

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

**Seventy-Fourth Session
April 30, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:10 a.m., on Monday, April 30, 2007, in Room 3138 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 Bernie Anderson, Chairman
Assemblyman William Horne, Vice Chairman
Assemblywoman Francis Allen
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Risa Lang, Committee Counsel
Danielle Mayabb, Committee Secretary
Matt Mowbray, Committee Assistant



OTHERS PRESENT:

The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court
The Honorable Kathy A. Hardcastle, Chief Judge, Eighth Judicial District, Clark County
George A. Ross, representing the Las Vegas Chamber of Commerce
Bob Jensen, President, Nevada Trial Lawyers Association, Reno
Fernando Serrano, Administrator, Department of Health and Human Services, Division of Child and Family Services
Mike Pomi, President, Nevada Association of Juvenile Justice Administrators, Director, Washoe County Juvenile Services
Scott Shick, Chief Juvenile Probation Officer, Douglas County
Robert Roshak, Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department

Chairman Anderson:

[Meeting called to order. Roll called.] We will open the hearing on Senate Joint Resolution 9.

Senate Joint Resolution 9: Proposes to amend the Nevada Constitution to allow the Legislature to establish an intermediate appellate court. (BDR C-661)

The Honorable James W. Hardesty, Associate Justice, Nevada Supreme Court:

You have before you consideration of S.J.R. 9, which would create an intermediate appellate court in the State of Nevada. For some period of time, there has been an effort made to pursue an intermediate appellate court in our State. It has had substantial support historically from the Legislature. It has not always had support from the voters. Indeed, it did not have my support three years ago. I felt that we needed a plan that would address and answer some case management issues, specifically delineate the responsibilities of an intermediate appellate court, and was economical. There had always been a concern on my part that there were varying estimates of the costs necessary to effectuate an intermediate appellate court. When I ran for the Supreme Court, there were suggestions that it would cost \$8–\$9 million. When I asked for the explanation for those costs and how they were arrived at, there was no articulation of that. I appreciated the insight and the intuition of the Legislature in 2005 to request the Supreme Court to develop a case management evaluation and study of the intermediate appellate court. As a consequence of your efforts, the Supreme Court, acting as a whole, developed a commission to study an intermediate appellate court and formulate a business plan. Ms. Neuffer from the Administrative Office of the Courts (AOC) did a

tremendous job assisting the court in the formulation of the report to this Legislature in response to Senate Bill No. 234 of the 73rd Session. It is dated March 8, and was delivered to you the next day. As you can see from the report, we have formulated a very clear, definable business plan for the adoption of an intermediate appellate court—one that I believe we can explain to the public and the press. We will show a definitive improvement in the manner in which we process appellate cases in the State of Nevada. Additionally, we wanted to define cost. As this report shows, for the first time we have specified precisely what such a court would cost. We have the facilities available in the Regional Justice Center (RJC). We are looking at approximately \$1.1 million to effectuate an intermediate appellate court. The court would primarily hear appeals that are well-deserving and need to be heard in cases of post-conviction relief, petitions for judicial review, and those types of matters, but cases that do not generate issues of first impression and require the kind of deliberation and opinion writing expected from the highest court of the State.

Chairman Anderson:

Two of us up here have been long time waiting for another crack at this, and we hope it moves forward in a realistic fashion. Two seated justices of the Supreme Court would then become members of this newly created Appeals Court in 2010.

James W. Hardesty:

No, sir. We are recommending that the sunset provisions on those two seats be terminated and that those seats remain on the Supreme Court, and that an intermediate appellate court of three judges be empanelled.

Chairman Anderson:

Is that in this particular piece of legislation?

James W. Hardesty:

No, sir. The legislation is drafted broad enough to allow the Legislature to create an intermediate appellate court should this constitutional amendment be approved by the people. You would be in a position to do that, but our recommendation is that you retain a Supreme Court of seven justices, which is consistent with most Supreme Courts around the country, considering our population growth.

Chairman Anderson:

I was under the impression that existing law removes two of the seats if an appellate court is to go into effect. Is there a provision in this bill that would

remove that provision from the process, or is that to follow in a subsequent piece?

