

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

**Seventy-Fourth Session
March 5, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 9:02 a.m., on Monday, March 5, 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
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman John Ocegura
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

COMMITTEE MEMBERS ABSENT:

Assemblyman Marcus Conklin (Excused)

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Risa Lang, Committee Counsel

Minutes ID: 422



Judith Maddock, Committee Secretary
Matt Mowbray, Committee Assistant

OTHERS PRESENT:

Michael Stoops, Executive Director, National Coalition for the Homeless,
Washington, D.C.
Shaun Griffin, Executive Director, Community Chest, Virginia City
Joshua Martinez, Detective, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department; member, Nevada
Sheriffs and Chiefs Association
Nicolas C. Anthony, Legislative Relations Program Manager, Office of the
City Manager, Reno
Cotter C. Conway, Deputy Public Defender, Washoe County,
Jason Frierson, Office of the Public Defender, Clark County
Nancy Hart, Nevada State Death Penalty Abolition Coordinator, Amnesty
International USA, Reno
Michael Pescetta, Assistant Federal Public Defender, Office of the Federal
Public Defender, District of Nevada
Vinson W. Guthreau, Government Affairs Coordinator, Nevada
Association of Counties, Carson City
Donald L. Cavallo, Public Administrator, Washoe County

Vice Chairman Horne:

Let us open the hearing on Assembly Bill 83.

Assembly Bill 83: Revises provisions governing criminal and civil liability for crimes motivated by the actual or perceived status of the victim as a homeless person. (BDR 15-533)

Assemblyman James Ohrenschall, Assembly District No. 12:

This bill is to discourage hate crimes against homeless persons by providing increased criminal penalties, allowing victims to recover damages in civil proceedings, and increasing awareness of such crimes through reporting requirements.

Nevada law already allows for enhanced penalties for hate crimes. Assembly Bill 83 adds homeless persons to the categories of persons who may be victims of hate crimes.

The increasing crime against the homeless is a national trend. In 2006 there were 20 deaths and 122 attacks against the homeless. Teens are increasingly the perpetrators of these crimes. Often the teens are motivated by nothing

more than thrill seeking or boredom. My bill will not address the root causes of the issue, but it will address one of the symptoms. The question of why will be left to criminologists and psychologists. Many experts speculate that the rise in sport killings of homeless persons by teens and young adults is an outgrowth of violent video games or shows like "Bum Fights." These media outlets glorify senseless violence against defenseless or disabled victims.

The definition of homeless person is found in subsection 3 of Section 1 of the bill. The definition starts at line 17 on page 1 and continues to line 9 on page 2. Sections 1, 2, and 3 of the bill add homeless persons to the existing Nevada statutes that provide for increased criminal penalties for persons who commit crimes based on hatred of the victim or the victim's status or perceived status as a member of a certain class. Currently, hate crimes in Nevada are crimes committed because of the victim's actual or perceived status as to race, ethnicity, sexual orientation, religion, or disability. Section 4 of the bill adds homeless persons to the existing statute that allows victims of hate crimes to sue for the recovery of actual and punitive damages. Section 5 of the bill adds homeless persons to the existing statute requiring the Central Repository to report crimes that appear to be hate crimes.

I wish that I could say that Nevada has been immune from the national trend of hate crimes against the homeless. Unfortunately, there are several well documented cases of crimes committed against homeless persons in Nevada. The only cause for these crimes is that the victims were homeless, they were there, they were vulnerable, and they were an easy target. In several cases, the victim was murdered. The lucky ones woke up in a hospital, badly beaten. These deaths or beatings have occurred in both Reno and Las Vegas. For example, 76-year-old Arthur Cramer died at University Medical Center two days after being beaten by a gang of approximately ten youths in Las Vegas. Rusty Frasher, a Vietnam veteran, was beaten to death in Las Vegas by teens who confessed to beating another homeless man previously. In Reno, a homeless man was beaten to death while he slept in an abandoned trailer.

It is likely that there are incidents of hate crimes against the homeless that go unreported. The victims are often reluctant to go to the police or the crimes are not reported as hate crimes.

