in which individual people are burdened in trying to fight government. My brother spent $50,000 to fight OSHA for a fine of over $800. In the end, OSHA agreed that if he would drop his suit, they would drop theirs. He did this because he ran out of money. Often, citizens are burdened trying to defend themselves. This is a burden on individuals who cannot spend time in jail and be fined only because they thought what they said was true, and it turns out in an administrative hearing that what they said was false. Not having the right to trial by jury, they may be falsely accused themselves. I do not know all the ramifications, but that is the problem with this, and we cannot be putting individual citizens on the spot when they criticize government.

Some people would use this wrongly, and there are people who do this all the time. We cannot stop them or prohibit them in advance. Perhaps, we should use the remedies already available for perjury and depredation of character.

RENEE PARKER (Chief Deputy Secretary of State, Office of the Secretary of State):
Senator Care and Mr. Lichtenstein addressed most of my issues. During the last election cycle, I was on the other side of the table with Mr. Lichtenstein, and now we are on the same side. We do not oppose the concept of this bill. We understand what the peace officers are doing and we had no opposition to the statute adopted last Session. The concern is the broad brush and the discrepancy. If you make a filing in our office under this bill, a candidate can file against an incumbent, but an incumbent cannot file against a candidate. About 50 to 80 percent of our election complaints would be considered misdemeanors under this statute the way it is written.

Stacy M. Jennings, Executive Director, Commission on Ethics, asked me to put on the record that many of her complaints would fall into this category as well. If Mr. Kallas's testimony was that this was not their intention, and if you define false or fraudulent in a manner that did not refer to those complaints, we would be fine with this. It is not the intent, but it will capture a lot of our complaints. You have situations where a citizen files a complaint having one or two facts that are false, but the concept is correct. We may find the complaint may not warrant merit to proceed with a civil penalty, but under this statute, we would have to refer it to the Attorney General as a misdemeanor.

Because of the Eakins case, I do not know the best answer. I think it is the definition. If you said it did not cover elections or ethics complaints, you would be back in court with the same type of content-based decision. I do not know the best answer other than to define false or fraudulent in a manner which, as Mr. Kallas has suggested, goes along with intent. Under chapter 239 of NRS, the public record statute, there is a provision that makes it a Category C felony to file false or fraudulent information in a public office, not against a public officer. There is another avenue to capture the complaints filed in our office that are false against candidates or elected officials. We have referred under NRS 239, and it covers most of our complaints.

CHAIR AMODEI:
If there is anyone else who wants to testify on S.B. 150, please come forward. Our record will reflect, based on Ms. Parker's testimony, the Ethics Commission has weighed in along with the Secretary of State, the Nevada Eagle Forum and the American Civil Liberties Union. They are in tight formation on the issue.

GARY H. WOLFF (Teamsters Union Local 14):
There has been testimony saying this legislation is broad-brushed. I am confused. It says a person who knowingly files a false or fraudulent complaint. What does this have to do with somebody who makes a mistake? This bill does not say if you criticize the actions of someone. I was involved with highway patrol for many years, and we had a lot of criticism of our department. I like the way people play with these things; they have fun with it. This bill is about people who tell bald-faced lies, and whatever they want to paint on this is wide-open.

About 15 years ago, I was subject to an Internal Affairs investigation because a nurse stated a mistruth. I was taken off the road and put on administrative

duty. Two years after the accusation, she found Jesus and wrote a letter of confession that she had, in fact, lied. When you are a public officer, you are very narrowed into who you can sue for depredation. If you are running for office and a private citizen says something negative, you can sue the person for depredation. It is very difficult as a public officer to sue someone for depredation or making false accusations against you. This bill is not broad-brushed; it is narrowly defined. It says if you walk into a police station or any public office, sit down and write a written statement, knowing the statement you are making is a lie, you will be guilty of a misdemeanor. Then they will come in and say people do not know the difference between a lie and the truth. This is bogus. Everyone sitting in this room knows if they are lying about someone. This is not about a criticism or something subjective, this is about lying.

