

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

**Seventy-Fourth Session
May 15, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:12 a.m., on Tuesday, May 15, 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

GUEST LEGISLATORS PRESENT:

Senator Warren Hardy, Clark County Senatorial District No. 12

Minutes ID: 1242



STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Risa Lang, Committee Counsel
Doreen Avila, Committee Secretary
Matt Mowbray, Committee Assistant

OTHERS PRESENT:

Vinson Guthreau, Government Affairs Coordinator, Nevada Association of Counties
Alan Glover, Carson City Clerk/Recorder; representative, Nevada Association of Clerks
Nancy Parent, Chief Deputy Clerk, Washoe County Clerk's Office
Diana Alba, Assistant County Clerk, Clark County Clerk's Office
Janine Hansen, State President, Nevada Eagle Forum
Donna Saling, Private Citizen, Las Vegas, Nevada
Rick Mora, Private Citizen, Las Vegas, Nevada
Sandy Heverly, Executive Director, Stop DUI
Dave Vidimos, Board Member, Nevada LIFE
Melissa Clement, Representative, Nevada Right to Life
Mylan Hawkins, Executive Director, Nevada Diabetes Association for Children and Adults
Cotter Conway, Deputy Public Defender, Washoe County
Lee Rowland, Representative, American Civil Liberties Union of Nevada
Kay Ellen Armstrong, Criminal Defense Lawyer, Carson City

Chairman Anderson:

[Roll was called and a quorum was present.] I will open the hearing on Senate Bill 131 (2nd Reprint).

Senate Bill 131 (2nd Reprint): Makes various changes regarding certain court fees charged by county clerks. (BDR 2-385)

Vinson Guthreau, Government Affairs Coordinator, Nevada Association of Counties:

I will be happy to provide an overview of S.B. 131 (R2). The Board of Directors of the Nevada Association of Counties (NACO) approved this bill as part of the legislative package they submitted to this session of the Nevada Legislature. This bill was introduced in order to offset technology costs that are associated with upgrades being performed by county clerks.

The intent of the bill is to raise specific fees, as listed in the bill, and earmark the additional revenue for technology upgrades. It has been nearly a decade since these fees were raised. I have provided the Committee with a comparison of other states' fees ([Exhibit C](#)).

Chairman Anderson:

The fee for a notary in Utah is \$30; Oregon's notary fee is \$20; and Idaho's is \$30. The commencement of action fee in Utah is \$45 and the commencement of action fee in Oregon is \$190. The fee in Utah for an appeal is \$205 and in Oregon it is \$158 or \$190, plus a \$77 per day court fee.

Vinson Guthreau:

That is correct. I drew the fees directly from their websites and matched them with the fees we have outlined in our bill.

Alan Glover, Carson City Clerk/Recorder; Representative, Nevada Association of Clerks:

I would like to speak about Section 2, subsection 1, which relates to general fees. All these fees go to the counties' general funds which help support the cost of running the clerks' offices in most of the counties in the State. Those of us who are court clerks have overall responsibility for that.

As was pointed out, these fees have not been increased for ten years. I have an inflation calculator program which shows that increasing these fees will just be in line with inflation. Adding the cost of inflation to the commencement of action fee of \$56 would increase it to \$69.58 as of 2006.

It is really important that we collect these fees and that the people who use the courts help pay for the courts. A number of our counties are in real financial difficulty, and having these additional funds to help support their courts is very important. I hope you can see fit to support these increases.

Chairman Anderson:

Are you utilizing court filings to raise the overall function of the clerks' offices in all but the two major counties?

Alan Glover:

The money collected by these fees goes to the counties' general funds. Courts do not generate enough money to support all of their functions. Even in Washoe and Clark Counties, the money still goes into the general fund. The money for staff salaries and to support the clerks' offices comes from the counties' general funds and helps support their functions. The money is not specifically segregated, but when the court administrator submits his budget to

the county, it helps to have additional revenue. I think this is quite important for a county such as White Pine, which has quite an active court these days and is in financial difficulty, as are some of the rest of us.

Chairman Anderson:

Do you mean the smaller counties? [Alan Glover nodded in agreement.]

Assemblyman Cobb:

Is there already a fee in statute earmarked to purchase new technology and maintain current technology?

Alan Glover:

Not for county clerks. I am the only Clerk/Recorder in the State. The recorders charge a technology fee of \$3, which has been the best thing that ever happened to the recorders' offices. It has given us the ability to really improve our service to the general public and to the title industry. That fee was strongly supported by the title industry and has really made a difference. The proposal in this bill is a modest way to help the county clerks with their technology. During the budget process, we tend to not be the highest priority when it comes to technology.

Assemblyman Cobb:

To clarify, the recorders already have a fee on the books but the clerks do not?

Alan Glover:

Correct.

Chairman Anderson:

The money raised by these fee increases is not going to the court clerks. The motivation behind using the filing fees of the judicial process is because they are such a handy way to increase revenue.

Alan Glover:

The general fees in this bill go to the counties' general funds. The \$5 technology fee would go to the county clerk for functions that the county clerk, not the court clerk, performs.

Nancy Parent, Chief Deputy Clerk, Washoe County Clerk's Office:

You should have a letter we distributed this morning from Amy Harvey, the Washoe County Clerk ([Exhibit D](#)). I would like to add to what Alan Glover was saying concerning the issue between the court clerk and the county clerk that only exists in Washoe and Clark Counties. Those two county clerks are not the clerks of the court because those counties have separate court administrators

who collect money for a technology fund for the courts for filing civil actions with multiple parties. I believe that fee is \$8 and was approved by the Legislature in 2003. As Alan also mentioned, the recorders collect a fee of \$3 on certain documents and that fee was approved in 2001.

We live in a world in which our customers expect instant information; they expect it to be out on the Internet, and this \$5 technology fee that would be attached to a notary bond filing would really assist us in those efforts. As Alan said, a technology fee really helped the recorders' offices provide better service to their customers, and we would hope to do the same.

In the Senate, we did have some opposition from district courts in Clark and Washoe Counties. We are not sure we understand exactly why they were opposed; however, this bill passed the Senate, regardless of that opposition. You will note in the letter we handed out that there is a quote from Judge Hardcastle in Clark County. She says she is not opposed to the clerks collecting the fee as it relates to their function within the executive branch. We think there is confusion between the court filing fees and this notary bond filing fee. In Clark and Washoe Counties, because those duties are so separate, we will not have anything to do with the filing fee increases in this bill. What we hope to do is get the \$5 notary fee to use for technology in our offices. In Washoe County, we do not expect that fee to generate a lot of money; we anticipate \$8,000 or \$9,000 a year. We recognize that is not a huge amount, but if we know we have that money coming in, we can make a plan, save up, and really accomplish something.

