

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

**Seventy-Fourth Session  
March 14, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:10 a.m., on Wednesday, March 14, 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

**STAFF MEMBERS PRESENT:**

Jennifer M. Chisel, Committee Policy Analyst  
Risa Lang, Committee Counsel  
Danielle Mayabb, Committee Secretary  
Matt Mowbray, Committee Assistant

Minutes ID: 523



**GUEST LEGISLATORS PRESENT:**

Assemblyman Joseph P. Hardy, Assembly District No. 20

**OTHERS PRESENT:**

Robin Sweet, Deputy Director, Administrative Office of the Courts,  
Carson City, Nevada

Brett Kandt, Representing the Attorney General, Carson City, Nevada

Steve Dahl, Justice of the Peace, North Las Vegas Township  
(Department 1), Nevada

James Jackson, representing Voice Writers of America, Carson City,  
Nevada

Jason Frierson, Attorney, Public Defender's Office, Clark County, Nevada

Jackie Glass, District Court Judge, Eighth Judicial District, Clark County,  
Nevada

**Chairman Anderson:**

[Meeting called to order. Roll called.] Before we turn to the agenda of the day, we have BDR 14-78 requested by this Committee (later introduced as Assembly Bill 306). This is for the Nevada Cyber Crime Task Force to solve some issues relative to technology.

ASSEMBLYMAN CARPENTER MOVED TO INTRODUCE BDR 14-78.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let us turn our attention to Assembly Bill 190.

**Assembly Bill 190:** Makes various changes to provisions governing criminal procedure. (BDR 14-655)

**Robin Sweet, Deputy Director, Administrative Office of the Courts, Carson City, Nevada:**

[Provided (Exhibit C).] Section 1 is a cleanup section. A few sessions ago, additions were made to several other areas around this statute requiring information be sent to the Court Administrator from the courts regarding felony bond forfeitures. The section on exoneration was omitted and is a key link in gathering the information to monitor the forfeitures.

Section 2 changes the reporting of demographic information on defendants, victims, and jurors on murder and manslaughter cases, from the Supreme Court

to the Attorney General (AG). The court cannot make analysis of the data submitted because they are the branch that necessarily hears the appeals on these cases. Additionally, as the Judicial Branch, the court has little authority over Executive Branch district attorneys reporting, or lack thereof.

Section 3 would repeal the reporting of that information by the Supreme Court to the Legislative Counsel Bureau (LCB).

**Chairman Anderson:**

Since the court retains these dollars, why would the court not be able to identify this? I am having difficulty in understanding what the problem is that we are trying to solve here.

**Robin Sweet:**

This is for felony forfeitures. It is not administrative assessments or misdemeanor forfeitures. The felony forfeitures are submitted to the State and 90 percent of that goes to victims of crime, 10 percent goes to the court. The court reports the money to the State, but the Legislature asked the Administrative Office of the Courts (AOC) to audit it to ensure the money was getting to the State. This bill is a missing link in that process.

**Chairman Anderson:**

Is the court trying to move itself away from the reporting requirements in terms of caseload and process? The court is going to have the various nuances that are going to come in front of them. Why would they not be able to get this information from within the court system?

**Robin Sweet:**

Are you speaking to the bond forfeitures?

**Chairman Anderson:**

I am speaking to bond forfeitures for both misdemeanors and felonies. Reporting to you is part of that requirement in terms of caseload and other kinds of statistical information. I am trying to see how this keeps information in front of us that is meaningful and keeps the court involved in their responsibility.

**Robin Sweet:**

Our reporting requirements for the criminal and civil caseloads that you are referring to are outlined in several other sections of the statutes—in *Nevada Revised Statutes* (NRS) 1.360, as well as parts in Chapters 2–5 of NRS. Those are not addressed here. This is purely on the financial side of the bail bond forfeiture. We would be asking for one more piece of information which would make the auditing of that process easier.

**Chairman Anderson:**

The AG's office seemed to be willing to take up this responsibility?

**Robin Sweet:**

When we initially drafted this bill last summer, that was our belief.

**Assemblyman Carpenter:**

What is the AG going to do with this information? Will it be forwarded to the Legislature or not?

**Robin Sweet:**

We thought it best to leave that to you, depending if that is information that you need. We are unsure where the information is used.