NANCY J. HOWARD (Assistant Executive Director, Nevada League of Cities and Municipalities):
I do not have a position one way or another on this bill, but I need to get a comment onto the record. According to the Ethics Commission, 85 percent of complaints filed against public officials are frivolous and subsequently dismissed. Local government funds the majority of the budget for the Ethics Commission. When they bill us, they also bill us for those complaints that have been thrown out. I am not sure if it is the desire of this Committee to work with these issues more, but we would like to work with the Committee in finding a way to address the problem.

MR. KALLAS:
I recognize the concern expressed by the Chief Deputy Secretary of State, and I would be willing to work with their office to ensure this does not impact them or anyone's ability to exercise their freedom of speech. This bill is not about criticisms as Mr. Wolff expressed. In more simple terms, it is about people coming in and creating a burden on public officers by making bald-faced lies. As stated earlier in my testimony, I have been molded to deal with facts. The facts are that S.B. 150 will not tell us what it will or will not do to any one individual, but the statistics from Metro show 89 percent of the complaints investigated are without merit. This does not mean some allegations have no basis of truth, but 89 percent of their time is used following up on complaints that are not sustainable.

There may be a certain percentage of these complaints that are valid, but because it could not be proved or disproved, they had to show not taking action against the officer. This being the case, our investigators spend 50 to 60 percent of their time looking into baseless allegations.

If it would please the Committee, in order to get a better understanding as to what would happen to someone charged under this statute, I will be willing to make an amendment to the bill in its existing fashion, along with the Chief Deputy Secretary of State's concern, and put a sunset clause on this to expire in June 2009. This will give us time to gather information to show what effect this has had on the public's ability to come in and file complaints against public officers. Also, at that time, we will be better suited to review the information and make a definitive decision on whether the legislation has or has not had an effect.

MR. DREHER:
Some statements were brought up about why we need a special protection. You have heard testimony as to why. This bill is not intended to stop criticism or freedom of speech; it is intended to stop false and malicious reports against us. In the Eakins decision, the court stated this should not be just applied to law enforcement, but to other public officials, otherwise it is not going to fly. This is the purpose of this bill. It is a starting point, and again, anything can be constitutionally challenged. Anytime we make an arrest or someone does this, they can go and take it to the courts like they did once before.

Ironically, a similar piece of legislation has survived constitutional challenges in the Supreme Court of California. It contradicts the Nevada law in the way it was done. We are asking for a chance and listened to the Chief Deputy Secretary of State mention that NRS 239 already has provisions against lying. You also heard testimony from Ms. Hansen stating that if you commit perjury, it is a felony. That seems severe. There is another solution in the perjury statutes which puts an admonition that basically says, what I am putting here in writing is to tell the truth, the whole truth and nothing but the truth. This statement is already there for perjury. Our intent with this bill is to have a false or fraudulent complaint as a misdemeanor, a starting point to say stop lying maliciously, and if you do, this is what will happen. This is the consequence of a false statement. We do not believe this bill is vague like others have testified; it says false, knowingly false.

CHAIR AMODEI:
Unless there are more people on the Committee who do not want to proceed with S.B. 150, I would like to give Mr. Lichtenstein the chance to participate, although no proposed solutions were mentioned in his testimony. His testimony is well taken in reference to the vagueness factors. There should be language that ties the filing to personnel. You probably have to get rid of the language dealing with elected personnel, for the reasons already attested.

I will request Senator Care work with Committee Counsel and those who testified on both sides today to come up with an amendment that alleviates the vagueness issues and addresses some of the issues regarding elected officials. I would also like them to take a look at how this coincides with other existing laws and come back to the Committee with a recommendation. Is there an objection by the Committee members present to doing this? Seeing no objection, we will close the hearing on S.B. 150 and open the work session.

I have BDR 23-938 for Committee introduction which is an act relating to peace officers requiring the Director of the Department of Personnel to calculate the average salaries of certain law enforcement personnel, requiring the Director of the Department of Public Safety to include in the proposed budget of the Department the salaries for peace officers based on those calculations, making appropriations to increase the salaries of such officers and providing other matters properly relating thereto.