James W. Hardesty:

My understanding of the current draft is that it is not in there; it would be subject to future review by the Legislature. The Legislature would have some flexibility in reviewing that question. It is our recommendation that you retain the Supreme Court at seven justices if this should pass. That is how the business plan was formulated.

Assemblyman Mortenson:

I am a little confused because you said it would be \$1.1 million and the fiscal note on here says no government fiscal impact and no state fiscal impact. I guess that is because this does not describe the fact that you want three additional judges. That need not be in the *Nevada Constitution*. Is that the way things work?

James W. Hardesty:

That is correct. On page 42 of the report that was provided to you in March, you will see a summary in which the total annual estimated cost is \$1.197 million. The bill before you is an amendment to the *Nevada Constitution* which would not create a fiscal note until the Legislature decided to actually empanel and form the intermediate appellate court by statute.

Assemblyman Mabey:

If this and Senate Joint Resolution 2 both go on the ballot and pass, will S.J.R. 9 be in conflict with that measure?

James W. Hardesty:

No, sir. We have structured the language so that it would accommodate S.J.R. 2 if it were to also pass.

Assemblyman Horne:

Is it the Supreme Court's belief that we already have the infrastructure for an intermediate appellate court in place? We are not going to be building an additional intermediate appellate court building or additional courtrooms, et cetera. This is basically an addition of staff, am I correct?

James W. Hardesty:

Yes. As a matter of fact, it is our specific plan to place the intermediate appellate court on the 17th floor of the RJC. It was designed with this in mind. With the exception of one additional chambers that would need to be

constructed—and it is in a position to have that occur—that is an ideal location for the intermediate appellate court. However, we make clear in this business plan that we do not want multiple clerk offices. We want all filings to be presented to the clerk and we have developed a case management proposal that would allow for certain specified cases to be directly assigned to the intermediate appellate court upon filing. Then we would use what we call a "push down" approach in which the case assignment panel—a new creation of the Supreme Court—would evaluate each case. Depending upon the nature of the appeal, it would be pushed down to the intermediate appellate court for disposition. In terms of the facility issues, there are virtually none.

Assemblyman Horne:

You mentioned in your opening statement how initially you were opposed to the creation of an intermediate appellate court, particularly because there was not a plan in place. I assume that you are in favor of an intermediate appellate court in operation now, if we adopt this plan. If that assumption is correct, can you briefly tell us why Nevada now has the need for an intermediate appellate court?

James W. Hardesty:

My reservation before was primarily the absence of a business plan and an explanation of what it would cost. There had been studies in the past, but there was not really a definitive plan that might help guide the Legislature on how to define the intermediate appellate court and what exactly it would do. More importantly, in my view, there was not a plan internally in the Nevada Supreme Court for how we would specifically assign cases and how that would improve our operation. Currently, the Nevada Supreme Court is the busiest state Supreme Court in the United States. In the last two years, we have had filings that have exceeded 2,000 cases per year. Last year we had filings of 2,171 cases. That is over 310 cases per appellate judge per year. If you collapse the entire system in California, they are at about 167 cases per judge per year. If you collapse the system in Arizona, they are at about 175. You can see that our appellate level is egregious. The fact of the matter is that it affects time to disposition. Currently in Nevada you run the risk of having your appeal take three years for disposition. It is not because the justices are not working hard or the court staff is not working hard, but because of the fact that you have too many cases. Yet, we are a victim of our own success. Last year, with the changes we made internally in the management of the court, we produced 2,387 dispositions. That is more dispositions than any appellate court in the country, save the possible limited exception of the Ninth Circuit. They are able to accomplish a number of their dispositions because they dismiss cases that get abandoned. I submit to you that the Court is operating as efficiently as it can. We now have a plan. We now know what kinds of cases

we can divert to an intermediate appellate court with an appropriate amount of staff, and we can develop the processing of those cases and segregate out cases that require review of issues of first impression. The thing that concerns me as a Supreme Court justice is this: if this were to be adopted by the voters, the first time you would have an intermediate appellate court would be January 2013. As a sitting member of the court, it is frightening the amount of workload we are facing over the course of the next five to six years. What is particularly distressful, though, is the fact that we have a number of issues of first impression. We have one of the most important securities cases in the country right now—a case that the Securities and Exchange Commission (SEC) sought amicus participation in and orally argued because of the consequences this will have throughout the country. We are the first appellate court in the country to hear this issue. There are many other issues like that coming to this Supreme Court. Why? We are the only appellate court in the State. There is a fast track, I assure you, from what is occurring in the district courts to what is being appealed in front of us. You need time to think, to read, and to write in order to address those issues. My wife will tell you that I read until 11, 12, or 1 o'clock in the morning every night because of the amount of work we have in this court. So, yes, there is a need.

