MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-fourth Session
May 7, 2007

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:30 a.m. on Monday, May 7, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven A. Horsford

GUEST LEGISLATORS PRESENT:

Assemblywoman Susan Gerhardt, Assembly District No. 29

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Barbara Moss, Committee Secretary

OTHERS PRESENT:

Nancy K. Ford, Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services
Bob Teuton, Assistant District Attorney, District Attorney's Office, Clark County
Louise Bush, Chief, Child Support Enforcement, Division of Welfare and Supportive Services, Department of Health and Human Services

Mark Woods, Acting Deputy Chief, General Services Bureau, Division of Parole and Probation, Department of Public Safety
R. Ben Graham, Nevada District Attorneys Association
Howard Skolnik, Director, Department of Corrections

CHAIR AMODEI:
The hearing is opened on Assembly Bill (A.B.) 536 (1st Reprint).

ASSEMBLY BILL 536 (1st Reprint): Requires certain reports to be submitted to the 75th Session of the Nevada Legislature regarding the status of certain recommendations concerning child support enforcement. (BDR S-1405)

ASSEMBLYWOMAN SUSAN GERHARDT (Assembly District No. 29):
I will read my prepared testimony (Exhibit C).

SENATOR MCGINNESS:
Was the fiscal note prepared on the original bill or refined after the amendment?

ASSEMBLYWOMAN GERHARDT:
The fiscal note has been removed.

SENATOR MCGINNESS:
The bill says each district shall cooperate and provide the necessary information. Obviously, they have to do something, although minimal.

NANCY K. FORD (Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services):
District attorneys are required to cooperate with the program. They are directed in A.B. 536 to cooperate in developing a comprehensive single report to bring to the Legislature next session.

SENATOR MCGINNESS:
Did A.B. 536 go to the Assembly Committee on Ways and Means?

MS. FORD:
No, it did not. The fiscal note attached to A.B. 536 showed state sheriff collections as the funding source rather than the General Fund.

SENATOR WIENER:
Performance measures and audit information are substantially different. Will the audit of 2006 be used as a springboard to determine what performance measures or best practices could be established to enable us to move forward with evidence-based practices that could help us reach over 50 percent?

ASSEMBLYWOMAN GERHARDT:
Absolutely—the report is the road map to success. We must change to performance measures rather than policy adherence, which the audit pinpointed as one of the problems.

SENATOR WIENER:
I had a bill on performance measures for state agencies. An audit tells us what we are doing wrong, and we have probably been doing it wrong for awhile. An audit will find where an error could make improvements. Performance measures establish evidence-based practices in order to have something to measure and improve upon. My bill had an annual review of performance measures to ascertain what needs tweaking and what is not working correctly. I am not sure whether policies and performance measures will be consistent; sticking religiously to policy can get in the way of effective performance measures and being more innovative and resourceful. I commend you because it is the progressive and realistic way to get past a 50-percent average or better. Is the national average 60 percent?

ASSEMBLYWOMAN GERHARDT:
Yes, it is.

SENATOR WIENER:
Let us attempt to get past the national average of 60 percent.

MS. FORD:
Performance measures are set by the federal government which we must meet in order to avoid financial penalties against the Temporary Assistance to Needy Families Program. We have no authority to alter them, but we must meet them.

Forty-nine percent pertains to current support collected because there are different measures for different sections of the law. Nevada is approximately 45.9 percent for 2006 for current support collected; the national average is about 59 percent.

SENATOR WIENER:
Can we exceed the federal performance measure standards? Can we do more? We must aim to surpass the national average.

BOB TEUTON (Assistant District Attorney, District Attorney's Office, Clark County):
I urge passage of A.B. 536.

CHAIR AMODEI:
What is the pleasure of the Committee on A.B. 536?

SENATOR WIENER MOVED TO DO PASS A.B. 536.

SENATOR McGINNESS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE, NOLAN AND WASHINGTON WERE ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
The hearing is opened on A.B. 498.

ASSEMBLY BILL 498 (1st Reprint): Makes various changes to provisions concerning certain actions to determine paternity. (BDR 11-1403)

LOUISE BUSH (Chief, Child Support Enforcement, Division of Welfare and Supportive Services, Department of Health and Human Services):
I will read my prepared testimony (Exhibit D).

