

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

**Seventy-Fourth Session  
March 6, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:08 a.m., on Tuesday, March 6, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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

**STAFF MEMBERS PRESENT:**

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

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Matt Mowbray, Committee Assistant

**OTHERS PRESENT:**

Rick Loop, Nevada District Judges Association, Eighth Judicial District,  
Clark County, and Second Judicial District, Washoe County  
Scott Anderson, Deputy, Commercial Recordings, Office of the Secretary  
of State, Nevada  
David Kallas, Detective, behalf Nevada Conference of Police and Sheriffs  
Ben Graham, Legislative Representative, Clark County District Attorney,  
Nevada District Attorney's Association, Las Vegas

**Chairman Anderson:**

[Meeting called to order. Roll called.] Ms. Chisel, we have the work session document, but let us not start with the graffiti bill. I want to get these others taken care of first.

**Jennifer M. Chisel, Committee Policy Analyst:**

Would you like to start with Assembly Bill 20?

**Chairman Anderson:**

Wherever you would like to start.

**Jennifer M. Chisel:**

Assembly Bill 20 was presented by Allen Glover on behalf of the County Fiscal Officers Association.

**Assembly Bill 20: Revises the provisions pertaining to travel costs that jurors are entitled to receive. (BDR 1-323)**

It proposes to reduce the number of miles a juror must travel in order to be reimbursed for travel expenses. The original bill reduced the number from 65 to 15 miles. During the hearing, Allen Glover amended the number to 25 miles, which is presented as amendment one on the first page of your work session document ([Exhibit C](#)). Jason Frierson, with Clark County, proposed an amendment to retain the 65 mile distance in Clark County, but all other counties would reduce it to 15 miles. The language for that is on page 2. Mr. Frierson was also asked to provide an estimate of the cost to Clark County for the various distances that you will find on page 3.

**Chairman Anderson:**

Clark County is the only county that raised concern regarding the original piece of legislation. It seems to me that we should come up with a standard for everybody.

**Assemblyman Carpenter:**

It affects the rural and urban areas. Mr. Loop has a statement of what the big counties would be okay with; they are suggesting 35 miles. That would be fine for the rurals as well.

**Chairman Anderson:**

Thirty-five miles would be from the courthouse in Las Vegas to Henderson, but would not include Boulder City. Mr. Loop, 35 miles from the courthouse would be where?

**Rick Loop, Nevada District Judges Association, Eighth Judicial District, Clark County, and Second Judicial District, Washoe County:**

A 35-mile radius would include the greater Las Vegas area, which would also include Boulder City. I am not sure about Washoe County, but I had the Second Judicial District Jury Commissioner present when we spoke with Assemblyman Carpenter. Both, Washoe and Clark County, are within the 35-mile radius which would include an insignificant fiscal note.

**Chairman Anderson:**

Thirty-five miles is a great distance in Washoe County. It would mean the Nevada and California state line and the border of Storey County. It would almost touch Churchill County and a few other places. I can understand people within 20 to 25 miles, but 35 miles is 70 miles roundtrip.

**Assemblyman Carpenter:**

We are trying to balance the cost of the counties and the duty to serve. In Elko, if you were in Jiggs you would not receive any reimbursement, but you would if you were in Wells.

**Assemblyman Mortenson:**

I agree with what you said, Mr. Chairman. I have no strong feelings over the distance, but Clark County loves and promotes growth and they should not be exempted from the problems from it. They should be like everybody else.

**Assemblyman Mabey:**

I would support the 35 mile-radius.

**Assemblyman Goedhart:**

Would this only be miles over 35 in each direction? If you hit 40 miles then will that be retroactive?

**Chairman Anderson:**

I think you would get reimbursed for every mile. If your house is farther than 35 miles, then you would get paid for gas, which would be 36 and 1/2 cents for every mile you travel. Currently, you have to be more than 65 miles, so this would be more than that. In the proposal, if you are 36 miles, then you would get paid for 36 miles each way.