Chairman Anderson:

So, this passes the 2007 Legislature, the 2009 Legislature, goes to the electorate in 2010, comes back to the Legislature in 2011, and the positions are elected in 2012 to take office in 2013. Then we have three judges screening for seven justices. I am trying to envision the mechanics of this.

James W. Hardesty:

That is not how we propose it would work.

Chairman Anderson:

So, it is not going to follow the traditional model of appeal into the Supreme Court, but rather the Supreme Court is going to screen what goes to the intermediate court?

James W. Hardesty:

Let me give you an example of how we propose this would work. I will put it on the civil side for petitions for judicial review and on the criminal side for post-conviction writs of relief. On petitions for judicial review, as you know, that is essentially a review on the record by an appellate court of what the district court has reviewed on the record of what an administrative agency did. In many cases, these administrative reviews have already had two previous reviews. The test, for the most part, is whether there is substantial evidence to support the determination of the administrative body. What we are proposing is

that the vast majority of those cases be heard by the intermediate appellate court. That would be an automatic assignment. On some occasions, petitions for judicial review will raise an issue of first impression. Those issues and those cases would remain in the Supreme Court. We are able to identify those issues right away. The same is true with respect to post-conviction relief cases. Post-conviction relief is filed by a defendant where most of the claims are charging ineffective assistance of counsel. In those cases, they do not raise issues of first impression; it is simply an evaluation on the part of the district court judge, and later on the part of the intermediate appellate court as to whether there was or was not satisfaction of the two-pronged test under *Strickland v. Washington* [466 U.S. 668 (1984)], i.e., if there was ineffective assistance of counsel. Those cases can be handled by a three-member appellate court. For the most part, civil cases that raise issues of first impression would remain with the Supreme Court. Those that do not would be pushed down to the intermediate appellate court. The three intermediate appellate court judges are not screening for the Supreme Court. To the extent that anyone seeks further review of an action by the intermediate appellate court, it would occur through a petition for certiorari. As you may be familiar, that is how the United States Supreme Court hears its cases—through cert petitions, filed in front of them. I would not mind that operation. They had about 7,000–8,000 petitions for cert in the last couple of years, and they heard about 69 cases. They issued 69 opinions. Our court is a bit different in the way we approach things. We would propose that anyone who seeks review from the intermediate appellate court would have to petition for cert to the Supreme Court and articulate what the legal issue of first impression is or the public policy that requires review. The Supreme Court could grant or deny cert, just as the U.S. Supreme Court does now. By maintaining a single clerk's office, we avoid duplication of effort in that regard. By maintaining a case review or a case assignment panel at the Supreme Court level, we are in a position to review those issues up front, rather than later. Hopefully, that will save the parties time.

Assemblyman Carpenter:

On page 2, I think I understand (b) where it provides that the judges be elected by the people, but in what situation is (c) supposed to apply?

James W. Hardesty:

That provision addresses the circumstance in which either a judge dies or retires. It is bringing into conformance the appointment process that we currently use through the Judicial Selection Commission.

Assemblyman Carpenter:

The first time they would have to be elected by the people unless the other procedure is also approved by the voters, is that right?

James W. Hardesty:

Yes. For clarification, these are two separate issues. You clearly could approve the intermediate appellate court. You might not approve merit selection for judges, in which case, the intermediate appellate court judges would be selected just as we do currently. This is how this has been structured.

Assemblyman Segerblom:

Currently, are there any limits on how many Supreme Court justices we can have? In this bill, would there be any limit on how many appeals court judges we could have?