SENATOR HORSFORD:
Section 4, subsection 5 of A.B. 498 expands the authority on who can perform deoxyribonucleic acid (DNA) tests. Who on the staff within the Division would be permitted to conduct or authorize DNA tests?

MS. BUSH:
It could be case managers, investigators, case managers who work with noncustodial parents to find jobs and state or county staff. Not every case manager, state or county employee working for the Child Support Enforcement

Program would collect DNA samples. Designated staff would be collectors who have been trained by our vendor, LabCorp, and understand the process of securing evidence.

SENATOR HORSFORD:
Where is that language in the bill? It seems broad that any designated person in the Division would be authorized to request the DNA sample. I do not see language regarding proper training or certification.

MS. BUSH:
If the bill is narrow, it would restrict our ability to make appropriate designations. We have no problem with adding language regarding securing the evidence if that is your desire.

SENATOR HORSFORD:
I am referring to securing the evidence once collected. I have concerns on both ends—who is authorized to require it, and once collected, who has access to the information. I would be more comfortable with that provision being tightened.

MS. BUSH:
Would you feel more comfortable if after section 4, subsection 5 of A.B. 498 that says, "enforcing authority," we added "by those who are properly trained and certified"?

SENATOR HORSFORD:
That would make me more comfortable. Where is the information maintained after the DNA sample is collected? Is it done by the vendor?

MS. BUSH:
It is turned over to the vendor that secures the specimens. Are you questioning what happens if the sample is taken from the courtroom to the laboratory?

SENATOR HORSFORD:
I am concerned a person's DNA and information could be placed in a case file. There have been other discussions in this Committee regarding taking DNA from felons. There is an aspect of big brother in this regard. I understand the intent; however, I do not want it to be applied so freely that the information is accessed by those who do not require it.

MS. BUSH:
We support that.

SENATOR HORSFORD:
Is the laboratory responsible for disposing of the specimen after it is collected? Are results related to DNA confirmation of paternity?

MS. BUSH:
Yes.

CHAIR AMODEI:
There are two aspects. One is requesting a person submit to the test, which is within the court's discretion; two is the taking of specimens, which is the heart of Senator Horsford's questions. We propose to add for the purpose of taking specimens, "a person designated by the enforcing authority." Section 4, subsection 1 of A.B. 498 says, "Whenever such a test is ordered and made, the results of the test must be received in evidence," which is the reason it is being taken. It is my understanding there is nothing in the bill that authorizes its use as anything other than evidence in a paternity hearing pursuant to *Nevada Revised Statute* (NRS) 126.111.

Perhaps an easy way to do this is, when such a test is ordered, the results of the test must be received in evidence and made available to only a judge, master, party or whatever. You are attempting to restrict it to prevent it from becoming a backdoor way of collecting genetic marker information, which is not the intent.

The bill also says if there is an objection to the test if uncertified people are taking specimens, the evidentiary value is destroyed.

Mr. Wilkinson, what is the most economic way to do this?

BRAD WILKINSON (Chief Deputy Legislative Counsel):
I understand the concerns and will return to the Committee later with a more comprehensive answer.

MR. TEUTON:
Ms. Bush fairly summarized the reasons. I provided testimony in the Assembly about identical twins who appeared before Judge Steven Jones. When one twin

raised the issue that the other twin was the father, Judge Jones resolved it by ordering both to pay child support and letting them work it out as to who was the actual father. It was cleared up by the language in the Assembly.

CHAIR AMODEI:
The hearing is closed on A.B. 498 and opened on A.B. 520.

ASSEMBLY BILL 520 (1st Reprint): Makes various changes concerning paternity and child support. (BDR 38-1401)

MS. BUSH:
I will read my prepared testimony (Exhibit E).

MR. TEUTON:
We support A.B. 520. Section 1 of A.B. 520, to which Ms. Bush alluded, is drug court which has semi-operated in child support for a number of years. It has been successful in enabling us to collect money from otherwise unemployable noncustodial parents and when employed, provide insurance, find parents estranged from their children and reestablish contact, which encourages further payment of child support.

