

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

**Seventy-Fourth Session  
February 28, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:08 a.m., on Wednesday, February 28, 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/](http://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](mailto: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:**

Assemblyman Kelvin Atkinson, Assembly District No. 17, Clark County,  
Nevada



**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Keith Schwer, Ph.D., Director, Center for Business and Economic Research, Professor of Economics, University of Nevada, Las Vegas  
Robert Teuton, Assistant District Attorney, Clark County, Nevada  
Ed Ewert, Chief Deputy District Attorney, Clark County, Nevada  
Susan D. Hallahan, Chief Deputy District Attorney, Family Support Division, Washoe County, Nevada  
Louise Bush, Chief, Division of Welfare and Supportive Services, Department of Human Resources, Carson City, Nevada  
Kristin Erickson, Chief Deputy District Attorney, Criminal Division, Washoe County, Nevada  
Paula Berkley, Government Relations, Nevada Network Against Domestic Violence, Reno  
Julianna Ormsby, Legislative Advocate, Nevada Women's Lobby, Carson City  
Jan Gilbert, Legislative Advocate, Progressive Leadership Alliance of Nevada, Washoe County  
Mike Mieras, Chief of Police, Washoe County School District, Nevada  
Ken Young, Lieutenant, Clark County School District Police Department, Nevada  
Anne Loring, Legislative Advocate, Washoe County School District, Nevada  
Craig Kadlub, Director, Community and Government Relations, Clark County School District, Nevada  
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Cotter Conway, Deputy Public Defender, Washoe County, Nevada  
Pauline May, Court Reporters Board, Las Vegas, Nevada  
Nicole Lamboley, Chief Deputy, Office of the Secretary of State, Nevada

**Chairman Anderson:**

[Meeting called to order. Roll called.] We have a presentation that we will start with first.

**Keith Schwer, Ph.D., Director, Center for Business and Economic Research,  
Professor of Economics, University of Nevada, Las Vegas:**

It is a privilege to be with you today to unveil the 2007 *Nevada Kids Count* book ([Exhibit C](#)). I would like to make a few comments of what the findings are with respect to investing in our children and youth. The Center for Business and Economic Research (CBER) has been the *Kids Count* grantee and we have been monitoring the status of children in our State. That includes an annual publication on the odd years that are abbreviated in the small form, and on the even years is a long compendium of data. In comparison to last year, this year we have enjoyed some successes across the economic indicators. We have seen improvement in five of the indicators for our State, but we have worsened in two. On a time basis we have improved, although there was no significant change in the percent of children in poverty. The data that we provide is on a county-by-county basis and ends up across the key issues. We are presenting to you the best available data that we have.

The *National Kids Count* book also does an evaluation of our State in comparison to the other 50 states. There are differences in the indicators that are used, in particular, in the data that is available on the dropout rate. Some states do not have that computed from school records; therefore, they use a different method than we do. In our state book we report the percentage of children who drop out during a given year. In the national book, the reports are 16-to 19-year-olds who are not in school and not working. If you compare Nevada's historical data with today's, it will give you an indication of how well we are doing. If you compare Nevada to other states over time, you will also see a difference, but you must compare each state to its own standard of indication.

On the national indicators we tend to be slightly less than average. For 2004, we stand at 36 in the overall comparison with one being best and 50 being the weakest. In particular, we are significantly worse than the national average on teen issues. Only in the infant mortality rate are we better. All other indicators at the national level are not statistically different from the national average.

What we know about investing in our children and in early childhood education is the critical importance of youth for the long-term growth and prosperity of our State. The first slide in the layout, pinpoints concerns about the deteriorating environment for children ([Exhibit D](#)). We also noted in slide 3 the critical importance of skill begetting skill, which is a factor that focuses on the future

and improving the status of children. In slide 4 we have noted "Why Invest in Poor Children?"—the fairness issue is noted as number 1. Chairman Bernanke of the Federal Reserve Board spoke this month on the widening distribution of income and the critical importance of keeping opportunity open to all participants in our society to promote the economy and growth of our nation. It is estimated that it could save \$1.3 to \$1.5 million in costs over the lifetime of a person, which reveals the high cost of failing to invest in children and youth.

There is also a body of evidence that is beginning to develop on the benefits of early intervention, which is from birth to five years of age. In slide 6, we show the "Benefits and Cost of Early Childhood Education." The Perry Preschool Study is the gold standard of studies in terms of investing in children and youth. It shows a 17 to 1 benefit-to-cost ratio. There was a study in which they have monitored the status of children, from ages three and four, and interviewed them 40 years later. Not all of the information is in. The other studies use different formats and are fairly difficult in interpreting. I have noted those differences. Figure 8 shows that we are fairly well below the average in investing in early childhood education.