**Assemblyman Carpenter:**

It seems to me that these are things that we need to keep track of. If they are going to the AG to be filed and no one looks or cares, maybe the district attorneys are going through an exercise in futility, unless someone compiles them and sends them on to the Legislature. It looks like the court might want some of this information, too, when they are considering certain cases.

**Chairman Anderson:**

I was under the impression that part of the dollars that came from administrative assessments were used by the AOC to compile statistical information as well as to prepare the reports for the Legislature. That is the way the division of those dollars was originally presented to us. Would this then lessen the need for the administrative assessments?

**Robin Sweet:**

There are four bills, to date, adding additional reporting requirements from the Legislature. This would be removing one. We would still have the potential to add four, so I would not commit to that at this time.

**Chairman Anderson:**

There are four bills that are going to remove reporting requirements?

**Robin Sweet:**

They are going to add reporting requirements.

**Chairman Anderson:**

They are on the wing. We are talking about why you currently have this administrative assessment going to you. For example, there is a duty to submit a report concerning the cases including charges of murder and voluntary

manslaughter. While the court may not see some of those issues as something of pertinence to them, the Legislature frequently asks questions in that regard. Originally, when we dealt with the issue about whether we were going to set out the issues or you were going to set out the issues, the court asked that they would be able to do the report. Now you are trying to get out of the report?

**Robin Sweet:**

No one has told me that story. The research I did on this showed that it came out of a legislative committee. There were members of that committee who pushed for this reporting from the district attorneys and from the district courts. The district court information was dropped, but district attorney information was not. It was submitted to the court.

**Chairman Anderson:**

A former member of the Senate did an interim study on fees, fines, and forfeitures. I chaired a similar committee. I am curious if we are going back to step one. We have been looking for information to back up what the court is providing, and I am concerned that we are not going to have what we need. I would rather have more information than hear from the courts that they do not gather that information, which is the excuse that we heard in 1993 and 1995.

**Robin Sweet:**

I have been speaking to the murder tracking, specifically. This murder tracking does not come from the courts. It comes from the district attorneys. It is information that the Supreme Court does not use. They do not want us to do any analysis on it for fear that the information—because we would analyze something in the AOC—would be misconstrued by a defense attorney on appeal and they would make an issue in the court. Our concern is that if we cannot analyze the data, then it is of little value.

**Chairman Anderson:**

How long have you been gathering information?

**Robin Sweet:**

We did the second report this session.

**Chairman Anderson:**

How many cases have been filed on that issue?

**Robin Sweet:**

I do not have that information. I can get it to you.

**Chairman Anderson:**

It is a fear factor that we are dealing with?

**Robin Sweet:**

A little bit. A larger concern is the fact that we have no control over the district attorneys and the separate branch with the reporting requirement. I brought copies of the report in case you had not seen it yet. There are quite a few places where the information was not reported or is unknown. We are very limited on how we get that information.

**Chairman Anderson:**

When did you complete this?

**Robin Sweet:**

It is due March 1st to the director of LCB.

**Assemblyman Carpenter:**

I have a question about the second page, on line 22 where it says, "and there is an undertaking or money deposited." I understand the money being deposited, but what is an undertaking?

**Robin Sweet:**

I am drawing a blank. I would be happy to send you an email when I get back to the office.

**Chairman Anderson:**

Any other questions for Ms. Sweet? [There were none.] We will go to the opposition to A.B. 190.

**Brett Kandt, Representing the Attorney General, Carson City, Nevada:**

I am appearing today on behalf of Attorney General Catherine Cortez Masto. The AG's office is opposed to Section 2 of A.B. 190. The AG's office could not analyze the information that is required in these reports without a potential claim coming at a later date out of conflict of interest. The AG's office prosecutes some of these murder and manslaughter cases that would be subject to the reporting requirements of NRS 178.750 during federal habeas proceedings. Therefore, it would be highly inappropriate for the AG's office to be analyzing this information in any way, shape, or form, given that we are participating in these cases later in federal court.