Ron Longtin, Second Judicial District Court Clerk, also testified against the bill in the Senate. We think he does not understand our intent or what we are trying to do with this \$5 notary fee.

We hope for your support of our technology fund.

Chairman Anderson:

Where will the money collected by the increased court fees in the two larger counties go?

Alan Glover:

Those fees will continue going into the counties' general funds.

Chairman Anderson:

They are not being retained by the district courts?

Alan Glover:

By statute, these funds go to the county general fund, although I am not that familiar with the Second and Eighth Judicial Districts' financing.

Nancy Parent:

In Washoe County, the moneys collected in district court for their filing fees are collected by district court employees and go to the county general fund. We do not touch any of their money.

Chairman Anderson:

I thought those fees specifically set aside for other programs were retained?

Nancy Parent:

There are several fees, such as for certified copies, for searching records, and for notary bonds, that are listed in Chapter 19 of the *Nevada Revised Statutes*. Those fees go directly to the county clerks.

Assemblyman Segerblom:

What kind of technology are you considering? What do you not have now that you would like to purchase?

Nancy Parent:

We need software to enable us to get more information out on the Web, and to make our records searchable on the Web, and to try to do so without duplicating efforts. Right now, we just piece things together. We get a lot of information and enter it into the computer, but many times, those efforts must be duplicated to put that information on the Web. We understand that there are miraculous programs available that will allow information, as it is being taken in, to be put right out onto the Web. That would save time, money, and get people the information they want. I do not have any specific programs in mind, but I do know that the technology exists and we would like to have it.

Assemblyman Segerblom:

Would this effort produce any revenue? Is there any correlation between the fees you are raising and what you are trying to accomplish?

Nancy Parent:

Only the \$5 fee for notary filing goes to the county clerks' technology funds, and in Washoe County, we estimate that revenue to be \$8,000 to \$9,000 a year.

Assemblyman Segerblom:

So, in this bill, the other fees being raised are not for you?

Nancy Parent:

No, sir; those fees go to the district court and then to the counties' general funds.

Assemblywoman Allen:

You mentioned the technology fund and the changes you would make to put information on the Web. Is that information not already available online from the Recorder's Office in Clark County?

Alan Glover:

Information from the Clark County Recorder's Office is available; however, most clerks' offices are not able to manage notary information, marriage information, or other functions because there is really not a good funding mechanism.

Assemblywoman Allen:

I am pretty sure that information is available for public use on the Clark County website.

Alan Glover:

We should get the Clerk from Clark County to answer specifically what his office does. The Clark County Recorder's Office has great information on their website.

Diana Alba, Assistant Clerk, Clark County Clerk's Office:

Clark County has a very nice website and there is information from the Recorder's Office on it; however, it is not the same information that the County Clerk's Office wishes to post on our website. We do perform different functions. In Clark County, we do about 7,000 notaries a year, so the fee would collect about \$35,000 for us.

We have records dating back to 1908 that are on microfilm that is deteriorating and needs to be replaced. We would like to earmark some of the money to digitize those, and there are a number of other uses in addition to enhancing services on the Web that this fee could be used for.

As far as court fees that are collected, it has only been in recent months that the county clerk is no longer the clerk of the court, but my understanding is that the process remains the same. Those fees are collected, and at the end of every month are turned over to the county treasurer to be placed in the county general fund, which is the same process as in Washoe County.

Chairman Anderson:

Relative to this process, I think you will find 17 dramatically different operations being performed by the 17 county clerks.

Assemblyman Cobb:

Does anyone have any idea how much the software now in place in the recorders' offices costs?

Alan Glover:

Clark and Washoe Counties have very large, very sophisticated software packages. Both counties are gearing up for e-recording, and, in fact, Washoe County already does it. That software was quite expensive. Carson City looked at it, but the fee for a full-blown package for us was about \$50,000. As the Recorder, I made the decision not to buy the package because it only takes us a half hour in the mornings to "balance out." I put the money from the technology fee Carson City collected into scanning documents, and that four-year process will be completed shortly.

Speaking about the clerks' side of the issue, in Carson City, the company I bought our package from also provides our recorder's package and works with treasurers' offices. They have really nice little packages costing in the range of \$500 to \$2,000 that help manage listing notaries, marriages, and things like that. I was looking to them to do an inexpensive add-on to our package, but if you want to spend the money, you can buy a full-blown package that will do anything for you.

The Clark County Recorder's Office probably spent millions of dollars, but they really need it with the volume they handle. It is a really big, sophisticated operation in Clark County.

Assemblyman Cobb:

It makes sense for your office, does anyone have an idea how much a software package for Washoe County would cost?

Nancy Parent:

No, we do not. We want to be able to scan, but once we know we have funding, we will begin searching for the best programs available at the time we actually have the money.

Chairman Anderson:

It will take several years before a sufficient amount of money is generated, I am sure. Are any amendments being suggested? Does anyone have further questions?

Assemblyman Segerblom:

I have a question about the other fee increases being proposed in Section 2. The clerks are just receiving the \$5 notary filing fee, who is getting this other money?

Alan Glover:

The money from the other fee increases would go to the counties' general funds. These fees have not been changed in ten years and would be keeping up with inflation.

Chairman Anderson:

This money is not earmarked for you?

Alan Glover:

That is correct. The money is not earmarked for us.

Chairman Anderson:

This money will be dropped into the general fund. Can you [the clerks] go to the county commission and ask for some of it back?

Alan Glover:

That is correct.

Diana Alba:

I have a couple of additional comments to make. This bill is very similar to a bill that was introduced by NACO in 2003. At the same time, a competing bill was introduced in the Senate that provided a technology fee for the courts. The Clark County Clerk's Office was approached by the Administrator of the Courts (AOC), who sponsored that bill, and asked to pull our support for the NACO bill and support the AOC's bill, so the courts could get that technology money. We were willing to do that at the time. Those funds are for court operations, so county clerks who are also clerks of the court have the opportunity to share in those funds if the courts deem it appropriate. All county clerks, whether serving as clerk of the court or not, are in need of technology money that could be used for functions other than court functions—marriage functions, county commission records, fictitious names, and those types of operations—because the other tech fee from the 2003 Senate bill is restricted strictly to court operations.