Although legislatures in several states have or are considering legislation that would extend hate crime protection to the homeless, they have yet to act. I hope that Nevada will be the first state to pass this much needed and overdue legislation. I urge the Committee to support the passage of A.B. 83. I have a guest that has flown in from Washington, D.C., Mr. Michael Stoops. He

informed me that the Maryland State Senate is considering similar legislation today. I will take questions now or after Mr. Stoops' presentation.

Vice Chairman Horne:

Are there any questions for Mr. Ohrenschall before we hear from Mr. Stoops?
[There were none.]

Michael Stoops, Acting Executive Director, National Coalition for the Homeless, Washington, D.C.:

I am joined by Shaun Griffin who will also be saying a few words. We are going to show an edited clip of the first national media story done on this issue. This story was done by the late Ed Bradley for *60 Minutes*. It aired on October 1, 2006.

[Played video.]

Vice Chairman Horne:

Thank you Mr. Stoops. What are these slides that you have?

Michael Stoops:

The slides represent the data for 2006. These are the cities where incidences have happened. Florida has had 47 or 48 incidences in 2006, making it the number one state in the country. California is second.

Vice Chairman Horne:

I am going to interrupt for a minute. I do not believe that the Committee has copies of this particular data.

Michael Stoops:

No, I do not think that you do. We can work on getting you those copies ([Exhibit C](#) and [Exhibit D](#)).

Vice Chairman Horne:

Mr. Ohrenschall alluded to the fact that there may be some similar legislation elsewhere. Is that currently being considered, or is there actually similar legislation codified elsewhere?

Michael Stoops:

In 1994 the California Legislature added homelessness to their hate crimes statute. It was vetoed by then-Governor Pete Wilson. The only two states today that have laws on the books related to homelessness hate crimes are California and Maine. California has a law requiring police officers to undergo a two-hour video training on hate crimes against homeless people. Maine has a

law that gives judges the discretion of adding a few more years onto a sentence. In the six states mentioned earlier, there is legislation already introduced and in the hopper. The Maryland Senate is scheduled to vote today. Florida and Texas are both introducing house and Senate bills. Nevada and California both have Assembly bills to be introduced. There is active legislation.

Vice Chairman Horne:

Are you aware of any remedies for the states that are considering similar language on constitutional questions involved? For example, in Section 1, paragraph 3, it defines an "adequate night time residence." I believe there are parts of the bill that are questionable or vague and may bring up a constitutional issue. Do you know of any other jurisdictions that have addressed those?

Michael Stoops:

In terms of the definition of who is homeless and what are the places that homeless people stay, we are using the U.S. Department of Housing and Urban Development's definition. In terms of the constitutional issues, could you clarify?

Vice Chairman Horne:

In the realm of housing and urban development, that definition, when applied, has some penal consequences to it. If you use that definition in a criminal statute where someone will lose their liberties, that is when the constitutional issue pops up. Basically, a person has to have notice on what conduct is prohibited and against whom. There may be some testimony in opposition later. I was curious if you had heard those concerns elsewhere, and if they were addressed, or how they were addressed.

Michael Stoops:

This is new legislation. Last year, similar legislation was introduced in Massachusetts, Florida, and Maryland. For various reasons it did not make it through the various chambers. There are always issues, but I am not aware of constitutional issues being raised in the other five states.

[Chairman Anderson enters room.]

Chairman Anderson:

I apologize for being late. This is an aggravator as compared to the straight statement. We have 15 aggravators here in Nevada. Can we use the current aggravators for crimes against the homeless? In Section 1, subsection 3, there is mention of a welfare hotel. What is the definition of a "welfare hotel"?

Michael Stoops:

Welfare hotel is an old term. Jonathan Kozol, who wrote the book *Rachel and Her Children: Homeless Families in America*, used it to describe welfare hotels in New York City. Primarily families and working class people are living in these cheap hotels. This happens in Las Vegas as well as elsewhere.

Chairman Anderson:

Is it the price of the rooms that gets a hotel that definition?

