

**MINUTES OF THE MEETING
OF THE
ASSEMBLY SELECT COMMITTEE ON CORRECTIONS, PAROLE, AND
PROBATION**

**Seventy-Fourth Session
March 29, 2007**

The Select Committee on Corrections, Parole, and Probation was called to order by Chair David R. Parks at 3:53 p.m., on Thursday, March 29, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman David R. Parks, Chair
Assemblyman Bernie Anderson, Vice Chair
Assemblyman John C. Carpenter
Assemblyman William Horne
Assemblywoman Kathy McClain
Assemblywoman Valerie E. Weber

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi Gansert, Washoe County District No. 25
Assemblyman James Ohrenschall, Clark County District No. 12

STAFF MEMBERS PRESENT:

Craig Hoeffcker, Committee Policy Analyst
Risa B. Lang, Committee Counsel
Gayle Miles, Committee Secretary
Olivia Lloyd, Committee Assistant
Deanna Duncan, Committee Manager

Minutes ID: 743



OTHERS PRESENT:

Phil Galeoto, Director, Department of Public Safety
Kevin Tice, Deputy Chief, Southern Command Parole and Probation,
Department of Public Safety
Mark Woods, Acting Major, Division of Parole and Probation,
Department of Public Safety
Reynolds Johnson, Lieutenant, Division of Parole and Probation,
Department of Public Safety
Josh Martinez, Detective, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department
Lisa Krasner, Chairman, Junior League of Reno
Leslie Raggio Righetti, Member, Advocacy Committee of Junior League
of Reno
Patricia Hines, Private Citizen, Yerington, Nevada
David O'Mara, Attorney, Satellite Tracking of People
Greg Utterback, Vice President, Business Development and Customer
Relations, Satellite Tracking of People
Philip K. (P.K.) O'Neill, Captain, Records and Technology Division,
Department of Public Safety
Cotter Conway, Deputy Public Defender, Washoe County Public
Defender
Jason Frierson, Attorney, Clark County Public Defender

Chair Parks:

[Roll called.] I would like to put on the record that Assemblyman Lynn Stewart has withdrawn Assembly Bill 73. We have two bills on our agenda today, Assembly Bill 377 (A.B. 377) and Assembly Bill 405 (A.B. 405.) We will start with Assembly Bill 377.

Assembly Bill 377: Makes various changes to certain provisions concerning sex offenders. (BDR 14-186)

Assemblywoman Heidi Gansert, Washoe County District No. 25:

We passed legislation last session to tighten Nevada's laws on sexual offenders. I was a co-sponsor on that bill, and have introduced this legislation to take care of some of the outstanding issues which remain. The goal is to make Nevada a safe place for our citizens and especially our children. There are several components to A.B. 377 and I have provided all of you with a proposed conceptual amendment ([Exhibit C.](#)) The likelihood of sexual offenders re-offending is substantially decreased with extended supervision. When offenders are on parole, they have a greater incentive to act within the laws and conditions of their supervision. Extending parole from five years to

ten years would definitely increase the safety of our communities.

[Read directly from prepared testimony ([Exhibit D](#)).]

Deoxyribonucleic acid (DNA) samples have been very successful in identifying suspects in investigations, especially cases that have gone cold. I have provided an article from the *Las Vegas Sun*, "DNA Sample Leads to Arrest in Murder, Sexual Assault" ([Exhibit E](#)). At this time we allow offenders who have served their entire sentence to be released, then wait for them to show up to register. This bill would provide the registration process to happen prior to release and would improve compliance rates. In Nevada, there are currently 6,086 sex offenders. Of those, 33 percent are noncompliant with their parole. There are 157 sexual offenders that are Tier 3 offenders, and 21 percent of those are noncompliant.

Assemblyman Horne:

How do we force offenders to register prior to their release?

Assemblywoman Gansert:

When offenders are released on parole, they usually have a release plan. A 30-day limit on registration would be a required component of that plan.

Assemblywoman Weber:

Are all sexual offenses felonies, or are there some in the area of gross misdemeanors?

Phil Galeoto, Director, Department of Public Safety:

I am here in support of A.B. 377, not only from the Department of Public Safety (DPS), but also from the Governor's office. When these sexual offenders are closely monitored, the recidivism rate seems to be lower. A very important part of this bill is the Global Positioning System (GPS) that increases the DPS's monitoring ability and provides for more control over these sexual offenders. It would lessen the pressure on the Division of Parole and Probation (DPP) staff, allowing the DPS to receive the information needed without increasing staff. We are particularly happy with this bill's reference to Tier 3 offenders, which might be a small number; however, those offenders make up the majority of those who recidivate.