Secondly, we understand that the Legislature determined that this report should be filed with the Supreme Court. That procedure has been in place for a few years. There was a good reason for the decision to file the report with the

Nevada Supreme Court. I want to draw the Committee's attention to Section 9 of Supreme Court Rule 250. The Supreme Court adopted this section in 2000, and it is titled "Filing of Biannual Status Reports of Cases Where the Death Penalty Was Imposed." It requires the AG and district attorneys to present information related to the death penalty to the Supreme Court. So, the Supreme Court has already imposed a similar reporting requirement upon itself. The Legislature, in enacting NRS 178.750, was following the actions of the Supreme Court. They wanted the Supreme Court to have similar information available in murder and manslaughter cases.

Finally, there certainly is a fiscal impact on the AG's office if this reporting requirement is transferred to them. We have submitted a fiscal note for increased cost to the AG's office should this legislation pass. For these reasons, we feel there does not appear to be reasonable justification for moving to the AG's office. Without sufficient cause, we request that this duty not be moved to the AG's office.

**Chairman Anderson:**

I would like to know what your understanding is of the difference between a forfeiture and a bail.

**Brett Kandt:**

I came here to comment on Section 2. I have not reviewed Section 1 of the bill, and would not be prepared to provide any competent testimony on that section.

**Chairman Anderson:**

Are there any questions? [There were none.] We will close the hearing on A.B. 190. We will contemplate some of these issues of what information we are going to lose if we do not proceed with someone reporting to us. It is better to have it in a single place. There may be a responsibility to remove the whole process from the AOC and over to a more statically operative system. Clearly, the courts were sensitive to the question that they should be reporting their own information to the Supreme Court. That was its duty and responsibility to monitor what was going on at all levels of the court system. That was part of the original argument as to why the courts were going to do this. I am going to have to go back to the original information before I feel comfortable in moving with this. The first part of this raises an interesting scenario with the exoneration of a surety or the taking of a surety in terms of a forfeiture, and how those two processes differ. We may be coming back to the same question.

With that, we will go to Ms. Chisel.

**Jennifer Chisel, Committee Policy Analyst:**

[Provided ([Exhibit D](#)).] The first bill in the work session document is Assembly Bill 17.

**Assembly Bill 17: Allows justice courts to appoint masters in proceedings involving temporary or extended orders for protection against stalking, aggravated stalking or harassment. (BDR 15-266)**

There have been some issues with this bill. Are we going to proceed with it today?

**Chairman Anderson:**

Judge Dahl, even though we are not taking testimony, you indicated to me there was a question that needed to be resolved. If you could clarify what we are up against, that would be helpful.

**Steve Dahl, Justice of the Peace, North Las Vegas Township (Department 1), Nevada:**

We were originally seeking to amend the bill to place a training requirement on hearing masters in stalking and harassment cases. That amendment was submitted by Judge Willis. When larger jurisdictions saw the extent of his proposed amendment, they were unhappy. What I have done—and I have given a handwritten version to Ms. Chisel today—is suggested a different amendment that would still require training. They would go to the Judicial College for a week for domestic violence training and related matters. Every two years they would have to repeat a course in order to keep that position. We are seeking a change from what is in your booklet. We are asking that it not be considered today so that I can get a more formal version of the request to the Committee.

**Chairman Anderson:**

Do you currently use masters at the justice court level?

**Steve Dahl:**

Some justice courts do and some do not. It varies throughout the State based on the different systems in place. I do not use masters for anything. The only time I use a separate judge is when I am out of town. In Las Vegas Justice Court, they have masters, referees, and other things because of their workload.

**Chairman Anderson:**

The masters and referees have no judicial training requirements?



**Steve Dahl:**

In Clark County, Las Vegas Justice Court conducts a pro tem training. It lasts at least a week. As far as a training requirement for masters in general, there is nothing in statute that requires it. We think it would be appropriate to have some kind of a training requirement in there. People may be from different areas and they may or may not be attorneys. It does not mean you are necessarily qualified to step in and handle stalking and harassment cases. Those are specialized areas that require training.

**Chairman Anderson:**

Maybe the question that we should be looking at in this bill is that anytime there is either a pro tem or a master, he needs to have the mandated training. In crafting your amendment, you might want to think about that.

**Steve Dahl:**

The problem we have had with that is. . .

**Chairman Anderson:**

It is not a debatable issue. We will not deal with this bill. We will wait to see what your comments end up looking like. If we are going to move with the bill at all, we want to make sure that we have confidence that somebody who is stepping in as a master has the competency to do this. It is something of a controversial question anyway, as to whether an attorney can do it or not. I have always defended the fact that any individual should be able to do this with the two weeks of training. Maybe Judge Willis' idea, as it was originally crafted, is the best way to go even though it is uncomfortable.