I am mostly here in support of the \$5 technology fee. It is a very modest request that will give us a start and be a big help in allowing us to get started in some areas with great needs.

With regard to the other fees that are related to court documents, I am not speaking for the court or anyone else in Clark County, but just as a member of the Clark County community. Those fee increases would generate a significant amount of revenue in Clark County. Looking at a spreadsheet from 2005, it appeared to me that the increase would generate several hundred thousand dollars toward the Clark County General Fund. Neither the courts nor the Clerk's Office control how those funds are spent, but the County as a whole would certainly benefit, and our County Clerk's Office would benefit from this modest \$5 fee increase.

Chairman Anderson:

I am concerned about this money from additional filing fees going to the counties' general funds. Taxpayers believe their property taxes are supposed to be carrying the weight for the operation of schools, cities, and counties. When someone is priced out of the process because filing fees are higher than the fines, one wonders why the fees are there. You break the law and you pay for governmental services instead of being penalized, so I am always concerned about that issue. This bill walks right on the line. Usually, we hear that the AOC is concerned about the constitutionality of forcing the courts into collecting these fees. I do not see them here today, so apparently that is not a concern to them.

Are there any questions? Does anyone else want to be heard on S.B. 131 (R2)? [No response.] I will close the hearing on S.B. 131 (R2) and we will take a short recess [at 8:47 a.m.].

We will reconvene [at 8:57 a.m.] for Senate Bill 299 (R1).

Senate Bill 299 (1st Reprint): Revises provisions relating to crimes against pregnant women. (BDR 15-730)

Senator Warren Hardy II, Clark County Senatorial District No. 12:

I received a call last summer from a constituent who was very emotional and very distraught. She did not know what to do or where to turn. Her daughter had been involved in a car accident. She had been hit by a drunk driver, was very severely injured, and had taken months to recover. The child her daughter had been carrying was killed in the accident. The drunk driver was charged with battery, but my constituent did not think justice was being served by that charge and contacted me to see if we could change the statute. I may not have been the best choice to promote this legislation, but I was her State Senator. As you know, I am very unapologetic about my position as a pro-life legislator and because of that, I believe a lot was read into what I was trying to accomplish with this bill. Fortunately, a number of people in the Senate,

including the minority leader, took me at my word when I said that what I am trying to accomplish with this legislation is to find a very narrow circumstance where this crime can be punished appropriately, without tipping the balance in the pro-life/pro-choice debate. That was never my intent.

The language that is before you today is a combination of amendments from Senator Amodei and Senator Titus and I very much appreciate the work they did. I did not ask my constituent to attend today because it was a very difficult thing for her to do the first time and I felt, since the language was bipartisan, that there was no need for her to go through that experience again.

The bill would add a pregnant woman to the list of "vulnerable" individuals for crimes of murder, attempted murder, assault and battery, kidnapping, robbery, or sexual assault. Currently, only elderly persons are considered to be "vulnerable" persons. Additionally, it then speaks to the DUI (driving under the influence) statute and indicates that if an individual proximately causes termination of a pregnancy of a person other than himself, that he is guilty of the same penalty of causing the death or injury of another person. That language satisfied all concerned. You may hear from individuals that they would like to go back to my original language; however, I reluctantly do not support that amendment because that is not what this bill was about. This bill was about trying to find justice for a constituent of mine who felt justice was not served in a case where a drunk driver took away the opportunity she had to be a mother.

That is the purpose of the bill; I appreciate the opportunity to present it today, and I respectfully request your Do Pass motion.

Chairman Anderson:

If we went back to the original language of the bill, it would go to a conference committee and might mean the end of the bill.

Senator Hardy:

It would almost assuredly mean the end of the bill, which is why I do not support that.

Chairman Anderson:

Would there have been an opportunity for the district attorney to have viewed the auto accident as one involving "substantial bodily harm?"

Senator Hardy:

That was the charge, "battery with substantial bodily harm." The district attorney felt he had charged this individual with the toughest charge he was permitted to by law.

Chairman Anderson:

And so the person went to prison?

Senator Hardy:

The case is still pending.

Assemblyman Horne:

Thank you, Senator Hardy, for your compromises, but I have a question about defining "termination of pregnancy." Does giving birth to a child "terminate" a pregnancy? If, in the DUI portion, causing an accident causes a woman to prematurely go into labor and that child is born but survives, could an individual be prosecuted under this bill? If so, maybe the language should be changed to something such as "termination of pregnancy which causes the death or injury of a child."

Senator Hardy:

That is a great point that was not brought up in the Senate hearing. This language was drafted by Ms. Erdoes at the request of Senator Titus, and I am not sure they considered that. I do not know if there is a definition for "termination" of pregnancy, but I certainly would be willing to consider any language you think is necessary to make that clear.

Assemblyman Segerblom:

Was it unclear whether the person could be prosecuted for what happened?

Senator Hardy:

That is correct. The district attorney could not charge that person for the damage that was done in terms of the pregnancy. He was charged exclusively for the damage he did against the mother; there was no provision for dealing with the fetus.

Assemblyman Segerblom:

But that was a felony DUI, right?

Senator Hardy:

I am not sure if that is a felony or not. The charge was battery with substantial bodily harm.

Chairman Anderson:

Was the victim in the last trimester?

Senator Hardy:

The testimony was that she was in her 24th week. That was another part of the issue, that the baby was not a "quick child" as defined by common law, and could not survive outside the womb, which has other penalties associated with it.

Chairman Anderson:

So, the fact that the mother may not have realized she was pregnant is not going to apply in this case.

Senator Hardy:

That, again, is an issue that was not discussed. I am not sure how the courts would react to that, based on this language. We looked at every possible angle when deciding how best to deal with this situation. In DUI, the "knowingly" statute does not work.

Chairman Anderson:

I thought that was the purpose of page 2, line 41 of the bill, "knows or reasonably should know, at the time the crime is committed, that the woman is pregnant."

Senator Hardy:

We are switching back to the vulnerable person statute. There are two changes that are made. One identifies the pregnant woman as a vulnerable person, and in that case, yes, the individual would have to know or reasonably should know that the lady is pregnant. That would include a spouse or someone with that knowledge. The other portion of the law that the bill deals with is the DUI law and is silent on that issue. You are correct, Mr. Chairman, in terms of Section 1. For the individual to be prosecuted under the vulnerable person statute, the individual would have to know or reasonably should know before he could be charged with that additional penalty.