The remaining sections of A.B. 520 deal with making it a requirement when an enforcement action is taken, which are either Financial Institution Data Match (FIDM), seizure of monies in a financial institution, driver license suspension or suspension of a professional license. Currently, notice is sent to the respondent, they file an objection and request a hearing. Depending upon the court schedule, it could be months before the hearing takes place. Enforcement actions are abated and no action is taken until the hearing.

Assembly Bill 520 requires when an enforcement action is noticed, the respondent has an affirmative obligation to meet with us. At the meeting, there is discussion which might develop into resolution in which case, the court hearing can be vacated, and we proceed with earlier collection of child support payments.

SENATOR WIENER:
What was modified from the original version of A.B. 520?

MR. TEUTON:
In section 5 of A.B. 520 regarding the FIDM requirement, the original language required waiting for a period of time for the meeting to occur before a court hearing could be requested, which elongated the situation. The modified language allowed the processes to be concurrent. In the case of the FIDM, the hearing must be within 20 days; we now say during that same time period, rather than during a consecutive time period, there must be a meeting and good faith effort to resolve the dispute.

CHAIR AMODEI:
Mr. Teuton, you indicated some of this mission would be done in conjunction with existing resources in the drug court.

MR. TEUTON:
Yes, section 1 of A.B. 520 authorizes the drug court, in a child support context, to determine the cost of the treatment program. Employment training for public assistance and substance abuse treatment is borne by the district court budget.

CHAIR AMODEI:
That is a good idea and it is nice to see it tied together rather than re-created.

SENATOR MCGINNESS:
The new language in section 8, subsection 3 of A.B. 520 says—"Before a hearing requested pursuant to subsection 2 may be held," which will suspend professional licenses or occupational licenses—"the person requesting the hearing and a representative of the enforcing authority must meet and make a good faith effort to resolve the matter." Once a meeting is promulgated, most times the problem is resolved. If we are trying to get child support but taking away a person's license to make a living, it is difficult to enforce child support when a person cannot continue his livelihood. Is this language meant to resolve that issue?

MR. TEUTON:
It appears draconian to suspend a license; in most proceedings, we do not ultimately drop that hammer. It is the threat that coerces compliance and causes willingness to negotiate a settlement. People are of the opinion they can wait until the end of the line before deciding they will enter into good faith settlement negotiations. We are saying they cannot wait and need to act expeditiously in the process.

SENATOR HORSFORD:
What happens if they come to the hearing not in compliance or unable to come to an agreement? Does it go to the court for determination?

MR. TEUTON:
It would go to court and that one factor would be considered; for example, asking the individual if they previously raised any of the issues with the department. The court would consider it in determining the outcome, but it would not prevent the hearing from proceeding.

SENATOR HORSFORD:
In the meantime, if there is disagreement, would their professional and driver licenses be maintained?

MR. TEUTON:
It takes a court order to suspend a professional license, but not a driver license. There are only two questions: Are you the person responsible for the payments? Are your arrears in such a state that your license can be suspended? If the answer to both questions is yes, the court cannot stop the suspension from proceeding. Respondents believe they can prevent suspension of their driver license by going to court; however, all it does is force them to realize the agency is the one with authority to make that decision. Therefore, it behooves them to meet with us before the court hearing to get the issues resolved, rather than going to court only to hear the judge say the court has no authority and they must work it out with the enforcing authority. We want to work it out before the court hearing rather than after.

SENATOR HORSFORD:
Who is involved and what happens during the hearing?

MR. TEUTON:
When a person is identified through the system as subject to having their license suspended, they are given a 30-day notice to contact us. If they do not work out an agreement, come into compliance or request a hearing, the next step is notice to the Department of Motor Vehicles (DMV) to suspend their driver license. The DMV sends a letter telling them they have 30 days to take care of the situation and provide proof or their license will be suspended. Assuming there is no request for a hearing, there is a 60-day delay between

being notified they are in jeopardy of losing their driver license and the license actually being lost.

Once the first letter is sent, if the person requests it, a court hearing is scheduled. Depending upon the court calendar, it could be two to three months before they can get a court hearing. Nothing occurs in the interim time period, they continue to have their driver license and DMV is not notified. The respondent and an attorney from our office are present at the court hearing. An accounting of the person's child support payments is provided to the court. It is a normal court hearing and the person is given an opportunity to prove their identity or payments made were not reflected in official records. In that event, there is a continuation of the hearing, the person provides the information and determination is made to return to court.