Assemblyman Ohrenschall:

There are motels and mobile home parks in Las Vegas that actually take coupons from the county and the State for overnight stays. I think these might fall under the definition of welfare hotel. In terms of the definition of "homeless person", we wanted to cast the net as broadly as possible. If a crime is motivated by hatred, whether the person sleeps in an alley or a downtown motel, the enhanced sentence could still be applied.

Chairman Anderson:

Maybe an attorney can make it clearer.

Assemblyman Segerblom:

Would this cover the situation where a hospital refuses to treat a homeless person?

Assemblyman Ohrenschall:

I do not believe that this would be covered. I would have to ask Legal.

Assemblyman Segerblom:

What are the types of crimes that this bill would cover?

Assemblyman Ohrenschall:

This covers crimes including battery, murder, and most of the crimes against the person.

Assemblyman Segerblom:

Theoretically, if the hospital threw a homeless person out on the steps, that could qualify as a battery.

Assemblyman Ohrenschall:

It could. I would have to consult with Legal on that. I do not believe that it would apply, but it possibly could.

Michael Stoops:

In Los Angeles, hospitals release sick people to the Skid Row area. There is legislation being introduced in California to prevent hospitals from discharging people to the streets. This legislation does not do that.

Assemblyman Cobb:

It seems like much of the testimony was focused on teens that go out and attack homeless people. Is that correct?

Michael Stoops:

Yes, that is correct.

Assemblyman Cobb:

It seems like they are immature. They are obviously doing terrible things, but it does not seem like the teens are thinking these crimes through. Is that correct?

Michael Stoops:

Yes, that is correct. In our analysis of the accused and convicted over eight years, some of the people committed hate crimes or crimes of opportunity. At other times, groups of teens were roaming the streets high on drugs and alcohol; they saw a homeless person and knew they could beat him up and get away with it. They think that nobody will care and would not get reported to the police. There are a whole range of reasons for why people are being attacked on the streets. We hope this legislation will send a message that someone cannot murder homeless people and get away with it.

Assemblyman Cobb:

That is why we have murder statutes. It seems that the real focus of this legislation is to prevent non-thinking, immature teens from committing these crimes, but is not much of a detriment to add an enhancement. Instead we should focus on prevention and actually do something to reach the teenagers through education campaigns. Many times people think that these homeless, who are often veterans, are not human beings. It would be more important to focus on the prevention side and educate these thoughtless teens instead of finding a deterrent after the fact with an enhancement. I do not think that will reach the teenagers whom you are describing.

Shaun Griffin, Executive Director, Community Chest, Virginia City:

The problem is because the lives of the homeless are not valued; they are viewed as invisible, worthless human beings. Many people convened at the Capitol two weeks ago in an effort to bring the shame of homelessness in Nevada to an end. Finally we have achieved a critical mass—north, south, rural—to stop this incredible shame in our State. This is one more example of

that problem. We can endlessly talk about what happens to these people until a day like today when we have the choice to make a difference and say hurting someone without shelter is illegal. These things happen because the lives of the homeless are viewed as meaningless.

Some of you heard Officer Patrick O'Brien give testimony about his photo display downstairs. He said that after 20 years of being in this field he would give those cameras to the homeless individuals and see what they would produce. Only human beings can produce art. We must take the lead on this issue. We must be an example to other states and not a follower.

Michael Stoops:

We would like to respond to the issue of prevention. The National Coalition for the Homeless has produced a report on hate crimes. In this report, we ask for community groups to help support this bill. We support the police in keeping statistics on this issue and having special training. We also support community education efforts. We have pioneered such education throughout the country. We support The Faces of Homelessness Speakers Bureau. This organization helps local nonprofit groups, like Community Chest, take homeless or formerly homeless people into schools to answer questions and share stories. This helps to break down stereotypes. Last year we spoke 300 times to 20,000 young people of all economic classes. We have found that most of the perpetrators of crimes against the homeless come from the working, middle, or upper classes. There are many stereotypes associated with homelessness that were once attached to minorities. Community education is a very important component in overcoming these stereotypes. The nonprofit groups in this State should be helping to take care of that issue.