Assemblyman Mortenson:

Suppose two accidents occur in two different ends of the city. The two accidents are absolutely identical—same cars, same personalities—except in one accident the woman is pregnant, and in the other accident the woman is not pregnant. If this bill passes, will the driver of the car that hit the pregnant woman get a bigger sentence than the driver who hit the car with the lady who was not pregnant?

Senator Hardy:

Yes, because he can be charged with two counts instead of one.

Assemblyman Mortenson:

I really have trouble with that. It is a terrible thing when a pregnant lady loses her child, but from the standpoint of the people who were driving these two different cars, they did exactly the same act, and it was a roll of the dice that the guy in the second one is going to receive a bigger sentence. He had no idea that the woman was pregnant and probably had no intention to hit anyone. It seems to me that a person should be punished on the basis of what they do and not on the consequences of fate.

Senator Hardy:

I understand and generally agree with that sentiment. The difference is that the individual was drunk. This only applies if the person who causes the harm is driving under the influence.

Assemblyman Mortenson:

In my example, both drivers were drunk.

Senator Hardy:

It is an important distinction. If you are traveling down the road and hit someone who is pregnant and cause a termination of that woman's pregnancy, this bill does not apply. This only applies if you cause a termination of pregnancy because you were driving under the influence.

Chairman Anderson:

If the driver of the vehicle is also the pregnant individual, the rule does not apply?

Senator Hardy:

Correct. If you are driving drunk while you are pregnant and you cause an accident that causes a termination of your own pregnancy, it does not apply.

Chairman Anderson:

You and I would find it difficult to believe that anyone would want to abort themselves, but the reality is that oftentimes individuals see things differently than you or I might see them and see this as an opportunity to lose an unwanted child. So, that individual would not be charged, while somebody who was also driving drunk and caused that accident would be.

Senator Hardy:

Yes, in the case where it causes the termination of a pregnancy of a person other than themselves. I agree, Mr. Chairman, but this is very delicately crafted language in order to keep us out of the pro-life/pro-choice debate.

Assemblyman Ohrenschall:

Let us say a drunk driver has an automobile collision with an expectant mother. A month and a half later, she miscarries. What kind of burden will our State's prosecutors have to overcome to prove the proximate cause between the miscarriage a month and a half later and the collision, particularly if there were other medical factors, such as a genetic condition or something else?

Senator Hardy:

I am not an attorney, but I believe that is why we are using the term "proximately" causes the termination. That term legally means that there is a nexus between the two.

Assemblyman Ohrenschall:

Do you envision this statute mostly covering the incidence where there is a miscarriage immediately, or do you think there would be prosecutions when a miscarriage occurs a month or a month and a half later?

Senator Hardy:

Mr. Ohrenschall has obviously learned the importance of establishing a legislative record, and I appreciate the fact that he is asking these questions. It would have to be a direct nexus with the accident for this to apply.

Assemblyman Ohrenschall:

So, you would envision a potential prosecution if the miscarriage occurred a month and a half later?

Senator Hardy:

I would not. We included the word "proximately" because the miscarriage would have to be directly associated with the accident.

Assemblyman Mabey:

During the first trimester, many women will spontaneously miscarry. They may have a positive pregnancy test, but the fetus may not really be alive or it could be a "blighted ovum." Let us say this lady has a positive pregnancy test, gets in an accident, and a week later has a miscarriage. How would you know if the accident caused the miscarriage? Maybe it was going to happen anyway.

Senator Hardy:

That issue is, again, why we attempted to tie the two events together. In the case of my constituent, it was clear that the death of the fetus was caused by the trauma of the accident, and that would be the intent of this legislation. If there is any question, I am sure it would be the judgment that the accident was not the proximate cause of the miscarriage.

Assemblyman Cobb:

The scenario Assemblyman Mortenson outlined, where one woman was hit by a drunk driver and a pregnant woman was hit by a drunk driver in a separate accident, brings to mind the concept of an "eggshell plaintiff" in civil cases. That is where an individual hit a person in the face. Normally, that blow would lead to a bruise and whatever additional injury that would cause, versus an individual, the "eggshell plaintiff," who suffered a smashed cheekbone and severe damage. Because the individual put himself in that situation by driving drunk, he is assuming the risk that he is going to smash a cheekbone or really cause severe damage to an individual. Is that where you are coming from when you are describing the legitimacy of charging someone with a crime like this? The individual does not escape liability for the full damages he caused, whether the damages were to a pregnant person or a non-pregnant person, just because he did not know ahead of time that the person was pregnant. In a civil context, if I hit you, I do not know how much damage I am going to cause and cannot escape that liability.

Senator Hardy:

Yes, that is exactly what we are trying to accomplish here. If you are driving drunk, you are held accountable for all the damage you cause.

Chairman Anderson:

I want a letter from Laurel Stadler of MADD (Mothers Against Drunk Driving) in support of S.B. 299 (R1) entered into the record ([Exhibit E](#)). She regrets not being able to attend the hearing today, but supports the legislation, as introduced.

I would like to hear from people who are in support of the bill without amendment. If that is your position, please come up and testify now.

Janine Hansen, President, Nevada Eagle Forum:

We supported the original legislation and we also support this legislation. We think it is very important to add pregnant women to the vulnerable part of the statutes, recognizing that they are vulnerable.

Many years ago when I was seven months pregnant, I was brutally beaten. Thankfully, I did not lose my baby, but trying to defend myself at seven-months pregnant was very difficult. It is important that we recognize pregnant women are more vulnerable and unable to protect themselves. This bill is very reasonable in addressing that issue, and we support this legislation.

Donna Saling, Private Citizen, Las Vegas, Nevada:

I am the constituent who went to Senator Hardy regarding this bill. I am here in support of the bill for my daughter and my grandson, Joshua, who was killed by a drunk driver. [Ms. Saling read her testimony in support of S.B. 299 (R1) from prepared text ([Exhibit F](#)).]

Chairman Anderson:

Ms. Saling, how is your daughter doing physically now?

Donna Saling:

Physically, she is always going to have problems from the broken bones in her back and hip. Mentally, she has not dealt with the situation. It was the loss of her first child. The preliminary court hearing is tomorrow, but it is never out of my mind or hers. I have seen the light go out of her eyes, and the smile has disappeared from her face. This accident had a severe impact on her life. The life I knew and the daughter I knew has changed.

