MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Fourth Session
February 22, 2007

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:07 a.m., on Thursday, February 22, 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 Marcus Conklin
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman John Oceguera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

Assemblyman Ty Cobb (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi S. Gansert, Assembly District No. 25, Washoe County, Nevada

STAFF MEMBERS PRESENT:

Alison Combs, Committee Policy Analyst
Risa Lang, Committee Counsel
Doreen Avila, Committee Secretary
Matt Mowbray, Committee Assistant

OTHERS PRESENT:

Jackie Glass, Judge, Department Five, Eighth Judicial District Court, Las Vegas, Nevada
Jason Frierson, Attorney, Office of the Public Defender, Las Vegas, Nevada
Elizabeth Neighbors, Director, Lake's Crossing Center, Sparks, Nevada
Catherine Cortez Masto, Attorney General, State of Nevada, Carson City
David W. Clifton, Chief Deputy District Attorney, Criminal Division, Washoe County, Nevada
Brett Kandt, Executive Director, Council for Prosecuting Attorneys, Advisory Council, Reno, Nevada
Tim Kuzanek, Lieutenant, Administrative Services, Governmental Affairs, Washoe County Sheriffs' Office, Nevada
Dennis Carry, Detective, Crimes Against Children Unit, Washoe County Sheriffs' Office, Nevada

Chairman Anderson:
[Meeting called to order. Roll Called.] We will turn our attention to Assembly Bill 77.

Assembly Bill 77: Makes various changes concerning the competency of defendants. (BDR 14-801)

Jackie Glass, Judge, Department Five, Eighth Judicial District Court, Las Vegas, Nevada:
With regard to the bill, it is pretty well explained. This started when I was involved with the creation of the Clark County Mental Health Court. I began to realize that there were problems throughout the entire court system with mental health and referrals to Lake's Crossing Center. There was a federal court case filed that dealt with the same issue—the delays in getting people to

Lake's Crossing Center. A task force was established consisting of the court, the District Attorney's Office, the Attorney General's Office, the Public Defender's Office, and the jail. We brainstormed and created a process to make the comings and goings to Lake's Crossing Center more efficient. Initially all of the referrals to competency court were funneled through one court, which was my court. Once that happened, we cut down on delays in sending people to Lake's Crossing and getting people back, cases were processed through the system.

I started to look at the legislation dealing with this area. One of the areas that we deal with in our bill is the standard for competency, which is known predominately throughout the United States as the Dusky Standard, in *Dusky v. United States* [362 U.S. 402 (1960)]. Some of the language has changed to bring our legislation into compliance with Dusky. It seems insignificant, but it is actually very important and that is in the first section. We have also allowed for competency issues to be called into question at any time during the process—at arraignment, sentencing, and probation. We also asked to consolidate all cases that an individual might have in the system, particularly in the larger urban areas. We have people here who may have a case in Mesquite, or North Las Vegas, and their attorneys do not know that they are having competency issues called into question. They may have asked that somebody be evaluated more than once by different doctors. We centralize everything and by doing that we have to stop the actions in all cases involved in that system.

The return from Lake's Crossing is currently a 20-day wait, and that is too long. We have 10 days for somebody to ask for a hearing to challenge the competency finding upon their return from Lake's Crossing. Then we have to wait an additional 10 days to sign the order. It should be just the first 10 days because we want to make sure that we maintain the person's competency, which we are looking at closely. We also want to get them back into the system so their case can proceed. Those are the highlights of A.B. 77.

Chairman Anderson:
Are the defense, bar and the prosecutors in agreement with this particular issue?

Jackie Glass:
I have discussed this, particularly during my task force meeting, when I have both the State and the defense involved. They were supportive and indicated to me that they were not opposing this particular bill.

Assemblyman Carpenter:
In Section 2, it states "or when a defendant who has been placed on probation or whose sentence has been suspended is brought before the court." How would you get them before the court if their sentence has been suspended?

Jackie Glass:
What normally happens is somebody is brought back to us on a Notice of Intent (NOI) to seek revocation. They are brought in by the Probation Department and a hearing date is set. At that time, if somebody has a question regarding their client's competency, it would be raised. Or, after the hearing on the probation revocation—which would usually be in this jurisdiction two to three weeks later—somebody could also ask, "Judge, I have a question regarding my client's competency, and I would like to have him evaluated."