Kevin Tice, Deputy Chief, Division of Parole and Probation, Department of Public Safety:

The ten-year probation extension gives our specialists an opportunity to recommend a greater probationary period, and it gives the courts greater discretion. There is research that leads us to believe there is not a cure for

some of the behavior, but through the deterrent effect of supervision recidivism is reduced.

Assemblyman Carpenter:

What effort is expended to track noncompliant offenders?

Kevin Tice:

We cooperate with the DPS in efforts to actively serve felony warrants. This effort also includes the search for sex offenders who have absconded. We balance that responsibility along with our case loads. When resources allow, we would like to make a greater effort in that area.

Assemblyman Carpenter:

Where do you have the GPS tracker?

Kevin Tice:

We do not have a GPS now.

Chair Parks:

Certain courts have employed the use of GPS. It is in limited use around the State.

Kevin Tice:

That is correct. Those do not include individuals which we supervise.

Assemblyman Anderson:

We are concerned with the work load of the people in the DPP. Am I correct that the supervision length change from five to ten years is where the discretion comes in? How many man-hours would this work load require?

Kevin Tice:

We supervise 23 sex offenders that are Tier 3s, and approximately 300 sex offenders that are Tier 2s. At a minimum the Tier 3s would be extended to ten years.

Assemblyman Anderson:

So all of these Tier 3 offenders' supervision lengths would be extended to 10 years? Are we going to make this retroactive?

Kevin Tice:

Yes, that is the case.

Assemblyman Anderson:

How many of the 157 are absconding?

Kevin Tice:

Some of the 157 are absconding, some have failed to register, some of those may be Tier 3s, and some were timed-out, or released prior to the law change.

Mark Woods, Acting Major, Division of Parole and Probation, Department of Public Safety:

There are over 6,000 registered sex offenders in the State of Nevada. The DPP has 1,000 of those offenders under supervision. The 157 is the total number of Tier 3 sex offenders and of that 157 the DPP is responsible for the supervision of 23 offenders.

Assemblyman Anderson:

That makes it more dismal. Assemblywoman Gansert depicted absconders at a rate of 33 percent. If we are monitoring 23 out of 157, then only about 6 percent are in compliance.

Mark Woods:

No, the 157 are in compliance. They do not have to be supervised to comply, they just have to register. There is not a huge number that have absconded.

Assemblyman Anderson:

Those who are coming out of prison at the time this bill goes into effect, will they be affected or will it apply to those who are currently being charged, and found guilty?

Mark Woods:

I do not know whether or not it is retroactive.

Chair Parks:

I understood it was not retroactive.

Risa Lang, Committee Counsel:

I do not see any language in A.B. 377 that would make it retroactive.

Assemblyman Anderson:

So it would go from this time forward?

Assemblyman Horne:

We would not be talking retroactivity for those whose parole has already expired; they are only required to register. This would apply to those currently

under supervision and on the five-year plan. Those who have yet to be sentenced, or paroled, would fall under the current legislation. But the level of retroactivity that concerns me is going back to those under the five-year plan and telling them their parole has been extended to the ten-year plan.

Phil Galeoto:

We are being careful but we did not write this bill.

Assemblywoman Weber:

In section 6 are we dealing with non-Nevada residents? And if so, were they convicted of a crime in Nevada, or were they convicted in another state?

Mark Woods:

If they were convicted in another state, they would be under the Interstate Compact Rule. At that point it would be the DPP's responsibility to have them register and give a DNA sample. There is at least one gross misdemeanor out there that would fall under this category, and we would obtain a DNA sample and register that individual.

Assemblywoman Weber:

I am afraid we are going to miss the people we really need to collect the DNA from if we do not have a standard collection policy.

Chair Parks:

Has the DPS been provided a fiscal note?

Phil Galeoto:

We do have a fiscal note.