Frequently, the person responds: I am the person; I am in arrears; and requests the court to stay or prevent suspension of their driver license. The court does not have the power or authority at that point; the court can only consider whether the predicates have been met to justify suspension. There are provisions in statute and state policy that require the respondent to work out a repayment agreement to forestall suspension of their license.

We prefer to do that before a court hearing rather than waiting until the person goes to court, waits 60 to 90 days and is then provided a statement from the court that their only option is to work out a repayment agreement with the enforcing authority.

SENATOR HORSFORD:
Existing statute goes into the notice requirements. It requires notice through certified mail giving ample time for the individual to come to the enforcement agency. Is that correct?

MR. TEUTON:
That is correct.

SENATOR HORSFORD:
In the attempt to deliver notice through certified mail or other mechanisms, if the person has moved, is there an alternative before suspending their license?

MR. TEUTON:
Notice is sent certified mail and if not returned from the post office as undeliverable, it is presumed the person received it.

SENATOR HORSFORD:
What if it is not deliverable?

MR. TEUTON:
Clark County has five process servers as well as investigators who attempt to locate the individual and personally serve them with the notice.

CHAIR AMODEI:
What is the pleasure of the Committee on A.B. 520?

SENATOR WIENER MOVED TO DO PASS A.B. 520.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CARE AND NOLAN WERE ABSENT FOR THE VOTE.)

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CHAIR AMODEI:
The hearing is opened on the agendized justice reinvestment issue. The Committee has a memorandum dated April 23, 2007, from Acting Major Mark Woods, the subject of which is Technical Probation Violators (Exhibit F) that discusses three areas.

Would a technical violation that concurs with the James F. Austin Associates (JFA) recommendations cut the existing 12-month term to 6 months?

MARK WOODS (Acting Deputy Chief, General Services Bureau, Division of Parole and Probation, Department of Public Safety):
In general, that is correct. It would be for Categories D and E; however, in regard to the other categories, if a person gets violated, they must serve the minimum amount before being eligible for parole.

CHAIR AMODEI:
Is this tagged to Categories D and E offenders under your supervision?

CHIEF WOODS:
No, it would be tagged for any felony that goes back before the parole board for a technical violation.

SENATOR HORSFORD:
Is it considered a violation of probation if a parolee fails to participate in one of the mandated conditions because they are not able to access the service?

CHIEF WOODS:
No, it is not; it is continual violations of the same technical violation. If there is a legitimate reason, we work with the offender in an attempt to take care of the problem. For example, if they continually refuse to go to counseling, it would be considered a violation.

SENATOR HORSFORD:
Senator Washington and I served on the Interim Legislative Committee on Health Care. The Legislative Committee on Health Care Subcommittee to Study Services for the Treatment and Prevention of Substance Abuse indicated a lack of available treatment. If an individual attempts to access the service but is turned away or put on a waiting list, would that be considered a violation?

CHIEF WOODS:
No, it is not a violation.

SENATOR HORSFORD:
The recommendation states if there is a technical violation, the offender will only be returned to prison for six months. Other than specialty court, are there any other considerations for alternative sentencing?

CHIEF WOODS:
Those would be considered intermediate sanctions already enacted to take care of the violation. The actual technical violation being considered now would be the issuance of a violation report where revocation is recommended.

SENATOR HORSFORD:
Frederick Schlottman, Administrator, Offender Management Division, Department of Corrections, informed me the number of felony violations was 2,500, but the second bullet in Exhibit F indicates 637 felony probationers. Does this mean each person on probation violates on average four of these areas?

CHIEF WOODS:
I do not know what document to which you are referring.

SENATOR HORSFORD:
I requested a report by category for violations, which is 13 rules, and there are a total of 2,563.

CHIEF WOODS:
Included in those rules would also be laws, conduct and reporting. Mr. Schlottman is looking at all categories. We consider a technical violation anything not centered around a new arrest, conviction or absconding. When those three groups are dropped out, it is 600 plus.