Jason Frierson, Attorney, Office of the Public Defender, Las Vegas, Nevada:
I support A.B. 77. I do offer some friendly amendments that are consistent with the goal of incorporating the language from the *Dusky* case into the bill (Exhibit C). It was our suggestion, consistent with the *Dusky* case and throughout the statute, we add the "present ability" to the word "capacity" in the amendment. The other concern we have is the old language that is used in this statute. It is our suggestion that we review the entire statute and make sure that language we change in this bill also applies throughout the statute and is consistent with the *Dusky* case. I have worked with Judge Glass and the task force. Some of these inconsistencies were brought to my attention yesterday. I will gladly provide the Judge a copy of this friendly amendment to make sure it complies with the intention of A.B. 77.

Chairman Anderson:
Did you have a chance to share your amendment with Judge Glass?

Jason Frierson:
I did not. This is hot off the printer as of this morning, but I will gladly provide Judge Glass with a copy today.

Chairman Anderson:
This is an 11th-hour question; it was portrayed that you were generally in agreement. It is interesting that this was not discussed during a prior meeting.

Jason Frierson:
I believe it was discussed in theory. At the last task force meeting the actual language was available. It was consistent with our collective goal to incorporating the *Dusky* language.

Assemblyman Horne:
What are we gaining from using "present ability" as opposed to "capacity?"

Jason Frierson:
The "present ability" is just quoted language from the *Dusky* case. It emphasizes "present" to avoid any confusion when the question rises regarding this individual's capacity to understand a proceeding. It is consistent with the other language that says "at any time during the proceedings." Prior to *Dusky* there had been confusion about the timing. Our goal was to clarify that it can be at any time.

Assemblyman Horne:
The facts in *Dusky* said they had to define competency as "present ability" as opposed to "general capacity." You want to provide for that same sentiment across the board in capacity hearings?

Jason Frierson:
Yes. There was an issue as to what stage the ability to understand the proceedings arose. If it was a previous situation where an individual was unable to understand the proceedings, but was currently able to, then it would not be applicable. If it arose at that time and the individual lacked that "present ability" to understand a proceeding, then that is when there would be an opportunity to raise the question of competency. This language just incorporates that from *Dusky* and clarifies it as "present ability."

Assemblyman Carpenter:
Did you want to change line 11 to "reasonable degree of rational understanding?" Can you explain to me what the difference is between that and what is in the statute is now?

Jason Frierson:
This was simply an exercise in incorporating the actual language from the *Dusky* case into our statute. We would be supportive of this bill even if our suggested amendments were not adopted because we do believe that the goal was to incorporate the language from *Dusky*.

Assemblyman Carpenter:
Do you have a problem with the language in the statute?

Jason Frierson:
We do not. We think that the bill, as it is right now, will work.

Assemblyman Horne:
In your proposed amendment you state: "Section 3, page 3, line 8, by deleting inserting 'whether the person has the present ability pursuant to paragraphs (a), (b), and (c).'" I am looking at line 8 of the bill and you want to delete "opinion upon," or are you actually trying to delete subparagraph (b), line 11?

Jason Frierson:
I was attempting to amend page 3, line 8 to refer back to page 2 and adopt the exact same language in Section 1 of this statute to make sure that it is consistently applied throughout the other sections.

Assemblyman Horne:
If you delete line 8, it does not make sense, at least on the bill that I am looking at. On page 3, line 6 ends with "the Administrator or his designee shall report to the court in writing his specific findings." You would delete "and opinion upon" and insert your suggested language?

Jason Frierson:
That was an error. It should be line 9. The Sections (a), (b), and (c) on page 3 should mimic (a), (b), and (c) on page 2.

Elizabeth Neighbors, Director, Lake's Crossing Center, Sparks, Nevada:
We wish to speak in support of A.B. 77. We anticipate that it will greatly help the process in our facility. We have been participating in the task force, and this has been a helpful process in terms of our clients' due process. I would concur with the need to have a consistent definition of the Dusky Standard. There is often a lot of controversy about how to interpret that measure. It is really important for our examiners, so they know what it is we are being asked to evaluate when we have clients sent to us. The language that was introduced in the bill by Judge Glass is language that we feel is consistent with the evaluations that we currently perform based on the Dusky Standard.

Additionally, the change in the time frame for making a decision about whether a person is competent after the 10 days is passed—where the prosecutor or the defense attorney may request a hearing—is very important to us. These are precious hospital days and we have been full over the last two years. We struggle to make sure that everybody is admitted in a timely manner to our facility. We have to be able to treat people and have them go back to court.

