

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-third Session
April 1, 2005**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 8:58 a.m. on Friday, April 1, 2005, in Room 2149 of the Legislative Building, Carson City, 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 Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

GUEST LEGISLATORS PRESENT:

Senator Bob Beers, Clark County Senatorial District No. 6

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Robert E. Erickson, Nevada Silver Haired Legislative Forum
Kathleen Delaney, Deputy Attorney General, Bureau of Consumer Protection,
Office of the Attorney General
James Jackson, Consumer Data Industry Association
Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department

Senate Committee on Judiciary
April 1, 2005
Page 2

CHAIR AMODEI:

We will call this meeting of the Senate Judiciary Committee to order. The first bill on the agenda is Senate Bill (S.B.) 304.

SENATE BILL 304: Authorizes Attorney General to issue identity theft passports to victims of identity theft. (BDR 15-940)

ROBERT E. ERICKSON (Nevada Silver Haired Legislative Forum):

I am a member of the Nevada Silver Haired Legislative Forum, and the issue of identity theft has come before our forum during the past interim. It is an item on our top five list our seniors have expressed concerns about, and we have sent communications to Washington, D.C. Our senior population is vulnerable, and we appreciate any support you can give in helping the victims of identity theft.

SENATOR NOLAN:

When this bill speaks of an identity theft passport, is this something that currently exists, or is this something that will be newly created?

MR. ERICKSON:

Our forum has not addressed this piece of legislation; we just addressed the concept. The way the bill is drafted, it seems to be a new concept.

KATHLEEN DELANEY (Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

I can answer Senator Nolan's question. This would be a new program. There are four other states in the country that have instituted this program, and they are pilot programs at this time.

SENATOR NOLAN:

A briefing in the Transportation and Homeland Security Committee from the United States Secret Service and the Department of Motor Vehicles (DMV) regarded the theft of driver's licenses in southern Nevada. They are wrestling with the issue of how to secure identification for people who have had their identities stolen. Have you had a chance to discuss this with anyone in DMV?

MS. DELANEY:

We have not spoken with the DMV. It is possible someone on Senator Beers' staff has but, in light of those incidences and others, it is all the more reason to

consider this program rather than waiting to see how these programs will evolve in the other states. We are in a position to evolve with them.

SENATOR MCGINNESS:

Ms. Delaney, you said there were four other states conducting pilot projects? No one has actually launched this.

MS. DELANEY:

They are pilot programs in that they have been launched, but they are being evaluated for their effectiveness. The most notable program is in Ohio, which was funded through a federal grant, and it is going through an independent review at the end of the year. They have, in fact, launched the programs. There is a broad spectrum of how the programs operate. In Virginia, the process starts when a police report is taken and an identity theft card is issued with very little in between. Ohio has the self-proclaimed "Cadillac of programs," the Identity Theft Verification Passport Program, where they actually capture identifiers, pictures, fingerprints, and signatures of the victims, issue them cards, and conduct significant follow-through. These programs are in practice, but they are new, and they are still being evaluated.

SENATOR MCGINNESS:

Do you know if these programs have sunset dates?

MS. DELANEY:

To my knowledge, they do not, and to my understanding, they were pieces of legislation that were approved for permanent placement in those states. The funding that came from the U.S. Department of Justice was for start-up costs, and the evaluation will determine if additional funding can be made available to other states in the future.

SENATOR WASHINGTON:

I am looking at this bill, and there seems to be a fiscal impact. Is that impact to the Attorney General's Office because of the rates they have to set, or is it costs due to technology or electronic transmissions?

MS. DELANEY:

It is both. In addition to issuing the cards, as the bill is crafted, it will require background checks. We have discussed this with Senator Beers' office and expect an amendment will be proposed to remove that particular requirement.

Whether this requirement remains in the bill will depend on the size of the fiscal note, but there are start-up costs necessary to carry out the program. These costs are dependent on how the bill is drafted.

SENATOR WASHINGTON:

Are these passports electronically transmitted, or are they hard copies of paper?

MS. DELANEY:

The data, biometric identifiers and the application for the card are collected and transmitted electronically. The card issued to the victim is a hard card similar to a driver's license and is mailed to the person, who then activates it by calling a 1-800 number. These are the particulars on how the program operates in Ohio, and I am under the presumption this is the program we will replicate.

SENATOR WASHINGTON:

Is my understanding correct, in that the cards are actually encrypted and will be activated by the victim?

MS. DELANEY:

They will be activated in the sense that the office will be notified the card has been received, and the information in the database will be made available for law enforcement to access.

SENATOR WASHINGTON:

Am I also to understand that the background checks will be excluded to reduce the fiscal note?