BILL DRAFT REQUEST 23-938: Provides formula to calculate salaries of officers of certain law enforcement officers employed by the state. (Later introduced as Senate Bill 179.)

If we introduce this, it will be referred to the Senate Committee on Finance. Is there a motion to introduce?

SENATOR CARE MOVED TO INTRODUCE BDR 23-938.

SENATOR McGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
Finally, we have BDR R-743 commending Dean Richard Morgan and the William S. Boyd School of Law for the success of the law school at the University of Nevada, Las Vegas, and their contributions to the betterment of the State of Nevada.

BILL DRAFT REQUEST R-743: Commends Dean Richard Morgan and the William S. Boyd School of Law for the success of the law school and contributions to the betterment of the state. (Later introduced as Senate Concurrent Resolution.

Is there a move to introduce?

SENATOR WASHINGTON MOVED TO INTRODUCE BDR R-743.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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On the work session docket, the first bill up is S.B. 28.

SENATE BILL 28: Creates crimes of video voyeurism and distribution of product of video voyeurism. (BDR 15-8)

We have had some ACLU concerns on this bill. Senator Care, you also had some concerns. Do you have any comments?

SENATOR CARE:
Under the proposed amendments on page 2 of the Work Session Document (Exhibit F, original is on file at the Research Library), it captures the language. I realize technology has changed and people can do a lot with these hand-held cell phone cameras. The language on page 2 is more conceptual, and we have to be careful. I recognize things can be done now that could not have been done ten years ago. Clearly, it would constitute an invasion of privacy, ironically, even in a public place.

CHAIR AMODEI:
The two paragraphs under the proposed amendments are the ones you just spoke of?

SENATOR CARE:
This is correct. As to the second paragraph, I do not think there will be any objections. As I had pointed out at the hearing of the bill, any tape, photograph or any other type of image at a trial will have to be introduced. I am saying that only the jury, counsel and the judge would have access to the image and it would be sealed and not available for public record. The language above on page 2 is a little vague. The way the bill was originally drafted, there was no reference to particular body parts or states of undress; the attempt here is to come up with a solution to address these issues.

CHAIR AMODEI:
What would you like to do?

SENATOR CARE:
I should sit down with counsel and craft specific language.

CHAIR AMODEI:
Are there any other thoughts from the Committee on S.B. 28? After communicating with the sponsor of the bill, I understand she had spoken with Senator Care, felt good about the concerns and was not opposed to an amendment to the bill in accordance with Senator Care's decisions.

SENATOR MCGINNESS:
Senator Care is heading in the right direction, and his concerns have merit along with those of the ACLU. The last bullet point on page 2 offers an exception for attorneys to circulate the photos; this would prevent the entire courtroom from becoming a gallery for these pictures. Is it possible to give staff general direction? I do not know if Senator Care has time to draft amendments, but can we give general direction and have the bill returned to Committee with amendments for us to reconsider?

CHAIR AMODEI:
Is there any objection to allowing Senator Care and the Committee Counsel to come forward with some specific language? Seeing no objection, the next bill on our agenda is S.B. 41.

SENATE BILL 41: Revises provisions governing priority of certain liens. (BDR 9-133)

We have already amended and recommended do pass on this bill for purposes of the dollar amount, but others have come forward after the meeting and there have been proposed amendments regarding notice. If the Committee wants to change the number or add language regarding notice, then we need to reconsider. What is the pleasure of the Committee?

SENATOR WASHINGTON:
I spoke with Cheryl Blomstrom regarding her amendment and we have come to an agreement. Instead of putting a timeline, dates or days on the bill, we have decided to amend from $3,000 to $2,500.