Assemblyman Carpenter:
I apologize, but I did not hear you. Did you say the present language in the bill is or is not consistent with that decision?

Elizabeth Neighbors:
There are two different versions. The language introduced by Judge Glass says, "understanding the nature of the charges against him and the purpose of the court proceedings." Or it should be something toward having the capacity to aid and assist his attorney in his own defense—that is more straightforward. We have been working on the old language, but could work with either one. However, we would prefer the more straightforward language, but it needs to be consistent throughout the statute.

One additional comment is the issue of "present ability." Sometimes the confusion around that is the difference between "present ability" and "capacity." There are two different evaluations. One is for the person to go through their immediate proceedings and criminal responsibility, which shows their state of mind at the time of the alleged offense. I would concur with the need to make it clear that the evaluation is the individual's present mental status and their ability to participate in the court proceedings.

Chairman Anderson:
Judge Glass, have you had an opportunity to look at the potential language amendment? Or did you hear about it?

Jackie Glass:
I have not had the opportunity to look at it. I would have liked to look at it before I came. I will take a look at it now. After hearing Dr. Neighbors, we can adjust the language a little bit. That would be fine with me. I also agree that the standard has to be consistent throughout the statute. If there is a little change in the language with regard to present ability as opposed to capacity, that would be acceptable to the court.

Chairman Anderson:
We will make sure that you have an opportunity to review the material. We will see if we can get it faxed to you before you leave. Mr. Frierson should have provided a copy for you since you were a primary sponsor of the bill. We will take the amended language that has been suggested and put it into a work session. The Committee is asking the bill drafters to make sure that there is consistency in the law. This needs to be examined by all the interested parties. We will expect that the Public Defender's Office makes sure that happens in timely fashion.

I will close the hearing on A.B. 77.

We have received a BDR.

BDR 54-894—Exempts tests and examinations requested by a court pursuant to a program of treatment and rehabilitation from certain restrictions. (Later introduced as Assembly Bill 152.)

It deals with the medical laboratories. This is a bill that will allow the drug court to have other people do the testing question rather than just nurses.

ASSEMBLYMAN OCEGUERA MOVED TO INTRODUCE BDR 54-894.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN COBB WAS ABSENT FOR THE VOTE.)

Chairman Anderson:
Let me open the hearing on A.B. 69.

Assembly Bill 69: Revises provisions governing the crime of luring a child. (BDR 15-508)

Catherine Cortez Masto, Attorney General, State of Nevada, Carson City:
I am here to testify on behalf of A.B. 69, as well as A.B. 72. Assemblywoman Gansert and I had similar ideas for legislation. As a result of the Nevada Supreme Court ruling in *State v. Colosimo* [122 Nev. Adv. Op. No. 81 (2006)], we have joined forces today to speak about our bills. A.B. 69 and A.B. 72 amend *Nevada Revised Statute* (NRS) 201.560, which makes it a crime to use technology to lure a child who is less than 16 years of age and at least 5 years younger than the perpetrator. Our change is to add a provision declaring that the section is violated if the perpetrator believes the victim to be a child regardless of whether the victim is actually a child. Sexual solicitation of minors through the Internet is an increasing problem. According to the latest online victimization research from the National Center for Missing and Exploited Children, approximately one in seven children ages 10-17 received a sexual solicitation or approach over the Internet in the last year. Sexual predators use the Internet, online communication systems, and other computer technology to sexually exploit children.

Law enforcement agencies can successfully employ online proactive internet investigation techniques to catch those offenders. Investigators enter chat rooms using an undercover identity posing as a 13-to15-year-old boy or girl. The undercover investigator waits to be contacted by an adult seeking a sexual encounter with the child. The investigator responds to the contact initiated by

the predator, and allows the offender to develop a relationship. Eventually that will lead to a face-to-face meeting initiated by the predator where he intends to have sex with the child or commit other criminal activities, such as the production of child pornography. The predator is typically arrested at the meeting location after being identified.

In 2006, in the case of *State v. Colosimo*, the Nevada Supreme Court ruled that under the language of our existing statute, in order to commit the offense described, a defendant's intended victim must be less than 16 years of age. This particular case involved a 21-year-old man who corresponded through the Internet with an undercover police detective posing as a 14-year-old girl. The two arranged to meet in person and the defendant arrived with condoms and lubricant, intending to have sex with the girl. He was arrested and charged with violation of NRS 201.560. The court held that because the actual intended victim in the case was not less then 16 years of age, but rather an adult investigator, it was legally impossible for the prosecution to prove that element of the crime charged.