Mark Woods:

The fiscal note was with the original draft of the bill. It included the Tier 2s, and the Tier 3s. With the change of the Tier 3s, the amount of the fiscal note is lower. The GPS system requires a ratio of 17 offenders to 1 officer because of the work load involved. There are 23 offenders for which we are requesting two officers, one for the north, and one for the south. At this time we have approximately 300 Tier 2s under supervision. If we were to put all of those under the GPS, the fiscal impact would be much higher, approximately \$6.5 million but with only the Tier 3s, it is just under \$500,000, biennially.

Chair Parks:

Do you have a dollar amount for going from the five-year cost to the 10-year cost?

Mark Woods:

We were under the impression that it would not change the people we have right now. We believe the fiscal impact would be seen in about four years.

Kevin Tice:

Captain O'Neill has advised that there would be a \$45,000 fiscal note for the Records and Technology portion.

Chair Parks:

Would local government have any cost-related activities? I understood there would be a fee for use of the GPS.

Mark Woods:

Reynolds Johnson has been looking into the GPS contract.

Assemblyman Horne:

The numbers reflecting the fiscal note did not include the GPS. There is no use setting up a GPS without setting up the hardware for it.

Mark Woods:

As you will hear from Lieutenant Johnson, we will be contracting with a vendor who would take care of all the equipment.

Reynolds Johnson, Lieutenant, Division of Parole and Probation, Department of Public Safety:

The contract would call for the cost of the equipment per offender per day. That cost would be billed to the offender. The amount would be \$8.82 per day, which includes the bracelet, the GPS, and the use of the monitoring center.

Chair Parks:

What about the offenders who can not afford that? Has the DPP thought of what they would do in those cases?

Reynolds Johnson:

We have a fund which is used to supplement people on other electronic monitoring. It would be beneficial to apply some of that fund to the GPS monitoring if the offender was not able to pay. Electronic monitoring is indeed a benefit to all involved.

Chair Parks:

At \$8.82 a day, that would add up to \$264 a month. It gives an advantage to those who could pay.

Assemblyman Anderson:

In section 23, subsection 3, would anyone be able to waive the fee?

Mark Woods:

We are comfortable with that because there are individuals who need to be on this system and cannot pay for it. We will be working with the contractor to try to waive the fee.

Assemblyman Anderson:

Is this going to be part of the budgetary request? I realize 23 is an insignificant number, but it will grow. If offenders are unable to meet the fee responsibility at the time they are up for parole, this is one more opportunity for the Parole Board to deny parole.

Reynolds Johnson:

Yes, you are correct. When the monitoring fee is paid by the offenders, we see the numbers decrease. We were given a budget to supplement those who could not pay or were unable to pay right away. That fund is still in our budget.

Assemblyman Anderson:

It is cheaper than keeping them incarcerated. Is this the system where they are required to call in daily?

Reynolds Johnson:

The system monitors when they are at their residence; it does not use phone lines.

Chair Parks:

Does the GPS provide a continuous tracking of the individual, and does it provide a history of where that person has been?

Reynolds Johnson:

Yes, it does. There are areas where we could lose the signal. The GPS depends on more than one signal, and the weakest of the signals is the one that goes through the satellite and proves that the offender is where he should be. We would be able to see where he has been in a 24-hour period.

Josh Martinez, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

The Las Vegas Metropolitan Police Department (LVMDP) is in support of A.B. 377.

Lisa Krasner, Chairman, Junior League of Reno:

We are also here in support of A.B. 377. We believe this is a matter of public safety and there is a loop-hole in the current law: offenders that register as "homeless," only check-in with law enforcement once in 365 days. The other 364 days they are unaccounted for and this poses a lot of problems to law enforcement officials. This loop-hole definitely needs to be addressed.

Leslie Raggio Righetti, Member, Advocacy Committee of Junior League of Reno:

I am in support of A.B. 377 which strengthens the law regarding pedophiles. This bill provides stricter tracking standards and I support all the provisions of this bill, especially the one requiring homeless to report every 30 days.

Chair Parks:

Is there anyone else who would like to speak in support of A.B. 377?

Patricia Hines, Private Citizen, Yerington, Nevada:

I am in support of A.B. 377 and believe it has some good points. In Reno, the cost for counseling is running \$45 per week. Multiply, and add that amount to what you would expect them to pay for GPS on top of the \$30 fee for supervision, and you are looking at almost \$600 before they pay for food, or housing. If a biological specimen costs \$150, will that cover the cost of lab work? Can this testing be done at a law enforcement agency, or is this sex offender going to have to take off work? When a person has to go in for the annual registration form, and he has to take a photograph and a set of fingerprints, can this be done at the law enforcement agency? These are just a few of the questions I have regarding the fees to be incurred by these offenders.