Chairman Anderson:

Are there any questions for Ms. Saling? [No response.] Is there anyone else who wants to testify on the bill as it is?

Rick Mora, Private Citizen, Las Vegas, Nevada:

I am here on behalf of my daughter, Alexandria Mora. She was about two weeks away from having her baby, our granddaughter. I am here today to ask you to pass S.B. 299 (R1). It has been almost two years since our daughter Alexandria was hit by a DUI driver. If this had been the law two years ago, the defendant would have received a stronger and more significant penalty than he received for the death of Alexandria's child. The defendant only received two to ten years for felony DUI causing bodily harm. Because he was not charged with the death of our granddaughter, he could possibly be out of prison in two years when he comes up for parole. Two years is not enough time. I do not think any number of years is enough time for the death of our granddaughter.

I am asking you today to pass this law not only for us, but for the young lady who just spoke, for her daughter, for her grandson, and for other victims who also could be affected by this. It would protect them. Please, look at this very

carefully and consider it. This would affect the whole community. My daughter Alexandria could not be here today, so we are here in her stead. Please, pass this bill so we can move on with our lives.

Chairman Anderson:

Thank you for coming forward with your testimony. I am sorry for your loss. I know those are shallow words, given the feelings grandparents have for their children and grandchildren. Those of us who are parents and grandparents understand that bond that exists.

Sandy Heverly, Executive Director, Stop DUI:

I am here on behalf of Stop DUI to support this piece of legislation, as we believe it will provide some semblance of justice for our most innocent and vulnerable victims. We think this is certainly worthwhile. You can see and have heard described the senseless pain and suffering caused by people who choose to drive under the influence. Mr. Chairman and Committee members, I appreciate the sensitivity and patience you have had in listening to our testimony, and I thank you.

Chairman Anderson:

Thank you, Ms. Heverly. We appreciate the efforts Stop DUI is making to keep these issues in front of us so we can, hopefully, come up with some solutions.

Let us now hear testimony from those people who are neutral on the bill or would like to see the bill returned to its original form. First, I have a letter from Patricia Glenn, President of Nevada Right to Life, to place in today's record ([Exhibit G](#)).

Dave Vidimos, Board Member, Nevada LIFE:

I have submitted a letter in support of S.B. 299 (R1) from Don Nelson, President of Nevada LIFE (Life Issues Forum and Education) ([Exhibit H](#)).

I am a resident of Reno and the father of five children. The testimony from the two families in Las Vegas clearly shows that there is an enormous void in the justice being served in this area of law in our State. I favor the bill returning to its original language, which very clearly and accurately would provide justice for these women and families who have sustained such losses.

This is a square bill we are trying to fit into a round offense. In some cases, it will fit, but in other cases it will not. To give you an example, there was a pregnant woman in Arkansas who was due the next day. Her boyfriend, who was not a willing partner in fathering the child, hired three men to beat her, specifically to kill the baby. They were successful, but, fortunately, two weeks

previously, Arkansas had passed an-unborn-victims-of-violence act, and they were able to convict all the men on murder charges. If that were to occur in Nevada, under the current language in this bill, the perpetrators would only be charged with assault. The only part of the bill that refers to killing the unborn is in the drunk driver portion. Section 1, subsection 3 of the bill, talks about other offenses, but simply doubles the penalty. The original language in the bill was very clear that there were two victims in these crimes.

Also, current language in the bill only makes reference to pregnancy and termination of pregnancy, but all pregnancies terminate at some point with either a live baby or a dead baby. Everyone knows there is a baby inside a pregnant woman. That baby is due our respect and justice, whether he is killed in utero or injured in utero. If a pregnant woman was stabbed, and the arm of the child inside her was severed, the child would be without that arm for the rest of his life, but there are no statutes in our State law that would address that situation. In this bill, there would be an assault charge made for the woman, but absolutely no consideration would be given to the child in the womb. This situation points out an enormous void in justice for the woman and her child in utero, whether the child is killed or injured.

Chairman Anderson:

I am sure you are unhappy with the bill. Would you prefer to have a bill drafted to your specifications? Have you approached any legislators about a bill as the people in Las Vegas approached Senator Hardy? It seems to me you are speaking about an issue that is broader. I am certain you heard Senator Hardy's concern about not amending the bill.

Dave Vidimos:

The way the bill is worded right now, it completely misses the target.

Chairman Anderson:

Did you present this information in the Senate hearing?

David Vidimos:

I have testified in the Senate, but this is only the second time I have ever testified.

Chairman Anderson:

This is the House of the people, and we try to be certain everyone is heard. Given Senator Hardy's position against amending the bill, even the first form of the bill would not have addressed the issues you want addressed.

David Vidimos:

It would have. It gives the child in utero the protections of the law that have to do with the list in subsection 3 of Section 1. It gives the child justice in those instances. Amendment 3588 clarified some of the language, too. The original bill, with amendment 3588, is what I would like to see because it specifically addresses the situation of the people in Las Vegas and the incident in Arkansas.

Assemblyman Ohrenschall:

I am wondering about prosecutorial discretion where no statute specifically dictates. Common law is the rule of law in any situation not repugnant to a statute, so could a prosecutor have already brought a case without a specific statute under common law?

Risa Lang, Committee Counsel:

I have not researched the case law on this. There may be an argument for that, but since that was not occurring, that must be why this bill was deemed necessary.

Assemblyman Manendo:

You stated that you think this legislation is "missing the point." We heard testimony from Senator Hardy, two of the families, and Sandy Heverly that this bill is hitting the point. I understand you want to return to the original bill, but are you in favor of this bill in the first reprint that is before us and should it be processed or not?

David Vidimos:

I am not in favor of the bill as it is for a couple of reasons. These families want recognition of their child. As the bill is now written, it makes reference to a "termination of a pregnancy," as though it were a vague, bodily function of a woman, when we all know that the purpose of a pregnancy is to have a baby, a child.

Assemblyman Manendo:

So, basically, you are against S.B. 299 (R1), and I wanted to make sure that was on the record.

Chairman Anderson:

I would ask that you summarize your testimony. If you have something specific you need to get in the record, this is an opportunity to establish that record. If you have a specific language change you are suggesting, other than that you would like to go back to the original bill, which the primary author of the bill has already indicated he is opposed to, we would ask to see that language.