**Assemblyman Goedhart:**

That could be something to look at to minimize the fiscal note as you would just get reimbursed for the miles over that limit.

**Chairman Anderson:**

That may be a bookkeeping nightmare for the county. They would have to keep track of your real miles then deduct 35 miles each way, so that would be a deduction of 70 miles. It may be better to pick a flat number.

**Assemblyman Conklin:**

I am rereading the bill and realized that \$40 a day of compensation is like \$5 an hour and 65 miles is a long way. I am a 35-mile person with no exception to Clark County. We are growing fast and most folks live in the area. Thirty-five miles would be all the way across the metropolitan area. If you are going that far in Clark County, you should get mileage.

**Assemblywoman Gerhardt:**

I am concerned about the number as well. Gas prices are high in Clark County and you often get caught up in traffic which eats more gas. I would like to see a lower number.

**Chairman Anderson:**

How about 30 miles for a compromise? The Chair will entertain a motion of Amend and Do Pass as amended "the home of the person summoned as a jury" on page 2 at line 12 to be "30 miles or more from the place of trial."

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 20.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Anderson:**

Mr. Manendo, would you like to present this on behalf of the Committee?

**Assemblyman Manendo:**

Yes.

**Chairman Anderson:**

Either Mr. Horne or I will take care of the amendment on the floor, and Mr. Manendo will present the bill when it comes up.

**Jennifer M. Chisel:**

Assembly Bill 25 was presented by the Office of the Secretary of State to revise certain filing and certification fees for business association documents to further standardize the fee structure.

**Assembly Bill 25: Makes various changes to provisions governing business associations. (BDR 7-544)**

There is one amendment proposed by the Secretary of State, which would provide the authority to adopt regulations to develop an administrative process to deal with fraudulent filings.

**Assemblyman Horne:**

Just for clarification, you would like to impose the regulation this year?

**Scott Anderson, Deputy, Commercial Recordings, Office of the Secretary of State, Nevada:**

That is correct.

**Chairman Anderson:**

Where does this amendment go? At the end of Section 6 or will this be a new section?

**Risa Lang, Committee Counsel:**

They are proposing to add another section. In drafting we will put it in the right location.

**Chairman Anderson:**

The Secretary of State is going to do this by administrative regulation. We will see how the new bill is drafted and make sure the process works.

**Assemblyman Carpenter:**

When would this become effective?

**Chairman Anderson:**

The administration would have the ability to promulgate regulations, so it will all happen after October.

**Risa Lang:**

If you want to give authority to adopt regulations sooner, we would need to state that in the effective date.

**Chairman Anderson:**

Mr. Horne, this was your concern. You wanted an earlier date for the bill; we can move for an earlier date than October 1.

**Assemblyman Horne:**

I am not seeking to hamstring the Secretary of State's Office. If they want it this year, that is okay with me.

**Chairman Anderson:**

What that means is that they will not be able to begin the work on the administrative regulation until after October. Given their posting time and the opportunity for the legislative commission to review, it would probably be after the first of the year before the regulation would go into effect.

**Assemblyman Horne:**

Actually, they have been working in the regulatory process to get it going prior to its effective date.

**Chairman Anderson:**

I thought Ms. Lang told us no unless we do that statutorily?

**Risa Lang:**

They can work on them, but they would not be able to adopt them. You can either adopt regulations sooner, or leave it and they can adopt it after October 1.

**Assemblyman Carpenter:**

As far as the extra money, would it not be better to get it in next year's budget?

**Chairman Anderson:**

I am sure that the Secretary of State's Office would not object.

**Scott Anderson:**

I do not believe there was a fiscal note with regard to the administrative procedure. We have the staffing and resources to handle that with our current budget. We have stated to Mr. Horne that we would get this under way by the end of this year and that is our goal.

**Chairman Anderson:**

They want to do it, but they do not want to do it. It does not have to be a passage and approval.