Chair Parks:

Dealing with costs is our concern also. We have heard stories of offenders who do not report because they do not have the money to pay the fees.

Patricia Hines:

The depression factor increases when these costs, restrictions, and limitations are added.

Assemblyman Horne:

There is going to be a level of inconvenience that these offenders are going to have to undertake. That is the nature of the beast. We cannot legislate out all the inconveniences of having to go somewhere to register. We cannot nit-pick the legislation down to that level, and make it completely convenient for this person. Would you agree with that?

Patricia Hines:

I agree with that, or I would not be here supporting this bill. There comes a point where there is too much pressure, and then you wonder why I say we are setting them up for failure.

Chair Parks:

Is there anyone else who would like to speak on A.B. 377?

David O'Mara, Attorney, Satellite Tracking of People:

We at the Satellite Tracking of People (STOP) were asked to be here today to answer any questions you may have regarding the GPS.

Chair Parks:

We each have our own perception of what GPS is. If you would like to take about five minutes to explain the technology, and how it applies specifically to a tracking of offenders that are on parole or probation.

Greg Utterback, Vice President, Business Development and Customer Relations, Satellite Tracking of People:

The system that has been tested for this purpose has two components. First is the satellite that determines the location of the offender called the Active system, giving a real time notification of the wearer's location and communicates through the cellular towers. This also monitors if the offender violates an area of exclusion, or if they leave some place early. The notification is sent to the supervising agency, or the contractor that is monitoring the offender. Second is called the Passive system which is like a lesson on where the offender has been for the previous 24 hours. That is communicated through our land-line. There are areas in Nevada where the Active device will not be practical because there are no cellular towers. That will be taken into account when this is installed. The Active system requires satellites to determine the location of the offender. That information is uploaded into a system that the supervising agency or the contractor can look at. This is done on the internet and loaded into their computers.

Assemblyman Carpenter:

Are there enough satellites to do the job?

Greg Utterback:

There are 27 satellites, 24 of which are in use, and the other three are spares. There are 24 in rotation in four different areas; three of those satellites are needed to pinpoint an offender's location.

Assemblyman Carpenter:

Where in Nevada would the GPS work?

Greg Utterback:

The GPS is available within the line of sight, so to speak. The satellite is a relatively weak radio signal. There will be some interference in canyon areas, and in large concentrations of buildings. That would not be a problem in any city in Nevada. The signal is impaired when you enter large buildings with metal roofs. Because of this frequency interference, you will know when the person enters, and exits the building, but the GPS is unable to track the person inside the building.

Assemblyman Carpenter:

Where in the United States is the GPS currently being used?

Greg Utterback:

There are about 20 states with legislation introducing some type of GPS monitoring. Large concentrations in large programs are in Florida and California. Texas is reviewing the system also. These devices have been used for many years. The devices have gotten considerably smaller, so they do not interfere with the person's daily life. The cost varies, so I do not know what is included in the \$8.82 a day. They may be going through a contractor, and the contractor may be required to handle some of the functions of the system. The contractor does the installation, the removal, and some interaction with the offender. The cost varies by the number participating, and \$8.82 is not out of range since \$6.50 covers only the equipment. The private contractor provides most of the services and costs, between \$12 and \$14 a day.

Chair Parks:

The document submitted by Assemblywoman Gansert (refers to [Exhibit C](#)) proposed a conceptual amendment to section 23. This amendment deletes the reference to sex offenders who have been assigned a Tier 2 level notification. The amendment will have the effect of eliminating the Tier 2s. We will close the hearing on A.B. 377 and open the hearing on Assembly Bill 405.

Assembly Bill 405: Makes various changes to provisions governing sex offenders. (BDR 14-20)

Assemblyman James Ohrenschall, Clark County District No. 12:

Assembly Bill 405 (A.B. 405) makes various changes to provisions governing sex offenders by enacting provisions of the *Jessica Lunsford Act* which was passed in 2005 by the Florida Legislature. This bill protects the children of Nevada from sex offenders through a combination of increased penalties and

more frequent and tighter monitoring. This bill advocates quicker transferring of information from law enforcement to the criminal information repository by requiring courts to search the registry for sex offenders and their crimes against children in determining or granting probation. It restricts employment of sex offenders in locations designed for children.