CHERYL BLOMSTROM (Nevada Consumer Finance Association):
With the Committee's indulgence, and by your reconsidering this issue, I would like to withdraw my amendment, Exhibit F Tab B. I hear from my association that there is a problem with notification. What I have suggested to them is that we work over the next two years with the Transportation Services Authority (TSA). I will prepare a how-to-do-it document for them with how to get to the TSA and how to file a complaint. I suspect that if this situation continues, the TSA will come back and ask the Legislature for help as well, possibly during the 2007 Session. In the meantime, I concur with Senator Washington's recommendation.

CHAIR AMODEI:
With this in mind, we are looking at bringing the bill back to Committee, reconsidering the previous action and changing $3,000 to $2,500. I believe the previous action on the bill was unanimous; therefore, everyone present voted on the prevailing side. Is there anyone who wants to make a motion to reconsider?

SENATOR WASHINGTON MOVED TO RECONSIDER THE ACTION WHEREBY S.B. 41 WAS AMENDED AND DO PASSED.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
Is there a motion for action on S.B. 41?

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 41 BY CHANGING THE AMOUNT FROM $2,000 TO $2,500 ON PAGE 1, LINE 9, AND PAGE 2, LINE 1.

CHAIR AMODEI:
There is also a reference, when you look at page 2, line 2, of $2,000, which was not changed in the original amendment. Is this number going to change?

MS. BLOMSTROM:
Mr. Joseph Guild offered you testimony in the initial hearing of this bill that there will be a bill coming from the Assembly through Ms. Buckley, and they are looking at $5,000 for manufactured housing. It is a separate issue from the one we are trying to resolve.

CHAIR AMODEI:
Okay, Senator Washington's motion is to amend Senate Bill 41 to change the $2,000 figure on line 9 of page 1 and line l of page 2 to $2,500. Is there a second?

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
The Committee will now move on to S.B. 64.

SENATE BILL 64: Clarifies that owner of interest in real property may convey his interest to grantee in deed which becomes effective upon death of owner as sole separate property of grantee without necessity of filing of quitclaim deed or disclaimer by spouse of grantee. (BDR 10-539)

ALAN GLOVER (Recorder's Association of Nevada):
The meeting I had with the association went very well. There was no opposition to any of the amendments, and the language works for the county recorders and the land title industry for the consumer.

CHAIR AMODEI:
Mr. Anthony, I suspect the amendment for this bill is at Tab C of Exhibit F. What is the pleasure of the Committee on S.B. 64?

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 64.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
The next bill up on the docket is S.B. 75 which authorizes the use of audiovisual technology.

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

SENATOR MCGINNESS:
I realize there were some concerns about this bill. I call your attention to the top of page 3 of the bill, where it states, "if the person resides more than 50 miles from the nearest location ... ." We could increase this to 100 or 150 miles, and

on the second line of the same amendment says, "the court may allow the person …" We are giving those rural judges and the presiding judicial districts an option. The judicial districts which cover Eureka, Lincoln and White Pine Counties have some mileage concerns. The judges have told us that we take away their discretion; this may give it back to them, and also recognize the unique situation in rural Nevada. I would move that we do pass.

SENATOR McGINNESS MOVED TO DO PASS S.B. 75.

SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR AMODEI:
In Tab D of Exhibit F, I had requested staff to solicit specific input relating to domestic violence. I received a note from Paula Burgan who provided the information and was not able to make the hearing. The end of the second paragraph of the first page, dated March 3, 2005, sums up the position of this Committee where it states that "Inappropriate intervention is worse than none at all." It is clear that their position is to do nothing at all. How does the Committee feel on the mileage issue? Shall we change it or not? We currently have a motion to do pass. Is there any discussion?

SENATOR MCGINNESS:
Regarding the mileage issue, there are serious complications in rural Nevada. If there is to be a change in mileage, we should not go beyond 100 miles. The bill, as it stands, gives the judges some discretion.

I have some concerns. If you look at the first page of the letter dated March 3, 2005, in Tab D of Exhibit F, the last sentence states "If I can make a daily round trip for school, surely someone who has been convicted of a crime can make that type of trip once a week for court ordered intervention." The letter basically told us to pound sand, and they are not going to recognize the unique situations in rural Nevada. When you are looking at someone who has been convicted of driving under the influence and does not have a license, you are asking them to make a six-hour roundtrip once a week. That does not show much understanding of the problem.