MS. DELANEY:

The expense is not the only reason background checks are excluded. Requirements for the background checks are not components of the process in the other four states that have this program. This was a thoughtful decision made by those states not to incorporate that step because that is not what these cards are intended to do. This is not an identification card; it is a card that will be a tangible item a victim of identity theft can hold to say, "I have been victimized by identity theft, take an extra look before assuming I am guilty."

At this point, there is no basis to run a background check. There were also concerns by Senator Beers' office that taking the time to run a background

check would defeat the purpose of expeditiously helping these victims recover their identities and assert themselves as victims.

SENATOR WIENER:

I have an interest in this bill because I have a bill coming out of the Attorney General's Nevada Cyber Crime Task Force advisory committee on identity theft. Will there be an education or public service campaign with the Nevada Broadcasters Association or Nevada Press Association to create public awareness of this program, so when the card is presented for purchases or credit-card checks, the merchants would be aware of what this is and its importance?

MS. DELANEY:

That is an important component of a program like this, and there will be a significant public campaign for public awareness, most importantly, of what the card is and is not. This is just one piece of necessary information victims of identity theft would need to recover from this type of crime, recapture their identities and not be revictimized. Part of the program in Ohio encompasses handing out volumes of information to the victim at the time a police report is filed, and is a preceding condition to getting the card.

SENATOR WASHINGTON:

We may also be dealing with senior citizens who have signature stamps. Would these cards address this problem?

MS. DELANEY:

It is a good question, and there will be impacts on this program by other bills that are pending. One of the key components is the capturing of identifiers of the individuals who are applying for the cards. The senior stamps would have to be through technology. Ohio is our premier model; we do not know how it is done there. I would have to get additional information on this.

SENATOR BOB BEERS (Clark County Senatorial District No. 6):

There was an article in the *Washington Post* where a 32-year-old man named Angel Gonzalez was publicly arrested and taken to jail, based on a Las Vegas fugitive warrant for cocaine charges that stated he was armed and dangerous. The police thought they had the right person. It was later discovered that because of identity theft, they had grabbed the wrong person. Law enforcement

across the country ends up chasing the wrong people, based on incorrect electronic records and databases.

This bill attempts to alleviate these situations by showing a document issued by the Attorney General's Office stating you have been a victim of identity theft. Looking at S.B. 304, on the first page, lines 13 through 15, I would like to amend out the sentence starting with the words "Attorney General."

With the language left in for a background check, this would add a fiscal impact, and more significantly, a time delay to the process. No state with this program requires a background check prior to the issuance of this document.

SENATOR WASHINGTON:

What was the intent of the language for the background checks?

SENATOR BEERS:

It is something the bill drafter added that I would like to take out.

SENATOR WASHINGTON:

I could see where a background check might be appropriate under certain situations with identity theft. The ones who lost their identities may have criminal histories as well.

SENATOR BEERS:

There are protections in here against mistaken issuances of these documents. There would be the fiscal impact, and a timing issue could back up the whole process.

SENATOR CARE:

The identity theft passport would only be honored in Nevada. How long would it last? Is there an expiration date?

SENATOR BEERS:

I do not believe there is. Although it may only have legal force in Nevada, it still may have some psychological force outside Nevada. The point is that an official government document indicates you have been victimized; the possibility exists that someone has committed a crime in your name, and you are wanted.

SENATOR CARE:

Is there a consideration to having a photo in the event someone steals your passport?

SENATOR BEERS:

I do not know if this is a major issue. A photo in and of itself does not steal your identity. The passport provides you with a way to address an officer to say "I am not the right Bob Beers."

SENATOR WIENER:

I remember when we started looking at this issue in the 1999 and 2001 Legislative Sessions, there was a witness who was compelling. This is addressing the issue of an expiration date. She had been out of the country when her identity was stolen; nine years later, she is still trying to recover her identity.

According to law enforcement, it takes three or four years before victims discover their identity has been stolen. When you talk about the timing issue of additional exploration into the validity of the applicant for a card, the damage is already underway. It is important to empower people to know that they can personally address this in their one-on-one transactions, and regain some sense of self.

SENATOR NOLAN:

There was a break-in at the DMV, where 1,700 driver's licenses and all related information were taken. The U.S. Secret Service and DMV officers talked to us, and this was clearly a crime of mass identity theft. Part of their effort is to restore the identities of these people. They contacted creditors and the three major credit bureaus immediately to let them know of red flag transactions of all these people on the list. With this bill, we are talking individual by individual, which would probably not get the attention of the Secret Service.