**Steve Dahl:**

I will have something for Ms. Chisel by tomorrow morning.

**Jennifer Chisel:**

The next bill in your work session document is Assembly Bill 52.

**Assembly Bill 52: Makes various changes relating to domestic relations.  
(BDR 11-421)**

The bill was presented by Mr. Carpenter. The reason for this bill is that the Nevada Supreme Court has outlined in case law several factors that can be used to determine an award of alimony in divorce cases. This bill puts those case law factors into statute. The bill also creates a requirement for the office of the courts to report statistical information about domestic violence orders to the Legislative Counsel Bureau (LCB). At the hearing, an amendment was submitted by Sue Meuschke, which placed the reporting requirement with the

Criminal History Repository since that office actually maintains such information. The amendment, attached at page 2, was submitted by Ron Titus and P.K. O'Neill to make a few necessary changes to Ms. Meuschke's amendment. It is essentially the same, and clarifies some of the information. They had discussed it in terms of procedure that could work with the Criminal History Repository.

There is a second amendment—which you will find on page 3 ([Exhibit D](#))—which was submitted by Alecia Biddison from the Busick Group. This amendment was submitted after the hearing, so there was no testimony on it. She proposes to make a few statutory changes. One is to set out that alimony may be temporary and permanent, or distinguished between the two. Another amendment proposed is to require a plan for education and job training for a spouse who is receiving alimony payments. The last amendment proposed is to outline the change of circumstances that may be looked at for modification purposes of the alimony order; those include bankruptcy, loss or change of employment, second family, or elder care. On the last page, there is a short proposed amendment which is not actually discussed in the work session document. It is provided for you on page 4. That is a clarification amendment for a question that Mr. Horne had during the hearing. It clarifies one of the factors listed at Section 8(j).

**Chairman Anderson:**

The information that this proposes is worthy of discussion. It adds a nuance to the original piece of legislation. I was under the impression that what Mr. Carpenter was trying to do was to set forth the practices that had been established to date in these kinds of cases. The Central Repository felt that reporting this statistical information and those factors suggested by Ms. Meuschke and others would be something that they could clearly do within their current range of information. It would not have to change either the reporting ability of the courts or the law enforcement agencies. Captain O'Neill and Mr. Titus seem to have worked out a clear understanding of what is going to happen here. Mr. Horne, does page 4 help answer part of your question?

**Assemblyman Horne:**

Yes.

**Chairman Anderson:**

Does anyone have any concerns about adding these amendments in, or would you prefer to stay away from them?

**Assemblyman Carpenter:**

Maybe these amendments are worthy of consideration, but because they bring a new issue to the table, there would probably have to be testimony as to what they may or may not do. I do not want to endanger my bill.

**Chairman Anderson:**

I thought we were going to deal with the issue of when they were going to report? Is that not in here?

**Jennifer Chisel:**

It is starting in the green language on page 4.

**Chairman Anderson:**

What would that have deleted in the bill?

**Jennifer Chisel:**

It deletes Sections 2 and 3 of the bill and replaces those with the language amending NRS 179A.350, which is set out on page 2 of the work session document.

**Chairman Anderson:**

In addition, we would take for clarification purposes—of course looking for the amendment to come from bill drafting in the correct format—the language that is suggested by Mr. Horne. I believe that is on page 4 of Section 1 of the bill at line 15. It is changing lines 15 and 16.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 52.

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

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

Mr. Carpenter, we will anticipate that you will take the bill to the Floor on behalf of the Committee. I will take care of the amendment on the Floor.

**Jennifer Chisel:**

Assembly Bill 55 is the next bill in your work session document.

**Assembly Bill 55: Provides for the use of voice writing by court reporters.  
(BDR 54-765)**

This bill provides that voice writing is a form of court reporting. In response to concerns from the court during the hearing, a compromise amendment was submitted by the Voice Writers of America, the courts, and the Court Reporters Board. This amendment is set out beginning on page 2 of the work session document. This amendment provides that the voice writing exam be approved by the Court Reporters Board. It also provides that sound recordings in the district court may be transcribed by someone who does not have a court reporter certificate.