SENATOR WASHINGTON:
I would concur with Senator McGinness after hearing the testimony this past summer from the judges who have to render sentences. They are sincere in their efforts and want to do something. I take offense to this statement as well. At least an effort is being made to get some help to these individuals, and with the increased use of technology, this seems a viable option. The Committee on Domestic Violence seems a little out of step with the needs and concerns of justices in rural Nevada.

SENATOR CARE:
I too am sensitive, but I would point out two things. First, counseling is not intended to be punitive, it is to be constructive. Secondly, I believe Judge Michael R. Griffin was stating that under current law, not as many people make it to counseling of any kind as they would under the proposed S.B. 75. I will be supporting the motion.

CHAIR AMODEI:
Ms. Lee, at the top of page 4, line 1 of S.B. 75, where it says "Audiovisual technology includes, without limitation, closed-circuit video and videoconferencing," it now says, must include audio and video. Is this the same language?

KELLY LEE (Committee Counsel):
The basic definition of audiovisual includes both audio and visual.

CHAIR AMODEI:
Is there any other discussion on the motion?

SENATOR HORSFORD:
Out of respect to the Senators from the rural districts, I understand the position they are in and the work done during the interim and on those committees. Based on the testimony we have received and the correspondence forwarded to this Committee, there is evidence which supports professional counselors questioning the effectiveness of audiovisual counseling. While the rurals have legitimate concerns, the larger question is: Are we adequately funding or providing the resources to those communities to do what the law is requiring them to do? This is the real issue, and this is where we need to focus our attention. There are more questions. Is there a fiscal note? Where is the audiovisual conferencing going to take place? There is a cost for this. Who will

be paying the cost? Again, there are more questions than answers, and for those reasons, I will be voting against the motion.

CHAIR AMODEI:
I had requested Committee staff to check into the interplay of where this amendment would go into the statutes and the ones created by the Committee on Domestic Violence. Committee counsel has provided me with a copy of NRS 228.470, which indicates the Committee shall adopt regulations for the evaluation, certification and monitoring of programs for the treatment of persons who commit domestic violence, and also review, monitor and certify programs for the treatment of persons who commit domestic violence.

What this means is if this bill ultimately passes both Houses and becomes law, the Committee will have full input, in a regulatory sense, in terms of adopting regulations, certifying programs and similar administrative tasks associated with the bill. The Legislature, while performing its legislative affairs, also has the ability to provide the tools necessary which give judges discretion in this context, based on geography, to use other methods for achieving counsel.

Is there any other discussion on this motion?

> THE MOTION CARRIED. (SENATORS WIENER AND HORSFORD VOTED NO. SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
We will now move on to S.B. 77. Mr. Anthony, do you want to go through this?

SENATE BILL 77: Revises provisions pertaining to counseling required for person convicted of battery which constitutes domestic violence. (BDR 15-185)

NICOLAS ANTHONY (Committee Policy Analyst):
Basically, this bill rose out of the interim study on criminal justice in rural Nevada. It changes the mandatory six hours of monthly counseling. At this time, the mandate is 1.5 hours per week, and this would eliminate the requirement of weekly sessions of counseling. At the Committee's request, we received information from Rebecca Thomas, Committee Chair, Committee on Domestic Violence. In her correspondence from Tab E in Exhibit F, you will note

that her research experience indicates most practical application occurs between sessions. In her opinion, a weekly session is more beneficial than six hours once a month. She also advocates three policy alternatives. They are not really amendments, those suggestions were for both S.B. 75 and S.B. 77. It is for the Committee to consider using some other rural sites developing a mental health clinic in Battle Mountain and using transitional housing.