If the bill passes in some form, we need to contact DMV during the process because they have taken some broad steps in the way of protecting citizens in the State from identity theft. It might be helpful to get a document from the Attorney General's Office, instead of an identification card which can be replicated. It would be a letter that the victim can send to creditors or anyone who might associate with the individual. What are your thoughts on creating

a document in letter form that can be easily faxed or copied and sent out rather than a passport?

SENATOR BEERS:

I asked for the drafting of this bill after reading the story in the *Washington Post*. Those people want to carry it on their bodies, and I can see the benefit of having a formal document you can mail off to creditors, as well.

I do not know how a victim of identity theft would notify creditors that it was not this Bob Beers.

SENATOR NOLAN:

I agree, and if you went to J.C. Penny Company, Inc. to use your credit card, and they nabbed you, it might be helpful if you had a letter that actually identifies you with some supporting phone numbers to the Attorney General's Office they could call and verify. A form letter might be more useful. A passport-like document is something not seen often.

SENATOR BEERS:

I do not know if the bill prescribes the size and shape of the documentation. It may be within the Attorney General's purview to do both.

MS. DELANEY:

I might be able to address Senator Nolan's concerns at this point. In theory, it sounds like a good idea that somehow this can be used as one more method by which someone can try to prevent identity theft. That is not what this program is intended to do.

In Ohio, which is our model, both a letter and a card are issued by the Attorney General's Office. The letter to the individual accompanies the receipt of the card and clearly explains that the card is not intended for use as an identification card, but to verify that at one time, this person was victimized by identity theft and has gone through the steps to file a police report and be sworn under oath to the identity theft. It also provides certain biometric identifiers to say these persons are who they say they are.

It is not to be used by a person who is a prospective victim of identity theft. In your example of the DMV, many of those individuals could potentially be

victimized by the thieves. However, until a person has, in fact, been a victim, he or she would not be eligible for the card, the way the program is designed.

There are other existing mechanisms on the federal level and other bills, including S.B. 80 proposed by Senator Beers, which would give the types of protection you are referring to, including the ability for consumers to put a security alert on their credit reports, so additional credit cannot be granted without further verification.

SENATE BILL 80: Establishes requirements and procedures for consumers to place security alerts and security freezes in certain files maintained by credit reporting agencies. (BDR 52-284)

MS. DELANEY:

Senator Wiener has a bill coming out with aggressive strides for those who might be as well as those who have been victimized.

What this passport does is supply one small piece of the puzzle, once someone has been a victim. The statistics show that it takes anywhere from two to six years, on average, to clear the problems caused by this and get one's identity back. The goal of this program as funded by the federal government in Ohio, which is being reviewed for its efficacy, is to give victims a tangible document that says, "Take a closer look at me before you slap the handcuffs on."

To some degree, a letter may be part of the program, but it is not something the victim will be using to send ahead of any efforts to obtain credit. We do have some fiscal impact information, in light of the proposed amendment to remove the background check component.

I spoke with individuals from Virginia and Ohio who are on opposite ends of the spectrum. The Virginia model came first, but is the least detailed in what they do. In respect to Ohio, which came later upon obtaining a federal grant, it is very detailed.

The fiscal impact is in start-up costs only for the equipment necessary to capture the biometric identifiers and to electronically transmit that information to the Attorney General's Office, who will, in turn, issue the card. The cost of

this could come in the ballpark of \$50,000 to \$250,000, depending on how many units of equipment we need.

As an example, Ohio spent about \$150,000 for the equipment, but they had 30 locations where they placed the equipment for various law enforcement offices. If you read the bill carefully, the primary work done for the victims is taking the police report, assisting in filling out the passport application and capturing the biometric information. All of this would be done in the police departments where the reports are filed and the equipment placed. Obviously, we would have fewer locations in Nevada. The fiscal impact will not be significant, but there will be some.

A potential source of funds for Nevada and other states may be a grant from federal sources, based on an evaluation of the Ohio pilot program. There are federal dollars in Nevada through the Victims of Crime Act. I have spoken with an individual there, who indicated one of the priorities for the program is for the previously underserved population of victims of crime. Identity theft victims could fall into this category. The potential for filing a request for grant or reserve dollars from that program may be applicable to this bill, and we may avoid the fiscal note.

SENATOR WIENER:

Do we need a provision that allows for gifts, grants and donations to assist the program?

SENATOR BEERS:

As it stands, we can include that because it does not require the inclusion of biometric indicators. If requiring biometric indicators kills the deal in the Senate Committee on Finance, I would like to have the flexibility to issue a limited document with a smaller fiscal impact. It would be fine if the bill remained silent on whether or not you need biometric indicators.

CHAIR AMODEI:

If this passes, can you deal with the biometric issue at that time if there is flexibility in the language of the bill?