SENATOR HORSFORD:
If you take out the laws, conduct and special conditions, the two highest areas are employment-related programs and narcotics. I think we need to look at more evidenced-based practices that get to compliance in those areas because noncompliance could be reduced by nearly 25 percent.

CHIEF WOODS:
When a person is arrested for a new felony or gross misdemeanor, the violation report charges them with the arrest if they are not working or paying their fees. There are three items. It is common for the new charge to be dropped in lieu of revocation for the original charge. It appears as if they have only been violated and put in prison for employment or substance abuse, when in reality they have a new felony.

The systems cannot differentiate between the two. From the prison point of view, the person was put away for failure to pay supervision fees. In reality, the person had a new felony arrest and made a plea bargain to dismiss the new felony if they stepped to revocation. That is the large number to which you referred.

I have been doing this for 21 years and cannot recall anyone who was violated because they did not have a job. Substance abuse offenders who refuse to go to counseling, given numerous opportunities, are violated.

CHAIR AMODEI:
Was the JFA recommendation four months for a technical violation?

CHIEF WOODS:
The JFA recommendation was three months.

CHAIR AMODEI:
They say three months; you say six months—are you the same for the rest regarding technical violations? What are the differences?

CHIEF WOODS:
The JFA counts absconders into its recommendations. They define an absconder as a person who does not report. We consider an absconder a person who does not report, is sought, is no longer living where they were reported to live, is no longer working where they were purported to work and is making a concerted effort to avoid us. An absconder is not a person who fails to report once or twice.

The individuals to which we are referring habitually refuse to make changes in their lives; however, we agree those persons do not need to spend a year or longer in prison to change their attitude, which is the reason we are considering six months.

CHAIR AMODEI:
Would you flesh out intermediate sanctions? Are they discretionary? Do you need help in this department or would you rather we keep our distance?

CHIEF WOODS:
We have policies and procedures on intermediate sanctions, which go from day reporting to electronic monitoring. It all depends on the person's history and cooperation. A common thing would be someone refusing to find work. They are sent on daily job searches and must report back. The other extreme is house arrest where they are put on electronic monitoring and limited to where they can go until they get their life together. There are several in between, such as

writing reports, giving talks to victims groups and doing community service hours. We are creative.

CHAIR AMODEI:
Does anything require intermediate sanction before revocation?

CHIEF WOODS:
There is nothing legally or technically that requires an intermediate sanction.

CHAIR AMODEI:
Is a person moved to the front of the line if arrested for another felony?

CHIEF WOODS:
Exactly.

CHAIR AMODEI:
Does this proposal apply to all categories of felons in a technical context?

CHIEF WOODS:
That is correct.

SENATOR WASHINGTON:
What is the cost regarding 637 beds potentially being reduced or saved in the second 6 months?

CHIEF WOODS:
Those are individuals going in for a minimum of one year before being eligible for parole.

SENATOR WASHINGTON:
What are the savings?

CHIEF WOODS:
I defer to the Department of Corrections to answer that question. Another 637 beds would not be needed because the offenders would be rotated through and come out right away.

SENATOR HORSFORD:
If the majority of people on probation commit another felony, would they only get six months versus those who commit technical violations?

CHIEF WOODS:
Those people would not be counted in the technical violations. An arrest and/or a new felony conviction would have its own consequences. Technical violations do not include new arrest or absconder status. Technical violations include individuals who continually test dirty no matter what we have done, continually fail or do not try to find a job and continually do not go to counseling. Anything in the law requiring arrest would not be a technical violation.

SENATOR HORSFORD:
You said they plead only to the technical violation, not to the new crime.

CHIEF WOODS:
Instead of going through the process of a new trial, if a person stipulates to going to prison for the original charge, the new charge is dropped. It is more efficient in some ways because it otherwise ties up the courts. It is difficult to track what a plea bargain is at times.

SENATOR HORSFORD:
It needs to be made clear that a person who commits another crime but plea bargains gets six months regardless of the felony they committed. That does not sound right to me.

CHIEF WOODS:
That is not our intention. If a person gets a new conviction, he will get whatever that conviction carries with it.

CHAIR AMODEI:
Earlier discussion was in the context of statistics, not procedure. Statistics might reflect that practice and show more technical send-back violations because of that procedure; however, in terms of doing this, they would not be eligible under this program because a felony arrest would not be considered a technical violation or absconder status. Is that correct?