A.B. 69 and A.B. 72 provide that the statute is violated if the perpetrator "knowingly contacts or communicates with or attempts to contact or communicate with someone whom he believes to be a child less than 16 years of age and at least 5 years younger than the person." The proposed language is modeled after statutes cited by the Nevada Supreme Court in the *Colosimo* case. This amendment will allow law enforcement to arrest online predators and allow prosecutors to effectively prosecute such predators for using technology to sexually exploit children.

In closing, Assemblywoman Gansert and I agreed to work on this issue together. Given this, there is no sense of having two bills. I am willing to withdraw my bill and move forward with her bill since the language is identical.

Chairman Anderson:
We will close the hearing on A.B. 69. Let me open the hearing on A.B. 72.

Assembly Bill 72: Revises provisions governing the crime of luring a child. (BDR 15-956)

Assemblywoman Heidi S. Gansert, Assembly District No. 25, Washoe County, Nevada:
I am honored to join our Attorney General on this legislation, and commend her for making this legislation a priority. The goal of our bills is to enable law enforcement to identify and prosecute online sexual predators before they victimize our children. Protecting our children is of utmost importance to all of

us. In the past we felt our children were secure because we were with them or we knew they were safe at somebody else's home or at school. Now predators can enter our homes without our knowledge with the increased use of the Internet by children. It is a hard to manage threat. One in seven youth receives sexual approaches or solicitations from people they encounter online. Some are benign, but some adults are seeking illegal sexual contact with teens. These teens may be drawn into relationships where they are sexually assaulted or exploited. This type of exploitation has become so blatant that now there is a new program *Dateline NBC: To Catch a Predator*. I was able to watch this show and was really disturbed as a parent who has children in the age range that these predators target. They target both males and females.

This bill will allow Nevada's law enforcement agencies to prosecute offenders using proactive investigations that the Attorney General described. These investigations give police an opportunity to capture suspects before a child has been victimized. It is critical that we let our officers do their jobs to prevent the assault and exploitation of our children.

Chairman Anderson:
Both bills are well crafted. We may need to address some concerns and loopholes that may be within the language as written. It is not just a message that we are going to send here, but it has to really have some teeth. The court recognizes the Legislature has the intent that our children who use the Internet will not be at risk.

Assemblyman Horne:
I do not believe that an alleged perpetrator should have a defense that the person who he contacted was not a child. The language is good in targeting the people at whom we want it directed. Section 1, paragraph 1 states "commits the crimes of luring a child," but the rest of the language is not directed at the person being a child. Is the court going to send this back? Are we still getting this person convicted of an attempt later? I want to make sure that the loophole is not there. If the statute says you are guilty of luring a child, then defense says it is not a child, he did not really lure the child. Is there any way that we can look at it and tighten that up?

Catherine Cortez Masto:
If you look at the language, it defines what constitutes a crime of luring a child and it sets forth the (a) and (b) portions to that. The (b) is the portion that you are committing a crime of luring a child if the person, on the other side, knowingly believes that the person is a child. Do not get caught up in the fact that the first section of it states "commits the crime of luring a child" because it

is further defined in (a) and (b). If that is a concern, then we can address that and try to tighten it up.

Assemblyman Horne:
Yes, that was my concern. We are saying you are guilty because you thought you were luring a 14-year-old child, but in fact it is an 18-year-old impersonating a 14-year-old. In the law it says that you are guilty of luring a child. In a courtroom, that may be what he thought he was doing, but it still equates to an attempt. If you go to the bank with the intent to rob it, but you did not take any money then you would be convicted of attempted robbery because you did not take property from another. I do not want that to happen in this case.

Catherine Cortez Masto:
I appreciate your comments and we will definitely take a look at that.

Assemblyman Mabey:
I am confused with the language on page 1, lines 1 and 2: "16 years of age and who is at least five years younger than the person." Current law prohibits, for example, a 19-year-old man from luring a 14-year-old, but he is luring a person that is 16. I am just curious why we came up with these numbers.