The bill makes it a felony in certain circumstances for a person to assist a sex offender in eluding a law enforcement agency. As an additional protection against misuse of information obtained from the community notification website, the bill makes it a crime for a person to use information from the website to secure payment from the sex offender or alter the information with intent to misrepresent it. This bill increases the penalty of lewdness with a child under age 14. When the child is under age 12, the penalty is either life with the possibility of parole beginning after 25 years is served or life without the possibility of parole. It includes any circumstance if the murder of a person was committed by a person previously convicted of certain sexual offences against a child under age 14 as an aggravating circumstance for first degree murder. It makes all violations of life-time supervision by sex offenders, category B felonies. It makes assisting a sex offender in eluding law enforcement a category C felony, and it requires notification if a citizen knows that a sex offender is eluding a law enforcement agency.

In statute, we have mandated reporting child abuse and child neglect. We are expressing our will that every citizen be a mandated reporter when there is potential sexual abuse of a child. It also requires Tier 3 sex offenders who are convicted of sex offenses against children under age 14 to be placed under a system of active electronic monitoring, and they must pay any cost associated with their participation in the system up to their ability to pay. It makes the unauthorized and intentional removal, disabling, or attempt to remove such an electronic monitoring device a gross misdemeanor. It requires local law enforcement agencies to forward information collected from sex offenders to the Central Repository for Nevada Records of Criminal History within two working days. It requires sex offenders to verify their registration record every six months after the anniversary date of the initial record and provide any change in permanent or temporary residential address. If the residence is mobile, they must provide identifying information, including registration, serial, and license tag numbers, as well as the color scheme of the residence and the higher education enrollment information, if applicable.

This bill prohibits sex offenders who are on life-time supervision or at least on parole, probation, or suspended sentence from accepting employment or accepting volunteer service that is located anywhere that is designed for use by, or for children. It requires the court to conduct a search of a person's

name in the statewide registry of sex offenders. It also creates a misdemeanor penalty for a person obtaining information from the Community Notification website to secure a payment from a sex offender or to alter and misrepresent the information.

This bill is important because we heard the horrific story of the abduction and death of Jessica Lunsford in Florida at the hands of a previously convicted sex offender who was living about 100 yards from her home. That should never have happened. The passage of this legislation makes it more likely for dangerous sex offenders to be tracked, supervised, and when necessary incarcerated for a time reflective of their crimes. While this bill protects Nevada's children, it also respects the rights of sex offenders not to be subject to blackmail through improper use of information obtained from the Community Notification website. Ultimately, this bill is about protecting the children of Nevada.

We cannot undo what happened to Jessica Lunsford, but we can do our part to make sure another child in Nevada does not suffer the same horrible fate. In terms of the penalties for lewdness with a minor, many times more serious crimes are pled down, and almost everyone I spoke with is in favor of this legislation. I have distributed a handout ([Exhibit G](#)) on the recidivism rate of sex offenders, and I tabbed two graphs which show the rates of those who committed offenses against children are higher than those whose sex offenses were against adults.

Assemblyman Horne:

I have a question on section 8. It seems you are creating an aggravator for a crime that may have nothing to do with the murder on which they have been convicted. You have John Doe who has been previously convicted of a sex offense against a child under age 14. Today if he kills someone, you would advocate charging him with a first degree murder when the facts in the killing have nothing to do with the sex crime. I do not understand how you reach that circumstance.

Assemblyman Ohrenschall:

I can only answer that one way; you are right. We had to go back for a rewrite because we wanted to focus on the Tier 3 offenders whose crimes have been against children in terms of which of these offenders would be eligible for GPS monitoring. In the rush to do that and to get the bill introduced, that issue slipped by me. I agree that item should not be in the bill. I have spoken with some of the interested parties, and I am open to omitting it as an aggravator. On page 15, paragraph 13, we have an aggravator if the murder involved a sexual attack as part of that murder.

Assemblyman Horne:

You stated your bill focuses only on Tier 3 offenders. How did you arrive at those numbers?

Assemblyman Ohrenschall:

Nevada has 157 Tier 3 offenders who are compliant. There are 22 Tier 3 offenders whose offenses were committed against children under age 14. Those are the persons eligible for the GPS monitoring under this bill. That gives the State time to work out the kinks. We begin with the most dangerous like child molesters and the most likely to recidivate.