Assemblyman Ohrenschall:

I do not have any other witnesses to call. I wanted to thank the guests for their eloquent presentation. I think we have a choice today to determine what kind of society we are going to live in, in the future. I hope that the Committee will consider this legislation.

Joshua Martinez, Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; Nevada Sheriffs and Chiefs Association:

We are in favor of the bill. It provides an enhancement to the current crimes with regards to the class categories. We believe this is a growing problem in Las Vegas. We have also offered an amendment to Assemblyman Ohrenschall ([Exhibit E](#)). We would like the bill to be amended to abolish Section 3, which deals with temporary institution and housing.

Nicolas C. Anthony, Program Manager, Legislative Relations, Office of the City Manager, Reno:

I would like to echo the previous comments. I also add that the Reno City Council is in full support of this legislation and appreciates the efforts of Assemblyman Ohrenschall.

Chairman Anderson:

I was anticipating that there would be an attorney present. Officer, why would the enhancement that is currently in the statute, which states the murder is committed upon a person at random and without apparent motive, not fulfill the enhancement part of this? I would not want to see the definition supplied here fail because we are putting an answer in place. That is a very real possibility. The enhancer is my concern, not the definition.

Joshua Martinez:

I agree that the current murder statute would suffice if a homeless person was murdered. If the person is not murdered but badly beaten based on their status in society, we would like to have a greater enhancement to the punishment. We hope that this enhancement would deter these crimes against the homeless.

Chairman Anderson:

You would rather see the bill fail in the Ways and Means Committee because of the prison overcrowding question, rather than get the definition in place?

Joshua Martinez:

I would not want to see it fail because of the prison overcrowding issue. I would like to clarify the definition by working with the Committee as well as Mr. Ohrenschall to make sure that this bill has a chance at going through.

Chairman Anderson:

Mr. Horne, would it be possible to find a neutral attorney to explain the practices of the district attorney's office?

Vice Chairman Horne:

We have Mr. Conway from the Washoe County Public Defender's Office; he is neutral on this bill.

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

I will try to answer any questions that you may have.

Chairman Anderson:

We have 15 enhancements in the State of Nevada for murder. When we drafted the language for this bill and included the hate crime piece, it was

looking toward specific sexual orientation, race, and mental disabilities, all of which are outlined in Section 11 of the bill. My concern is whether the current statute already covers the issues of this legislation. Does the district attorney already have enough enhancements in hand to achieve what he wants?

Cotter Conway:

I would agree with that. I know that our office has routinely opposed the addition of enhancements or aggravators when it comes to death penalty issues. This is important legislation. However, I cannot see that aggravator being used because it will be difficult to prove that status was the particular motivation. A good defense would use the random or no apparent motive aggravator. It is not necessary. We oppose additional aggravators, and I think that will be one of the hiccups in passing this legislation. We remain neutral.

Vice Chairman Horne:

Mr. Frierson, do you have anything to add?

Jason Frierson, Attorney at Law, Office of the Public Defender, Clark County:

We remain neutral on this issue. It is worthy to look at this issue. We did have concerns about vagueness. Although I have not seen the amendment, it seems to be an appropriate step to addressing that. The word "adequate" is always going to be vague and difficult. I agree that the welfare and congregate shelter language should have some definition. If we are going to proceed, it is important to proceed with language that everyone understands and is able to use. These cases often involve weapons so there could possibly be a deadly weapon enhancement. Malice and premeditation could also be used. We are neutral but concerned about the dysfunctional language.

Vice Chairman Horne:

Are there any questions for Mr. Frierson? I see none. Are there any others who wish to testify about A.B. 83? [There was no one.] We will now move to the opposition.

Nancy Hart, Nevada State Death Penalty Abolition Coordinator, Amnesty International, Reno:

I am here to testify against A.B. 83. More specifically, I am opposed to Section 2 of the bill. Members of the Death Penalty Abolition Coalition are unconditionally opposed to the death penalty. We seek an end to all executions and to prevent any expansion of the application of the death penalty. We deeply sympathize with all victims of violent crime. We believe that we need to work together to address the root causes of violence.