**Scott Anderson:**

With passage and approval, there might be some ramifications with the other parts of the bill. Although, if we separated those out, we would be fine with the regulatory authority on passage and approval.

**Chairman Anderson:**

The Chair will entertain an Amend and Do Pass motion on A.B. 25 with the amendment being the addition of the proposal as submitted by the Secretary of State. With the addition to *Nevada Revised Statutes* (NRS) 225.084, "Secretary of State may adopt regulations to provide administrative process to remedy certain fraudulent filing pursuant to Title 7 of NRS or Article 9 of the Uniform Commercial Code."

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 25.

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Anderson:**

I will ask Mr. Conklin to handle A.B. 25 on the Floor.

**Jennifer M. Chisel:**

Assembly Bill 32 was proposed by the Certified Court Reporters Board and it proposes to increase the number of Board members from three to five.

**Assembly Bill 32: Revises provisions related to court reporters. (BDR 54-571)**

It also adds certificate designations which are acceptable qualifications for certification in Nevada. There were no proposed amendments to this measure and no opposing testimony during the hearing.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 32.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Anderson:**

Mr. Carpenter, this will be yours to present on the Floor.

**Jennifer M. Chisel:**

Assembly Bill 49 was sponsored by Assemblyman Conklin, and it allows for certain professions and exemptions from jury service.

**Assembly Bill 49: Exempts certain persons from jury service. (BDR 1-145)**

There are two proposed amendments to this measure ([Exhibit C](#)). The first amendment, outlined on page 2, allows an exemption from jury service for any police officer, which is defined in the referenced statute. The second amendment provides that same exemption for any police officer, but also adds a medical exemption. During the hearing Chairman Anderson requested information on the courtesy exemptions provided by the court, and the response is found on page 5.

**Chairman Anderson:**

Am I to understand that under NRS 6.030, outlined on page 5, if any juror experiences "sickness or physical hardship; serious illness or death; undue hardship or extreme inconvenience; public necessity" that the jury commissioner would be able to excuse you?

**Jennifer M. Chisel:**

That is what it looks like, Mr. Chairman.

**Chairman Anderson:**

Mr. Kallas, are we okay with this? Is there anything that you would like to get on the record?

**David Kallas, Detective, behalf Nevada Conference of Police and Sheriffs:**

I do not believe so. The second amendment was proposed in order to address concerns that Assemblywoman Gerhardt raised during the initial hearing on the bill for people who are medically unable to attend or a primary caregiver for people who are medically unable.



**Chairman Anderson:**

If we were to add "any police officer," are we okay here or does this have to be modified in any way?

**David Kallas:**

I might suggest, rather than referring to the statute, you can actually use the definition in the statute, so people do not have to go back and forth and wonder if they are covered or not under the proposed amendment.

**Assemblywoman Gerhardt:**

Since this is already in NRS, the fact that we can excuse jurors, I am curious why we are not excusing jurors under those circumstances?

**Rick Loop:**

It is my understanding that we are looking for an occupational exemption, and police officers are not currently excused for their occupation. They do report for jury duty under the new law.

**Chairman Anderson:**

I think Ms. Gerhardt's question revolves around why, in Clark County, they are not taking advantage of NRS 6.030—ground for excusing jurors which the court may at any time temporarily excuse any juror on account of sickness, serious illness, undue hardship, or public necessity.

**Rick Loop:**

We do excuse folks for medical reasons if they present the documentation that is required. I looked into Assemblywoman Gerhardt's matter, but could not find out what happened in that case because it has been several years.

**Assemblywoman Gerhardt:**

It has been a few months.

**Rick Loop:**

A few months, I am sorry, but I could not get to the bottom of the matter. I did raise the issue with the court administrator and the jury commissioner. We have not had any other complaints in that regard. In the Second and Eighth Judicial Districts, legislative committees looked at the language that is presented in the amendment, and they do not have a problem with it.

**Assemblywoman Gerhardt:**

As a result of our conversation, you have taken it up with the administrator, they understand that this is in NRS, and we are not going to have a problem with this in the future?