Assemblyman Horne:

Do you have any history of the experience that the bill has had in Florida?

Assemblyman Ohrenschall:

I do not believe it was easily implemented.

Josh Martinez, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We believe this bill will close some of the loopholes in A.B. 377. We have homeless people who register at particular intersections within urban Las Vegas. They do not have residences, and if something happens, we would like to know where they are. It would also help our sex crimes unit to be able to identify them, and to have an updated database. We would like to offer an amendment to the bill ([Exhibit F](#).) We have already discussed this with Assemblyman Ohrenschall. There is a clean-up of some language located on page 10, section 8, lines 7 through 10. We would like local law enforcement to report to the Nevada Central Repository "within two working days" changed to "within seven working days." This has also been discussed with Captain O'Neill, from Records and Technology Division, the DPS. It is a processing issue once we get the information from the registered sex offender. Our sex crimes unit needs time to process at the local level and forward the information to the Nevada Central Repository.

Chair Parks:

Why are you requesting seven working days?

Josh Martinez:

Seven days is the working time that allows us to get people in, registered, and the information processed through the fingerprint bureau. The fingerprint bureau handles a lot, and right now we have 4,000 registered sex offenders within our jurisdiction. Once the information is obtained, it is forwarded to the sex crimes unit for verification. They put the information into the system, so

they know they need to track these individuals, and then the information is forwarded to the State. If five days is what this Committee wishes, it would probably suffice.

Chair Parks:

I do not have a preference. Over the years we have seen that most statutes are written with either five working days, or seven calendar days, or some other number in that respect.

Josh Martinez:

A police department sometimes considers a weekend as working days because we are a 24-hour-a-day, 7-day-a-week operation.

Assemblyman Ohrenschall:

On page 11, line 11, "a post office box must not be provided in lieu of a physical residential address," that is significant because we are trying to not give the offender the opportunity to say, "I am staying with a friend, so I will give you a post office box address instead."

Patricia Hines, Private Citizen, Yerington, Nevada:

I have some information of Florida's Jessica's law. They have a group called "CUR", and they feel Florida is ensnaring too many of their teenagers. Forty percent of their sex offenses are done by teens. Instead of focusing on the registered sex offenders, they are now focusing on their foster care homes. I am glad they are inserting something on retaliation in their civil suits. On page 8, line 17, it states it is a misdemeanor for someone to misuse information from the website. But if you look further down, if someone is abetting a sexual offender, he is guilty of a category C felony. Maybe the category C is a little too strong?

Philip K. (P.K.) O'Neill, Captain, Records and Technology Division, Department of Public Safety:

The \$45,000 fiscal note mentioned previously should be attached to A.B. 405, not to A.B. 377. We have additional personnel requested for the sex offender's unit, and we can cover A.B. 405 with that additional staff. The fiscal note was attached just in case the staff was not approved. There were also some additional minor operating costs.

Chair Parks:

For the record, I will note that fiscal note was submitted on A.B. 405 for DPS.

Mark Woods, Acting Major, Division of Parole and Probation, Department of Public Safety:

We are in support of A.B. 405 with one caveat. Our concern is that we have offenders who own their homes. If this bill passes as is, they may be in violation of the 500-foot rule. If someone owns a home and the city puts a school bus stop within 500 feet of their residence, do we force them to move?

Chair Parks:

How has this been handled in other states?

Reynolds Johnson, Lieutenant, Division of Parole and Probation, Department of Public Safety:

There have been problems with limitations on distance. Some states have passed legislation or are in the process of reviewing this particular legislation. Consistently, the distance is 2,000 feet, and I believe that has been challenged in some states.

Chair Parks:

Since we meet only biennially, we would hate to put something into effect which would create major complications such as this.

Cotter Conway, Deputy Public Defender, Washoe County Public Defender:

The Public Defender's office is not in opposition to issues of monitoring these individuals. I do not have objections to those portions of A.B. 405. My objections pertain to about four sections.

Section 1, subsection 3 requires the court to conduct a search in the statewide registry. This particular provision of the bill would be better directed toward the Division of Parole and Probation. Parole and Probation prepares the pre-sentence investigation report. Implementing this as intended would place an undue burden on court staff. The Division submits a report which includes criminal history, and it seems necessary that it be the responsibility of that Division.