The conclusion is the importance of starting education early and that investing in children pays off. Economically, it pays to improve the quality of their life. And it increases the state's economy so that it may be competitive in world markets. I have included a quote from James Heckman, the winner of the Nobel Prize and Professor of Economics at the University of Chicago. "The best way to improve the American workforce in the 21st century is to invest in early education." We face many choices and these choices will depend on our values and tradeoffs and how they are properly addressed by our political process.

**Chairman Anderson:**

The notoriety of the *Kids Count* book is something that I always look forward to. It does add fuel to the fire to explain why early intervention and school retention is more important than was previously thought. I appreciate the reinforcement of the statistical information and your hard work in producing the book for Nevada.

**Assemblyman Segerblom:**

Are you making this same presentation to the Education Committee?

**Keith Schwer:**

Yes.

**Chairman Anderson:**

I believe we asked you to appear in three committees. This is Judiciary and while we do not deal with the educational issues, we do deal with the juvenile crime issues. That is why I wanted this Committee to have the opportunity to hear it.

I will open the hearing on Assembly Bill 90.

**Assembly Bill 90: Creates the crime of paternity fraud. (BDR 15-147)**

**Assemblywoman Susan I. Gerhardt, District No. 29, Clark County, Nevada:**

The bill before you addresses the accuracy of paternity testing in Nevada. While this is a serious issue, currently there is no law prohibiting somebody from falsifying the results of a paternity test. Lately, the news has reported various individuals who hope to claim paternity of a child. As hard as it is to believe, there are individuals who may not want to be identified as a child's father so that they can avoid paying child support or accepting other types of parental responsibility. A.B. 90 will establish the crime of paternity fraud and would prohibit activity that would falsify a test. I would like to submit a simple amendment for the Committee's consideration ([Exhibit E](#)). As amended, the bill would prohibit a person from getting somebody else to take or attempt to take a genetic identification test on his behalf, and prohibits the other person from taking or attempting to take the test. Since falsification would involve two people, conspiring together to render the results inaccurate, each of them would be guilty of the crime. Either violator would be charged with a gross misdemeanor.

The purpose of the amendment is threefold. First, it prohibits any attempt to falsify a test. Second, it clarifies that the fraud must be perpetrated for the specific attempt of "avoiding a finding of paternity." Finally, the amendment makes the penalty a gross misdemeanor.

With the Chairman's indulgence I would like to hear from Clark County. There are representatives from the District Attorney's Office who will give the Committee real-life examples of how this fraud is being accomplished.

**Robert Teuton, Assistant District Attorney, Clark County, Nevada:**

We are here to testify in support of the bill. I would like to address the four proposed amendments submitted this morning. First, on line 4, the original bill provides that the person has to be ordered by a court. We are looking at possible legislation to create an administrative process to move the courts into the backseat in establishing the paternity. Additionally, we are initiating efforts to get more people to voluntarily come in to submit to paternity testing without

requiring a court order. The amendment would eliminate the necessity of a court order, and would make it a crime for somebody to submit or attempt to submit a false specimen for genetic testing.

The second amendment is to expand the violation from actually committing the crime to somebody who attempts to commit the crime. The idea is to deter not to punish after the fact. We envision posting notices in our offices, somewhat like the loitering statutes posting notice, so people who may do this would be deterred from the beginning.

The third amendment is more technical. What we are trying to do is prevent a false result from occurring. We were concerned that the original language at line 8, "rendering the results of the test inaccurate," caused some litigation because, in fact, the test would be accurate. It would exclude the person who submitted to the testing as being the father. The real purpose is for the alleged father of the child to avoid the finding of paternity.

The final amendment is the original bill, provided that this would be a misdemeanor offense. We looked at similar statutes regarding falsely presenting evidence to a court, which is a Class D felony, or committing perjury or giving false testimony. This is the same nature of crime; however, we do not think that it necessarily needs to be raised to a felony level. We are proposing that it be treated as a gross misdemeanor.

**Chairman Anderson:**

Was this language submitted by Mr. Teuton and the District Attorney's Office or did our Legal come up with it?

**Assemblywoman Gerhardt:**

This is Mr. Teuton's language.

**Chairman Anderson:**

That means we are dealing with it conceptually, not actually.

**Assemblywoman Gerhardt:**

They submitted a letter with the suggestions—this mock-up did come from Legal. So this is their language.

**Chairman Anderson:**

It came from Research. It is a Research mock-up.

**Ed Ewert, Chief Deputy District Attorney, Clark County, Nevada:**

I am here to offer my enthusiastic support for this bill. I would like to quote a few lines from a great book, *Law: a Treasury of Art and Literature*: "We learn in great detail about societies, about our own and others by looking, even if only cursorily, at the laws and legal procedures for each." The other quote is: "But if law opens the door into the attics and cellars of civilization, it also affords a glimpse into their aspirations." Assembly Bill 90, as amended, represents good law for a good society. It reveals how deeply we care for the welfare of our children. It shows that as a society we find it morally and legally reprehensible for a man to avoid responsibility for his own children. More specifically, it shows how wrong we feel it is for a man to actively conceal his status as the father. Legislation cannot force a man to get involved with his children, it cannot change a man's heart, but armed with teeth our laws can change his behavior in some positive ways. This bill can help ensure that most men will at least honestly participate in the parentage enquiry, or else. It is a law worth having because the consequences of genetic testing fraud can mean emotional and financial devastation for the child. If the real father is eliminated by fraudulent testing, then in theory, the child may never find and may never know his father. We should play no part in creating that loneliness a child may endure.