CHIEF WOODS:
Senator Horsford and I are discussing new conviction versus arrest.

CHAIR AMODEI:
How would you deal with arrest? Is a person with a felony arrest kept on ice until the trial?

CHIEF WOODS:
A person who has had a felony arrest would still get a violation report, but they would not qualify for six months under our plan. They could still be revoked for a year or longer.

SENATOR HORSFORD:
That needs to be in the recommendations because it creates a policy allowing you to do it. We also need to set up criteria for the number and type of technical violations before implementing six months. I do not want a broad stroke. The goal should be to keep violators out of prison. Technical violators will not necessarily improve in prison; they are penalized for not participating.

CHIEF WOODS:
We are trying to stay away from the word habitual, but, basically, they are habitual technical violators. Prison is not the place for those with one or two violations; other intermediate sanctions can be done. This is based on the violator who will not get it together no matter what sanctions are tried, which is the reason we are looking at six months rather than one or two years.

SENATOR WASHINGTON:
There should be some discretion by the Division of Parole and Probation (P and P) to determine how many technical violations could be done by a particular individual. Each person is different and the parole officer has better knowledge of that individual; that discretion should be used rather than setting in statute a specific number of technical violations which would send the person back to prison for six months.

CHIEF WOODS:
We concur.

CHAIR AMODEI:
Please do a bullet-point synopsis covering this discussion in terms of technical versus felony arrest and your recommendation of six months versus three months. Please work with Ms. Eissmann who can explain what is most digestible for our palate.

R. BEN GRAHAM (Nevada District Attorneys Association):
From time to time a person is revoked for technical violations. More times than not, there are additional criminal charges submitted to our office for approval. Rather than approve additional felony charges, which we could do, there is a negotiated situation in which we do not file or dismiss them if the person's probation is revoked. The ability to deal with parole and probation people is technically limited. There may be a filing of more felonies because they are resolved through this revocation and not by filing additional charges.

CHAIR AMODEI:
The final piece on this technical violation discussion are potential unintended consequences for not technically violating the person for purposes of processing new arrests; i.e., a felony arrest is not a technical violation and these people must go through the process. It clears your docket, but the courts and district attorneys must spend more time and we must be with them if they are convicted. If it does not need to be changed, or changed in a way that does not impede it, there should be specific recommendations on how to accomplish it.

CHIEF WOODS:
We will work with the district attorney's office and define technical violation; a new felony arrest will not be part of it. If that group is out, Mr. Graham's group could still continue doing what they do, not be held to six months and go for the entire revocation.

CHAIR AMODEI:
That puts it in digestible form without committing anyone.

SENATOR WASHINGTON:
If we reduce the time from six months to JFA's recommended three months, do you have alternative methods for revocation or technical violations as opposed to incarcerating those individuals, such as community service or something of that sort?

MR. GRAHAM:
None of us want to see people revoked or sent to prison for technical violations. We support revoking and then reinstating to give people additional opportunity to fulfill their obligation. We are not pounding the desk to send them back to prison.

SENATOR WASHINGTON:
There must be some leverage or a hammer to force these people to do what is required of them. I suspect the ultimate hammer is they will be sent to prison, whether three or six months, unless they shape up.

MR. GRAHAM:
We defer to the experts who deal with these people on a day-to-day basis.

CHAIR AMODEI:
What vehicle will be used?

MR. WILKINSON:
Assembly Bill 510 has many changes relating to good time credits.

ASSEMBLY BILL 510 (1st Reprint): Makes various changes concerning credits earned by offenders and the incarceration and supervision of offenders. (BDR 16-1377)

CHAIR AMODEI:
The second bullet in Exhibit F is in regard to violations considered technical that could be assisted by accessing specialty court.

CHIEF WOODS:
We defer to specialty courts regarding violators who continue to have problems with substance abuse because it would impact them.

CHAIR AMODEI:
Have you any differences with JFA in regard to the second bullet in Exhibit F?

CHIEF WOODS:
No, Sir.

CHAIR AMODEI:
The third bullet in Exhibit F is in regard to training.