MS. DELANEY:

This bill mirrors the Ohio statute, with the exception of the background check component. Through regulation and further implementation, the Ohio system

was able to flesh out the system in a way that was most beneficial, without being overly burdensome to the state. It is not just compiling the biometric indicators that have fiscal impact. In Virginia, they do not capture that data, but they still had a fiscal impact of \$40,000 to \$50,000. There will be fiscal impact. The most beneficial way to do this is to get that biometric data in the law enforcement databases to have some deterrent to fraud through this initial application process. It can be done on a relatively simple fiscal budget.

If there needs to be language to allow for grants, that is wonderful, but we do not need any additional language in the bill for anything else.

JAMES JACKSON (Consumer Data Industry Association):

We express our support for the concept of identity theft passports. Ms. Delaney has done a good job in explaining the methodology behind its implementation. In as much as the ability to set regulations and develop the program has been left in the hands of the Attorney General's Office, it is best to place the small nuances and the exact means of implementation in their hands.

ROBERT ROSHAK (Sergeant, Las Vegas Metropolitan Police Department):

We mirror the support for this bill. We have had our records bureau contacted twice in 13 months by citizens who were detained in Canada because they were victims of identity theft. This would be a way to help law enforcement not to re-victimize.

CHAIR AMODEI:

If there are no further comments on S.B. 304, we will close the hearing.

SENATOR WIENER:

I recommend we move and do pass with an amendment deleting the language referring to the background check and also adding language to receive gifts, grants and donations.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 304.

SENATOR HORSFORD SECONDED THE MOTION.

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

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CHAIR AMODEI:

I see some people have signed in for Senate Bill 206.

SENATE BILL 206: Revises provisions relating to declarations concerning withholding or withdrawal of life-sustaining treatment and durable powers of attorney for health care. (BDR 40-857)

The sponsor requested this bill be removed and not placed back on the agenda. I want it for the record that this action is due as a result of the sponsor of the bill and not of the Committee.

We will now go to the Work Session Document (Exhibit C). Some bills are listed and I want to go over others in terms of updates to see where we are. Senator Care, Senate Bill 28 references video voyeurism.

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

SENATOR CARE:

I met with staff and discussed this with others who had an interest in the bill. We are looking at criminalizing the tort of invasion of privacy, where the invasion takes place with some sort of video apparatus, making it a Category E felony. As amended, the bill would also include a provision making it unlawful to disseminate the video image you or someone else may have captured, and also making it a violation of someone's privacy if a third party distributes the image knowing how it had been captured. The other provision is if any photograph or video image is introduced at trial, it would be sealed so only the court, attorneys and jurors could view these pictures.

CHAIR AMODEI:

I am going to go through some of these bills in order to get them spotted for a work session. I do not anticipate the Committee passing some of these bills or indefinitely postponing them. Does the Committee think S.B. 28 can go to a work session next week or the week after, Senator Care?

SENATOR CARE:

A work session on this the week after next sounds reasonable.

Senate Committee on Judiciary
April 1, 2005
Page 13

CHAIR AMODEI:

Next on the list is Senate Bill 76, and it is also on the work session list [Exhibit C](#). Senator Wiener, my notes say an "amendment on screening." Where are we with respect to this?

SENATE BILL 76: Revises provisions pertaining to evaluations of juveniles who commit certain unlawful acts involving alcohol or controlled substances.
(BDR 5-186)

SENATOR WIENER:

I discussed this with Mr. Anthony and some language was proposed toward examination. Is this correct, Mr. Anthony?

NICOLAS ANTHONY (Committee Policy Analyst):

We talked briefly this morning about what the Legislature did with respect to A. B. No. 453 of the 71st Session on marijuana, back in the 2001 Legislative Session, which made it an "examination" as opposed to an "evaluation."

CHAIR AMODEI:

We need to get this bill in position, where the Committee can vote.

SENATOR WIENER:

Mr. Chair, I would like to see an amendment to this, and I will be willing to vote. I would like it to mirror the medical marijuana language.

CHAIR AMODEI:

Okay.

SENATOR WASHINGTON:

I understand what the language "examination" does to the bill. I sat on the interim study committee. The rules had a problem with doing evaluations, and the rules needed some discretion.

SENATOR WIENER:

We are using specific terms with the word "examination." Evaluation is a specific word of art in the treatment community; it is an expensive procedure that requires a high level of expertise. The word "screening" is also a word of art. I spoke with Senator McGinness, and almost anyone can be taught to screen; the cost is minimal and does not take much time to learn. Screening can

be done by a nurse practitioner or a school nurse. It is a first step in determining if something needs to be done. My concern is the cost of evaluations. The needed expertise may be limited, especially in the rural areas, but screening is cost-effective and would capture those children with problems on the first arrest.