Emotional devastation is only part of the suffering that this can inflict on a child. The father who successfully perpetrates genetic testing fraud effectively steals money from his child and from the society that must help support this child through public assistance. The theft can amount to thousands of dollars. For example, the \$400 child support order today is \$4,800 a year. Over the course of 18 years we are talking about \$86,400. That is grand larceny.

In my 13 years of working in child support, I have seen imposter cases. They are not the most common, but one seems like too many. Presently, the only consequences to the father who avoids honest DNA testing is a sneer from the district attorney in court, a lecture from the person sitting on the bench, or a few extra court hearings. That is not acceptable. By contrast, the impact on cases is delays, increased work, and costs for the government—and, no doubt, anger and frustration from the victimized mother. When fraud occurs, mothers have to fill out an affidavit in support of establishing paternity. They have to reveal personal information regarding their sex lives: for example whom they had sex with during the probable time of conception; it is not an easy task. When a fraud perpetrator uses an imposter that excludes the alleged father, it is embarrassing to the mother. The first impression is this woman is lying to us. This bill will help discourage fraud and it should win bipartisan support.

**Assemblyman Horne:**

The bill went from an actual conduct and misdemeanor to an attempt conduct and gross misdemeanor. A gross misdemeanor carries up to one year in a county jail. What would the terms of probation be when we add this person to parole and probation for this attempt conduct? Also, I did not hear testimony on how a person would perpetrate this. I remember when I sued my daughter's mother for paternity; I had to show identification before they performed the test. Are people going to elaborate measures by getting fake identification in order to have somebody else test for them?

**Robert Teuton:**

First of all, we thought a gross misdemeanor was a more appropriate punishment. If this individual walked into a court and placed themselves under oath and testified, "I am not the father," they just committed a Class D felony. We do not think that a person would walk into a child support office or have somebody else represent and submit a test for him—to charge them with a gross misdemeanor offense is unreasonable. Compared to the gravity of offenses that were actually committed in a court of law, we hope never to charge anyone. The fact that this is posted and people are aware of a penalty will deter them. We wanted to include not only the conduct of submitting the false test, but also attempting to submit.

You are right—a person would have to go through quite a course of conduct in order to perpetrate genetic fraud. They would have to procure false identification. Last year, we had two incidents in Clark County where the person we alleged to be the father procured somebody else to come into our office to submit to the testing. He had false identification, so the picture matched the name of the alleged father; however, this individual had a change of heart. We explained the reason for the testing and he realized that the reasons given to him by the alleged father were insufficient, so he stopped and withdrew. That is what we want to occur. The other individual actually proceeded with the testing. We had a court hearing and looked at existing laws to see if there was any possible criminal prosecution. We found none that would enable us to prosecute this individual. It did result in a lecture from the court. The mom was in the courtroom and saw the photo of the individual who had submitted the genetic specimen did not match the individual who was present at the hearing. Realistically, there was no hope of avoiding being found as the father. It adds 90 to 100 days to the process and we do not want to be in that position.



**Assemblyman Horne:**

You cited two incidents that happened last year, but I have not heard any testimony that states there is a problem and there is no remedy for it. My question on probation has to do with one's conduct conforming to something that is different from what got one into probation in the first place. If someone burglarized a store and had a drug problem there will be terms of his probation. In a paternity incident, somebody would attempt to commit fraudulent testing and probation would be not to attempt that anymore and to pay the child support. We already have statutes for paying child support, so I was hoping to hear more information on the need for the statute, in particular for a gross misdemeanor in putting these few individuals on paper.

**Ed Ewert:**

We keep in mind that our goal is always to get child support, so hopefully we would never have to prosecute anybody for this gross misdemeanor or have to worry about probation. It is the deterrent value. It would be nice to have a big sign outside our genetic testing room that warns people that if you are going to perpetrate this fraud, this is what will happen. We have not kept statistics. If you are looking for the number of cases, it is probably less than 1 percent, but even 1 percent could be devastating. This bill came about a year ago because we suddenly had genetic testing frauds. I had one court calendar with two cases involving this and I had never seen that before. I happened to receive an email from an attorney from Clark County Legal Services who asked if there was any remedy for this. We both thought that there ought to be a law.

**Assemblyman Carpenter:**

The bill states "a person is guilty of paternity fraud if he submits to a test for genetic identification," then it continues, "he knowingly assists" or tries to get somebody else to "attempt to submit to the test." How is a person going to be guilty if he submits to a test?