David W. Clifton, Chief Deputy District Attorney, Criminal Division, Washoe County, Nevada:
The language that you are referring to is already been in the statute. We did not modify it. The legislative history behind this original statute would answer your question more appropriately. The Legislature, in using this language, did not want to overlap, say, a 17-year-old with a 15-year-old. They could be in a chat room and it is not the same rationale as an adult who is over the age 18 and five years older than the target child. That is something that the Legislature has always been concerned with—that it is more than these children who are in these chat rooms. If you do not limit it to under 16 years and five years younger, it would also include juveniles such as 17-year-olds who commit the crime with a 15-year-old child.

Assemblyman Carpenter:
The scenario that Mr. Mabey gave is very real in this world. The language in the bill states "who is at least 5 years younger than the person." Could we make it three years younger to catch the 19-year-old and the child?

David W. Clifton:
You certainly could. There is nothing in the law that says you cannot change this from five to three years of age if that is your concern. We are strongly in support of the bill as written. We do not have any problems with the age that

the Legislature originally stated in this statute, but we would certainly take your concern into consideration.

Chairman Anderson:
Mr. Carpenter raises a question of a different scope. It is not unusual for a 15-year-old and a 19-year-old to be dating. It does not happen all the time, but it does happen occasionally, and it also happened on the computer.

Assemblyman Ohrenschall:
Have other states cleaned up their statutes based on similar Colosimo-like decisions, or have states stood by the statutes that they have on the books?

Catherine Cortez Masto:
Yes, there has been cleanup in other states. Our law is actually based on other states so we can make ours change. Our language is patterned after a couple of other states, and they are cited in the *Colosimo* case.

Assemblyman Ohrenschall:
For the other states that have cleaned up their statutes, have those stood up on subsequent prosecutions? Are there state supreme courts upholding statutes and doing what we are trying to do here?

Catherine Cortez Masto:
I am not aware of any. I have not done an analysis to see how far they have taken them, to their state supreme courts or further.

David W. Clifton:
I am not aware of actual supreme court decisions in other states that have dealt with overturning or upholding laws. However, if you look at the *Colosimo* decision itself, you will see specifically in footnote 37 that we based this change in our law on other statutes such as those in North Dakota or Arizona, which have wording such as "a person the adult believes to be is a minor." The decision would not cite those statutes unless it has been upheld or they used that language successfully in prosecutions through appeals in those states.

Chairman Anderson:
I have a handout here (Exhibit D) that was addressed to the Committee from the executive director of the Advisory Council for Prosecuting Attorneys, has that been shared with you and Ms. Gansert?

Catherine Cortez Masto:
I am aware of it. It is a letter of support.

Chairman Anderson:
Was it your intention to have it submitted into the record for the day?

Catherine Cortez Masto:
I would appreciate that.

Chairman Anderson:
Okay, we will make this part of the official record for the day.

Assemblywoman Gerhardt:
In Nevada law, do we not have statutes for statutory rape? What is the age difference in those cases?

David W. Clifton:
Statutory sexual seduction has definitive age restrictions written into the law. We certainly can change this one to mirror statutory sexual seduction. It makes it a gross misdemeanor for anyone between the ages of 18 to 21 years to have sex or some type of sexual penetration with a child under the age of 16. The felony is for any adult 21 years or older to have a sexual contact or penetration with a child under the age of 16. You have a five-year and two-year difference, one for the gross misdemeanor and one for the felony. Our statutes do take this into account and have established other age limits or distinctions between the perpetrator and the victim. You could change this statute in the same way that we do statutory sexual seduction, or any other way that is constitutional.

Assemblywoman Gerhardt:
What was your rational for choosing five years?

David W. Clifton:
We did not choose it. This is preexisting. This bill does not change the age limit at all. We have been working with it successfully as prosecutors and do not believe that we put in anything to change the age limits. We were satisfied with the way they are. They have been working successfully with the five years age difference. This is all legislative history.

Chairman Anderson:
We want to cross reference NRS 200.364 and 200.368.

Assemblyman Horne:
The District Attorney's Offices, in Washoe and Clark County, prosecuted a freshman going out with the senior who was 18 years old for statutory seduction. Technically, that may fall into the statute. Has that been something that the District Attorney's Office has prosecuted?