SENATOR WASHINGTON:

Are you saying that a health profession will actually do the examination?

SENATOR WIENER:

According to Jane M. Bosworth, Administrator, Division of Child and Family Services, Department of Human Resources, almost anyone can be taught to do the screening, and examination is a generic term. Screening can now be an examination, versus the required evaluation, according to the language, which is extensive and requires a level of expertise. Whereas, if we use the word examination as a generic term, it could be a screening and would take a few minutes. I cannot speak for Ms. Bosworth's Department, but even a school counselor may be trained to do the screening.

SENATOR WASHINGTON:

Based on the testimony and hearings last summer, most of the judges know the perpetrators.

SENATOR WIENER:

My concern is there may be prejudices in those cases, as well. Another concern is objectivity; although it may be the first arrest, often they may have had problems prior to this. Evaluation is more substantial and objective than screening on a first arrest.

SENATOR WASHINGTON:

I am looking at the word "discretion." Based on the testimony, and sitting on the interim committee with Senator McGinness, most of the judges know the offenders in small rural communities. This information says it can be determined if there is a serious problem, or if extensive evaluations or examinations need to be done.

SENATOR WIENER:

I value the input from my colleague, but I would appreciate an amendment brought forward to this Committee.

Senate Committee on Judiciary
April 1, 2005
Page 15

SENATOR MCGINNESS:

I recognize Senator Wiener's concerns; we met last week on Senate Bill 75.

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

SENATOR MCGINNESS:

There is a bill on the desk we are trying to work out, as well, that would allow video conferencing. We met with two judges from the Seventh Judicial District, Judge Papez and Judge Dobrescu, and a representative from the rural clinics. They have just appointed a new director in White Pine County. They were trying to see if they could do the evaluations for those convicted of domestic violence and driving under the influence offenses. The personnel at the rural clinics are buried with mental health concerns. This bill gives judges some discretion. We have looked at the discretion the judges have, and we hear from judges that the Legislature ties their hands, especially with rural concerns. We found a way to alleviate this by giving judges this discretion. Criminal justice in rural Nevada could be better served.

We give authority to county commissions and planning commissions all the time. Judges are people who are seated through election, and if they make bad decisions, they are going to have to face that. Especially in the smaller communities such as Ely, Eureka and Pioche, the decision they make in the morning is usually the gossip at the local coffee shop at noon.

I appreciate the concerns, and if there is any way to make this work by mandating a screening or an evaluation, I would go for it. However, this is frontier justice and it is frontier medicine. We are not talking about the school counselor having the time for anything else because there is probably only one counselor at the school or in the school district. I have concerns that we are trying to micromanage this. Let us give the judges the discretion.

SENATOR WIENER:

In addressing the rural issue, as I recall, although this bill is intended for rural areas, this is not distinctively worded for rural areas, and we would need to address this issue. It seems to be drafted for the entire State. Can legal counsel give me some information?

Senate Committee on Judiciary
April 1, 2005
Page 16

CHAIR AMODEI:

Is there a rural limit in here, or is this Statewide?

KELLY LEE (Committee Counsel):

Mr. Chair, Senator Wiener, that is correct. There is no limitation. It is applied Statewide.

SENATOR WASHINGTON:

If that is the case, then we should carve it out just for the rurals. The intent was to give the rural judges the discretion; I agree with Senator McGinness that judges know their populations.

CHAIR AMODEI:

We are looking for an amendment to make this a rural application. Senator McGinness, is that okay with you?

SENATOR MCGINNESS:

I agree. If you will accept a motion, I will amend and do pass by putting a rural limit on it of 100,000 or less in population.

CHAIR AMODEI:

Before we do that, Senator Wiener, if you would like an amendment drafted for consideration by the Committee, we can do that or you can bring it on the Senate Floor, or the Committee can hold it.

SENATOR WIENER:

Mr. Chair, I suspect that support may be limited, and I certainly want to address the issue to at least include a rural limitation. I will support this compromise.

CHAIR AMODEI:

What is the pleasure of the Committee on S.B. 76, Senator McGinness?

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS
S.B. 76 WITH AN AMENDMENT FOR RURAL LIMITATION.

SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR AMODEI:

This matter is still under discussion. When we amend this, we should take care to fashion it so the sweep is not broad. It should not apply in Carson City, Douglas County, the seven counties of western Nevada and, I suspect, Storey and Churchill Counties. We want to make sure it has a frontier context. Is there any other discussion on the motion to amend and do pass S.B. 76?