**Rick Loop:**

Yes, and hopefully, this will not occur again.

**Chairman Anderson:**

Ms. Lang, would it be possible for us to add in this section a cross reference back to NRS 6.030 so that the jury commissioner would recognize this set of circumstances shall permanently excuse any person from services as juror rather than repeat the whole litany?

**Risa Lang:**

You want to have a reference to NRS 6.030?

**Chairman Anderson:**

Yes, grounds for excusing jurors.

**Risa Lang:**

If you need a reference, we can add one, but those sections are right next to each other in the NRS.

**Chairman Anderson:**

It is the same page? So we do not need one?

**Risa Lang:**

Correct.

**Assemblyman Mabey:**

Do we need this proposed Amendment 4? Do we already do that in the way we function, or are we doing that to codify?

[Chairman Anderson leaves.]

**Vice Chairman Horne:**

Where are you addressing?

**Assemblyman Mabey:**

It says number 4 on the amendment, the portion dealing with medically unable.

**Vice Chairman Horne:**

This proposed amendment is attempting to address Ms. Gerhardt's concern on persons with those conditions not being able to be excused timely, but it is addressed in NRS 6.030. Do we really need to put in "four?"

**Assemblyman Mabey:**

That is my question.

**Vice Chairman Horne:**

I would say no. Maybe NRS 6.030 needs to be changed.

**Assemblyman Ohrenschall:**

Perhaps NRS 6.030 could be the word "may" and paragraph 1 could be changed to "shall" or "must," so that there would be less room for error for persons who are caregivers or facing a great illness.

**Assemblyman Carpenter:**

In NRS 6.030 where it says "public necessity," would that cover a police officer? If not, then maybe we can add it.

**Risa Lang:**

I am not sure if it would cover a police officer. NRS 6.030 seems to be situations versus categories of people, which is in NRS 6.020. That chapter provides an absolute exemption for certain people. NRS 6.030 is if you are sick or if you are taking care of somebody in your family. I am not entirely sure what is intended by "public necessity." In some cases it may include a police officer, but not necessarily.

**Assemblywoman Gerhardt:**

There were a few instances in Clark County where people were made to spend half the day on jury duty leaving seriously ill family members home alone. At the time, I was not aware that we had already addressed this in statute, but I want to be sure that the courts are following that. I am satisfied not to go forward with this particular amendment, but if we change the word to "shall," it may cover all my concerns.

**Vice Chairman Horne:**

We can change "shall" in NRS 6.030 to pleasure the Committee, but the court will still have to make a determination.

**Assemblyman Conklin:**

Are you intending to have a motion that would be amend and do pass based on the amendment proposed on page 3, striking subsection 4 of Section 1? Then we would add to NRS 6.030, Section 1, striking "may," which is the third word in that line, and inserting "shall."

**Vice Chairman Horne:**

That is correct. The motion will be for amend and do pass the amendment on page 3, striking paragraph 4.

**Assemblywoman Gerhardt:**

We just noticed it does not say anything about caregiver in NRS 6.030.

**Vice Chairman Horne:**

Mr. Conklin, can we withdraw your motion?

**Assemblyman Conklin:**

I withdraw my motion.

**Vice Chairman Horne:**

We will state a motion similar to that, adding "primary caregiver" in subpart (b) of NRS 6.030 and also include "may" instead of "shall." Does that work for you?

**Assemblywoman Gerhardt:**

Yes, that will work for me.

**Assemblyman Conklin:**

Is "primary caregiver" defined anywhere in statute?

**Risa Lang:**

I am not sure if it is defined in statute; I can look it up.

**Assemblyman Conklin:**

I accept that amendment as long as "primary caregiver" means exactly what Ms. Gerhardt intends it to mean, and not anybody who works in a hospital or doctor's office—that would be too expansive.

**Vice Chairman Horne:**

It would be the person who is caring for that person at home.