David Vidimos:

We are giving a double penalty for offenses against women, but the double penalties do not apply in several instances. A woman who is assaulted and whose baby dies is not addressed in the bill. The people in Las Vegas want justice for their child. They want the child recognized. Whether the child loses an arm, whether the child is injured or brain damaged, or whether the child is killed in an assault, they want specific justice for that child and for what happened to that child, instead of a vague, double penalty.

Chairman Anderson:

Next to speak is Melissa Clement.

Melissa Clement, Representative, Nevada Right to Life:

I would like to thank Senator Hardy and the members of the Senate Judiciary Committee who worked on this bill. The bill before you is a step in the right direction. The number one cause of maternal death in our country at this point is violence that runs the gamut from DUI to domestic violence. As a mother in Nevada, I am asking you to take a step to fix this problem. I am offering an amendment ([Exhibit I](#)) which was very easy to write because I used some language from the original bill. Thirty-four other states, in addition to the federal government, currently have unborn victims of violence acts similar to the wording and intent of Senator Hardy's original bill. A law like those protects women in their most vulnerable state, which is pregnancy.

Some legislation needs to be passed because obviously there are huge holes in the law right now, and what you have before you is a step in the right direction. However, I really think that until we look at the unborn victims of violence language which deals with these kinds of situations as two victims rather than one, you are going to continue to have the kinds of problems I have heard this Committee deal with today.

This issue is ripped right out of newspaper headlines. Just the other day in the *Reno Gazette-Journal*, there was a headline saying, "Man, pregnant woman, shot to death in parking lot of Wells Avenue store." Two people, one of them a pregnant woman, were shot and killed Friday evening in the parking lot of a Wells Avenue market. I would say there were three victims, and I am pretty sure the grandparents would say the same thing.

Anyone who has gone through a pregnancy, whether that person is a man or a woman, feels an immediate bond to that child, and we need to start protecting women and babies.

Chairman Anderson:

Are there questions for Ms. Clement? I see none. Let us now move to those people who have indicated they want to speak in opposition to the bill.

Mylan Hawkins, Executive Director, Nevada Diabetes Association for Children and Adults:

I have spent the past 40 years working for women's rights, the welfare and wellbeing of children, and the health and welfare of all the citizens in this State and great nation. I have been Executive Director of Habitat for Humanity; I currently serve as the Executive Director of the Nevada Diabetes Association for Children and Adults; and I am the founder of Project Survival, which built the largest neo-natal center in the southeast part of the United States to save infants in crisis.

I certainly appreciate the tragedy that occurs to people who have become the victims of any form of violence and of drunk drivers, but I speak today against S.B. 299 (R1), as it does nothing to address the real issue. In fact, it may have unforeseen consequences because it divides a woman into her parts. Though I recognize we have created laws that consider people 60 years of age and older "vulnerable," and put them into a special class, creating greater penalties; such laws concern me because they make those of us who do not fall in that class seem to be of lesser value in the eyes of the law.

I would submit to you that everyone in this room today, who would be hit by a drunk driver, or have an act of violence committed against their being, is vulnerable and the law needs to take into account that each of us deserves its full and strongest attention. The law needs to protect each of us, period, regardless of our age, our sex, our race, our state of pregnancy, or our state of vulnerability. It must protect us all because if it does not, it fails us all. I am perturbed by the language that exists in the law that takes a pregnant woman and sets her aside. We are all vulnerable and there have been a number of issues already raised by this Committee that cover some of my concerns about the way the law is currently written. It leads me to think that perhaps what we might have to consider is making women in general a special class because at any time they could be more vulnerable because of their sex. Of course, that would be huge discrimination against our brothers, who also at any time can be vulnerable because of their sex.

I understand the intention of this legislation and my heart goes out to those who are victims of drunk drivers and crimes, but the road to hell has often been paved with good intentions, and creating a class of persons to protect them has often proven to result, historically, in diminishing their rights. This legislation, Senate Bill 299 (1st Reprint), does leave that possibility open. My question is,

do we not have civil and criminal laws already in place to address this? If not, what is the reason we do not have those laws? We, as a society, need to focus on that.

Again, I would say to you that the law takes care of us all to the fullest extent, or it takes care of no one. We are all equally damaged in the eyes of the law, or we are victims of hairsplitting and, in the end, we become second-class citizens.

Chairman Anderson:

Ms. Hawkins, I stand in awe of your commitment to the programs you have sponsored over the years, and the women's rights issues you have dedicated your time and energies to. The questions raised by this bill are unique and come about because women are able to carry human life. A previous speaker indicated we needed a broader approach to the overall question of what happens to the fetus. A vote of the people in 1990 clearly dictated what the course of legislation would be here in the State of Nevada, and at what time the fetus would be considered to be life. Discussing the DUI question or when a crime is committed against a woman and her fetus, is there a point where we should approach this differently? Should there be a special status for any of these groups we have identified in the past—older citizens, children under 18 years of age, people identified with hate crimes, the homeless, et cetera? Is our failure that we do not adequately address the basic crime?

Mylan Hawkins:

Yes, too often our laws fail to address the basic crime. We have heard this tragic story of a family who was deeply injured by a repeat drunk driver. The law failed; it failed once, it failed twice, and it may fail a third time. We are not following through in the courts, and that is a tragedy. That individual should have been locked away; his driver's license should have been taken away. Each time we leave our homes, we face people who have been let out and are on the street because we do not have adequate means of protecting ourselves. We hear too often "repeat offenders," "repeat drunk driver." How many times do we have to face that kind of problem? The law is not working, and not just for that family, but for anyone in this room. A drunk driver could hit you, my child, or your children. Why? Because we let them out—we did not take care of the problem the first time. Drunk driving needs to be addressed in a much more stringent way. Domestic violence against an individual needs to be addressed in a much more stringent way; we need to apply our laws to the fullest. That is what we need to do instead of hairsplitting.

Chairman Anderson:

Are there questions for Ms. Hawkins? [No response.] Thank you for your advocacy. Mr. Conway is on our list as next to speak.

Cotter Conway, Deputy Public Defender, Washoe County:

We do oppose S.B. 299 (R1) and specifically with respect to Section 1 which deals with creation of a special class of victims. My office and I have opposed that idea, and most recently with the homeless bill, because we oppose the creation of a special class. I join with Ms. Hawkins and her comments concerning the creation of a special class of victims.

I also share a previous speaker's concern about the absurd results that could ensue from the language of the statute as contained in Section 1, although my opposition is from a different perspective.

I understand the reason this legislation was brought forward, but to the extent that it would result in two charges, as Assemblyman Mortenson mentioned, I would oppose the bill for that reason as well.