James W. Hardesty:

The answer to both questions is no. However, I would state that, in the report, the current justices sitting caution against expanding the court beyond seven. The panel system has worked fairly effectively, but it is really a complicated system. There are times when we are tracking five separate dockets and that is not the most efficient way to do business. If you expand the court to nine justices, for instance—the preferable thing would be to operate with an odd number—a nine member en banc court with three panels is just going to add even more confusion in tracking cases. I do not think that promotes efficiency, but will actually defeat it. Certainly, the Legislature is in a position to expand both courts if you and the courts thought that was appropriate, and you would be in a position to expand the intermediate appellate court if their caseload justified it.

Assemblyman Segerblom:

I was just thinking that if things got out of hand before this was able to be enacted, we could add a couple of justices in the Supreme Court to carry over until the intermediate appeals court was in place.

James W. Hardesty:

I think all of the justices currently would prefer to continue to slog it out rather than deal with the inefficiencies that would be created by added justices. We will report back to you in 2009 if it gets worse.

Chairman Anderson:

What happens in the event that both measures were to pass?

James W. Hardesty:

The Legislative Counsel Bureau (LCB) anticipated this issue. Language has been incorporated in S.J.R. 9 to accommodate the possibility that merit selection also passed. Therefore, if that were to occur, these new judges would be selected through merit selection.

Chairman Anderson:

Is there anyone else wishing to speak on S.J.R. 9? [There was no one.] Is there anyone in opposition? [There was no one.] We will close the hearing on S.J.R. 9. Let us open the hearing on Senate Bill 208.

Senate Bill 208: Makes various changes to provisions governing employees who are summoned to appear for jury duty. (BDR 1-660)

The Honorable Kathy A. Hardcastle, Chief Judge, Eighth Judicial District, Clark County:

This bill addresses an issue that we have been experiencing in Clark County and I would expect that it has probably been experienced on occasion in other parts of the State. What this bill does is clarifies the right of individuals to serve on a jury without being required to work either a swing shift or a graveyard shift then have to come back to the courthouse the next day and sit through a jury trial. Most of our employers in this State are good at recognizing the rights of individuals to serve on juries and are very accommodating to their employees. Occasionally, especially in the past few years, we have experienced some supervisors who are not really aware of the rigors of serving on a jury and are more concerned with making sure their workforce is there. In ten years, I have experienced this on a very rare occasion, and it was usually taken care of with a phone call. I called employers and explained what happens with service on a jury and they then accommodated. A juror comes in after working a graveyard shift, trying to stay awake through a jury trial, and it is very tough on them. This would give them the right not to have to work while they are sitting on a jury.

Chairman Anderson:

I worked a graveyard shift and then went to college in the day time, so I know it is very easy to fall asleep after a graveyard shift, whether it is in a court or in a classroom. How is the three-day notification going to work?

Kathy A. Hardcastle:

When someone receives the summons, they call in and get a date they are supposed to report for jury service. That is usually at least a couple weeks away. In Clark County, they can check in online as well as by telephone, and they can defer service until a time that is more convenient for them and their

employer. Then, once they receive the date they are to appear for jury duty, they should be notifying their employer. A lot of the time these cases do go off the calendar, the employee calls in and finds out the case is off, then they can call their employer and let them know they are available to work.

Chairman Anderson:

Let us say someone notifies his employer that he is scheduled for jury duty on Monday. He does not know for sure he will be on that panel because the court has not really confirmed it. The court will not know until maybe until Friday midday that an agreement has been met on that particular case. If he shows up on Monday because he has not been empanelled, the employer has him standing around, is that what is going to happen? That is where my confusion lies. Are they going to change the process so people know by Wednesday or Thursday of the previous week if they are supposed to be on a jury? Many times, things are settled at the last minute.

Kathy A. Hardcastle:

When we refer to three-day notice in the bill, we are referring to the notice for summons and the date to report. This is so the employer is aware that if the case does not get settled beforehand, the employee has to be at the court on that date. Unfortunately, with the way legal business occurs, sometimes we do not actually get settlements on cases until the juror is standing in the courthouse waiting to be called in to the courtroom. Many cases settle on the day of trial. Many times we bring jurors in and they sit there for a few hours while we finish getting the parties together and get them to reach a conclusion; a vast majority of cases settle at that point.

Let us say that the juror is supposed to be here next Monday. The juror would give notice to their employer that they have to be in court for jury duty next Monday, but any time prior to that they may receive notice that the case is settled and they do not need to show up. If they do not get that notice, they do have to show up.