**Assemblyman Mabey:**

I strongly feel that everybody should be included in the jury pool, so I will not be able to support the amendment. I understand where everybody is going, but I like the idea that the jury pool would be random. If this passes, the police officers will not be part of that pool, so they will not be able to participate.

**Assemblyman Conklin:**

With all due respect to my colleague, police officers do not get to participate as it is now because it would take them off the streets. I respect Dr. Mabey's opinion, but we have a minor disagreement. With that, are you willing to entertain a motion?

**Vice Chairman Horne:**

I am.

[Chairman Anderson returns.]

**Assemblyman Conklin:**

I would move to Amend and Do Pass as amended. On page 3 excepting subsection 1, paragraph (c), and striking "may" which is the third word to "shall" in subsection 1 of NRS 6.030. Then add paragraph (e) to include a "primary caregiver" with a definition that we have approved. We are also including on page 3 a clause on the bottom "this act becomes effective upon passage and approval" and "Section 1 (c) expires July 1, 2011."

**Vice Chairman Horne:**

That is correct. The expiration is a sunset provision.

**Assemblyman Conklin:**

Probably a police officer exemption?

**Vice Chairman Horne:**

That is correct.

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 49.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

**Vice Chairman Horne:**

Discussions?

**Assemblyman Cobb:**

Is there already a (d) in Section 1?

**Vice Chairman Horne:**

Yes, it is public necessity.

**Assemblyman Cobb:**

I am talking about the actual NRS 6.020 that we are dealing with right now. Mr. Conklin said that we are going to add subsection (e) to Section 1.

**Vice Chairman Horne:**

No, it would be adding (e) to NRS 6.030.

**Assemblyman Cobb:**

NRS 6.030 is the current issue?

**Vice Chairman Horne:**

Right. NRS 6.030 is addressing the concerns of those who are medically unable to attend a jury pool and there was going to be an amendment added, but we do not need that because it was already in statute. Everybody has heard the motion.

THE MOTION PASSED. (ASSEMBLYMAN MABEY VOTED NO.)

Mr. Conklin will handle the bill on the Floor.

**Jennifer M. Chisel:**

Assembly Bill 14 is Assemblyman Ocegüera's graffiti bill which was discussed during our last work session.

**Assembly Bill 14: Makes various changes to provisions concerning graffiti and other damage to property. (BDR 15-387)**

Ms. Lang has created a mock-up of the bill, which combines the proposed amendments into one document ([Exhibit C](#)). I have broken the amendments down into four categories that are on pages 1 and 2. Under Amendment 1, Section 2, I stated the specific definitions of "broad-tipped indelible marker" and "graffiti implement" were to be removed; however, that is not how the mock-up is stated. There were last minute changes, so it actually includes those amendments. The other amendment in Section 2 is to include "transportation facility" and "public transportation vehicle."

Under Amendment 2, Section 4, it adds a mandatory fine and community service for vandalizing or placing graffiti on "places for worship, burial, or education," and "public transportation" was also added here. This will be a gross misdemeanor. Amendment 3 outlines the value of loss thresholds for a misdemeanor, gross misdemeanor, and category E felony. The value of loss has also been defined, and there are provisions for a mandatory fine and community service. This is found in Section 5 of the mock-up. Sections 5 and 8 of the amendment concern the mandatory suspension of a driver's license for both adults and juveniles. Finally, in Section 9, there is a discussion regarding the availability of a restricted license.

**Chairman Anderson:**

All of you have heard a lot about A.B. 14, and I know our communities are concerned about having the necessary tools to fight this. Mr. Carpenter, they have addressed some of your concerns, about the definition of the value of loss. On page 4 of the mock-up, lines 39 through 41 mean "the cost of repairing, restoring, or replacing the property, including, without limitation, the cost of any materials and labor received to repair or replace the item." Does that work for you?

**Assemblyman Carpenter:**

I think it does. The Committee should know that Elko is not immune from vandalism. I have pictures taken close to my home, and I will pass them out to the Committee to show that it is a statewide problem.