The amendment I have proposed ([Exhibit J](#)) is only if this Committee intends to go forward with the bill. We do oppose the bill, but I have included this amendment taken from the language of a Select Committee bill.

Chairman Anderson:

Mr. Conway, did you have an opportunity to present your amendment in the Senate hearing on this bill?

Cotter Conway:

No. The original bill was amended on the Floor of the Senate. What had been passed out of the Senate Judiciary Committee was an amendment I had proposed; however, that was rejected on the Senate Floor, and the current language was proposed and passed, instead.

Chairman Anderson:

Is the amendment rejected by the Senate this one?

Cotter Conway:

No, it is not. It was an amendment to a statute dealing with manslaughter that was going to be repealed. I never had an opportunity to propose this particular language as an amendment in the Senate.

Assemblyman Ohrenschall:

My question relates to prosecutorial discretion. I remember a California case from my criminal law class concerning an angry boyfriend who punched his expectant girlfriend in the stomach. She miscarried. In California, he was prosecuted using common law, even though there was no specific statute. Do you feel the occurrences testified about here today could have been prosecuted

by the district attorneys under common law without a specific statute? Did the district attorneys just choose not to?

Cotter Conway:

I am not able to answer that question. I have never had a situation where a crime was brought under common law in this State; some statute is always referred to. I would probably challenge it if the district attorneys tried to prosecute that way.

Assemblyman Mabey:

One afternoon I was in the hospital preparing to deliver a baby, and a call for any obstetrician to go to the emergency room came over the public address system. I answered the call and saw a pregnant lady, near term, who had been shot by her boyfriend. The emergency room personnel were trying to sustain her for a few minutes so we could attempt to perform an emergency caesarian section. We performed the surgery, but the baby died. Afterward, the pregnant lady also passed on. If this bill passes, in reality, what would happen in a case like that?

Cotter Conway:

If this bill passes, as currently written, the individual likely would be charged with murder of the woman. Then, under the enhancement in this language, if he was convicted of the murder and because he was the boyfriend he probably knew she was pregnant if she was near term, he would be facing two life sentences, with or without parole.

Assemblyman Mabey:

If you killed two individuals, do you spend more time in prison than if you killed one individual?

Cotter Conway:

Yes. You would have to serve the first sentence. Obviously, if the penalty was life without parole; you would not be leaving prison. If the penalty was the minimum sentence, let us say he was convicted of first degree murder, he would have to serve a minimum of 20 years. Then, he would have to convince the Parole Board to release him from that sentence, and he would begin the second 20-year sentence.

Chairman Anderson:

Are there any further questions? [No response.] Next up is Ms. Rowland.

Lee Rowland, Representative, American Civil Liberties Union of Nevada:

My concern with both pieces of this bill, Section 1, subsection 3, the intentional violence piece, and the DUI part of the bill, is that pregnancy is a very unique situation—not only personally and socially, but legally. As you all know, the Supreme Court, as well as the *Nevada Constitution*, differentiates between different stages of pregnancy. The problem with this bill is that it does not differentiate.

We heard the details of some very serious tragedies today. There is no question that these families experienced a lot of pain. The problem is that this bill would treat these victims of violence the same as a victim who was pregnant but did not know it. If she, unfortunately, was killed by a drunk driver and a blood test revealed she was pregnant, that drunk driver would receive the exact same penalty as a drunk driver who had killed one of the children we heard about today. That seems to be an absurd result and one that certainly violates the spirit of our *Constitution*, which guarantees women the right to choose through the second trimester.

Our main concern with the first part of the bill, regarding acts of violence, is that it has nothing to do with intent. It is completely divorced from any intent to harm a pregnant woman. Instead, it makes any woman, whether one day pregnant or one day before term, the exact same in the eyes of the law, which does not match up with how the law presently views pregnant women. I am mindful of what Senator Hardy said about his intent, and I am not impugning him with ulterior motives, but, nonetheless, when you are creating a separate penalty for any fetus regardless of its age clearly that does conflict with existing laws and that is a real issue.

Assemblyman Mortenson noted that two people, both driving drunk, could be punished differently under this bill, and he called it a "crap shoot." That is exactly how we see this bill. There is no doubt that certain accidents cause a lot more trauma and pain than others. If you hit a woman who is childless and single versus someone who is supporting ten children on her own, clearly, the shockwaves from those two accidents are going to be very different, but criminal law treats those actions the same, as it should. Criminal law is about intent, knowledge, and about deterring actions we want to deter, such as drinking and driving. This bill does not do any of that; instead, it imposes arbitrary penalties depending on the identity of the victim, which, of course, the person who perpetrates the crime could never know. And, again, the bill would treat a woman who does not know she is pregnant exactly the same as a woman who is a day from full term and whose child has a name, a crib, and a family ready to love it. That is not something criminal law usually does; that is what civil law exists for.

Assemblyman Cobb asked questions about the "thin skull rule." That is civil law. Civil law exists to deal with damages and the impact on families. Criminal law exists to deal with intent and deterring certain conduct. While I am mindful just how much negative influence on people's lives both drunk drivers and violent criminals have, the job of criminal law is to deter certain behavior. This law addresses the effects of crime. It gets at the damages, something civil law is designed to handle.

At present, we believe this bill poses problems not only for civil liberties in general, but also in the background, our constitutionally protected right to choose creates legal inconsistencies in terms of giving fetuses separate rights that are not in concert with our reproductive choice in this State and in this country. We opposed the bill for those reasons as well as the fact that we believe it is arbitrary and only partially accomplishes the goals of criminalizing intent and bad behavior. It will have absurd effects, as many have noted, not only with respect to differences between days of pregnancy, but it is important to note that one of the most common instances of DUI is often family members. So, if you have a couple, the woman is pregnant and her boyfriend or husband is driving the car inebriated and crashes and causes either her death or a spontaneous abortion or the termination of her pregnancy, that person will be charged, while the mother, who put herself in harms way, will not. That is another absurd result of this law. It has nothing to do with intent or knowledge; it is simply the arbitrary results of an accident. While no one is belittling how much pain that causes, that is precisely why civil law exists—to compensate people.

Again, that is the gist of my opposition to this bill. It is a fundamental civil liberties issue in terms of divorcing criminal statutes from intent, as well as the larger issue of the fact we are giving fetuses separate legal rights that are not in concert with our *Nevada Constitution*.