CHAIR AMODEI:
In view of Senator Horsford's concerns, nothing in this bill prohibits the development in these areas of those providers requesting resources for something like this. An excellent example would be where the concerns expressed to the interim committee become moot, because there is treatment available. I have no appetite to solicit the financial committee, and hope it will take care of itself over time.

SENATOR MCGINNESS:
As pointed out, this bill gives the judges flexibility. We are not saying it will be a one-time-per-month event. If the judge determines the person needs counseling once per week or twice per month at three hours each, then they can do this. This bill just recognized the unique situations facing rural Nevada.

CHAIR AMODEI:
Are there any other preliminary discussions concerning S.B. 77?

SENATOR WIENER:
Although I did not comment on S.B. 75, a lot of what I will be basing my vote on will be the work I have done in communication. If indeed S.B. 75 were to pass, making easier access to video counseling sessions, I would be even more concerned about S.B. 77 reducing the number of sessions and consolidating weekly sessions into a longer monthly session. Anything I have researched on the effect of communication and behavior change indicates that the frequency over a period of time, or a stable access, rather than a consolidated access with less frequency would have a greater impact on behavior change. We are making it easier for access through S.B. 75; I would have difficulty supporting S.B. 75 by consolidating those counseling sessions.

CHAIR AMODEI:
We do not know what is going to happen to S.B. 75 because it is not all the same bill. Is there any other discussion on the matter?

SENATOR HORSFORD:
I understand this bill was brought forth based on the issues in the rural communities, and this bill does not specifically address that. It makes it applicable to the entire State. I am not sure if that was the intent.

CHAIR AMODEI:
Senator Horsford has read S.B. 77 and he is correct by indicating the discretion given to the judges is not restricted in a rural context as is S.B. 75. The concern is if this is something we are doing for the rurals, we probably need some language which addresses this issue. Ms. Lee, is this your reading of the bill?

MS. LEE:
Yes, it is. There is no limitation on the specific area as to rural or urban.

SENATOR MCGINNESS:
Adding language to S.B. 77 as in S.B. 75, whereas "if the person resides 50 miles from the nearest counseling location," is a good idea.

CHAIR AMODEI:
Is there any other discussion on the bill before us?

> SENATOR McGINNESS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 77.
>
> SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR AMODEI:
Is there any discussion on the motion?

SENATOR HORSFORD:
I would like to suggest one other amendment. Is there some way, Senator McGinness, we could provide language that requires some type of report back to the next Legislative Session, from the counselors involved, on the effectiveness on the participants in these programs by utilizing this discretion?

SENATOR MCGINNESS:
As part of the committee, we also asked for a rural coordinator in the Administrative Office of the Courts, which has been included in the budget. I would ask Ms. Baggett if the rural coordinator can get the information from the

judges to find out how many times they use the audiovisual and whether or not it has been successful.

KAREN BAGGETT (Deputy Director, Administration, Office of Court Administrator, Nevada Supreme Court):
We had our budget hearings yesterday and requested the rural court coordinator. This would be one of the jobs the rural court coordinator can do and provide the information requested. The judges do not have those resources. The rural court coordinator would also plan the counseling services, help get videoconferencing available and be an asset to the judges. This information can be available by the 2007 Session, if we get the rural court coordinator.

CHAIR AMODEI:
Ms. Baggett, can you work with Ms. Lee to craft language for the amendment requiring a report through the rural court coordinator?

MS. BAGGETT:
I will be happy to do that.

CHAIR AMODEI:
Senator McGinness, is the proposed addition to the amendment acceptable to you?

SENATOR MCGINNESS:
Absolutely.

CHAIR AMODEI:
Senator Washington, as you seconded the motion, do you concur?

SENATOR WASHINGTON:
Yes, I do.

CHAIR AMODEI:
Is there any other discussion on the motion to amend and do pass S.B. 77?

THE MOTION CARRIED. (SENATORS CARE AND WIENER VOTED NO. SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
If there is no further business to come before the Committee, we are adjourned at 10:11 a.m.

RESPECTFULLY SUBMITTED:

_____
Gale Maynard,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE:_____