SENATOR HORSFORD:

I cannot support the motion. In listening to the testimony, I appreciate my colleague from rural Nevada and the plight they are in. To say we are supporting frontier justice and frontier services in our schools distresses me. People in the State of Nevada deserve the same opportunity for the services and resources this Nevada Legislature enacts regardless of where they live. This measure is about preventing people from going on and committing more serious crimes that could have a significant fiscal impact on the State of Nevada.

Again, we have heard from our director of the Department of Corrections that if things do not change, we are going to have to build a prison once every two years, and this could increase to one per year. Rather than incarcerating someone for \$25,000 per year, we could give the money that is necessary to provide these services in the rural community.

I also disagree with the argument that every judge knows every child in his or her community. Even in urban communities, counselors and others who would be involved in the screening do not have the time to do these activities, but it is important for those children to have it done to avoid more serious and harmful effects. For those reasons, I will vote against the amendment and the bill.

CHAIR AMODEI:

Are there any other comments on the motion?

THE MOTION CARRIED. (SENATORS HORSFORD AND WIENER
VOTED NO.)

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CHAIR AMODEI:

We are going to talk about Senate Bill 109, and we are waiting for some conceptual amendments from some of the testifiers.

Senate Committee on Judiciary
April 1, 2005
Page 18

SENATE BILL 109: Revises provisions concerning presumption that joint custody is in best interest of minor child. (BDR 11-620)

CHAIR AMODEI:

Mr. Anthony or Ms. Lee, we need to let those testifiers know we would like to have the concepts, so we may discuss them informally some time next week. It is my intent to put S.B. 109 on work session with a deadline for conceptual input to the Committee by April 7 of next week. If anyone has an idea for an amendment to this bill, it should be to Committee staff or the sponsor of this bill by April 7.

SENATOR WASHINGTON:

Mr. Anthony has told me that Second Judicial District Judge Frances Doherty has some conceptual ideas, and I have some information, also.

CHAIR AMODEI:

On April 8, we can generally discuss this and try to frame some of the issues so we can have the discussions and votes. The next bill is Senate Bill 136, the Colorado River bill.

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

CHAIR AMODEI:

We held this bill because of jurisdiction issues, operationally speaking. I had some questions which have been answered. Is there anyone else on the Committee who has concerns? What is the pleasure of the Committee?

MS. LEE:

There were wording issues.

CHAIR AMODEI:

Do we need the amendment?

MS. LEE:

The first part of the amendment request is changing section 1 of Article III; they are just moving the prohibited-conduct language from one part of the sentence to the back end. The language was specifically drafted to match the

Senate Committee on Judiciary
April 1, 2005
Page 19

construction of the sentence in the earlier path of that sentence and, more importantly, it matches the language of the Arizona Interstate Compact.

CHAIR AMODEI:

Are you saying that we need only part of the amendment?

MS. LEE:

The second part is a suggestion from the Attorney General's Office to limit the civil liability of the law enforcement officer and apply it to the officer's own state. This will be up to the Committee.

CHAIR AMODEI:

We are looking for a motion to amend and do pass with the liability language in the proposed amendment at Tab A in the Work Session Document, [Exhibit C](#), and not the language change amendment. Does anyone want to make this motion?

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 136.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Senate Bill 137 is on the desk, and we need the amendment the Division of Parole and Probation submitted.

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

CHAIR AMODEI:

A technical amendment identified after the bill was processed talks about a narrow set of circumstances when people who are not technically on probation do not show up for their initial parole and probation interview. Therefore, when they do not show up, all the statutes we have that apply to people skipping on probation do not apply because they are legally not on

Senate Committee on Judiciary
April 1, 2005
Page 20

probation. We need this amendment, so we can get this off the desk. If there is no objection, we will offer that as a Judiciary Committee amendment. Do we need to take a formal vote on this?

MS. LEE:

This would be the same if you wanted to bring it back for reconsideration.

CHAIR AMODEI:

Put the amendment in my name. Senator Care, Senate Bill 150 addresses a fraudulent complaint against a public officer or employee.

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

SENATOR CARE:

If the Committee will recall, testimony on this bill said the California Supreme Court ruled it would be a crime to knowingly, falsely file a complaint against a peace officer. The court went on to say that the legislative intent was clear on why this was an exception, and how it is different for a firefighter.

Using the California case, there may be a way we could amend S.B. 150. However, I reviewed with staff the Eakins case, *Eakins v. Nevada*, 219 F.Supp. 2d 1113 (2002), which was testified to heavily. There is no way to read Eakins other than to say we are going to have to process this bill the way it is currently written. In the Eakins case, the court said if you do it for peace officers, it is not content neutral, and suggested we try again with a statute that stated "public official" rather than "peace officer."

I have had some discussion about making it apply to cases when someone files a false complaint against the employer of a public employee. Again, the language of the Eakins case, which guides us, suggests the language will have to be "public official," which is what the bill said in its original form.