Chairman Anderson:

I noticed that there are some protections that you have built into the bill related to using sick leave and vacation time, so that the employer does not penalize the individual for doing that. How about job protection? Some people are day workers. Are there going to be protections for that?

Kathy A. Hardcastle:

That is already in the statutes, if you look at Section 2.

Chairman Anderson:

How often have you used that statute?

Kathy A. Hardcastle:

In ten years, my office has had to call an employer on two occasions to explain to them that they cannot take any type of action against the employee for having to appear for jury duty. I heard a story from one of the other judges where we have had to have an extensive conversation with an employer regarding the fact that they cannot fire someone because they showed up for jury duty. It is rare. It is more a lack of knowledge of the statute than it is anything else.

Chairman Anderson:

You only have anecdotal information, no hard numbers?

Kathy A. Hardcastle:

No.

Assemblyman Ocegüera:

This makes it tough for employers of 24-hour employees, like me. Usually, if someone goes to jury duty all day, we will send him home because he is going to be there the next day. We will not make him come in for that other 16 hours. With the 24-hour notice requirement, we would have to give them the full day off 24 hours in advance when they are not getting called into work until the night before.

Kathy A. Hardcastle:

The 24-hour notice was to address another issue. We would have individuals showing up to jury service after just coming off a graveyard shift, or having worked a swing shift, gone home, slept for two hours, then were required to show up at the courthouse, and it was really tough on them. That is what that provision deals with. This is more for the protection of the employees who are coming in for jury duty. We try to work with people as much as possible, whether it is a 24-hour employee, a doctor, lawyer, or even a swing-shift person who needs some accommodation. We have our juror software program as well the interactive voice response (IVR) system. Potential jurors can, if a date is not convenient for them, defer that date to another date that works better with their schedule or with their employer's schedule. They can also go online now to check in and get that deferment.

George Ross, representing Las Vegas Chamber of Commerce:

The Las Vegas Chamber of Commerce thanks the Nevada Supreme Court for bringing this bill forward, and we wholeheartedly support it. We appreciate

some of the questions brought up. The most important thing for our business community and Nevadans as a whole is a fair jury trial by our peers. Having served on more than one jury, I can tell you that it is important to have jurors who do not feel they are being punished by their employer for doing their civic duty. If you are on trial, you do not want a juror half asleep or falling asleep during some of those long, turgid evidentiary presentations. Despite the occasional inconvenience to an employer, this is a very important bill.

Bob Jensen, President, Nevada Trial Lawyers Association, Reno:

I have come here to speak in favor of this bill. Having tried a number of jury trials in the past, it seems somewhat hard to believe that jurors can fall asleep, but that does happen to be the case. This bill would go a long way to try and relieve that particular problem. I view a jury trial as probably the most direct and fundamental way that the citizens of this State can participate in the democracy that we have, aside from voting. If we can alleviate some of the burdens that potential jurors face as they approach this process, it should be applauded. There is a fair percentage of potential jurors who, as we go through the selection process, view the process of serving on a jury as creating a real burden for them apart from the issues of employment. Anything we can do to make sure they are not punished or penalized, the Nevada Trial Lawyers Association would applaud and support.

Chairman Anderson:

Is there anyone else in support? [There was no one.] Is there anyone in opposition? [There was no one.] We will close the hearing on S.B. 208. We will open the hearing on Senate Bill 32(R1).

Senate Bill 32 (1st Reprint): Revises the provisions concerning the detention of certain delinquent children who violate parole. (BDR 5-597)

**Fernando Serrano, Administrator, Department of Health and Human Services,
Division of Child and Family Services:**

[Read from prepared testimony ([Exhibit C](#)).]

Chairman Anderson:

In both Washoe and Clark Counties, we are concerned about jail overcrowding. One of the big complaints we hear is about having to release individuals to make more bed space. Does this bill supersede the ability of the judge and the sheriff to try to release people for that purpose? The nature of their crimes has to be serious so they are not going to be released back into the community because of overcrowding.

Fernando Serrano:

We are certainly cognizant of population issues in county jails around the State; therefore, we request this legislation with the very specific targeted population in mind. In this particular instance, in speaking with parole officers around the State, we are concerned about that older sex offender re-offending. They are generally more sophisticated and more of a threat to the community. This measure has a very specific and limited use, but this is a critical need when that situation arises.