**Robert Teuton:**

We make an allegation that somebody is the father and paragraph (a) deals with that person who alleged to be the father, either voluntarily submitting to a test or being ordered by a court. Subsection (a) deals with that person procuring somebody else to physically leave genetic material for the test to occur. Paragraph (b) addresses the person who actually submits the genetic material for testing, knowing that he is not the alleged father and doing it on his behalf. The verb submits is used in different senses. The first is being an agreement to turn over genetic material and the second is the act of turning it over.

**Assemblywoman Gerhardt:**

Section (a) relates to the father who is getting somebody else to take the test for him. Section (b) is his buddy who goes in with fake identification to deliberately fail the test. Does that help?

**Assemblyman Carpenter:**

It says that he is guilty of paternity fraud if he submits to a test.

**Assemblywoman Gerhardt:**

The word submits means that he has agreed to take a test and then he conspires with another person to physically give the specimen. If we need to make another word choice, that is fine.

**Assemblyman Carpenter:**

I think I understand the concept as you explained it, but to me, "submits" means that you actually take the test.

**Assemblywoman Gerhardt:**

I do not have any problem with picking an alternate word.

**Risa Lang, Committee Counsel:**

In Section (b) of the bill, it refers to the person who is actually submitting to the test, not the person who was supposed to take the test. It is fraud because it is not the correct person. So (a) deals with the correct person getting somebody else to do it for him and (b) is the wrong person actually taking the test. If we need to clarify that in the language we certainly can.

**Chairman Anderson:**

I want to make sure that I understand the original bill. Line 6 speaks about the other group of people who are involved, one "who knowingly aids, assists, or conspires." Not only are you going to capture the first, but also anybody who may have knowledge, and raise it to a gross misdemeanor?

**Robert Teuton:**

I believe that is true, but it is actually knowing for the purpose to avoid finding a paternity. The individual who procures or provides false identification would not be guilty of this crime if he did not know that he was doing it so that another individual can avoid paternity.

**Chairman Anderson:**

By providing false identification and knowing that the test was going to be used for this purpose, he would be charged?

**Robert Teuton:**

Correct.

**Assemblyman Mabey:**

This past year, I decided to start a franchise performing DNA testing in my office. What I found was that people would come in—the mother, the child, then the father. They all had their identification cards and were also fingerprinted. It seems like there is the ability to perform fraud by changing the identification. Would it be possible that the person who wants to be the father has changed with the real father? Has that ever happened?

[Chairman Anderson leaves]

**Robert Teuton:**

In my prior career working with juveniles, we did have a situation, but it was not through genetic testing. It was through the process of voluntarily knowing. A child sexual abuser went to a woman who had just given birth and also had a history of drug use. He fraudulently procured her to name him as the father and he acknowledged paternity. The idea was to recruit a potential victim. It was not perpetrated through genetic testing, but it was through existing law that allowed a person to make that false claim of paternity.

**Susan D. Hallahan, Chief Deputy District Attorney, Family Support Division, Washoe County, Nevada:**

Over the last 14 years I have seen several occasions where men have commissioned other people to submit to genetic testing on their behalf, in an apparent attempt to avoid parental responsibilities. Once the test results are returned showing the exclusion of parentage, the custodial mother is brought into the office to identify the man in the photograph. Only then is it discovered that the fraud has been committed. Currently, the law does not provide a criminal penalty for either the alleged father or the man that he sends in his stead. As such, the Family Support Division must simply set up another testing appointment, generally sending an investigator from our office to the lab to confirm the alleged father's identity. Precious time in establishing and collecting child support is lost during this phase. Although, the court holds the power of contempt, short of this remedy, paternity fraud is committed relatively risk free. Therefore, we support the passage of A.B. 90 making paternity fraud a crime for the alleged father and his stand-in.

We also support the amendments submitted by the Clark County District Attorney's Office. We would recommend that the criminal penalty would apply whether the genetic testing was ordered by the court or was ordered administratively by the District Attorney's Office. The crime, in

essence, would be committed once someone either procures another to take the genetic test, or once someone submits to the test on behalf of somebody else in an attempt to fraudulently exclude the alleged father from possible parentage.

**Vice Chairman Horne:**

When considering lost resources, once the man who submitted to the test was identified by the mother as not being the father, and then upon discovery you can submit another test and get arrears, is that not a remedy? The money is not lost and may take some time to receive, but it is there.

**Susan D. Hallahan:**

Yes, that is correct. We can establish arrears under our program back to the date the custodial parent opens her child support case. The time that is lost is the support on a monthly basis that the child is in need while growing up. The testing process from the point somebody is served with a paternity action, the appointment takes about two to three weeks to have the test drawn. Then, it can take another six weeks to actually receive results back. Once the test excludes the alleged father, we call the custodial mother and ask her to identify the photograph. They take a thumb print as part of the test, a Polaroid picture is taken, and they present their false identification. This is when the fraud is discovered; the mother says this person is not the alleged father who was listed on her paternity case. Then the whole process begins again. Overall, her time period is not lost, but during that month-by-month basis when she is trying to support a child and perhaps needing to have public assistance is the time frame that we are concerned about.