It was requested to work something out with all parties involved, and I have done that. We have had meetings, made phone calls and are back to the original version of the bill. I do not know if it can be amended. We can look at California and the Eakins case, but when we do that, it almost takes us back to where we started. My recommendation to the Committee is to vote on the bill as it was

Senate Committee on Judiciary
April 1, 2005
Page 21

written. I do not believe there were any other proposed amendments. Having said all this does not indicate how I am going to vote on the bill.

CHAIR AMODEI:

Is there anyone on the Committee who has an objection to voting at this time? Or does anyone want to make a motion on this bill? Since there are no motions, we will go on to the next bill on the work session.

Senate Bill 173 increases the amount of homestead exemptions. Mr. Anthony, I would like you to put this as one of the bills to fill in for next week. Amendments were offered with amounts, and I would like the Committee to take a look at this. Mr. Anthony, do you have any information on the home price that has been talked about?

SENATE BILL 173: Increases amount of homestead exemption and makes various changes relating to property which is exempt from execution by creditors. (BDR 10-616)

MR. ANTHONY:

Mr. Chair, I have received that information, and the amount is approximately \$280,000 in the Clark County area and possibly \$298,000 in northern Nevada.

CHAIR AMODEI:

What does the Committee think the homesteading amount should be?

MR. ANTHONY:

The current homestead exemption is \$200,000.

CHAIR AMODEI:

We do not need to do this formally today, but discuss this issue amongst yourselves as to where you think that number should be. Is there anything coming from the Assembly on this?

MR. ANTHONY:

It is my understanding four bills are related to the homestead exemption.

CHAIR AMODEI:

The other thing we ought to consider is to kill this bill and do it on the Assembly bill. At any rate, Committee, think about what you want to do with S.B. 173.

Senate Committee on Judiciary
April 1, 2005
Page 22

Mr. Anthony, maybe next week you can give us an update on what the other bills are from the Assembly, so we can make a decision on if we want to make any policy contributions to those, instead of S.B. 173.

SENATOR WASHINGTON:
Senate Bill 173 has other provisions.

CHAIR AMODEI:
It would be fair material for amendment into any homesteading exemption bill we get. If you want to address art exemptions, retirement accounts and other things, we can do that in the context of what comes over from the Assembly, especially if it is tied to homestead exemptions.

The next bill is Senate Bill 200, the Uniform Commercial Codes.

SENATE BILL 200: Revises provisions of Articles 2 and 2A of Uniform Commercial Code. (BDR 8-541)

SENATOR CARE:
A compromise appears to have been reached to give the bill no further consideration.

CHAIR AMODEI:
As you have heard from the testimony, Nevada is only one of a few states in which this has been rolled out. It is important to get the concerns of the testifiers on record, and we have done that. Senator Care has fulfilled his mission to the National Conference of Commissioners on Uniform State Laws. For the record, unless there is an objection by the Committee, it is the intent of the Chair not to call S.B. 200 up again in work session.

Senate Bill 206 has been withdrawn by request of the sponsor.

SENATE BILL 206: Revises provisions relating to declarations concerning withholding or withdrawal of life-sustaining treatment and durable powers of attorney for health care. (BDR 40-857)

CHAIR AMODEI:
Unless there is an objection by someone from the Committee, it is not my intent to call this bill up in work session again.

Senate Committee on Judiciary
April 1, 2005
Page 23

Mr. Anthony, are there any bills we need to rerefer?

MR. ANTHONY:

Mr. Chair, there is Senate Bill 475 for the Committee on Transportation and Homeland Security.

SENATE BILL 475: Limits liability of certain private operators who contract with regional transportation commission. (BDR 32-1081)

CHAIR AMODEI:

What does that bill deal with?

MR. ANTHONY:

The bill deals with liability, in the context of those who contract with a regional transportation commission; Senator Nolan may have some comments on this.

CHAIR AMODEI:

Have we not had staff from both Committees look at this and decide it is appropriate for Homeland Security?

SENATOR NOLAN:

Yes.

CHAIR AMODEI:

What is the pleasure of the Chair of the Transportation and Homeland Security Committee regarding S.B. 475?

SENATOR NOLAN:

I make a motion to rerefer S.B. 475 to the Senate Committee on Transportation and Homeland Security.

SENATOR NOLAN MOVED TO REREFER S.B. 475 TO THE SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY.

SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion? We have been trying to be diligent about placing bills. I am comfortable about this rereferral after staff had met, as opposed to voting

Senate Committee on Judiciary
April 1, 2005
Page 24

based on how it read. I read it, and it is appropriately rereferred to that Committee.