**Assemblyman Mabey:**

Section 5, subsection 2, of the mock-up says:

If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1.

But the period was removed and the following was added: "but only if the value of the loss when aggregated is \$5,000." I do not understand that.

**Chairman Anderson:**

We are moving "where the value of loss is less than \$1,000 is guilty of a misdemeanor" because \$250 was too low of a threshold under the current situation. The language at lines 23 and 24 are the gross misdemeanors where we are looking at the aggregate value. Maybe Legal can look at it for you.

**Assemblyman Mabey:**

I do not understand why we have to put, "but only if the value of loss was aggregated."

**Risa Lang:**

During the hearing there was discussion about when the offenses should be aggregated and the end result was the agreement would only apply when there is a felony. It was drafted so that those offenses would only be aggregated when the dollar amount would reach a felony level.

**Assemblyman Cobb:**

I agree with my colleague. It was my understanding that when we discussed this bill that the value level of a gross misdemeanor would be raised from \$250 to \$400 and then to \$1,000. Then the value of loss, for a gross misdemeanor, would be raised from \$1,000 to \$5,000 because we were going to aggregate the various offenses. If I am reading this correctly, in subsection 2 of Section 5, we are only allowing the use of aggregation for felony offenses. If there is an aggregate in it, and the cost of damages was \$4,000, we should bump it up from a misdemeanor to a gross misdemeanor.

**Chairman Anderson:**

Are you arguing about where the felony should start? Not at \$5,000, but at \$4,000? Currently, if it is over \$1,000, it would be a gross misdemeanor.

**Assemblyman Cobb:**

I would recommend that we eliminate the addition in subsection 2 of Section 5 where it states "but only if the value of the loss when aggregated is \$5,000 or more." If I am reading that correctly we are not aggregating damages for anything less than a felony.

**Chairman Anderson:**

If there are a series of buildings that a person is found guilty of vandalizing, for instance, the garage at my parent's house, a home on the other side of the alley, and one on the next block, then all three would aggregate to be greater than \$5,000, and he would be guilty of a felony. They would not have to be that close, but why would we not want that?

**Assemblyman Cobb:**

What that addition in subsection 2 of Section 5 does is allow for aggregating the damages only in the case of felonies because you must reach the level of \$5,000 before you may aggregate all of these different damages. If you eliminate that addition in subsection 2, I believe that you can aggregate for a gross misdemeanor as well



**Chairman Anderson:**

Are you trying to make it easier to be a felony?

**Assemblyman Cobb:**

It only allows you to aggregate if the damages total \$5,000 or more.

**Chairman Anderson:**

Right, it makes it a felony.

**Assemblyman Cobb:**

Understood. A different section of this statute makes it a felony. This is only talking about the aggregation of the values. If you eliminate that section, then you would be able to aggregate for gross misdemeanors as well, not just for felonies.

**Chairman Anderson:**

I understand your point now.

**Assemblyman Goedhart:**

If you have five buildings and the same individual caused \$900 of damages to each one, in aggregation that would be a gross misdemeanor. But the way this language reads, you will not be able to aggregate it because the total damage was only \$4,500. It prevents you from aggregating it to get to a gross misdemeanor. I am supporting what Mr. Cobb has said.

**Assemblyman Ohrenschall:**

Are restricted hardship licenses available in this bill with the way it interacts with NRS 483.490?

**Chairman Anderson:**

I believe so, specifically there is one group that does and another that does not.

**Risa Lang:**

Section 9 was added to this bill that was previously in A.B. 23. In subsection 9, you will see that the language referring to suspension is removed so that it could fall under subsection 3 of that same section, which allows for restricted license for a person whose license has been suspended.

**Chairman Anderson:**

You will not get an aggravating circumstance, and you will not get an opportunity if you are less than 16 years of age because you are not eligible for a driver's license.