**Vice Chairman Horne:**

I understand, but the time frame we are talking about is from the initial order to when you receive the results back, which is now eight weeks. Then, to do it again, would total 16 weeks. Now four months have passed, and I do not know what the max is now on child support, but that is the arrears. Is that correct?

**Susan D. Hallahan:**

That is correct. The statutory maximum, at this time, is \$907 a month.

**Vice Chairman Horne:**

My previous concern was making this a gross misdemeanor and this was changed to attempt language instead of the actual conduct. In the scenarios that you painted, we can get the conviction with the conduct as opposed to the attempt and it almost seems fictional because you do not discover it until the conduct is done.

**Susan D. Hallahan:**

In our office we do not find out about the fraud until it has been committed and the test comes back excluding the father. In answer to your prior question, it does not happen too often. I have been in Washoe County for almost 14 years and we have maybe one every other year. When she comes in after an excluded test result, we question whether she validly filled out the affidavit. When she says that the photo is not him, we become concerned.

**Assemblyman Segerblom:**

Could we have a monetary penalty that would be given to the mother upon conviction, so that we can add more than a criminal penalty? It would give them some monetary relief for the time they had to wait for arrears?

**Assemblywoman Gerhardt:**

If that is the Committee's pleasure, I would consider that.

**Assemblyman Goedhart:**

How exactly is the paternity test executed? Is it just with a cotton swab in the mouth?

**Susan D. Hallahan:**

Yes, it is currently executed with a buccal swab. They take four samples from each cheek, top and bottom.

**Assemblyman Goedhart:**

What would the challenges be to expedite that, and forgo the possibility of paternity fraud, by having the spouse identify the person who is going to take the test at the time the test is being taken?

**Susan D. Hallahan:**

The only time that could occur is if she were at the lab. Currently, there is a proposal to allow the District Attorney's Office to do our own genetic testing. She would have to be present at the office when the alleged father comes in for the testing. It certainly could be coordinated to have them both test at the same time; however, if there were issues of domestic violence we would be concerned with having them both at the lab. For this reason, we generally schedule the test at different times for the mother and the father.

**Vice Chairman Horne:**

Theoretically, if you could test in the District Attorney's Office, you could schedule the father first and get picture identification, and when the mother comes for testing, you can ask if this is the gentleman who is the alleged father.

It is done at different times, but at that time she can say yes or no. That would shave off some weeks.

**Susan D. Hallahan:**

Yes, we could do that. We are also hoping that this testing can be done by the District Attorney's Office during the court hearings and we can swab them right there. Then there would not be an issue of paternity fraud.

**Louise Bush, Chief, Division of Welfare and Supportive Services, Department of Human Resources, Carson City, Nevada:**

[Read from prepared statement ([Exhibit F](#)).]

**Kristin Erickson, Chief Deputy District Attorney, Criminal Division, Washoe County, Nevada:**

Perpetrating a fraud on the court is an action that can never be condoned. The Nevada District Attorney's Association supports this piece of legislation.

**Paula Berkley, Government Relations, Nevada Network Against Domestic Violence, Reno:**

We also support this bill. I could not find a specific instance of domestic violence with this situation, but based on unbelievable experience with what ends up happening, I certainly can see that this could be a possibility and would love to close this loophole.

**Julianna Ormsby, Legislative Advocate, Nevada Women's Lobby, Carson City:**

We would also like to support A.B. 90 and the proposed amendments.

**Jan Gilbert, Legislative Advocate, Progressive Leadership Alliance of Nevada, Washoe County:**

We heard that 15.3 percent of children live in poverty. The majority of those are in single-parent families, so child support makes a huge difference. Even if it affects a dozen families every year it is going to help those children. I urge the support of this bill.

**Vice Chairman Horne:**

I will close the hearing on A.B. 90. We will open the hearing on A.B. 107.

**Assembly Bill 107:** Revises the provisions governing the possession of weapons at certain locations. (BDR 15-764)

**Assemblyman Kelvin Atkinson, Assembly District No. 17, Clark County, Nevada:**

Some of you may have received emails from interested parties and it may seem confusing. I have Chief Mike Mieras who is going to present the bill.

**Mike Mieras, Chief of Police, Washoe County School District, Nevada:**

The current *Nevada Revised Statutes* (NRS) 202.265 states "possession of dangerous weapons on property of school or a vehicle." There seems to be some loopholes which are frustrating for law enforcement. In the handouts ([Exhibit G](#)), the first amendment includes "activities that are sponsored by a public or private school," for example, graduations. Dangerous knife "means having a blade that is 2 inches or more in length when measured from the tip, which is customarily sharpened to the unsharpened extension." Pages 8 through 14 are examples of items that have been seen or confiscated on school district property, not only in Washoe County, but in other counties as well. Under the current NRS, they are not illegal to have, and law enforcement's, as well as the District Attorney's Office's, hands are tied in trying to move forward and or prosecute in that area. On page 7, those items would fall under a blade length being 2 inches or less.