Section 4 requires a person who has reason to believe a sex offender is not complying with registration to report that person. Our concern is subsection (e) which makes someone obligated to report any time they hear any information. I do not think that is a mandatory reporter situation. Mandatory reporters we talk about are doctors or individuals in position to see abuse. In this situation, family members would be in trouble if they did not report a particular person. That is not appropriate. I ask that you strike subsection (e) from the bill, especially since they would be prosecuted for a felony in that situation. I would also propose reducing the penalty for the other offenses to a

category E felony or a gross misdemeanor.

The Public Defender objects to any additional aggravators added to the death penalty statute in Section 8, especially where an aggravator is for an act which had nothing to do with the instant murder. If you look at *Nevada Revised Statutes* (NRS) 200.033, which Section 8 is amending, there are 15 aggravators, and all of them except for Subsection 2 deal with the instant murder and conduct that aggravates that instant murder. Our position is to strike subsection 2 completely. We object to Section 9, which increases the penalty for lewdness offenses to 25 to life, or life without parole. It makes the penalty greater than the actual sexual assault of the minor. Lewdness is ill-defined by the Legislature and by the courts. There are concerns about how broadly the definition can be applied, and to increase that penalty to make it more severe than the actual penetration in sexual assault is of concern.

Section 10 deals with the removal of the distinction between major and minor violators. We ask that the statute not be changed. There are a number of minor technical violations of lifetime supervision that can be as simple as a traffic offense, reporting a day late, and even issues between the offender and his probation officer that could result in additional felony charges. The definition of major violation would allow both the new felony the individual commits and a second felony.

Jason Frierson, Attorney, Clark County Public Defender:

I will try to avoid repeating some of the points made by Mr. Conway. The search of a person's name in a statewide registry is obviously of benefit. That is a service already done. While we are in support of preventing these individuals from intentionally being around young children, we want to make sure they are on notice on how to avoid that. If there is a school bus stop that is unmarked on a random corner that happens to move depending on the school district's schedule, there is no way that someone will know how to avoid that proximity.

There are several bills dealing with sex offender registration, and all of the bills have distance issues varying from 500 feet to 2,000 feet. Page 8, Section 4, subsection (e) is obligating nonmandatory reporters to a higher level of responsibility. Section E should also be stricken. There has been discussion about a post office box being an address. That is a problem, and there is a concern with someone who does not have an established residence. However, it is the only way a homeless person can provide an address, and this is a location where he can do this.

Mr. Conway discussed the distinction between a 13-year-old, and a 14-year-old. I do not know if there is a distinction. The crimes are the same, and they should be treated the same, otherwise we are creating a new crime for what is the same conduct. I would not suggest we take it easy on someone who commits an offense on someone under the age of 14, I just do not see the distinction between the two years.

Assemblyman Ohrenschall:

Trying to implement this type of legislation will not be easy. We have to be aware of unintended consequences, such as the distance rule when someone owns a home. Mr. Conway and Mr. Frierson have brought up a good point with the school bus stop. If you know that the sex offender is not complying, as a public policy consideration, we want to have every citizen be a mandated reporter if he knows that someone is purposely not complying. On page 16, in terms of the enhanced category 8 penalty, we believe that applies to children age 11 and younger. Twelve- and 13-year-olds would be under the current penalty, with the minimum of ten years before the offenders are eligible for probation.

Chair Parks:

Are there any final questions for Mr. Ohrenschall? We will close the hearing on Assembly Bill 405 and we are adjourned [at 5:49 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Evans
Transcribing Secretary

APPROVED BY:

Assemblyman David R. Parks, Chair

DATE: _____

EXHIBITS

Committee Name: Select Committee on Corrections, Parole, and Probation

Date: March 29, 2007

Time of Meeting: 3:53 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 377	C	Assemblywoman Heidi Gansert, Washoe County District No. 25	Proposed Conceptual Amendment
A.B. 377	D	Assemblywoman Heidi Gansert	Email read during testimony
A.B. 377	E	Assemblywoman Heidi Gansert	<i>Las Vegas Sun</i> , "DNA Sample Leads to Arrest in Murder, Sexual Assault."
A.B. 405	F	Josh Martinez, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department	Proposed Amendment
A.B. 405	G	Assemblyman James Ohrenschall, Clark County District No. 12	Sex Offender Recidivism article