Section 2 of A.B. 83 proposes to add murders committed upon a homeless person to the list of aggravating circumstances that qualify as first-degree murder for the penalty of death. In order for a death penalty verdict, the prosecution must prove the existence of at least one aggravating circumstance, that is, at least one of the circumstances listed in *Nevada Revised Statutes* (NRS) 200.033. Nevada already has a very broad list of aggravating factors.

In 2002, there was a legislative Subcommittee that studied Nevada's death penalty. The reports and testimony from this Committee stated that virtually all first-degree murders or homicides in Nevada could involve at least one aggravating factor. This means that prosecuting offices have tremendous discretion to decide which cases will proceed with aggravators and possible death sentences. This system of county-by-county discretion and case-by-case evaluation leads to wide disparities in the fairness of the death penalty. Who gets death and who gets life? Apart from the general unfairness of the capital punishment penalty system, it is ludicrous to think that one more aggravator in Nevada will make the death penalty more reasonable or defensible. While homeless persons definitely warrant extra protections from the law, it is a huge and unnecessary leap to say that their status as victims warrants the death penalty. Chances are that the most likely person to be charged with this proposed aggravator would be another homeless person. Does this Body want to say that homeless people are deserving of a special protective status and then ironically cause them more likely to be executed? As for the gang and crime spree cases mentioned, we believe that enhanced penalties less than death will provide appropriate penalties. Internationally, there is a trend toward reduced use of the death penalty. We see no reason to increase its application today.

Section 2 of A.B. 83 is a terrible proposal and should be rejected by this Committee.

Vice Chairman Horne:

You and your organization are opposed to the enhancement for the purpose of the death penalty, not for the enhancement for a crime perpetrated against a homeless person.

Nancy Hart:

That is right. Our organization has no position with enhanced penalties that do not involve the death penalty.

Vice Chairman Horne:

Are there any questions? [There were none.]

Michael Pescetta, Assistant Federal Public Defender, Office of the Federal Public Defender, Nevada:

I practice in the area of capital habeas corpus work. I am opposed to Section 2 of this bill. Nevada already has a long list of aggravators that cover the field in which a death sentence can be imposed. All of my points have been covered.

Vice Chairman Horne:

Are there any questions or any other people who wish to speak? [There were none.] I am sure Mr. Ohrenschall would be happy to meet with people who may have proposed amendments on language ([Exhibit E](#)). Also, we have the document from the National Coalition for the Homeless ([Exhibit C](#)). This packet consists of an article from www.CNN.com, "Teen 'Sport Killings' of Homeless on the Rise." Also from Mr. Stoops is "Hate Crimes Nevada Report 2000." ([Exhibit D](#)).

Chairman Anderson:

There is a document from John Emerson ([Exhibit F](#)), as well as an email from Amy Coffee raising some constitutional issues ([Exhibit G](#)).

Assemblyman Carpenter:

In Section 3, it refers to gross misdemeanors, but it seems that this is already covered in the sections governing assault, battery, and harassment. Maybe we should consider this, too?

Vice Chairman Horne:

Was that Section 3? We will have Legal look at that. We will now close the hearing on A.B. 83. I will turn the gavel over to Chairman Anderson.

Chairman Anderson:

We will now turn our attention to Assembly Bill 136.

Assembly Bill 136: Provides for the recovery of certain fees and expenses for the settlement or administration of small estates. (BDR 12-373)

Vincent W. Guthreau, Government Affairs Coordinator, Nevada Association of Counties:

The intent of this proposed bill is to provide consistent authority statewide for the collection of appropriate fees and costs related to the administration of estates valued at \$75,000 or less.

On August 16, 2006 the National Association of Counties (NACO) board of directors unanimously approved a comprehensive legislative package to submit for the 2007 Legislative Session. This bill was approved as part of that

legislative package on behalf of Washoe County. The NACO supports the legislation and intent. We look forward to working with this Committee to ensure its passage.