**Chairman Anderson:**

Mr. Horne, I believe you chaired this subcommittee. Does this conform to what concerns you had about the bill? Mr. Jackson, we are going to put you on the spot for a moment. All of the opponents to the bill have signed off?

**James Jackson, representing Voice Writers of America, Carson City, Nevada:**

That is my understanding. There was originally some language inadvertently left out. That has been put back in and included in these amendments. We addressed the district court's concern about not having to be certified under the statute.

**Chairman Anderson:**

The amendments are outlined in the work session documents, specifically adding the language in (b) on page 3 ([Exhibit D](#)).

ASSEMBLYMAN OCEGUERA MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 55.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

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

We will ask Ms. Gerhardt to take this to the Floor on behalf of the Committee.

**Jennifer Chisel:**

Assembly Bill 72 was sponsored by Assemblywoman Gansert.

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

There was a companion bill from the Attorney General, but A.B. 72 is the one that is moving forward. This bill makes changes to the crime of child luring. It was proposed in response to a Nevada Supreme Court case where the

defendant in the case was found not guilty for luring a child because the child was an undercover officer, not a minor. During the hearing, there were some concerns raised and the amendment that you will find on page 2 of the work session document ([Exhibit D](#)) was presented to try to address those concerns. Additionally, there were a couple other issues raised at the hearing. Mr. Carpenter had raised the issue of lowering the age difference from five years to three years. The other amendment noted in the work session document was to add all members of the Assembly Committee on Judiciary as cosponsors of the bill. I believe that all of the legislators have now signed on to this bill. Is that correct, Mr. Horne?

**Assemblyman Horne:**

That is correct.

**Chairman Anderson:**

If we are to proceed with this bill, we are going to add the names of all 42 members of the Assembly as cosponsors. Mrs. Gansert will still be the primary sponsor. The Committee and many of the members were concerned about the Supreme Court ruling in this particular issue. We were relieved to see that the Attorney General had put in a noted piece of legislation.

**Assemblyman Carpenter:**

After thinking about this more, I want to have everyone forget about my idea.

**Chairman Anderson:**

The only thing that we are going to do is amend the bill. The amendment consists of those changes suggested by Mr. Horne, with the agreement of Mrs. Gansert. There is no need for the rest of this documentation. Is that correct, Ms. Chisel?

**Jennifer Chisel:**

The amendment set forth on page 2 is the one that addresses Mr. Horne's concerns. That is the highlighted language there.

**Chairman Anderson:**

The lines 17–21 at (b). We would take any of those references that are concerned with attempts to contact.

**Jennifer Chisel:**

What I meant was the yellow highlighted language. That was not in reference to Mr. Carpenter's concern, but in reference to Mr. Horne's concerns. That was the amendment that was submitted by Kristin Erickson of the Nevada District Attorneys Association.

**Assemblyman Horne:**

The amendment is fine.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 72.

ASSEMBLYMAN CARPENTER SECONDED.

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

**Chairman Anderson:**

We would presume that Mrs. Gansert will present the bill on the Floor.  
Mr. Horne will act as back-up for Mrs. Gansert.

**Jennifer Chisel:**

Assembly Bill 77 was presented by Judge Glass to address a defendant's  
capacity to understand the nature and purpose of court proceedings.

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

During the hearing, an amendment was submitted by Jason Frierson of the  
Clark County Public Defender's Office which clarifies the meaning of  
competency. The proposed changes in that amendment are on page 2 of the  
work session document ([Exhibit D](#)). This is what was presented at the hearing,  
but subsequent to the hearing, on page 3, you will find an additional proposed  
amendment to A.B. 77. Those are some agreed upon changes by Judge Glass,  
the Clark County Public Defender's Office, and there may be a couple other  
parties in that. The new amendment is very similar to the one presented at the  
hearing; however, it adds some language, which is compromise language. I see  
Mr. Frierson out there and he might be able to help me explain what the new  
amendments do, since I received them so late last night.

**Jason Frierson, Attorney, Public Defender's Office, Clark County, Nevada:**

I communicated extensively with Judge Glass about her thoughts on making the  
bill work, and incorporating the language from the *Dusky* case [Dusky v. United  
States, 362 US 402 (1960)] effectively. We agree with her proposals. Judge  
Glass felt that, in order to emphasize it, she would express that language in its  
full text throughout the statute and that is essentially what her additional  
amendment does. It is consistent both with the intent of the original  
amendment and my proposed friendly amendment.