David W. Clifton:
We deal with that on a daily basis. We have a lot of prosecutorial discretion to look at these cases, but the law states if you are over 18 and you have sexual intercourse or penetration with a child under the age of 16, it is a crime—a gross misdemeanor, not a felony, unless you are over the age of 21. We take that very seriously. If you talk to the parents of these children who are 15 years or younger, they take it very seriously. However, we had a case where an 18-year-old man impregnated his 15-year-old girlfriend. The parents of the child were okay with it and wanted them to get married. Either she is going to be emancipated or the parents will give their consent. If they get married, a defense attorney may see problems occur during prosecution with spousal immunity or types of privilege that we will have as far as testimony. Not to mention a jury who sees a young baby accompany the defendant. We will have major problems prosecuting that case to a conviction. We have to look at our ethical dilemma of whether we believe we can prove that case with those facts. We use our discretion, but we have certainly prosecuted 18-year-olds having sex with a 15-year-old as a gross misdemeanor.

Assemblywoman Allen:
Assemblyman Cobb is at home ill, but he sent me an email while he is watching on the Internet. His concern is that, if there is no child to remove, then perhaps the predator may fall through the cracks. Would it not be a good idea to add a crime such as solicitation of sex with a minor to the statute?

Catherine Cortez Masto:
Because it is already covered in another statute, it would not be necessary to have to add that to this. I would defer to any comments that Mr. Clifton would make as a prosecutor.

David W. Clifton:
We do have solicitation in a number of areas in Nevada statutes, including solicitation of murder or to commit prostitution. I am not aware of one where it overlaps here, even though this one specifically relates to technology. It is not just solicitation where you have a person-to-person meeting. If we were to put it in here just with respect to technology, then it seems to me this would be the same as what our bill is doing right here. We have "luring," which includes luring and attempted luring, and we may change that language. However, I think it would be redundant if we were to call this solicitation within the statute. It is covered by the wording of "attempt" and "luring."

Chairman Anderson:
Computers have changed the dynamics of the society, in which we live, so dramatically that we have statutes in place. Because of this instrument, we

now have to change the way we think about what a crime is: What are the luring questions and the physical presence of a person with intent? Unfortunately, such technology is misused by those with evil hearts. We have to protect our children.

Assemblywoman Gansert:
Since my bill was prefiled, I was the sole sponsor. If anybody would like to be a sponsor, I am open to amend it to add names.

Chairman Anderson:
In light of the Attorney General's request, we will concentrate our effort on A.B. 72 rather than A.B. 69, so that we can focus on a single piece of legislation. We will place the Attorney General's bill on the board in case we need a piece of legislation for some other purpose relative to this area. We will not use it without first notifying the Attorney General's office of our intent. Would that be acceptable to you Madame Attorney General?

Catherine Cortez Masto:
Yes, thank you. That is acceptable.

Chairman Anderson:
For the Committee's knowledge, I will put it back on the board where it may die based upon the calendar, but we will not take a motion to kill the bill itself. It is our intention to take a look at A.B. 72 and have it the primary mover.

Brett Kandt, Executive Director, Council for Prosecuting Attorneys, Advisory Council, Reno, Nevada:
I simply provided a memo which summarizes many of the comments made by Attorney General Masto. In addition, I included a copy of the relevant Nevada Supreme Court case (Exhibit D). I have no further testimony.

Tim Kuzanek, Lieutenant, Administrative Services, Governmental Affairs Washoe County Sheriffs' Office, Nevada:
We fully support the spirit of making the amendments to this bill. Changes are needed for us to be able to effectively deal with this scourge that is taking over the Internet and trying to get at the kids in our communities. We certainly are willing to work with any groups that you put together.

Chairman Anderson
Mr. Carry, were you directly involved in the original case that brought this forward?

Dennis Carry, Detective, Crimes Against Children Unit, Washoe County Sheriffs' Office, Reno, Nevada:
I was directly involved in one aspect, but I was not the undercover investigator.

Chairman Anderson:
Ms. Gansert had made the offer to the Committee to have their names added to the amendment. We will add all the members of the Committee to the amendment.

We will close the hearing on A.B. 72.

[Meeting adjourned at 9:33 a.m.]

RESPECTFULLY SUBMITTED:

_____
Doreen Avila
Committee Secretary

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 22, 2007 Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 77	C	Jason Frierson, Attorney at Law, Office of the Public Defender, Las Vegas, Nevada	Proposed amendment for A.B. 77.
A.B. 72	D	Brett Kandt, Executive Director, Council for Prosecution Attorneys, Advisory Council, Reno, Nevada	Written statement in regards to A.B. 72.