THE MOTION CARRIED. (SENATOR HORSFORD VOTED NO.)

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CHAIR AMODEI:
Another bill had to do with the Legislative Police; which one was that?

MR. ANTHONY:
Senate Bill 384 is on the agenda for Monday.

SENATE BILL 384: Revises provisions relating to Department of Public Safety.
(BDR 23-404)

CHAIR AMODEI:
Is that the one we were not sure if we should have?

MR. ANTHONY:
It deals with Title 23 of NRS, which are legislative operations.

CHAIR AMODEI:
What is your opinion, Mr. Anthony, as to which Committee it should be in?

MR. ANTHONY:
Generally, those bills can be heard in either the Senate Committee on Legislative Operations and Elections or the Senate Committee on Government Affairs.

SENATOR WASHINGTON MOVED TO REREFER S.B. 384 TO THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND
ELECTIONS.

SENATOR CARE SECONDED MOTION.

CHAIR AMODEI:
Is there any discussion on the motion?

Senate Committee on Judiciary
April 1, 2005
Page 25

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Is there anything else for rereferral, based upon further review?

SENATOR WASHINGTON:

Senate Bill 282, which deals with halfway houses and is on your schedule for Wednesday, is under Title 16 of NRS, which is the Department of Corrections. I understand the bill is going to be amended to fall under the guidance of Michael J. Willden, Director, Department of Human Resources.

SENATE BILL 282: Makes various changes concerning halfway houses.
(BDR 16-622)

CHAIR AMODEI:

Are the amendments going to take the provisions regarding the Department of Corrections out of the bill?

SENATOR WASHINGTON:

Yes. The fiscal note is going to exceed \$600,000, and it will change the title of the bill.

CHAIR AMODEI:

The Chair will entertain a motion to take out the major jurisdictional sections that deal with the Senate Committee on Judiciary in S.B. 282.

SENATOR CARE MOVED TO REREFER S.B. 282 TO THE SENATE COMMITTEE ON HUMAN RESOURCES AND EDUCATION.

SENATOR NOLAN SECONDED THE MOTION.

CHAIR AMODEI:

Is there discussion on the motion? Clearly, this is a result of the anticipated removal of the Department of Corrections language and titles in the bill. Is there any other discussion?

Senate Committee on Judiciary
April 1, 2005
Page 26

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

We have a couple of lien bills. One is a Judiciary Committee bill and one is Senator Hardy's bill. Are both of them on the schedule?

MR. ANTHONY:

We took the Judiciary lien bill off, and Senator Hardy's bill is scheduled for April 5.

CHAIR AMODEI:

If we have duplicate bills or similar bills on an issue area, we are getting rid of one and hearing the other. I am not sure if there are other instances where this has been done. Are there other instances like this?

MR. ANTHONY:

There was a bill from Senator Townsend.

CHAIR AMODEI:

What is the number of Senator Lee's bill?

MR. ANTHONY:

It is Senate Bill 234.

[SENATE BILL 234](#): Revises qualifications for Supreme Court Justices, district judges and justices of the peace. (BDR 1-775)

CHAIR AMODEI:

Senate Bill 348 is Senator Townsend's bill, and S.B. 234 is essentially the same.

[SENATE BILL 348](#): Revises qualifications for district judges. (BDR 1-1102)

CHAIR AMODEI:

It is my intention to move what we do under Senator Lee's jacket. Senator Lee's bill talks about revising the qualifications for judges to having practiced in the State for five years, and Senator Townsend's bill requires ten years. The issue before this Committee is how many years of experience for district court or Supreme Court. These are the issues we need to consider when we formally conduct work session. In an effort to continue, what is the pleasure of the Committee on Senator Townsend's bill, S.B. 348?

SENATOR CARE MOVED TO INDEFINITELY POSTPONE S.B. 348.

SENATOR MCGINNESS SECONDED THE MOTION.

CHAIR AMODEI:

Is there any discussion on the issue? For the record, it might be helpful to know I have personally discussed this motion with Senator Townsend and Senator Raggio, and told them in no uncertain terms we were killing their bill because it duplicates Senator Lee's bill, and they were fine with this.

If there is no further discussion on this motion, what is the deciding vote?

THE MOTION CARRIED. (SENATOR HORSFORD VOTED NO.)

Senate Committee on Judiciary
April 1, 2005
Page 28

CHAIR AMODEI:

I thank the Committee for their support. As we hear these bills for the next two weeks, you will see we are trying to keep the last two days open for work sessions to wrap things up by April 14. If there are no further questions or comments, we are adjourned at 10:21 a.m.

RESPECTFULLY SUBMITTED:

Gale Maynard,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair