MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Fourth Session
April 11, 2007

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:40 a.m., on Wednesday, April 11, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 2450 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
Assemblyman Marcus Conklin
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman John Oceguera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Robert Lueck, Attorney, Las Vegas
Kim Surratt, representing Collaborative Professionals of Nevada, Reno
Robert Gaston, Retired Judge, Las Vegas
Keith Lyons, Jr., representing the Nevada Trial Lawyers Association
Gina Sessions, Senior Deputy Attorney General, Office of the Attorney General
Bill Uffelman, President and CEO, Nevada Bankers Association
Randy Robison, representing Nevada Credit Union League
Sam McMullen, representing Hotel Condominium Association, Las Vegas
Karen Dennison, representing Hotel Condominium Association, Las Vegas

Chairman Anderson:
[Roll was called.]

Let us open the hearing on Assembly Bill 571.

Assembly Bill 571: Establishes certain alternative methods of dispute resolution in domestic relations cases. (BDR 3-227)

Robert Lueck, Attorney, Las Vegas:
Thank you for allowing me the opportunity to present testimony on A.B. 571. I have prepared an extensive research manual (Exhibit C) together with an introduction of my written legislative testimony. I will summarize some of the main parts.

Chairman Anderson:
You wish to have this entire document become part of the record?

Robert Lueck:
Yes.

Chairman Anderson:
We will make this binder "A New Dawn for Nevada Family Law" part of the testimony.

Robert Lueck:
This Committee has already heard testimony on other bills about the growing caseloads and the need for judges in Clark and Washoe Counties. I served as a family court judge from 1999 through 2004 and did strategic planning for family court, so I am fully aware of the increase in caseloads. The proposal is that six new judges be added to family court in Clark County. The cost of that

would be about $1.250 million per year, plus $250,000 for each new judge's staff, and untold millions of dollars for remodeling the courthouses. Further, it would be about 18 months before new judges would take the bench and provide any relief to the court.

What would you say if we could offer a plan that would add 50 to 75 new judges to our courts statewide? It could be accomplished within a few months and would cost the State of Nevada absolutely nothing. It would cost Clark and Washoe Counties a very modest amount—far less than adding new judicial and clerical staff, and so on—and would only cost modest amounts for remodeling routine office space.

Our plan does not mean new judges statewide in the traditional sense, but in the form of mediators, arbitrators, parent coordinators, and so on. Our plan would take over many of the functions of helping people resolve cases as opposed to forcing them into the adversary system. Assembly Bill 571 would add to Clark and Washoe Counties the position of Dispute Resolution Commissioner, with perhaps two to four staff people. This bill is designed to get cases out of the adversary system. When cases come into the system, they can be handled either by adding more judges and expanding our courts to handle this increased flow, or we can come up with ideas to get cases out of the system. That is exactly what A.B. 571 would do. It adds to our repertoire of tools to handle these cases: mandatory mediation for most domestic cases; collaborative divorce, cooperative divorce, or arbitration as an option for both parties in those situations; and parent coordinators to serve in high-conflict cases. The fees for these services would largely be paid for by the parties, and the savings to the litigants would be substantial because they would be spending a lot less money on attorneys' fees, and so forth.

Among the reasons to pass A.B. 571 is expediency, since the adversary system has been deemed by many experts, practitioners, and judges as being too slow, too stressful, and too expensive for ordinary litigants. Divorce is essentially a restructuring of personal relationships, assets, debts, and finances. It is not a matter of pushing people into a conflict where they sue each other and engage in the ugly fights that we see too often in family court. The process turns negative, people become bitter, angry, frustrated, polarized, and it takes a toll on them and on their children. Many studies point out the negative health consequences of divorce which include stress-related illnesses, depression, adjustment problems, and so on. Children suffer the most. Many of those adjustment problems we see later on in our juvenile courts, family courts, and schools. Moreover, it is extremely expensive, and that is one of the reasons we have come up with something that is much less expensive and less demanding on the parties. Most people cannot afford attorneys' fees; they are moving

from one to two households, their expenses are increasing, and there may be child support obligations. Many people react to the cost of legal fees by going *pro se*. In Clark County, according to Judge Ritchie, 65 percent of the litigants are proper person litigants. In the adversary system, we are forcing people to become their own lawyers, and they are floundering.

The system is also slow; sometimes it takes two months to get a court hearing in motion, sometimes six to eight months to a year to get a trial date. It is expensive and stressful for the litigants.

It is also expensive for the taxpayers if we have to spend millions of dollars remodeling the courthouses. I have lived in Las Vegas for 33 years and have seen our courthouses remodeled so many times that we probably could have built two or three regional justice centers (RJCs) by the time we spent all that money remodeling. Furthermore, we are running out of space; the RJC is already at capacity and the family court building is at capacity.

This proposal brings about some major changes in the way we process family law cases. There are three or four main methods being proposed: One is mandatory mediation, and I suggest that we do not make this an option. A number of states have gone to mandatory mediation of all issues. In 1997, the 69th Legislative Session passed mandatory mediation for custody and visitation issues. In Clark County, an average of 75 to 80 percent of the people referred to mediation come back with full or partial parenting plans. The Nevada Supreme Court has a civil appeals settlement program. According to their website, about 55 percent of the appeals are resolved through civil settlement mediations at the Supreme Court level.

Included in parts D-5 and D-6 of my materials (Exhibit C), are academic articles by Dr. Joan Kelly and Dr. Robert Emery. Dr. Emery conducted a 12-year study of the effects of mediation and concluded that it was very positive. Dr. Kelly, one of the premiere researchers in the United States, wrote an article published in the *Journal of Conflict Resolution* that revealed increased satisfaction, reduced costs, considerably less relitigation, and much greater cooperation among the parties who mediated their matters as opposed to those who litigated. North Carolina is one of two states that recently have gone to mandatory mediation. In 1997, North Carolina started using pilot programs in their state court. They passed a statute which required attorneys to prepare their cases for settlement as opposed to preparing them for litigation. Sometime later, they went to mandatory mediation in all divorce cases. In the statistics included in G-11 and G-12 (Exhibit C), 64 percent of those going to mediation in 2005-2006 resulted in full or partial settlements of their cases. In many of those, even if they did not result in settlement in mediation and an

impasse was declared, they often were settled afterwards. Utah went to mandatory mediation in May 2005. Data on that state is included in the manual (Exhibit C) under H-13, 14, and 15. The statistical chart, H-16, reveals 80 percent full or partial plans resulting in mediation of the divorce cases.

Arbitration is another method. The arbitration act included is modeled on the *Model Domestic Relations Arbitration Act* prepared and published by the American Academy of Matrimonial Lawyers in 2005. The chairman of that committee is Lynn Burlson, an attorney in Raleigh, North Carolina. Some of the materials we have in arbitration can be found under tab F. Mr. Burlson, in a letter to this Committee, points out that seven states now have arbitration for domestic relations cases and four more states are working on it.

The third method is use of parent coordinators. A parent coordinator is usually a mental health professional who is appointed by the court in high-conflict cases and operates under the authority of a court order. A parent coordinator works with the parties directly, helps facilitate communication, works out minor disputes, and helps resolve issues. It is a hybrid position—part therapy, part facilitator, and also includes an arbitration provision to enable the parent coordinator to decide minor issues of the parties. That model is being expanded across the country. The Association of Family and Conciliation Courts put together a Task Force on Parent Coordinators, and that material is included in the manual (Exhibit C).

There have been two empirical studies done; one is referred to in Dr. Kelly's article in C-2 (Exhibit C). That study was conducted on a California county for two years: In the year before a parent coordinator, called a "special master," was appointed in the 166 cases studied, they made 993 court appearances. In the year after a special master was appointed, in those same 166 cases they made 37 court appearances—a 96 percent reduction. A Colorado study, which is not part of the manual, showed that there was a reduced cost, fewer returns to court, and a higher level of satisfaction with the parent coordinator process.

What we want to accomplish is to change the legal culture from the adversary model to one of cooperative resolution. This legislation would be a huge step in that direction. Leslie Radliff, coordinator of Dispute Resolution Programs in North Carolina, reported that as a result of their statutes and the programs they have put into place, they have experienced a "sea change" in their legal culture.

Australia, far ahead of other countries in remodeling their family court system, requires mandatory mediation. Australian and Canadian studies are part of the manual.

As part of the technical amendments I suggested, at tab A are the changes to Chapter 38 that the Legislative Counsel Bureau (LCB) wanted to include. This Legislature previously passed the Family Court Bill, which stated that we "encourage the family courts to use non-adversary dispute resolution methods." I propose we provide for that by amending *Nevada Revised Statutes* (NRS) 3.225 to include a provision requiring that attorneys prepare their cases for settlement and resolution, as opposed to trial. That would satisfy the intent of the Legislature and also pass along the message to attorneys to work to settle their cases.

We need to provide more options for the public, more ability for the public to get their divorce cases mediated. Mediation in the family law field removes approximately two-thirds of the cases from the system by resolving them with settled agreements. That is a major accomplishment with very little court time expended.

Chairman Anderson:
I want to modify the original order regarding your exhibit. The binder entitled, "A New Dawn for Nevada Family Law," will be available in the Research Library. Mr. Lueck's 17-page introduction and the suggested technical amendment statement "A" will be included here; however, the document from British Columbia—"Justice Review Task Force"—will remain with the other materials in the subsections in the binder and reference to same is hereby made through his testimony.

Kim Surratt, representing the Collaborative Professionals of Nevada:
I am an unpaid lobbyist for Nevada Trial Lawyers Association (NTLA). I am also one of the co-founders and co-chair of Collaborative Professionals of Nevada, a nonprofit that several individuals, including Mr. Lueck and I, established in 2005 to promote the concept of collaborative law in the State of Nevada.

I am here primarily to provide information on collaborative law, which is already a functioning process being utilized both in Las Vegas and Reno. We have approximately 50 trained professionals in the State at this time and approximately 10 more people are awaiting training. The training is extensive; it includes mediation and many other levels. I want to emphasize that that portion of A.B. 571 is something we are currently utilizing. The statutes will legitimize what we are doing and help promote it in the State because it will give other attorneys who are not trained in collaborative a resource to understand the process. The NTLA is supporting us on this bill.

I have two amendments that Collaborative Professionals of Nevada would like to propose. The amendments are within the collaborative provisions only. One of the things the current bill states in Section 5 ...

Chairman Anderson:
Do you have those in writing?

Kim Surratt:
No, but they are very brief. I would like to take out the use of the words "husband and wife" because the collaborative process, and any alternative dispute resolution process in family law, should be able to be utilized by anyone, whether a grandparent in a family law dispute, an unmarried couple with a child in a custody fight, or a post-divorce motion in which the parties are no longer husband and wife. The nonuse of those two words would greatly expand our ability to use the collaborative process.

The other terminology problem within the act is the term "collaborative law process." Collaborative Professionals of Nevada intentionally uses the words "collaborative practice" because it is an interdisciplinary model that utilizes mental health professionals, financial professionals, and attorneys. We are all trained together in the process so we can do a team approach. The use of "collaborative law" has always been thought of as a potential risk for our nonattorneys. We do not want it to appear as if they are practicing law, so we have not used that term.

Chairman Anderson:
Generally speaking, we leave the verbiage and its nuances to our Legal Division in terms of selecting words or phrases. Ms. Lang, can you respond particularly to "collaborative law process"?

Risa Lang, Committee Counsel:
We were just working off the documentation given to us, but if there are some nonattorneys working on this and that term would cause problems, then it is fine to take it out.

Chairman Anderson:
Would the verbiage relative to the removal of the reference to "husband and wife" cause a dramatic change in the original intent of the legislation? By removing that, do we not broaden it to a larger group?

Risa Lang:
I think it may be broader than what we anticipated when we were drafting this, but if that is how it is used then we can go through and make sure that works throughout this bill.

Kim Surratt:
I am on a task force for the International Academy of Collaborative Professionals, and I have also spoken at several international conferences, so I am here as a resource for anyone who wishes to know more about the collaborative process.

Chairman Anderson:
Did you participate in the initial discussion regarding the legislation that was to be submitted?

Kim Surratt:
All of the initial discussions, but I did not see the actual language until it had been submitted. They are small nuances that would make this process applicable to anyone in a family law dispute.

Assemblyman Horne:
In your proposed amendments to Section 7 where it says "cooperative law process," was it your intention to remove that as well and make it "practice"?

Kim Surratt:
Let me clarify collaborative law versus cooperative law process. The cooperative law process is meant to be an attorney-only-based process, so it is correct to use the terminology of "law" within cooperative. But in collaborative law, it is often an interdisciplinary team.

Assemblyman Horne:
As to "husband and wife," would that simply be changed to "parties" in the collaborative law areas?

Kim Surratt:
It would be for any parties subject to the family law dispute.

Chairman Anderson:
I see two of you are here in support of this, and there are a couple of individuals in Clark County who have indicated support for this legislation. I do not see any of the judges here to comment on how this might happen. I am familiar with Ms. Surratt and her involvement in this area of family law practice in particular, and this piece of legislation seems to have many layers of activity. Therefore I

am curious as to how the two processes compare, and why there are not more people to testify.

Kim Surratt:
It takes a lot of cases out of the court system. I do not know why there are not judges here in support of it, other than that it will take some work. But many of the options available in this legislation will minimize their caseloads. Many of the processes are already being utilized throughout the State and this legislation merely codifies what we are doing.

Assemblyman Horne:
On the issue of judges, just because they are not here in support does not mean they are in opposition to it. Has anyone reached out to them and gotten their take on this?

Robert Lueck:
I can address that. When I was on the bench in 1999 through 2004, we did pass a policy among the family court judges in Clark County that officially encouraged the collaborative process as a means of getting cases out of the system. I have spoken privately with a number of judges who are desirous of getting anything that will help the court system. When I began work on this bill, the first thing I did was put together a manual called "The New Future for Family Court." It contained many of the materials and processes mentioned, and I had many of the people in family court review it. I sent a copy of my manual to the family court judge, Judge Chuck Weller, in Reno and asked him to share it with his colleagues. I have met with Judge Arthur Ritchie on a regular basis to discuss this matter. A number of my colleagues have encouraged me privately to pursue it and although none of them have taken an official position, no one has ever said not to pursue it. Anything that gets cases out of the system and reduces conflict is welcome. The court system needs some relief. One of the things I point out in my materials is the vicarious trauma of judges; it is easy to get burned out. I have spoken to many lawyers who are burned out by the stress of going to court, listening to all the arguments, and to the many judges who are stressed because of their caseloads. I have tried to inquire whether the judges are going to take any position on it, but none have responded.

Kim Surratt:
I can only speak regarding Washoe County and to the collaborative section of the legislation, but I have had conversations with all four of our District Court judges. One of the judges said simply, "If you can pull it off, do it. Get those cases settled." The end result of the collaborative process is the joint petition in front of the judge, and it takes almost zero work for him or her at that point.

I did have some opposition early on within the family law practitioner circle. In the beginning of collaborative there is a provision in the contract that the attorneys are "conflicted out." There was a lot of discussion about whether or not it was ethical for attorneys to not continue with their clients through the process. The discussions were that it was a lot like having co-mediators because your attorneys have come into the process with you with the intent to utilize an alternative dispute resolution method. The mediators do not go through the court system with you; they cannot advocate for you through the process. Those concerns were primarily the result of misunderstanding and uncertainty over how the process worked, and we have now worked through that. The argument was that if clients have to get new attorneys to go through the court system if their settlement fails, then you have just potentially cost them double or triple the costs for their divorce. That is the incentive behind collaborative—that you do not spend money on attorneys and experts, and the attorneys are wearing settlement hats.

Chairman Anderson:
I think we understand the argument. Let us see if we can get some of the questions out of the way.

Assemblyman Carpenter:
How does a person go about using your services? Do you advertise?

Kim Surratt:
That is part of the reason Collaborative Professionals of Nevada was established; part of its intent and mission is to get the word out to the public regarding collaborative. We have been involved in two phases. The first phase was a practitioner campaign to get practitioners on board and trained because you cannot do a collaborative case unless you have enough trained teammates. We have now moved onto the public end of it. Collaborative Professionals of Nevada is a member of the International Academy of Collaborative Professionals and they provide to us, through a licensing fee that we pay, large amounts of marketing materials. Currently, it is difficult to get the word out and that is part of the reason the legislation will help. People will read about it and know it is a process that is available. Moreover, it requires attorneys to tell their clients about the alternative dispute resolutions available to them.

Chairman Anderson:
The net effect is that the attorneys would know of the existence of this as an alternative method for resolving disputes, lessening the caseload on the courts; and the courts would feel more comfortable utilizing the method because it would be in statute. This is an option that they currently can use. This legislation simply gives a statutory statement about the process.

Robert Lueck:
That is correct. It is important to note that the requirement in the statute is that each attorney must advise his client of the various options in writing when the court document is filed. The clients must also sign a document that they have been advised of those options. This is not novel; a number of courts are now doing this—San Mateo County in California, New Jersey, Texas, as well as federal courts—and it is spreading to a number of other jurisdictions.

Assemblyman Segerblom:
Are all the alternative dispute resolution processes you have here currently being used?

Robert Lueck:
No. The arbitration statute states that "you cannot compel anybody to participate in arbitration" in a domestic case. Parties can agree to it, but it has not been used. That is why this legislation brings in the model act from the American Academy and makes this now an express option to use in domestic cases. Mediation for property, debt, and financial issues is not mandatory, rather an option that can be chosen.

Assemblyman Segerblom:
And this would make it a requirement?

Robert Lueck:
Yes.

Assemblyman Segerblom:
What does the collaborative process exclude in the bill?

Kim Surratt:
It does not exclude anything; part of it depends on when you come into the process. Collaborative takes place pre-court. If you are familiar with joint petitions and complaints, those are the two ways you can obtain a divorce. The joint petition is two parties going to the court together saying they would like a divorce, giving their written agreement, and waiving certain procedural rights like a new trial and appeals. Then there is a complaint which starts the litigation process. We can take cases that have already been filed if the clients decide they want to do collaborative. We simply need a procedure for the judges to put a stay on the litigation so we can continue into the collaborative. At any point they can utilize any other method; sometimes even in the collaborative process we utilize mediation or some other parts of the alternative dispute resolution methods.

Robert Lueck:
The collaborative provision here allows parties to use arbitration if they reach agreement on all but one or two or three issues, rather than going into litigation. That still keeps it out of the court system. There is also what we call mediation arbitration where you mediate all but a small number of the issues, and then you can go into arbitration. You can combine these processes in many ways.

Assemblyman Segerblom:
You initially said that you were here only in support of the collaborative part of the bill and not the rest of the bill. I am trying to distinguish which is the collaborative part and which is the cooperative part.

Kim Surratt:
Let me correct that. I support the entire bill, and I am very familiar with many of the provisions. I just do not consider myself an expert on anything but the collaborative portions of this bill.

Chairman Anderson:
In labeling this bill the Uniform Arbitration Act of 2000, is this a Uniform Commissioners Act?

Robert Lueck:
No, this does not come from the Commission of Uniform State Laws. The Revised Uniform Arbitration Act comes from the Uniform Commissioners. However, what the American Academy did was modify it to fit specifically to domestic relations cases. Your Legislative Counsel Bureau (LCB) started to put it into Chapter 38; that was not my intent at the beginning. We proposed it as an entirely new Chapter 124, part of the Family Law Act, but the LCB had different ideas.

Chairman Anderson:
Are there any further questions? [There were none.]

Robert Gaston, Retired Judge, Las Vegas:
I want to answer your question as to why the judges are not here. That should be obvious—they are overloaded, they have a staggering caseload. If the judges were to sit here for a couple of hours to speak in favor of this bill, they would actually lose hundreds of motions presently before them. So, we are here to speak to that end. [Read from prepared testimony (Exhibit D).]

Chairman Anderson:
Where in the bill did you see that reference?

Robert Gaston:
Section 18, subsection 2. Section 49 appears to preclude communication between the neutral party, who is identified as the mediator, and the client or attorney, without the presence of the other; or *ex parte* communication. That does not work in mediation. Oftentimes, the parties who are fighting are in separate rooms, and the mediator goes back and forth to speak to each party, thus *ex parte* communication happens all the time.

Also, I suggest a careful look at the provisions regarding privileges and confidentiality as compared to NRS 48.109. I have heard comments from other mediators in southern Nevada who have a concern that some of the privileges and confidentiality they rely on will be lost if that section is repealed. That may have been put in by the bill drafters so that there would not be a duplication of law; therefore, that has to be carefully reviewed.

I again applaud Robert Lueck for preparing such a comprehensive bill. Collectively, the judges have not expressed an opinion on the bill; however, I sense they would be happy to have some relief in court and have this legislation passed. I frequently get referrals from judges to be a mediator, and to have built into the system the resolution methods that are a part of the proposed legislation would be a great sense of relief to them.

Chairman Anderson:
We appreciate your support for this legislation. Are there any questions for Judge Gaston?

Keith Lyons Jr., representing the Nevada Trial Lawyers Association:
I primarily practice in the field of family law, but I am also here representing the Nevada Trial Lawyers Association. Many years ago in law school I received a certificate in dispute resolution which covered many of the issues presented here today. Unfortunately, my practice is an adversarial practice, and I primarily represent people in the high adversarial end of the family law case. In the past two years, I have had two cases where the attorneys' fees for the parties were over $150,000 apiece for both the husband and wife. That is ludicrous; most people cannot afford it, but sometimes we have no choice. That is exactly why this bill is needed, and while I do not necessarily like the collaborative process because as a lawyer I am trained to be adversarial, I can also tell you that for the citizens of the State of Nevada, this bill is necessary. If it solves even 5 percent of the cases in front of the judges and gets rid of this adversarial process we are going through, it is worth passing this bill.

On behalf of the Nevada Trial Lawyers Association, we would be happy to assist the Judiciary Committee with any questions you may have regarding this

bill. We ask that you enact this bill with the revisions requested by the various speakers.

Chairman Anderson:
In having reviewed this bill, Mr. Lyons, and from your professional experience, do you believe that this is a necessary piece of legislation? Does it take away a litigant's power to get to the court system when they feel there is a need to get there?

Keith Lyons Jr.:
It absolutely does not take away that power. If the cooperative or collaborative process breaks down, they have the right to go back to the court system and litigate their case.

Assemblyman Carpenter:
Do you think if those people who had to pay $300,000 for that divorce had known it would cost that much they would have just kissed and made up?

Keith Lyons Jr.:
People with that kind of money—actually the total for the two cases was $150,000—reach a point where they simply did not care. For those kinds of cases, this process would never work. But it is not meant for those cases. It is intended for cases where the parties, who sometimes have been in long-term relationships, simply realize they are no longer in love and want to divorce. Many times the parties are in shorter term relationships, and do not have the resources to spend on attorneys; they realize that with some guidance they can reach a resolution that is fair and equitable to everyone. Those are the types of cases this process will work for. Those are also the kinds of cases that the adversarial process currently does not adequately represent. The reason for that is because attorneys on both sides of the case are representing their clients' interests, and sometimes attorneys do not talk to their clients about the costs and economic realities of litigation. Nor do they talk to them about the emotional impact, which Judge Gaston touched on earlier. One of the things I tell my clients is that they will not get over the emotional hurt or harm they have suffered as a result of a divorce— whether it is the fact that they cannot believe their spouse of ten or fifteen years is divorcing them, or other things that occurred during the marriage—until they actually get divorced. As long as they are in litigation, they will be reliving what has happened.

Robert Lueck:
Thank you for giving us this time and attention today. I ask that the Legislature pass this bill because of all the suffering of the moms and dads and children of

Nevada. I will be available here for the next three days to help get this bill through. Thank you.

Chairman Anderson:
Is there anyone who wishes to testify in opposition to A.B. 571? Is anyone neutral on A.B. 571? [There was no response.] We will close the hearing on A.B. 571. We have conceptual amendments proposed by Ms. Surratt relative to the removal of references in this bill, and the document which Judge Gaston will be faxing to us. Mr. Lueck would like us to put in some amendments relative to a philosophy, but generally speaking we do not do that when we are dealing with this kind of document, especially as extensive as his philosophical statement is. We are going to be looking for the cooperative law questions, and we will take the other matter under advisement to see if we can add that into a work session document possibly for Friday, April 13, 2007, if we are going to move with the bill. Members of the Committee, do you have any concerns?

Assemblyman Carpenter:
They talked about Clark and Washoe Counties, but I know in Elko County the judges have a difficult time finding the time to mediate these cases. It would be a good idea if we could pass this.

Assemblyman Horne:
I think this is a good direction to take. It corresponds to the direction we have been moving in the last couple of sessions concerning streamlining and lessening the burden of the judiciary. Ms. Surratt and Mr. Lueck spoke with me about this at last year's family law conference. It is probably going to need some tweaking, but I think it is a good direction to go. We should move it if we can.

Chairman Anderson:
By "tweaking" do you envision anything other than those areas suggested by Ms. Surratt, Mr. Lueck, and Mr. Gaston?

Assemblyman Horne:
I say "tweaking" in a general sense. This is a voluminous bill and the time we have had to flesh it out has not been as much as we would like. It would have been better—I apologize if this sounds like criticism—if early on in the session, Judge Lueck or Ms. Surratt had sat down with a number of the members and walked them through the bill. Perhaps things might have been fleshed out more thoroughly. Nevertheless, I do like the concept.

Assemblyman Manendo:
I agree. I wish we would have had some time to talk to these folks about it; however, the concept has merit.

Chairman Anderson:
Based upon the testimony, should we be holding it over for work session, or does our staff not have time?

Assemblyman Oceguera:
It is a difficult decision at this late hour. I think the proposal is good. The alternate dispute resolution and the other concepts discussed are appropriate in this field.

Assemblyman Mabey:
I also agree. The testimony was compelling, this concept would be helpful, and certainly if we have more time after this week we can amend it on the Floor. I would like to move forward.

Assemblyman Mortenson:
I think it is a worthwhile bill. I, too, think we should move forward. We can try to fix it later, if necessary.

Assemblywoman Gerhardt:
I am willing to go along with the Committee. However, I am a little concerned that we did not hear from the judges.

Assemblywoman Allen:
I have the same concerns as Assemblywoman Gerhardt, but I do not want to stop the bill's progress. It does seem worthwhile.

Assemblyman Segerblom:
I agree that the alternative dispute resolution is the best thing in law, and I would support trying to look at it.

Assemblyman Cobb:
I want to echo the idea that alternative dispute resolution is a fantastic thing for our courts. I am not real familiar with family court, but it seems like it would work there. As Mr. Horne expressed, as long as we can make sure we are comfortable with the proposed amendments, we should make sure this bill moves forward.

Assemblyman Goedhart:
It sounds like a wonderful bill, and I would like to support it moving forward.

Assemblyman Ohrenschall:
At law school, alternative dispute resolution is something we have been promoting quite a bit, and it is encouraging.

Chairman Anderson:
I appreciated Judge Gaston's comment about the question that the family court judges are in court and therefore could not be here. On the other hand, I also know that they have somebody they have hired to represent them here at the Legislature and usually those people come by and talk to me about issues that are of importance to the court. The Administrative Office of the Supreme Court (AOC) usually has someone who is monitoring this issue very carefully and both of those individuals are here full time. Therefore, I was a little surprised when I did not receive a visit from them on this issue. I have information from both the Second Judicial District and the Eighth Judicial District on the positions they have taken on many of the legislative pieces that come before us, and they did not take a particularly negative position on this bill. I will have to go back and check my latest document from them. The courts are always concerned about trying to reduce their workload and have taken a position in support of additional judges for the family court. I think our questions revolved around the additional specialty courts and the need for those in Clark County, particularly in the Eighth Judicial District. We will see if we can hang on to this until Friday so some of my concerns are answered and then we will possibly put it in a work session document.

[The meeting was recessed at 10:01 a.m. and was called back to order by the Chairman at 10:17 a.m.].

We are going to the work session. Let us move Assembly Bill 522, the bill we heard yesterday.

Assembly Bill 522: Provides for licensure of private professional guardians. (BDR 13-1343)

Jennifer Chisel, Committee Policy Analyst:
During the hearing, there were some amendments proposed by Shelly Register, on behalf of Guardianship Services of Nevada, and I think there was some discussion on whether the bill should be moved forward without amendments and worked on in the Senate. I think that was the consensus, that they have made a commitment to work out the differences, and this Committee has been asked to recommend a Do Pass on A.B. 522.

Chairman Anderson:
The Chair suggests that we Do Pass A.B. 522 with a letter from me in the name of the Committee stating that I met yesterday with the concerned individuals, Mr. Manoukian, Mr. Hernandez, and Ms. Ramm; Ms. Hartman of Special Advocate for Elders (SAFE); Angela Dottei of Northern Nevada Guardian Services; and Dennis Travers and Shelly Register of Guardianship Services of Nevada. They do not believe, in the two days in front of us, that they can work out the differences on the bill; however, they do believe that there is some common ground that we should be moving forward on. Their concerns dealt with their feeling that the bill should be broader in terms of who should fit into the categories as well as how many people currently might fall into the categories. Therefore, rather than see the bill die, they would prefer to have the opportunity to see the bill move to the Floor and to the other House. That is why I am suggesting that we send a letter to the Chairman of the Senate Judiciary Committee indicating our concerns about some of the issues that need to be resolved with the anticipation that if amendments were reached, those amendments would come back to us in the conference committee.

The other alternative was the suggestion that there be an interim study on this overall issue. There is another resolution coming from the Senate that deals with this in part; however, this Committee does not make the final determination as to what the interim studies will be. Whether this bill lives or dies, a commitment has been made that a group will be working on the issue of guardianships.

The Chair will entertain a Do Pass motion with the understanding and further direction that the Chair is to write a letter.

> ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS ASSEMBLY BILL 522.
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Assemblyman Cobb:
Is there a reason why there is a two-thirds requirement on the bill—is there a fee associated with guardianship licensing?

Chairman Anderson:
When you see the two-thirds requirement at the top of the bill that is generally what it means. There is the potential for this bill to get hung up in the Assembly Committee on Ways and Means, but it is my hope that it does not and that they will allow it to move to the other side.

Jennifer Chisel:
In Section 38, there is a $100 fee for an application.

Risa Lang, Committee Counsel:
In Section 41, there is also a renewal fee.

Assemblyman Carpenter:
The section related to the fines and fees really needs to be looked over because they have something about going to the Interim Finance Committee.

Chairman Anderson:
I will make sure our concerns about the fees and fines go to the Chair of the Assembly Committee on Ways and Means and to the Chair of the Senate Committee on Finance.

THE MOTION PASSED UNANIMOUSLY.

I will take the heat on this issue and try to explain it on the Floor. Let us take a look at Assembly Bill 428.

Assembly Bill 428: Prohibits the use and acquisition of certain personal identifying information of another without the prior consent of that person. (BDR 15-1334)

Jennifer Chisel, Committee Policy Analyst:
Unfortunately, Mr. Chairman, there has been some late-breaking news on this one, so we may have to hold it over.

Chairman Anderson:
Let us then take a look at Assembly Bill 230.

Assembly Bill 230: Revises certain provisions relating to the jurisdiction of justice courts. (BDR 1-519)

Jennifer Chisel, Committee Policy Analyst:
Assembly Bill 230 was heard on March 13, 2007, and presented by the State Department of Agriculture. We also dealt with this bill on the last work session. This would change the jurisdiction of justice courts in cases where field agents or investigators have problems in the field with agricultural issues. There were no amendments.

Chairman Anderson:
I have held this bill to see what your comfort level is and allow time for some of your questions to be answered. I hope you have had an opportunity to do so. This piece of legislation is needed, so rather than keep us guessing about whether it was or was not going to happen, I wanted it in today's work session document.

Assemblyman Carpenter:
No one has ever talked to me about it. I really do not understand under what situations they need this.

Chairman Anderson:
The Office of the Attorney General assured us that they had talked to the interested parties and felt their discussions were completed.

Assemblyman Segerblom:
The Nevada Highway Patrol operates the same way. If you get a ticket in one corner of a county, you can go to the closest justice court which can be in another county. I think it makes sense, and I do not have a problem with it.

Gina Sessions, Senior Deputy Attorney General, Office of the Attorney General:
The bill concerns agriculture enforcement officers. Sometimes, misdemeanors against a single offender cross county lines and this would allow a little judicial economy. The offender would be able to take the tickets into one court rather than take them to several different courts in different counties. It would streamline our ability to do enforcement in the rural areas of our State.

Assemblyman Carpenter:
What kind of misdemeanors are you talking about?

Gina Sessions:
Agriculture enforcement officers have authority over misdemeanors involving people transporting livestock without the proper vaccinations, for instance. They also have jurisdiction over people transporting plants with diseases. The circumstances I am aware of had to do with health certificates for livestock.

Assemblyman Carpenter:
Mr. Chairman, I am still uncomfortable with it. I do not know if you spoke to Assemblyman Goicoechea; however, you did not talk to me, and we are the ones who represent those areas. We come in contact with all the brand inspectors.

Gina Sessions:
I am sorry, Mr. Carpenter. We understood that Mr. Goicoechea wanted to discuss it, and we did meet with him. Certainly we would meet with you if you do not have a level of comfort with the bill.

Chairman Anderson:
That was the point that we raised here the last time it was brought up. The reason we put it in today's work session was to give you the opportunity to discuss this issue with both Mr. Carpenter and Mr. Goedhart who represent this constituency. A small area of my district, too, is agricultural, though it generally belongs to the university system. Mr. Marvel, Mr. Grady, and Mr. Settelmeyer would be others with rural constituencies, and they should have been talked to so that they are comfortable with this legislation. I cannot guarantee now that we will take it up again, as I thought that that had been done.

Gina Sessions:
Mr. Chairman, we did meet with several members of the Committee yesterday and perhaps the oversight with Mr. Carpenter was because he was not present on the day the bill was first heard. I was not aware that there was an issue with Mr. Carpenter.

Chairman Anderson:
Does anyone else on this Committee besides Mr. Carpenter and Mr. Goedhart wish to be spoken to about this bill? It would be a courtesy to make sure you also speak with Mr. Settelmeyer and Mr. Grady. It is not quite as essential, but if you do not want these questions asked on the Floor.... Mr. Cobb, did you need to have someone specifically come to see you?

Assemblyman Cobb:
No, thank you, Mr. Chairman. You already mentioned that Mr. Goedhart and Mr. Carpenter would be appropriate members of this Committee to meet with someone, and hopefully that will happen.

Chairman Anderson:
Ms. Allen, did you need someone to come visit with you? Members, just turn your light on so I will know specifically, since the people from the Attorney General's Office did not check with me as I hoped they would.

Assemblywoman Allen:
Did we not have a hearing on the bill?

Chairman Anderson:
We did, on Tuesday, March 13, 2007.

Assemblywoman Allen:
My comfort level would be much higher if someone came in and spoke with me about this personally.

Chairman Anderson:
There was an indication from the Attorney General's Office that they were thinking of withdrawing the bill. Someone from a ranch next to Mr. Carpenter's drove over from Elko to make a presentation to the Committee and explained it at that time. I think Mr. Connelly and Ms. Sessions were here for that presentation, but, Mr. Carpenter, you had another event in Elko that you needed to attend.

Assemblyman Carpenter:
I can talk to Mr. Connelly. I really do not know why he never talked to me, he usually does. I just need to find out the particulars.

Chairman Anderson:
Let us move on to Assembly Bill 87.

Assembly Bill 87: Revises certain provisions governing persons who are required to report the abuse, neglect, exploitation or isolation of older persons and vulnerable persons. (BDR 55-157)

Jennifer Chisel, Committee Policy Analyst:
Assembly Bill 87 was heard on March 21, 2007, and was presented by Assemblywoman Leslie. This bill requires that officers and employees of financial institutions report the abuse, neglect, exploitation, and isolation of older persons or vulnerable persons. During the hearing, some conceptual amendments were presented and after the hearing, all of the parties came to a compromise amendment which is attached behind this first page in the work session document (Exhibit E). That compromise actually deletes all the original language from the bill and inserts some different provisions regarding requiring financial institutions to provide training to their employees so that they can identify the exploitation of older or vulnerable persons. This also creates a designated reporter within the financial institution so that employees can go to that designated reporter who will have a higher level of training and will make the decision to report any abuse or neglect noted to the proper authorities. There are civil penalties that could apply to the financial institution if these provisions are violated. One last note, on page 4 of the work session document, in Section 10, subsection 3 the language reads, "the provisions of this section do not limit or prohibit any other remedies according to law."

Chairman Anderson:
We are not taking away any of the existing rules that currently exist and we are not giving an immunity that does not already exist in law. We are taking tellers off the hook but not lessening their training. But, are we increasing both the training and responsibility of the supervisor to make sure that information is followed? Are we making sure that older people in particular are being looked out for?

Bill Uffelman, representing the Nevada Bankers Association:
I think we have accomplished what Ms. Leslie set out to do. The bill you see here is based on the California law, but it has been "Nevada-ized." When it is completed, it will probably be four times longer because of the other chapters that have to be amended. We have taken each of the four financial institution categories into consideration and have noted that the reporting was as pursuant to *Nevada Revised Statutes* (NRS) 200.5093 or 200.5935, and the immunity was as set forth in NRS 200.5096. The language you called attention to at the end of Section 10 states that the imposition of civil penalties of $1,000 and $5,000 does not preclude some other action based on preexisting law.

Chairman Anderson:
Ms. Erickson, do you need to get anything on the record? [Ms. Erickson said, "Me, too," indicating that she was in agreement with the amendments.]

The Chair will entertain a motion.

> ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 87.
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

On the Conklin-Carpenter motion to accept the amendments as presented in the work session document to change the early sections of the *Nevada Revised Statutes* to reflect that in the bill. Comfort level of the Committee? Are there any questions?

Assemblyman Cobb:
You stated that everyone was involved in working on this compromise amendment. I just want to make sure because we have a few letter were sent to us from the credit unions. Were they also involved in crafting this compromise?

Chairman Anderson:
It is my understanding they were. Do we have a representative from the credit unions?

Randy Robison, representing the Nevada Credit Union League:
Yes, we were involved in the various meetings and appreciate the sponsor listening to our concerns. The amendments you have before you reflect those discussions and our concerns have been significantly decreased.

Chairman Anderson:
It was my understanding, Mr. Cobb, that by removing the requirement that the teller talk to a more senior member and reducing that responsibility, we made it much more acceptable to credit unions and other smaller lending institutions in addition to the larger banks without significantly impacting them. It will impact them to some degree because they recognize there is a problem and they wish to be part of the solution in deference to the protection of their customers, which they believe this will do.

The Chair will place the question on the Conklin-Carpenter motion.

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

This is Ms. Leslie's bill. We will ask Assemblyman Goedhart to take it for her in the event she does not. We will turn to Assembly Bill 107.

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

Jennifer Chisel, Committee Policy Analyst:
Assembly Bill 107 was on our last work session on Friday, April 6, 2007. This bill limits the possession of knives by students in schools, on school grounds, or at school activities. During the work session there was some discussion about wanting to limit the restrictions to grades K-12 for the activities sponsored at public or private schools, and to make sure that it only applies to students. The mock-up attached to the work session document (Exhibit F) includes both the proposed amendments at numbers 1 and 2, and the concerns that were discussed during Friday's work session.

Chairman Anderson:
"Other deadly weapons" would be "a sword, axe, hatchet, or machete"—on page 1 of the mock-up, at line 15; and then on page 2 the language reads,

"a pupil of a private or public school shall not carry or possess any of the items set forth ...." It further provides that,

> This section does not prohibit the possession of a knife on the property of the Nevada System of Higher Education or private or public school by: (a) an employee, if a knife is necessary to perform the functions of his job; (b) a student or pupil who is enrolled in a class or program in which a knife must be used, if the knife is provided to the student or pupil for use in the class or as part of the program.

The Legislative Counsel Bureau (LCB) hoped that this would solve the problem and not create one, although I think the folks from higher education might be surprised to find themselves excluded all of a sudden. It would not surprise me to hear an argument in the Senate when this bill is heard, but it will go to the heart of the issue that we were trying to address—if you are a child at school you should not have a knife, axe, hatchet, or machete in your possession. If any of those items are part of a school program, it does not preclude school administration from giving you permission to come on campus for show-and-tell type programs, if that is what you are doing. Schools are strange places—you would not believe the kinds of things that legitimately show up.

Assemblyman Carpenter:
How does this amendment refer just to kindergarten through 12th grade?

Risa Lang, Committee Counsel:
The part about carrying any of those items in an activity sponsored by a private or public school was moved to subsection 2 and taken out of subsection 1, so it would not apply to the Nevada System of Higher Education (NSHE). The other part in subsection 1, adding "dangerous knife," and the other types of items, would be prohibited both at the NSHE and private and public schools.

Chairman Anderson:
If I am part of a high school rodeo association and the event is held on school grounds as a school-sponsored activity and I had a knife as part of my roping outfit, would I or would I not be in compliance with the law?

Risa Lang:
If it is part of a program for the school and if the knife was provided to the student or pupil for use in the class or part of the program, you would be okay. Otherwise you would have to have the permission as provided under subsection 4.

Chairman Anderson:
The easy thing would be for everyone who participates in certain kinds of programs to make sure that they inform the administration of the fact that they may be having a knife or weapon with them for their performance. On the other hand, if all of a sudden I reached into my equipment and pulled out an axe, would I be in trouble?

Risa Lang:
I would think so, Mr. Anderson, unless you have obtained permission for the axe.

Chairman Anderson:
I want to draw attention to that. In the normal course of an event you may have a weapon, but if, on the other hand, you showed up with a weapon you were going to use, the district attorney and the school would still be within its rights to say that was not acceptable unless you had permission.

Risa Lang:
That is correct.

Assemblyman Ohrenschall:
"Other deadly weapon..." on page 1 of the amendment mock-up, line 15, would that have the three definitions ascribed in *Nevada Revised Statutes* (NRS) 193.165, paragraph 5, or would that have a different definition?

Risa Lang:
This would not carry that definition because it is not in that section or that chapter, so it would just be given an ordinary meaning that would be interpreted by the court because we have not ascribed a meaning to it. The meaning in NRS 193 is in such a way I am not sure it would work in this particular section, but if we need a definition we could come up with something.

Chairman Anderson:
What is the pleasure of the Committee?

> ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 107.
>
> ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

I am not anticipating an overwhelming need for the bill, but it is an issue that has come back repeatedly and I think this bill is acceptable. On the Conklin-Gerhardt motion of Amend and Do Pass of A.B. 107, those

amendments being as suggested in the mock-up to add in the language of sword, axe, hatchet, and machete, and other deadly weapons. To further amend the bill to limit it to pupils in private and public schools. The section does not specifically prohibit the possession of a knife on the property of the NSHE or in private schools, where an employee is utilizing his knife in the performance and function of his job, or a student or a pupil, for example, in culinary arts. The definition of dangerous knife is further explained within the language of the bill as it was originally put together.

Assemblyman Carpenter:
It is a lot better than it started out to be, but I still think I need to vote against it because I have some concerns.

Assemblyman Goedhart:
Where does it say that the NSHE is exempt from these provisions?

Risa Lang:
On the mock-up in subsection 1, what we took out was the activity sponsored by private or public school and moved that into a separate subsection, just to clarify that the provision dealing with carrying a weapon at an activity sponsored by a private or public school was separate from the provisions dealing with carrying a weapon on the property, which is the current law, and which applies to both the NSHE and to private and public schools. The provisions added to subsection 1 apply to all schools including the NSHE. Subsection 2 is the one that is limited to K-12.

Chairman Anderson:
The Chair will place the question on Assembly Bill 107 to Amend and Do Pass the bill with the amendments being those suggested by Mr. Conklin and seconded by Ms. Gerhardt: to follow the amendatory language in the mock-up; to remove an action as sponsored by private or public schools from Section 1 of the bill; to further amend the bill as originally suggested adding, "or dangerous knife" and "a sword, axe, hatchet, machete, and other deadly weapons;" to add in new language, "a pupil of a private or public school shall not carry or possess items" set forth in Section 1 in an activity sponsored by a private or public school; and further in that section, that the section does not prohibit possession of a knife on the property as outlined there, and a "dangerous knife" having the definition as established in the original bill.

THE MOTION PASSED. (ASSEMBLYMAN CARPENTER VOTED NO.)

This bill has Mr. Atkinson's name on it. Mr. Atkinson has put this in place at the request of someone else. I will ask Mr. Manendo to carry the bill on behalf

of the Committee and will indicate to Mr. Atkinson that you will be happy to make the Floor statement for this issue, unless he wishes to. Let us turn our attention to Assembly Bill 194.

Assembly Bill 194: Makes various changes to provisions regarding victims of domestic violence and sexual assault. (BDR 3-1055)

Jennifer Chisel, Committee Policy Analyst:
Assembly Bill 194 was presented by Mr. Horne on March 22, 2007. This bill prohibits possession of firearms by an adverse party named in an order for protection. This is in relation to domestic violence. During the hearing, there were several amendments presented and they are all included in the work session document (Exhibit G). Amendment number 1 was presented by Mr. Horne and it was to limit the bill to the possession of firearms. It deleted the provisions relating to care of an animal since Assembly Bill 282 seemed to address that issue, and finally there was a clarification of awarding expenses. Those are set out at page 3 of the work session document. At pages 4 and 5, Nancy Hart with the Network Against Domestic Violence presented this amendment which essentially sets out procedures for the surrender of weapons to law enforcement. This also provides a comprehensive official use or work exemption, so that if somebody is required to carry a weapon for his job that would still be allowed.

Starting at page 6 of the work session document were the amendments presented by Wendy Wilkinson on behalf of the Southern Nevada Domestic Violence Task Force. There are three amendments: first, to allow an individual who is named as a guardian or custodian to apply for a protective order for themselves as well as a child; second, to permit courts and local law enforcement agencies to enforce the surrender of the firearms during the life of an extended or qualified protective order, while also maintaining the official use exemption. She, too, provides for an official use or work exemption. Because there are two amendments set out for the official use or work exemption, the Committee will have to choose between them; and third, this amendment is attached at page 8 and will provide greater discretion to the court regarding the surrender and storage of weapons because there is some testimony regarding how difficult that may be if someone has a large supply or cache of weapons.

Chairman Anderson:
Mr. Horne, since this is your bill, do you have suggestions relative to the amendments? The amendments under Number 1, and on page 3, would be those you are suggesting to the committee. Do you feel those suggested by Ms. Hart on pages 4 and 5, and Ms. Wilkinson's suggestion on page 6,

number 1, "permitting an individual named as guardian," should be included? Also, is number 2 necessary in light of Ms. Hart's suggested amendment?

Assemblyman Horne:
Concerning number 2 the work exemption, we have to choose between that one and Ms. Hart's.

Chairman Anderson:
Do you have a preference?

Assemblyman Horne:
I will go with Ms. Hart's.

Chairman Anderson:
Ms. Lang, do you have a suggestion?

Risa Lang:
Ms. Hart's seems to give more detail. If it is exempt, the employer would have to look at reassigning the adverse party so the individual would not need to have a firearm or would only use it during his regularly scheduled work hours. The other one does not specify that.

Assemblyman Horne:
I received an email this morning from Judge Bunch and he still has some other concerns. At this late hour, I have no opposition to sending this over to the Senate to bring a couple of those issues, such as the 72 hours, if there is a holiday it would have to be extended; the ammunition; and clarification as to whether or not it included boxes of shotgun shells, et cetera. Also, in my discussions with the Attorney General's Office, they had a concern about the storage of firearms and a possible fiscal impact to local governments. I have been working with the sheriffs and Sergeant Roshack, and I believe Mr. Flynn is here on that. Sergeant Roshack sent me an email saying that he had his domestic violence unit do some estimates of the firearms with the narrower language that is proposed in here giving the judges more discretion. The estimate came in at roughly 225 to 387 firearms yearly, which equates to 25 to 35 per month. According to their evidence, they do not believe that there will be a fiscal note unless for some reason the numbers skyrocket.

Assemblyman Cobb:
The issue you might have raised during the hearing was about including the ammunition and firearms. Is that covered by these amendments?

Chairman Anderson:
Judge Bunch and I did raise that question. It is very difficult to provide storage for ammunition that you may have at your house, particularly in the rural areas. In my opinion, if we are going to move the bill, we should not include the reference to ammunition.

Assemblyman Horne:
I have no problem with deleting the ammunition requirement. As for the 72-hour issue, I believe there is currently a procedure in statute where if a time calculation falls on a weekend or holiday, the next day would operate. I do not know if that is of too much of a concern, but, if so, that is something that could be cleaned up in the Senate.

Chairman Anderson:
Ms. Lang, I want to make sure that I left you with a sufficient impression of where we are heading, since the bill can only address the possession of firearms, not the right to own a firearm. Further, we would be deleting the reference to ammunition and deleting the reference to care of animals. In Section 4, page 4, lines 26 through 28 we would like the language to clarify that the award of expenses is only as a result of an extended protective order. We would follow the recommendations of Ms. Hart from the Southern Nevada Domestic Violence Task Force. Regarding Ms. Wilkinson's concerns relative to the bill, we would consider permitting an individual named as guardian to apply for a protective order for themselves as well as the child at issue. She is also in support of a work exemption. Further, that we would amend Section 4, subsection 3 of the bill to read that "the court shall include in any extended protective order a requirement that the adverse party surrender to the court any firearms owned by him" and shall include a statement of information of the adverse party that pursuant to Section 1 of the act, he is prohibited from owning, possessing, or having under his custody or control any firearm while the order is in effect. Violations of any of the prohibitions would be a gross misdemeanor.

Jennifer Chisel:
Just to clarify, that last amendment on page 8, I believe you read the portion that is outlined in blue, that is actually the current language and what they wanted to change is down below in the quotation marks.

Chairman Anderson:
Thank you for correcting my statement. That section will be replaced in Section 4, subsection 3, and conceptually would say:

> The court may include in any extended order a requirement that the adverse party surrender any firearms owned, controlled or possessed by the adverse party while the extended order is in effect. In considering whether to order the surrender of firearms, the court may review, but is not limited to reviewing, such factors as: 1. The adverse party's past documented propensity for domestic violence as defined in this chapter; 2. The adverse party's past use of or threat of use of a firearm against the applicant; 3. The adverse party's use of a firearm against any individual regardless of whether the adverse party has been convicted of such crime...

The Chair will entertain an Amend and Do Pass motion.

Assemblyman Carpenter:
On page 5 of Ms. Hart's amendment, it says that "an exemption is granted provided the firearm shall be in the physical possession of the adverse party only during the scheduled work hours and during travel to and from his place of employment." It seems that if he has the firearm while he is traveling back and forth then he really has it all the time. But another amendment states that "employers that require an employee to use or possess a firearm as an integral part of employment will be providing safekeeping of the firearm during non-work hours." It seems to me that language is closer to what we want to do.

Chairman Anderson:
Are you reading from the document on page 6?

Assemblyman Carpenter:
Yes. That last sentence at the end of number 2.

Risa Lang:
We could certainly put those together if you want to provide that they are not traveling with it to and from work.

Chairman Anderson:
We are not necessarily tied to the language that Ms. Hart has suggested only as a concept, and we would include the clarification further within the amendment to take up that issue.

The Chair will entertain an Amend and Do Pass motion on A.B. 194, those amendments being as suggested in numbers 1, 2, and 4 of the work session document and as outlined in amendment number 3(a) to take care of the guardians. We would further pick up some of the concepts in amendment

number 3(c) that are necessary to ensure carrying of the weapon during travel and as necessary for the employment.

Assemblyman Cobb:
As you read the suggested amendment on page 8, you did include the word "owned" and I just want to make sure that was not going to be included in the bill, as we discussed before.

Chairman Anderson:
I included the phrase "firearm owned." We are talking about it being in his possession, and I believe that is taken care in one of the earlier amendments. We will try to make sure all of it conforms. We are dealing with the concept and intent that was put forth by Ms. Henry relative to listing of those specific items.

Assemblyman Cobb:
I want to confirm that we are going to address the ammunition issue that you brought up.

Chairman Anderson:
Yes. Ms. Lang, is that correct?

Risa Lang:
Yes.

Chairman Anderson:
The Chair is still waiting for a motion.

> ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 194.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.

The amendments are as suggested in the work session document and as discussed relative to the question raised by Assemblyman Horne to remove reference to owning a firearm so the bill can only address possession throughout. The amendment would delete reference to the care of animals since that is covered in other legislation. We would further amend the bill within those sections that apply to eliminate any reference to the ammunition that might be in storage. In Section 4, clarify that the award of expenses is only as a result of the extended protection order. The amendments would also include attachments as suggested by Ms. Hart and Ms. Wilkinson in part (a) and the concepts in (c) that do not conflict with our previous statements;

and, further, to amend and add the concepts of Ms. Henry on page 8 of the work session document, not withstanding the question of possession versus ownership of firearms.

THE MOTION PASSED UNANIMOUSLY.

Mr. Horne, this is your bill and we will presume it is yours to take care of on the Floor. Mr. Segerblom will be your backup. Next, we are going to hear Assembly Bill 431.

Assembly Bill 431: Establishes provisions governing condominium hotels. (BDR 10-1056)

Jennifer Chisel, Committee Policy Analyst:
Assembly Bill 431 was heard on April 3, 2007. This bill would provide provisions governing condominium hotels which are similar to those provisions already in statute relating to common-interest communities. During the hearing, we received a lengthy mock-up of the bill that presented all the detailed provisions of the original bill. In case you wanted to look at the executive summary that was provided during the hearing, it is attached starting at page 2 of the work session document (Exhibit H). Starting at page 6 of the work session document is another amendment presented by Bruce Arkell on behalf of the Nevada Association of Land Surveyors. On page 8 are some additional conceptual amendments. The item on number 3 includes amendments suggested by Mr. Arkell, but I just provided that language on pages 6 and 7 for reference. The list of additional amendments on page 8, which is what the Committee would be considering today to further amend A.B. 431, would be to add provisions addressing the conversion of hotels into condominium hotels. Addressing leasehold condominium hotels, there are some technical amendments that reference defined terms instead of having duplicative or inconsistent language. Additionally, there is clarification that the bill does not apply to time shares, and that it is applicable to condominium hotels formed prior to the effective date of this provision if those documents are amended for the condominium hotel; and it would include the amendments suggested by Mr. Arkell, as mentioned earlier.

Chairman Anderson:
I am a little confused relative to added provisions completing leaseholder condominium hotels which are analogous to Chapter 116. What is that supposed to mean? Mr. Horne, can you help me on this?

Assemblyman Horne:
We put the provisions of *Nevada Revised Statutes* (NRS) Chapter 116 back in.

Chairman Anderson:
Mr. McMullen, explain the nuances of the summary of proposed changes in A.B. 431 to the second bullet point, adding provisions contemplating leaseholder condominium hotels which are analogous to Chapter 116.

Sam McMullen, representing the Hotel Condominium Association:
Ms. Dennison would be better to speak to this.

Chairman Anderson:
Ms. Dennison, it is very worrisome to me because this is a complicated bill. Could you explain what language is being brought over out of NRS 116?

Karen Dennison, representing the Hotel Condominium Association:
Leasehold condominium hotels sit on a ground lease and, based on what I read, which was the last mock-up of this bill, the provisions regarding leasehold condominium hotels, were brought over from NRS 116. They were not in the original mock-up, but they are in this current mock-up.

Chairman Anderson:
Is someone in your office, Ms. Dennison, or in yours, Mr. McMullen, working on a mock-up for the overall bill in its new format which does include the five amendments conceptually suggested here?

Sam McMullen:
These points were also attached to a revision of the mock-up the Committee saw last week and that were sent by email to the bill drafters on Monday night.

Chairman Anderson:
The work session document is a document produced by research. Bill drafting ends up with the final product, but we deal with concepts. I need the reassurance that we are not buying something that we have not seen. I am a little uncomfortable. Has Ms. Chisel seen the material?

Jennifer Chisel:
Yes, I have.

Chairman Anderson:
They have language that we can demonstrate, or potential language?

Jennifer Chisel:
Right.

Assemblyman Horne:
I reviewed those amendments as well as I could and forwarded them to both Ms. Chisel and Ms. Lang.

Sam McMullen:
As I understand the changes that are summarized here on this page, in great part they are basically to take things that were in NRS Chapter 116 and carry them over to this new chapter. In effect, the language would just be carrying over the rules in Chapter 116 to all these additional circumstances.

Assemblyman Conklin:
I want to make certain I understand the intent. This Committee has dealt with this issue before, particularly on conversions and the amount of money that has to be funded by the developer in an aged property when it is converted so that there are appropriate funds for repairs. That statute was repaired by this Committee in the 73rd Legislative Session for normal common-interest communities. I want to make certain in your proposal that provision in its entirety is carried over.

Sam McMullen:
Part of the Thursday session was to make sure that reserves and the issues relating to conversions were specifically addressed and covered in the way that the Legislature has paid attention to them in the last couple of sessions.

Karen Dennison:
The latest version, which I received on Monday, did contain the converted building language from NRS 116 which requires components with useful lives of ten years or less to be reserved for by the developer when he sells a converted building. I would leave that to counsel for the Committee to make sure that is the identical language.

Chairman Anderson:
Mr. Horne, any final statement relative to this? The Committee has relied upon you to bring in the first bill that many of us signed on to, recognizing that the issue had to be addressed and asking you to shepherd it along. If you have a comfort level, then I would suggest you tell us what you think.

Assemblyman Horne:
There was a lot of work particularly in identifying the language in NRS 116 that was still appropriate for hotel condominiums that we did not want to leave out. That is why the group went through those again and moved them over. If the bill passes to the Senate, there will be little work left to do since we have done quite a bit.

Chairman Anderson:
The Chair is comfortable with an Amend and Do Pass motion. The amendments being those addressed by Mr. Horne, the summary outlined on page 8 of the document adding provisions regarding converted buildings which are analogous to NRS Chapter 116, and the lease condominium hotels which are similarly analogous to that chapter. Also, revising those defined terms and deleting duplicate or inconsistent language that may be found throughout the bill; clarifying that the bill does not apply to time shares; and adding provisions applicable to condominium hotels formed prior to the effective date; and if documents are amended, there may be a need for them to come in. Further, to adopt the amended language relative to plats and other boundaries in accordance with the Association of Land Surveyors in their amended document. There were no other amendments suggested in the first document that are not in the summary of the changes necessary. Ms. Lang, are you comfortable with that?

Risa Lang, Committee Counsel:
I think so, Mr. Anderson. So we are taking the mock-up that we did before with these additional changes, right?

Chairman Anderson:
It is my understanding that we would be accepting the mock-up language that was initially outlined and the suggestions that were made relative to the amendments in that document.

Sam McMullen:
We also submitted just a couple of minor cleanups that do the same thing that is on here, but they ended up getting to Mr. Horne about midnight last night and that is why you do not have them. They were just clerical changes, basically a function of the other amendment. I do not know whether Mr. Horne has had a chance to review those.

Chairman Anderson:
It is a little ambiguous.

Sam McMullen:
I can never explain the small changes, but I think it involved five small catches. I would be happy to address those in the Senate if the Committee would prefer.

Chairman Anderson:
I would prefer that we send as clean a bill to the Senate as we could, if possible.

Assemblyman Horne:
I forwarded those to Ms. Lang this morning and those were provisions that were going to be cleaned up anyway by the drafters.

Chairman Anderson:
So those language changes that were suggested are not substantive in nature, not policy questions, just the tweaks that are necessary to clear things up?

Karen Dennison:
Yes, I spoke with the lawyer at Snell & Wilmer yesterday and things like "master association," which is not referred to anywhere else in the bill, appeared, as well as other words like "as applicable" which do not apply anymore. They were substantially cleanup changes.

Chairman Anderson:
The Chair will entertain an Amend and Do Pass motion relative to A.B. 431, those sections to be amended as outlined in the Snell & Wilmer document, and further, to include the proposal from the land surveyors and as suggested in the summary of changes proposed in the amendments to A.B. 431 and the technical language from bill drafters.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 431.
>
> ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

On the Horne-Allen motion of Amend and Do Pass A.B. 431, are there any questions?

Assemblyman Conklin:
I am going to support this bill; I think it is a needed addition, but I would ask either you or the Vice Chair if I could take a look at that amendment before it goes to the Floor just to confirm that we have dealt with the reserves of conversions adequately.

Chairman Anderson:
I would ask, with the clear understanding of bringing the amendment to the Floor and recognizing that time will be a big issue, that Research and Legal work together to make sure you are informed specifically where that is found in the bill.

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

The Floor assignment goes to Mr. Horne. Let us turn to Assembly Bill 519.

Assembly Bill 519: Enacts provisions concerning the sealing of certain court documents. (BDR 1-1404)

Jennifer Chisel, Committee Policy Analyst:
Assembly Bill 519 was heard by the Committee last Friday when it was presented by Chairman Anderson. As you will recall, there were a couple of conversations regarding whether or not all the factors or some of the factors should be found in order for the court to seal the record. An amendment was proposed by Assemblyman Cobb, as set out at number 1 in the work session document (Exhibit I). I neglected to put an additional amendment in the work session document. There were concerns by certain parties that this bill not affect or impede other existing statutes regarding sealing of records in family law cases, juvenile cases, and criminal cases. In speaking with Legal, I found a phrase that we could add to the bill just to cover that situation, "except as otherwise provided by specific statute," the court would look at sealing records in these situations. That would be an additional amendment to your document and should be noted as amendment number 2.

Chairman Anderson:
Mr. Cobb's amendment would make it easier for the court seal judicial public records by only having to find one of the factors. The idea of moving forward with this is to clear up the question of what factors should or should not be used in making that determination, therefore it would damage the original intent of what we want to achieve. I would be uncomfortable accepting amendment number 1. The second amendment, while I do not think it is absolutely essential, may help the bill and further clarifies it.

The Chair will entertain an Amend and Do Pass motion.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 519 WITH AMENDMENT NUMBER 2.
>
> ASSEMBLYMAN GOEDHART SECONDED THE MOTION.

On the Horne-Goedhart motion, are there any questions from the Committee?

Assemblyman Carpenter:
It seems to me that this really does not do anything. It is probable that the public will be protected from perceived danger. If there is a danger out there, then we should know. I do not know whether this helps that or not.

Chairman Anderson:
We have heard that the court is concerned and is going to be moving in this direction. We hoped it would keep the court from over reaching and, at least legislatively, we have made the statement that where the public is exposed to harm we are concerned. Where public hazards, public interests, and imminent damage to public interests are concerned, we set forth those conditions as ones to be more seriously concerned about.

Assemblyman Mabey:
In Section 2, is that requirement for the meeting going to be a huge burden?

Chairman Anderson:
It is. It is going to say you cannot do this without giving notice.

Assemblyman Horne:
We try not to add burdens, but the purpose of that language is to say that there are certain things we do not want shielded. We want the sunlight. So, if you are going to take action to conceal something that may be important for the public to know, there should be a hearing. It is appropriate.

Chairman Anderson:
On the Horne-Goedhart motion of Amend and Do Pass A.B. 519, the Chair will place the question.

THE MOTION PASSED UNANIMOUSLY.

The Floor assignment goes to Mr. Horne. This meeting is adjourned [at 12:00 p.m.].

RESPECTFULLY SUBMITTED:

_____
Danielle Mayabb
Committee Secretary

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 11, 2007 **Time of Meeting: 8:40 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 571	C	Robert Lueck	"A New Dawn for Nevada Family Law"
A.B. 571	D	Robert Gaston	Written testimony
A.B. 87	E	Jennifer Chisel, Committee Policy Analyst	Work session document
A.B. 107	F	Jennifer Chisel	Work session document
A.B. 194	G	Jennifer Chisel	Work session document
A.B. 431	H	Jennifer Chisel	Work session document
A.B. 519	I	Jennifer Chisel	Work session document