**Assemblyman Cobb:**

I received an email from an individual who attends the Regional Technical Institute in Reno and is part of the Culinary Arts program. His concern is he brings knives to school to use everyday and there is not an exemption to allow him to continue to do so. What happens with people in programs like that?

**Mike Mieras:**

Under the proposed amendment it allows a "person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school to carry or possess the weapon." Even the way the current law reads, if a principal and/or administrator grants permission to carry a knife for art, culinary purposes, or ROTC, that provision is already in there.

**Assemblyman Cobb:**

Is that well known to the students?

**Mike Mieras:**

It is hard to say. We do have situations where a student wants to bring something for a science class and the teacher will tell them that they need to consult with the principal to get written permission.

**Assemblyman Cobb:**

Is it granted freely?

**Mike Mieras:**

As far as I am aware of, yes. I have not seen anything turned down—it is the principal's discretion.

**Assemblyman Carpenter:**

This is going to affect everyone in the country that goes to school for any kind of activity. If you have an instrument and you use it to inflict harm on somebody there are laws that cover that, but when you state what is an acceptable length on a blade—it is going too far with what we are trying to regulate.

**Assemblyman Atkinson:**

I understand your concerns, but I think the bill is to prohibit knives or anything else at school functions. It is not clear as to why someone would need to have a knife if they are not doing something art-wise.

**Assemblyman Carpenter:**

People, such as ranchers, always have a knife with them because it is a part of their trade. Most of them are not going to remember to take that knife off their person when they go to a football game. The amendment is too wide of a net. If somebody does harm to another, then we have laws to take care of that. We are trying to make people conform to some kind of regulation that is really unreasonable.

**Vice Chairman Horne:**

The first pages of photos are utility type knives that remind me of the Boy Scouts. But, I do not know if you need to mention some of those things in the statute because if, for example, you are found on school grounds with a hatchet, you need to go to jail.

**Assemblyman Atkinson:**

We just wanted to be clear.

**Vice Chairman Horne:**

That first page, I think, is what Mr. Carpenter is referring to.

**Assemblyman Goedhart:**

On pages 8 through 14, you have the preface stating that these are the types of weapons that are not illegal under the current law. There are the hatchets and the weapons below it—it almost insinuates that current law would also outlaw



those items as well. How does the current law outlaw those weapons and how will that change in this bill? Are you just talking about the length of knife?

**Mike Mieras:**

We are not only looking at the blade length—with page 7 those items would be legal under the change. Not only are we looking at the blade lengths, but under the current law if an individual comes on to school grounds with a hatchet or tomahawk there is nothing in the NRS that we can charge them with.

**Assemblyman Goedhart:**

What specific language have you addressed in that bill to make that difference?

**Mike Mieras:**

Section 1 states "an explosive or incendiary device; a dirk, dagger, switchblade, or dangerous knife; a nunchaku or trefoil; a blackjack or billy club or metal knuckles" and we added "a sword; an ax or hatchet; a machete." Under (h) it states "a pistol, revolver, or any other dangerous weapon."

**Assemblyman Segerblom:**

Right now the school district has the authority to prevent people from bringing these types of weapons onto the campus, right?

**Mike Mieras:**

Yes, they do administratively, but not through the NRS.

**Assemblyman Segerblom:**

I agree with Mr. Carpenter. To make it a crime probably goes a little too far because each county has different kinds of problems. My son was kicked off of campus for taking a plastic Star Wars gun to school, so I know there are strong regulations.

**Assemblywoman Gerhardt:**

I am worried about the threat factor if we open this up and allow kids and visitors to carry knives. Yes, you can charge somebody if they use that knife. But there is a threat of knowing that a knife is in their pocket, and young people will certainly make it known and will show it off. My grandfather, who is no longer with us, would have been more than happy to take his pocketknife out if it meant that his grandchildren and great-grandchildren would be safer at school.

**Assemblyman Ocegueda:**

I have seen this bill several times and things just are not the same anymore. We have tried to carve out an exemption before for the rural counties, but I am

not sure that is the right thing to do. The knives on page 7, would be acceptable to have and does not seem to me that anything bigger needs to be on a campus. We have trouble in Clark County with people over the age of 18 who do not belong on the campus with weapons. We have school police at all of our high schools who are armed and use that force more often than you would believe. I do not see any reason to have a knife other than for the use in culinary arts or something like that where you have permission on school grounds.

**Assemblyman Cobb:**

Under 12 (i) it says "other dangerous weapon." Is there a legal definition for that term?

**Mike Mieras:**

There are two definitions under the current NRS 393.410 that state what a dangerous knife is. Also, NRS 193.1605 defines what is considered a deadly weapon.

**Assemblyman Cobb:**

So you have a definition for a dangerous knife and deadly weapon?

**Mike Mieras:**

That is currently in the NRS 393.410.

**Vice Chairman Horne:**

Then you do not know the definition for a dangerous weapon?

**Assemblyman Atkinson:**

We are going to change "dangerous" to "deadly" so then the definition would be as he read.

**Vice Chairman Horne:**

Then there would be another amendment to change that?

**Assemblyman Atkinson:**

Yes.

**Ken Young, Lieutenant, Clark County School District Police Department, Nevada:**

Over the last three years we have confiscated 627 knives. We are supporting the spirit of the law to minimize the appetite of students and other individuals for bringing knives onto our campuses. Recently, we had an incident with a Boy Scout knife on a bus where a student was stabbed in the finger. Another

student was playing with a Boy Scout knife and accidentally slashed another student in the upper torso area. We do understand that these harmless utility knives can potentially become dangerous. There is another proposed amendment by Dr. Craig Kadlub who would allow knives for trade students, maintenance workers, or any other individual who would have a legitimate reason to use a utility knife on campus.

**Anne Loring, Legislative Advocate, Washoe County School District, Nevada:**

We are in support of A.B. 107, including the amendments that Chief Mieras has talked about. Safety for our students and staff on campus is a prime concern in all of our school districts. While the number of incidents with weapons is mercifully small, especially when you consider the number of students, if it is your child or your spouse that comes into contact with an individual with weapons then the statistics do not really matter. For that reason we urge your support.

**Craig Kadlub, Director, Community and Government Relations, Clark County School District, Nevada:**

We fully support keeping weapons off campuses. The concern that rises for us is the fact that a knife, which can have many legitimate uses on a campus, is included with things that really have no legitimate purpose such as the firearm, switchblade, nunchakus, and so forth. To address that concern I am proposing a new Section 4 ([Exhibit H](#)) which would "not prohibit the possession of a knife by an employee of the Nevada System of Higher Education or a school district where a knife is necessary for job performance or a knife by pupils in a classroom where a knife is provided by the school" such as a culinary arts program. All other purposes would still require the approval of the principal or the president of the institution. But knives have so many legitimate uses that we prefer to approach it from the other side, meaning all legitimate purposes are acceptable without that specific approval. If you are going to bring a knife for show-and-tell then that would require specific approval.

**Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We are in favor of this bill that would help solve problems. Unfortunately, the world is not what it was 30 years ago. We are having gang problems in our rural areas that are the same as urban problems occurring in Washoe and Clark County.

**Assemblyman Manendo:**

What do you think the impact on the jails would be?

**Frank Adams:**

I really cannot answer that. I know it will mainly impact the juvenile system, which is already stressed, but if we can keep kids from getting hurt then that is our priority.

**Assemblyman Manendo:**

Public safety is absolutely important, but we have been hearing mixed messages from law enforcement on what priorities are more important than others. We are going to see a lot of juveniles affected, but also adults, as well, because of the gang members that are over 18 years old. The impact on the jails will be absolutely significant. We need to do some research on what this is actually going to do to our jail system.

**Frank Adams:**

I agree with that. I have watched law enforcement over the years; the better job we do as police officers puts a tremendous stress on the courts, prosecutions, treatments, and all other areas.

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

I am not sure that I am completely in opposition of the bill. With regard to the amendments proposed by Chief Mieras, swords, axes, hatchets, and machetes certainly do not belong on any school campus. I would also agree with Mr. Ocegvera that no student should have any knife unless it is approved for culinary school or other legitimate purposes. My concern is the definition of a dangerous knife that basically says anything longer than 2 inches is automatically a dangerous knife and its application to other persons who are not students. For example, the father who works in a warehouse uses a utility knife on his belt clip. He picks up his son at school and suddenly he is in violation. I do have concerns with its applications to persons other than students. The dangerous knife definition I would like to refer this Committee to *Knight v. State*, [116 Nev. 140 (2000)]; it has a nice explanation. They are concerned with these exact issues of what is a dangerous or deadly weapon. It states:

It is obvious that there are many useful and practical items which are carried by persons for peaceful purposes. They are not normally thought of as dangerous or deadly weapons. Pocket knives, hammers, screwdrivers, wrenches, cutting tools and letter openers are examples of such articles. Other items such as butcher knives, stick knives, and ice picks, though not usually carried concealed on the person, are useful utensils utilized for peaceful purposes. Such everyday instruments become dangerous

and deadly only when they are used or carried for use as a weapon.

I bring this language to your attention to show that defining a deadly or dangerous weapon as something 2 inches long is not a way to define a weapon. We have to look at its utility, *Knight* continues:

The determination of whether in a particular case such instrument is dangerous or deadly would depend on a variety of factors—the nature of the instrument itself, the circumstances under which it is carried, including time, place, and situation in which defendant is found in possession, the manner in which it is carried, the particular person carrying it, and perhaps other factors such as possible peaceful uses therefore which the possessor might have.