**Chairman Anderson:**

I see the judge down there in the south. The question deals with our statutes, not the fact that attorneys love to write their language into the statutes. We try to keep conformity. Judge Glass, is there anything that you need to get on the record? Is this conceptually your idea?

**Jackie Glass, District Court Judge, Eighth Judicial District, Clark County, Nevada:**

Mr. Frierson is correct. The language that we have proposed is something that we have all worked together on. I do not mean to be the bearer of a surprise, but, in speaking to Dr. Neighbors, there is one other small change that we need to make to paragraph (d). We need to take out the language that says, "show cause" and put in "provide information." That would make Dr. Neighbors and her division happy. Other than that, we all agree on the language we have developed.

**Chairman Anderson:**

We are looking at your proposed amendments to the document. You want to see this at...

**Jackie Glass:**

Section 3, page 3, line 16.

**Chairman Anderson:**

Judge, we will move this to another work session.

**Jennifer Chisel:**

We will move to Assembly Bill 90.

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

This is Ms. Gerhardt's bill establishing the crime of paternity fraud. During the hearing, there was an amendment presented by Ms. Gerhardt. In response to concerns that were raised during the hearing, there is a subsequent amendment that you will find on page 2 of the work session document ([Exhibit D](#)). It is in the form of a mock-up prepared by Committee counsel. This amendment removes the attempt language that had been placed in the former amendment, and it also puts the crime back to a misdemeanor instead of a gross misdemeanor.

**Chairman Anderson:**

Are there any concerns from anyone on A.B. 90 with the amendment as outlined in the mock-up? Ms. Gerhardt, are there observations you want to make about the bill?

**Assemblywoman Gerhardt:**

No, I am satisfied.

**Chairman Anderson:**

Mr. Cobb, did you have a concern?

**Assemblyman Cobb:**

I noted that you had a concern about it being a gross misdemeanor. I am guessing that was taken care of with the amendment?

**Chairman Anderson:**

It is going to be taken care of with the amendment.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 90.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

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

**Jennifer Chisel:**

Assembly Bill 102 is Mr. Horne's eminent domain bill.

**Assembly Bill 102: Prohibits use of eminent domain to acquire property for economic development. (BDR 3-38)**

It prohibits the use of eminent domain to transfer property to a private entity for the purpose of economic development. In the hearing, Assemblyman Hardy presented Assembly Joint Resolution 3 to amend the *Nevada Constitution* to prohibit the use of eminent domain for the purpose of economic development.

**Assembly Joint Resolution 3: Proposes to amend the Nevada Constitution to revise provisions relating to the taking of private property by eminent domain. (BDR C-529)**

These measures are in response to the *Kelo* case [*Kelo v. City of New London*, 545 U.S. 469 (2005)] and the People's Initiative to Stop the Taking of our Land



(PISTOL) which was approved by the voters for the first time in the 2006 election. Discussion in the hearing proposed to amend A.B. 102 to include statutory language that was parallel to the constitutional amendment language in A.J.R. 3. The attached mock-up prepared by Committee counsel amends A.B. 102 accordingly ([Exhibit D](#)). Assembly Joint Resolution 3 is also included in this work session document and there is an attached mock-up with a slight change from that which was presented at the hearing by Assemblyman Hardy.

**Chairman Anderson:**

There were some concerns raised at the initial hearing that not everyone had been part of the initial discussions on A.J.R. 3. Assembly Bill 102 is going to solve part of the issues on eminent domain and those that the U.S. Supreme Court had because of the *Kelo* decision. We have already been on track the last several sessions to enact bills that limit eminent domain. We are in pretty good shape compared to many other states that are similarly upset about what eminent domain is needed for. The taking of private property for the public good is a reality as our society changes. This amendment would go a long way to try to do that, so I would suggest that we amend A.B. 102 and then do A.J.R. 3 because it needs to go to Elections, Procedures, Ethics and Constitutional Amendments for another hearing. Not wanting to take their jurisdiction, we want to make sure they get this in a timely fashion so they also can deal with it. Mr. Horne, do you have questions relative to A.B. 102?

**Assemblyman Horne:**

I have none.