Chairman Anderson:

Is there anyone else in favor of S.B. 32(R1)? [There was no one.] Is there anyone in opposition or neutral on S.B. 32(R1)? [There was no one.] We will close the hearing on S.B. 32(R1). Let us open the hearing on Senate Bill 294(R1).

Senate Bill 294 (1st Reprint): Revises the provision concerning mandatory detention of a child who commits a battery that constitutes domestic violence. (BDR 5-958)

Mike Pomi, President, Nevada Association of Juvenile Justice Administrators, Director, Washoe County Juvenile Services:

This bill makes changes to Chapter 62 of *Nevada Revised Statutes* (NRS) so that kids would be scored as to the relative risk that they prove to the community, to themselves, and to others. It falls in line with what we do with every child who comes in the jurisdiction of juvenile court—we look at each individual case, assess their risk, and from that risk we determine the best course of action to take with them. If a child is a risk, they can be detained up to the 12 hours and have a detention hearing. We find that the most critical time to intervene with kids and families when they are in crisis is at that crisis moment. After 12 hours, a lot of things resolve. When we can intervene with psychologists and mental health counselors, we can get to the bottom of the situation quickly. Many times, we reintroduce a child back to the home. If that is not the case, we can put them in respite care, such as McGee Center or WestCare. The secure detention need and the level of care that each individual child would require are assessed. From that assessment we would intervene. We find that about 50 percent of these kids suffer from mental health disabilities and need attention and that is why they are drawn into the juvenile court.

Assemblyman Carpenter:

Are you really able to intervene within the 12 hours?

Mike Pomi:

We are on duty 365 days a year, 24 hours a day at McGee Center and at our juvenile detention centers, and we have staff available to intervene 24 hours a day. Interventions such as counseling and whatnot would take a little bit longer. Secure detention is harmful to children and the minute they are put into secure detention, the likelihood of them ending up in state placement is much greater. Our goal with this legislation is to intervene in that process of secure detention and to get them into other levels of care that are necessary.

Assemblyman Carpenter:

I am interested in how the rural areas are going to do this. Many times there are not mental health people available.

Scott Shick, Chief Juvenile Probation Officer, Douglas County:

In the rural areas, the evaluation, just because of the logistics, sometimes takes a bit longer than the 12 hours, based on how some rural jurisdictions have to detain children, specifically in these circumstances. I do know there are mental health services available in Elko, the Winnemucca area, and in Douglas County. Also, in Lyon and Churchill we can get on-call probation officers and an evaluation in to our mental health professionals within 24 hours to evaluate the situation. In some cases, the alternative parent in these situations is acceptable placement. We would reassure the Committee that an instance of severe domestic violence involving a child would require a risk assessment that will keep them in juvenile detention for 12 hours, if not longer, based on the circumstances until we could make a detention hearing with our district court judge.

Assemblyman Carpenter:

I do not have a problem with them being released sooner as long as there are proper precautions taken, but I hope the bill is not used to turn them out and then something really drastic happen. That is my only concern.

Scott Shick:

I share your concern about this. Our district administrators in juvenile justice make good decisions. They have good systems in place to ensure that anybody who would be released would have access to the necessary services to be back in the community, back in school the next day, and to resolve these family situations as quickly as possible. I would reassure you that even the rural jurisdictions would respond accordingly.

Mike Pomi:

This only relates to juvenile justice and juveniles. If it does cross over in any way to the adult side, we are not in support of that.

Robert Roshak, Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department:

We support this bill. We find that children who are booked into juvenile hall may have been set up by the parents, or maybe other things are going on. We think this evaluation will help everyone more than hinder.

Chairman Anderson:

You think that the parents get into a disagreement with the child so the child would be placed in juvenile facilities so that they are not at home when another event may be about to happen?

Robert Roshak:

Yes, that can occur.

Chairman Anderson:

Is there anyone in opposition to the bill? [There was no one.] We will close the hearing S.B. 294(R1).

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 294(R1).

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (ASSEMBLYMAN CONKLIN WAS ABSENT FOR THE VOTE.)

Does the Committee have a feeling about S.B. 32(R1)?

ASSEMBLYMAN COBB MOVED TO DO PASS SENATE BILL 32(R1).