CHIEF WOODS:
We are trying to work with the federal government to help them bring in training at no expense to us.

CHAIR AMODEI:
This is ostensibly to create savings in the General Fund. It will have been an exercise in futility if the savings created evaporate to other non-correctional areas. Some of the savings need to be reinvested to minimize the prison population; we need to know your priorities in order to ascertain what can be done with our colleagues on the money committees.

There has been preliminary talk about making good time credits retroactive, which is a big part of potential savings. Have you any comments on that?

CHIEF WOODS:
There is a bill on good time credits which would positively affect the system. The only concern would be the amount of people released from prison immediately, and we do not want to be the stopgap. The prerelease people would need assistance at that point. Approximately 1,500 people would be discharged who are on parole today and another 1,500 ready to come out. It is not a wash because these people must come through our prerelease system, which would have to beef up.

CHAIR AMODEI:
What resource requirement would enable P and P to respond?

SENATOR WASHINGTON:
We would need to know the ratio of parolees to officers if good time credits are made retroactive.

CHIEF WOODS:
The increase would be approximately five officers, which is considered small in relation to the other group. It would get rid of many parolees already on supervision.

SENATOR HORSFORD:
If made retroactive, would those in compliance have satisfied their probation?

CHIEF WOODS:
We are talking about parolees; I am not sure probationers would be affected by this.

SENATOR HORSFORD:
Why?

CHIEF WOODS:
It was not in the bill.

SENATOR HORSFORD:
How many parolees and probationers would be affected by good time credits, and how many would be removed from your rolls if their good time credit was satisfied?

CHIEF WOODS:
Good time credits would come off parolees' incarceration time. Probationers are not incarcerated; therefore, they are not an issue.

SENATOR HORSFORD:
Have you considered good time credits for meeting conditions of probation?

CHIEF WOODS:
It has been unofficially considered. We can recommend early discharge to the court and many times it will be done. It is in our policies and procedures; we could firm it up and make it stronger.

SENATOR HORSFORD:
I would like to see the policies, procedures and projections. The Chair is saying we will release people from prison. The Vice Chair asked how many additional people would be needed to oversee them. If your existing caseload is reduced, what will be the net effect of all those decisions? We need to see them a la carte and then we can make a decision. I would like to include probation, upon release, as well as successfully meeting compliance. It is approximately 48-percent compliance among those on probation.

CHAIR AMODEI:
Does JFA have any recommendations along that line?

CHIEF WOODS:
Dr. Austin mentioned it in private conversation.

CHAIR AMODEI:
Is there a formal proposal?

CHIEF WOODS:
Not to my knowledge.

CHAIR AMODEI:
Please work with Ms. Eissmann and provide her whatever information you want to give the Committee. I am putting it on the record because I suspect it will be an active and fluid situation. We want input from you as often as possible. I want to specifically hear from P and P, the Department of Corrections and juvenile professionals.

SENATOR WIENER:
Please be sure the witnesses understand what is expected in order to come prepared.

HOWARD SKOLNIK (Director, Department of Corrections):
The Justice Center of the Council of State Governments and the JFA report included a recommendation for 10 days off for every 30 days of successful completion of probation, which would be the equivalent of good time credits for probationers.

CHAIR AMODEI:
Please inform the Committee on your thoughts regarding this issue.

SENATOR WASHINGTON:
The Council of State Governments (CSG) is at the forefront in regard to incarceration and probation. It would be interesting to receive their input in regard to the third bullet in Exhibit F pertaining to training in evidence-based practices. What are the best practices? Have other departments prioritized some of those best practices for implementation or setting policies and procedures that may aid and assist in your efforts?

CHAIR AMODEI:
The CSG has been before the Committee twice.

LINDA J. EISSMANN (Committee Policy Analyst):
The CSG report is in the packet provided to the Committee (Exhibit G, original is on file in the Research Library).

CHAIR AMODEI:
Ms. Eissmann, please meet with the juvenile professionals. I am not sure their suggestions can be effectively digested and considered in 30 days; if they have an appetite for further prioritizing, it would be appreciated.

There being no further business to come before the Committee, the hearing is adjourned at 10:53 a.m.

RESPECTFULLY SUBMITTED:

_____
Barbara Moss,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE: _____