**Assemblyman Carpenter:**

On page 5 of A.B. 102 where we are putting A.J.R. 3, it mentions public facilities. I have a memorandum from Legal that says public facility is not actually defined and wherever it is used, it is being used in the context of a Wal-Mart or J.C. Penney or something. This morning I received a memorandum from Assemblyman Hardy that public facility here should be defined as a public facility like an airport terminal building or convention center.

**Chairman Anderson:**

And this is in Section 5 of the mock-up?

**Assemblyman Carpenter:**

It is on page 5. It is on both of them.

**Assemblyman Horne:**

We are talking about the definition of a public building, as I understand it. I have always understood a public building as one which is owned by a

government entity or a private party where it is used primarily for a governmental purpose. Even though the public frequents it, Wal-Mart is owned by a private entity. The public could be excluded if Wal-Mart chose to do that.

**Chairman Anderson:**

How would this affect something like Greyhound Bus Lines?

**Risa Lang, Committee Counsel:**

I would have to look at this if you wanted to define "public facility" to clarify what it applies to. We can certainly try to do that on both bills. The way you are talking about it, I am not sure it would mean that it is always owned by a public entity. Right now the way it is written, I would presume that is what was intended.

**Chairman Anderson:**

Mr. Carpenter, I do not recall the primary sponsor of A.J.R. 3 bringing forth that concern.

**Assemblyman Carpenter:**

It seemed to me that "public facility" was not defined. We should have it defined in the eminent domain bill. The documentation I got said wherever a public facility was mentioned in the statutes it referred to something that is open to the public. I do not think this is what we are looking for here. We want it to be a real public facility like an airport or convention center. It is important not to have anything that people can question on this, especially when it is going to the people.

**Chairman Anderson:**

Assembly Bill 102 is not going to the vote of the people. Dr. Hardy, you are on the hot seat. Mr. Carpenter indicated that you had raised some concerns relative to the definition of what might be considered to be a public facility.

**Assemblyman Joseph P. Hardy, Assembly District No. 20:**

The conversation I had with Assemblyman Carpenter raised a good point. In Transportation, we use the term "transportation facility" to mean a road. "Public facility," likewise, can be further defined. Words are being looked at that will be able to allay that concern. Those would be to the effect of "public facility, as in those things that the public uses, such as a road, railway, or airport." If you look at the bill that Assemblyman Horne has, that is where the mirroring of the statute and the constitutional amendment needs to be. I do not have that verbiage at this point.

**Chairman Anderson:**

So, you do not want us to move with A.J.R. 3?

**Assemblyman Hardy:**

It would behoove us to make sure that it is done right and everyone's concerns are addressed. So, to answer that, it would be good to put that off.

**Chairman Anderson:**

Let me try to facilitate the passage of A.J.R. 3, which I consider to be important. I will ask Ms. Chisel to work with Ms. Lang to see if they can reach an understanding about "public facility." It sounds to me that you can argue that a bill like this—a constitutional amendment—is purposely vague so that, as society changes, it does not have to go back to the stone document.

I agree that we need to make sure that our constitutional language is perfect. At the same time, I want to make sure that the second committee has an adequate amount of time to post it.

Can we move with A.B. 102 without that clarification? That is the question. Ms. Lang, do you understand the concern?

**Risa Lang:**

I understand the concern and we can certainly clarify that.

**Chairman Anderson:**

I am going to suggest to the Committee that we Amend and Do Pass A.B. 102, take it to the Floor, and we will put it on the Chief Clerk's desk following amendment to make sure that it conforms. We will take up A.J.R. 3 at another work session and try to get it amended on the Floor. We will see what happens with the bill in the jurisdiction of the other committee. Is that acceptable?

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 102.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN GOEDHART  
AND OCEGUERA WERE ABSENT FOR THE VOTE.)

We do not need to take up A.J.R. 3 at this time. Any other issues to come in front of us? We are adjourned [at 9:58 a.m.].

RESPECTFULLY SUBMITTED:

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Danielle Mayabb  
Committee Secretary

APPROVED BY:

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Assemblyman Bernie Anderson, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** March 14, 2007

**Time of Meeting:** 8:00 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A	*****	Agenda
	B	*****	Attendance Roster
AB 190	C	Robin Sweet, Administrative Office of the Courts	Report on Murder and Voluntary Manslaughter
	D	Jennifer Chisel, LCB Research Division	Work Session Document