**Assemblyman Ohrenschall:**

Since NRS 483.490 specifically mentions suspension, the word "delay" here means that it does not run afoul of NRS 483.490?

**Risa Lang:**

This will allow for a restricted license if your license has been suspended, but it does not allow for a restricted license if your license has been delayed because you would not have a driver's license yet.

**Assemblyman Carpenter:**

I thought we were going to aggregate the damages whether it was a misdemeanor or gross?

**Chairman Anderson:**

I would not want to endanger the bill in light of our concerns about prison and jail overcrowding. Obviously, the property has been damaged already.

**Assemblyman Ocegüera:**

I negotiated this proposal on good faith with members of the audience and the Committee. Some feel more comfortable with the aggregate only applying to felonies, and others feel that we should aggregate all of them.

**Assemblyman Conklin:**

I would agree that aggregating all of these would be a sounder piece of policy. However, sometimes you have to back off your position to build consensus in order to push forward with something better than our current position. In that respect, I would agree with Assemblyman Ocegüera. I will support this.

**Assemblyman Horne:**

I would concur with one of the members because some of those concerns were mine regarding the felony level. If you remember, I wanted the higher amount. This was an attempt to reach a consensus. After the hard work done by various members and interested parties, I agreed that this was a good result.

**Chairman Anderson:**

So, the bill in the mock-up is acceptable?

**Assemblyman Horne:**

It is to me.

**Assemblyman Mabey:**

The Committee knows how I feel, but I certainly do not want to be on record as opposing this. A lot of work has come forward. It sounds like the motion will

be the way it is in the mock-up. I will support that, but I want to think about it and perhaps change my vote on the floor.

**Assemblywoman Gerhardt:**

I am satisfied with the mock-up as it is.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 14.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

**Chairman Anderson:**

Discussions?

**Assemblyman Cobb:**

In Section 2, subsection 1, where it was added that "if a person carries in plain view to the public a graffiti implement with the intent to vandalize," how would one prove intent to vandalize with the new language?

**Ben Graham, Legislative Representative, Clark County District Attorney, Nevada District Attorney's Association, Las Vegas:**

It will have to be determined by the jury or a judge, like in a burglar situation. If a person is behind Wal-Mart at 2 a.m. with a tire iron, he better have a flat tire. If he has burglar's tools, then it would be a question of fact that would have to be proven under the circumstances.

**Assemblyman Cobb:**

What I liked about the original bill was that it limits where you can find somebody guilty of this offense. What we had in that bill was "under an overpass or a bridge or a flood channel or a transportation facility." To me, restricting those areas was the proof of intent. Do you believe if they add this language "with the intent to vandalize" that simply being in those places is not going to be sufficient to prove that intent?

**Ben Graham:**

The bill was significantly worked to address constitutional issues. It came out of a court 10 days ago and this, as the Chair has indicated, may not be the most perfect piece of legislation, but it is one that will work.

**Chairman Anderson:**

Obviously, if you are standing there with a can in your pocket and you have red hands, then maybe an officer might have probable cause and that would lead to

an arrest. Then the judge and jury will decide whether there is sufficient evidence that meet those criteria.

**Assemblyman Carpenter:**

If we do not aggregate this, I am afraid that it is going to be too low. I am going to vote no and may change my mind on the floor.

**Assemblywoman Allen:**

I would like to vote in favor of the bill, but reserve the right to vote no on the floor.

THE MOTION PASSED. (ASSEMBLYMAN MABEY AND  
ASSEMBLYMAN CARPENTER VOTED NO.)

**Chairman Anderson:**

Mr. Ocegüera, this is your bill, so I presume that you would like to take care of it on the floor. Mr. Horne is looking forward to explaining this amendment.

I have a BDR introduction from the Nevada Association of Counties.

**BDR 41-383—Revises provisions relating to approval of nonrestricted gaming licenses in certain counties.**

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 41-383.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[The meeting adjourned at 9:27 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:** March 6, 2007

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

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Jennifer Chisel, Committee Policy Analyst	Work session document