This refers to the parent coming on campus who happens to have a knife on his hip. Clearly, we do not want this to cover him. I am also worried about the definition of a dangerous knife and it being applied to other aspects of our criminal law because that will be referred to as ways of convincing a court. I support the spirit of this agreement in not allowing any knife in the possession of a student.

**Vice Chairman Horne:**

If I pick up my son and school police see my knife hanging on my hip, I doubt that they are going to cite or arrest me. Am I correct, Lieutenant Young?

**Ken Young:**

Yes, you are correct. Totality of the circumstances and a common sense approach is what we teach the officers statewide. We are asking for your assistance. We have had to use creative application in dealing with these knives that do not fit the statute. We have had to attach things such as assaults or threats, things of that nature, because kids know that if they bring this type of knife they are okay. We want to minimize that opportunity.

**Assemblyman Mortenson:**

I agree with the intent of this bill. There should not be a jail sentence for a parent who happens to be carrying a knife. While the police have just testified that you would not be arrested for such a thing, I would not want to depend on that. There are many types of people in this world and one cop may have just had an unfortunate situation and is angry, so he may decide to arrest an innocent parent who may be simply carrying a knife when he picked up his child. I do not want to depend on the niceness of an officer; I would rather depend on the law.

**Assemblyman Carpenter:**

Why do we not just outlaw all knives? If I stab somebody with a blade of 1.99 inches it will do just as much damage as one that is a quarter inch over 2 inches.

**Mike Mieras:**

In an ideal world, yes. We are not allowed to take knives on an airplane and we are screened for that. What we are talking about is our children and their future. Understanding Nevada and its broad range of cultures is why we considered the 2 inch or under to be okay.

**Vice Chairman Horne:**

I will close the hearing on A.B. 107. I will now open the hearing on A.B. 100.

**Assembly Bill 100: Eliminates the requirement that a certified court reporter be appointed as a notary public to administer oaths and affirmations. (BDR 54-572)**

**Pauline May, Court Reporters Board, Las Vegas, Nevada:**

We are in support of A.B. 100. What this bill is attempting to do is repeal the current notary laws that require a certified court reporter (CCR) to limited notary powers. The current licensing structure is that when a court reporter passes our proficiency tests he goes through an application process to get licensed. Certain questions are on this notary application that involves questions, such as, "Have you ever been convicted of a crime of moral turpitude?" The answer could restrict licenses which is the same as the notary law requirements. Current CCR renewal is yearly and we also have a biannual requirement for continuing education. In addition, the notary renews every four years. With limited powers it only allows a court reporter to administer an oath. We feel that this is an additional procedural layer that might be unnecessary and redundant and is not integral to the duties of a court reporter administering the oath.

**Nicole Lamboley, Chief Deputy, Office of the Secretary of State, Nevada:**

I wanted to voice our support for this bill. The Secretary of State's Office has jurisdiction over appointing notaries public.

**Vice Chairman Horne:**

I will now close the hearing on A.B. 100.

I would like to reopen the hearing on A.B. 107. I would like to have a letter from Mr. Lussem ([Exhibit I](#)) and the series of emails from Assemblyman Atkinson ([Exhibit J](#)) entered into the record. I will now close A.B. 107.

(Meeting adjourned at 9:57 a.m.)

RESPECTFULLY SUBMITTED:

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Doreen Avila  
Committee Secretary

APPROVED BY:

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Assemblyman Bernie Anderson, Chairman

DATE: \_\_\_\_\_

## EXHIBITS

**Committee Name:** Committee on Judiciary

**Date:** February 28, 2007

**Time of Meeting:** 8:08 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Keith Schwer, Ph.D., Director and Professor of Economics, University of Nevada, Las Vegas	<i>Nevada Kids Count</i> folder
	D	Keith Schwer, Ph.D., Director and Professor of Economics, University of Nevada, Las Vegas	<i>Nevada Kids Count</i> PowerPoint presentation
A.B. 90	E	Assemblywoman Gerhardt	Proposed amendment for A.B. 90
A.B. 90	F	Louise Bush, Chief, Division of Welfare and Supportive Services, Department of Human Resources, Carson City, Nevada	Written statement in regards to <u>A.B. 90</u>
A.B. 107	G	Mike Mieras, Chief of Police, Washoe County School District, Nevada	Proposed amendments and photographs of weapons
A.B. 107	H	Craig Kadlub, Director, Community and Government Relations, Clark County School District, Nevada	Proposed amendments
A.B. 107	I	Michael Lussem, Legislative Advocate, Clark County Shooting Park Advisory Committee, Nevada	Email of proposed amendments
A.B. 107	J	Assemblyman Kelvin Atkinson, Assembly District No. 17, Clark County, Nevada	Several emails from constituents