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (ASSEMBLYMAN CONKLIN WAS ABSENT FOR THE VOTE.)

Assemblyman Segerblom will take S.B. 32(R1) on the Floor. Assemblyman Mortenson will take S.B. 294(R1) on the Floor. Let us take a look at S.B. 208.

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 208.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

Assemblyman Ocegüera:

I am concerned about this—not only the situation that I brought up, but what if you want to work and then your employer uses this statute to say you have to take the day off, and you need that income? I will probably vote no.

Assemblyman Horne:

As I read it, it is only saying that the employer shall not require them to work; it does not say that they may not.

Chairman Anderson:

I have doubts about the bill, but the rest of you seem fairly happy with it. I was surprised that the business community agreed to it. That relieves some of my concerns.

Assemblyman Carpenter:

As I remember it, the judge testified that jurors have two weeks notice; however, the court in Elko calls people in and if they decide on the jury, the next day they are going to be in trial, so they would not have three days to notify their employer.

Chairman Anderson:

I think the judge is referring to the letter that you receive summoning you to that first screening before you are empanelled. You would give notification to your employer three days prior to that first scheduled appearance, which is quite a ways out, if you start thinking about it.

Assemblyman Carpenter:

It did not seem like there were very many cases.

Chairman Anderson:

It is different in the Second and Eighth Judicial Districts where they need such a large pool of jurors on any given Monday.

Assemblyman Ocegüera:

If you are working the graveyard shift, then you are going to have to call your employer that night and tell them you will not be in for graveyard because you cannot work eight hours prior to jury service. In my case, if I have a guy who is working, he calls in while he is at work, and he says he has to go home because he cannot work eight hours prior to jury service.

Chairman Anderson:

They made a strong case that if you are on a certain shift, you need to be properly rested before you serve on the jury. We live in communities where

there are so many 24-hour-a-day jobs. A large percentage of our population work in the casinos and as a result, this might give them a little bit of an opportunity to serve on jury duty without worrying about giving up their free time, vacation time, and sick leave in order to do that without losing pay.

Assemblyman Horne:

I believe that is only dealing with the summons. The summons is different than when you have actually been seated.

Risa Lang, Committee Counsel:

It does appear that the three-day requirement is for the notice about the summons. The person would be required to give notice to the employer.

THE MOTION PASSED. (ASSEMBLYMEN ALLEN, CARPENTER, AND
OCEGUERA VOTED NO.)

Chairman Anderson:

Assemblyman Manendo will take this on the Floor. Let us take a look at S.J.R. 9. The fact that we are going to have to wait until 2013 for an appellate court is stressful. Hopefully, by that time we will recognize the need here in the State. It seems to me that we need to move this on its way since it has to pass two sessions in the Legislature.

Assemblyman Mortenson:

I do not really understand some things here. On page 2, around lines 12–14, it reads, "[t]he initial judges of the court of appeals shall be elected by the qualified electors of the State at the first general election." That implies to me that the subsequent judges will not be elected by the people because, as we get down to subsection (c) right below, it says "each judge of the court of appeals must be appointed by the Governor in the manner for the term provided in Section 20," but Section 20 is really talking about replacing judges who die or something like that. So, I am not sure what happens after the initial election. Are they appointed or what?

Risa Lang:

The following judges would also be elected unless the procedure changes. I think this is the language Justice Hardesty was referring to if the other process comes into play.

Assemblyman Mortenson:

Then you think they will be elected continually?

Risa Lang:

I believe so, unless the provisions change under paragraph (c).

Chairman Anderson:

I think it is to guarantee the fact that we are not going to start off with appointed judges.

ASSEMBLYMAN MORTENSON MOVED TO DO PASS SENATE JOINT
RESOLUTION 9.

ASSEMBLYMAN COBB SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will take this on the Floor. Are there any other issues to come before the Committee? [There were none.] We are adjourned [at 9:32 a.m.].

RESPECTFULLY SUBMITTED:

Danielle Mayabb
Committee Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 30, 2007

Time of Meeting: 8:10 a.m.

Bill	Exhibit	Witness / Agency	Description
	A	*****	Agenda
	B	*****	Attendance Roster
SB 32	C	Fernando Serrano, Division of Child and Family Services	Written Testimony