Donald L. Cavallo, Public Administrator, Washoe County:

I would like to thank NACO for bringing this bill to the Legislature and for their support today. First, this bill breaks small estates into two different areas. It is a petition to set aside an estate for \$75,000 or under. This is for all set-aside estates that are filed by the office of a public administrator or a family member of the deceased. The second portion of the bill is an affidavit of a public administrator. That is for estates that are \$20,000 or under. There is also an affidavit of entitlement that family members can get for \$20,000 or under, but this does not affect that particular part of the statute. Both of these small estates never receive letters of administration issued by the court, but are done on a one-time petition that goes before the court. When there are letters of administration or letters testamentary at the completion of an estate process, you are able to petition the court for fees for both the attorney and the personal representative of the estate. Since those letters of testamentary or administration are never issued, there is no statutory authority for the small petitioned estates to receive a fee. This bill is just requesting the authorization of a request of a fee. The fee request is then submitted on a petition before the district court. The judge then makes the determination of whether that fee is approved or not. The fee consists of reimbursement of expenses and time involved in the administration of those small estates. Many times the small estates are the large majority of the estates handled by an office of a public administrator. Although they take a substantial amount of time and never realize any substantial reimbursement to the cost of doing these things, it still allows the court to authorize a fee. I have spoken with the Clark County Public Administrator, John Cahill. He is also in support of this bill. I know of no known objections to this bill.

Assemblyman Horne:

Although these are small estates, by placing the payment of fees and expenses in priority over everything, including funeral expenses, you may take a share. The family then ends up having to give a pauper's funeral. Why should you come first?

Donald L. Cavallo:

This particular order of payment of fees is consistent with the statute, as it reads now, for the administration of any estate. It is just mirroring the order of fee payments that are already within the statute for the estates that letters of testamentary to a personal representative are submitted.

Assemblywoman Allen:

Perhaps Risa or Allison can answer this question. This is a potential fee increase, yet there is no two-thirds requirement or a fiscal note on the bill. I cannot get any bill out of Legal without a fiscal note. This allows for a judge to assess a fee.

Risa Lang, Committee Counsel:

I think because this is part of an estate and not a fee in the ordinary sense, we did not look at it that way.

Assemblywoman Gerhardt:

I am confused by Section 1, line 19. If "all necessary expenses" are being paid first, how do we know in advance what "all necessary expenses" are?

Donald L. Cavallo:

All of these petitions are filed with the court. There is a detailed list of time expenditures and all costs involved in the administration of small estates, which are put there for the district court to review and see if the fees are reasonable.

A number of years ago, the Clark County office and my office went to the Board of County Commissioners and submitted a fee request schedule to be reviewed and approved. Both Clark and Washoe Counties commissioners have approved those fee schedules. Those are what we use as guidelines when we request a fee with an estate. If we were to actually charge the man-hours that are associated with the administration of small estates, there would be nothing left to distribute. The reason that they are in this order is that we are certainly charged with the responsibility of going out and administering these estates. The second fee in that case is for funeral expenses. The majority of the public administrator affidavits are already being charged to the Washoe County Department of Social Services for cremation. We are reimbursing the county for an expense already incurred.

Assemblywoman Gerhardt:

I understand the reasonable fee, but it is the necessary expenses that worry me. The language is a little vague. I also have a concern that if you are in the funeral business and you are dealing with a family of modest means, you may not take the risk of not being paid, especially because the funeral business will know they are second to get reimbursed for their services.