Assemblyman Cobb:

Ms. Rowland, you addressed the concept that there is no difference between the two drunk drivers in Assemblyman Mortenson's example. One drunk driver hit a woman who happened to be pregnant and the other drunk driver hit a woman who was not pregnant. Now, there are two drunk drivers, both with the same intent, because they both were beyond capacity but both got behind the wheel of a vehicle. Let us say that the first one passes out, rolls toward a woman and she is not strong enough to pull herself on top of the car, so it drives over her and kills her. The second woman is strong enough to pull herself on top of the car, and only has minor bruising. In this scenario, the women's "capacities" are different, but are you saying because there was no

difference in intent that the drunk drivers should not be charged differently because of the different outcomes?

Lee Rowland:

No, absolutely not. Criminal law does recognize victims' outcomes. The difference here is because fetuses cannot have a separate "victimhood" because of our *Constitution*. A two-day-old fetus cannot be given full legal rights under our *Constitution*. The difference would be in the situation, but not in the fact that there is a separate victim. The law would be recognizing a condition of the person and the impact in their personal life. Again, I am not belittling that tragedy; I am simply saying civil law is the mechanism by which those differences are recognized.

Assemblyman Cobb:

That is the whole point of the scenario. In those two different scenarios, you are not saying one woman was hurt, but in the second scenario, because the woman was pregnant, two people were hurt. Just as we are saying when an individual is pregnant, you terminated that pregnancy, we are not saying you killed a second individual, whether you want to believe that happened or you want to believe a different-situated woman was hurt. How would the difference in intent in that situation differ? I am not talking about charging the drunk drivers with two different counts of homicide or injury.

Lee Rowland:

Because a fetus is not an independent legal person, I believe your situation would be akin to punishing a drunk driver who kills a single woman less than punishing a drunk driver who kills a woman who happens to have a child at home. Whether you are pro-choice or pro-life, what you are talking about is the situation of the victim: Who the victim is, what kind of person she was, is she pregnant, does she have a child, does she have a job? Those are the differentiations it is inappropriate to write into the criminal law. Instead, access the civil system to redress the kind of pain and suffering that is brought into your life because of people's different stations in life.

That is obviously an issue for every crime, but when you are talking about an issue as sensitive as a pregnancy, where legal definitions really do have effects on other aspects of the law, there is an incredible danger in giving that kind of a protection only to a pregnant woman, per se, because clearly it is akin to the State recognizing the fetus as a separate legal entity. We do not press additional criminal penalties if you happen to hit someone who is a mother, as opposed to hitting someone who is a single woman, because that kind of pain and suffering is for the civil law to decide.

You are correct that there are instances when intent is equal and people are punished differently, but that is because the victim is different. The fetus is not a full legal victim, so this veers far too closely to making differentiations in the law based on who the person is and that person's status in society, which is more appropriate for civil courts.

Assemblyman Cobb:

I do not understand what you are saying. You are saying that this creates some type of criminal liability for a separate person. It does not do that.

Chairman Anderson:

This discussion does not have a "yes" or "no" answer, and I respect that. We could continue talking about this issue for the rest of the half hour, if we had the time. Next to testify will be Kay Ellen Armstrong.

Kay Ellen Armstrong, Criminal Defense Lawyer, Carson City:

I work here in Carson City under a "conflict public defending" contract. That means I do criminal defense when the public defender cannot take the case, for whatever reason. I have been a lawyer for 25 years and for most of those years, I have practiced criminal defense.

The one point I have not heard this morning that I would like to convey is that I do think the penalties are in place that cover just these situations. Right now we have a 2- to 20-year penalty for a DUI causing death or substantial bodily harm. That is quite a hefty sentence for a DUI, and leaves a broad range of discretion to the sentencing judge. It is broader than the range of penalties on almost any other crime, and is probably why there is such a large range. It gives the judge the discretion to give a fellow 20 years in prison when he has committed a DUI that causes the harm to a family as was caused to the Saling family. That case has not wound its way through the justice system yet, even though it has been 15 months. It troubles me to hear that the case is being referred to as a "battery with substantial bodily harm" because it is a DUI with substantial bodily harm, and that carries a mandatory prison sentence. It also gives the judge that great discretion. It sounds as though that case actually involves two victims, the husband who was driving and the wife, so I would expect that that defendant would be subject to a possible 40 years in prison for that accident. In my opinion, that is a broad, broad, range and the sentencing judge can use the facts brought before him from both the victim and the defendant and make the correct decision.

Chairman Anderson:

In reality, it was this individual's fourth DUI. Once the third DUI is reached, the individual is forever after looking at a felony for any subsequent DUI.

Kay Ellen Armstrong:

That is correct and should apply to that fellow, as well. Last week, it was reported in the *Reno Gazette-Journal* that a young man, DUI, killed a 12-year-old and he is facing up to 35 years because he not only killed the 12-year-old, he left the scene. He could be put away for 35 years for choosing to drive drunk.

Chairman Anderson:

Are there any questions for Ms. Armstrong? Does anyone else feel their particular side of this issue has not been heard? [No response.] I will close the hearing on S.B. 299 (R1) and bring it back to the Committee. Potential amendments have been suggested. I am polling the Committee to determine what bills the members would like to see in our work sessions over the next three days. Depending upon those results, we may hear this bill in a work session.

Are there any questions from Committee members? [No response.] We are adjourned [at 10:42 a.m.].

RESPECTFULLY SUBMITTED:

Doreen Avila
Committee Secretary

Terry Horgan
Transcribing Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 15, 2007

Time of Meeting: 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
SB 131 (R2)	C	Vinson Guthreau, Gvt. Affairs Coordinator, NV Assn. of Counties	Schedule of fees
SB 131 (R2)	D	Nancy Parent, Chief Dep. Clerk, Washoe County Clerk's Office	Letter in support from Amy Harvey
SB 299 (R1)	E	Laurel Stadler, Pres., MADD	Letter in support
SB 299 (R1)	F	Donna Saling, Private Citizen, Las Vegas, Nevada	Written testimony in support
SB 299 (R1)	G	Patricia Glenn, Pres., Nevada Right to Life	Letter in support
SB 299 (R1)	H	Dave Vidimos, Board Member, Nevada LIFE	Letter in support from Don Nelson
SB 299 (R1)	I	Melissa Clement, Rep., Nevada Right to Life	Proposed amendment
SB 299 (R1)	J	Cotter Conway, Dep. Public Defender, Washoe County	Proposed amendment