Donald L. Cavallo:

Those costs are very simple. They are mailings that are required to be certified. There are sometimes long distance phone calls. The costs are minimal. We always encourage family members to step up and handle the administration of

the estate of their loved ones. For many reasons, they are unable or unwilling to do so. About 60 percent of the cases that the public administrator handles are small estates. Normally, the family members have not seen the deceased in many years, and cannot themselves come up with any expenses for those funerals. In the few requests we put before the court, it is discretionary on the public administrators' part regarding what they are asking for. They may decide to waive a fee to be able to reimburse the funeral costs. If the estate is so small that there would not be enough funds to pass through to that funeral, my office would certainly take care of those fees. In the 60 percent of those estates that we handle that are of the \$20,000 or less, I can tell you that none of those funds are ever received or are passed through to those family members other than reimbursement for funerals. The debts of these decedents are sometimes so large that a small estate does not get down to *pro rata* distribution to those creditors because of the cost of the funeral and administration. If we are not reimbursed for these services, especially in the smaller counties where there are not paid public administrators, the incentive may not be there to function in their capacity.

Assemblyman Carpenter:

As a public administrator, you get a salary. How are you reimbursed?

Donald L. Cavallo:

In Clark and Washoe Counties, the departments are salaried by the County. We have staff that is salaried and we work in county buildings. In all of the other counties, they do not receive a fee for administering an estate, no matter what size that estate is, from the county. Although they are elected individuals, they are independent contractors. The only fees the other counties receive are the fees granted by the court in the administration of those estates. When my office receives a fee, that fee then goes back to the Washoe County and the general funds.

Assemblyman Carpenter:

It seems to me we should keep the funeral expenses as a top priority. If there is money there to pay for them, it is better for the estate to pay than it is the county. Would there be any problem reversing it so the funeral expenses remain number one?

Donald L. Cavallo:

It would create an inconsistency within the existing statutes. A number of years ago the funeral was the first expense, but that was changed and cost of administration was made the first expense. You would have an inconsistency in the probate statute if we changed that in this particular bill.

Assemblyman Carpenter:

What kind of attorney expenses are we talking about if there is an estate of \$75,000?

Donald L. Cavallo:

I have seen the attorneys charge between \$1,750 and \$2,250.

Assemblyman Carpenter:

What do they do that you do not?

Donald L. Cavallo:

In a set-aside proceeding, a full petition is drafted and submitted to the court. My office does not do those types of documents. That is a legal document prepared by attorneys. I have no attorneys on staff.

Chairman Anderson:

How long ago did we change the statute that you were referring to?

Donald L. Cavallo:

I believe that was six years ago.

Chairman Anderson:

Generally, the people who fall into this group of estates less than \$20,000 are people who have had healthcare problems or other estate problems for some time and may have been using their resources to solve those problems, and at the end there is not much left. In these cases, the public administrator and the attorneys involved will eat up the remainder of the money and there will be nothing left for the funeral expenses.

Donald L. Cavallo:

There is very little left for those expenses sometimes. We do attempt to find family members and send them a list of personal items of the deceased and get those items to them, but sometimes we have to ask the family to purchase those items from the estate so we can pay for the cost of administration, the funeral, last illness, and all other creditors. There are times when we do mailings to over 50 creditors.

Chairman Anderson:

How much would you estimate it costs Washoe County to take care of your office's responsibility?

Donald L. Cavallo:

There are no statewide statistics; all I can give you are generalities. About 60 percent of our estates fall into the \$20,000 or under category. The cost of our department is just \$1 million at this stage. We return to the County about \$150,000 to \$175,000 a year. Our department is in no way able to pay for itself in its entirety or even a small percentage. About 20 percent of what we generate in revenue comes back to the county.

Chairman Anderson:

There are no others who wish to speak. I will close the hearing on A.B. 136. I am going to take it back and see what the opinion of the Committee. There are some questions and concerns to look at.

Meeting adjourned [at 10:22 a.m.].

RESPECTFULLY SUBMITTED:

Judith Maddock
Committee Secretary

Janie Novi
Transcribing Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 5, 2007

Time of Meeting: 9:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 83	C	Michael Stoops, National Coalition for the Homeless	Information on homeless hate crimes
A.B. 83	D	Michael Stoops, National Coalition for the Homeless	Hate Crimes Nevada Report 2000
A.B. 83	E	Detective Joshua Martinez, Las Vegas Metropolitan Police Department	Amendment
A.B. 83	F	John Emerson	Email
A.B. 83	G	Amy Coffee	Email