

**THE MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
May 15, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:08 a.m. on Tuesday, May 15, 2007, in Room 2149 of the Legislative Building, Carson City, 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:

Assemblyman Kelvin D. Atkinson, Assembly District No.17
Assemblyman William Horne, Assembly District No. 34

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Brad Wilkinson, Chief Deputy Legislative Counsel
Lora Nay, Committee Secretary

OTHERS PRESENT:

Carlos Brandenburg, Ph.D., Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services
Ross Miller, Secretary of State, Office of the Secretary of State
John College, Resident Agent, U.S. Immigration and Customs Enforcement, Department of Homeland Security
Howard Skolnik, Director, Carson City, Department of Corrections
Jason M. Frierson, Clark County Public Defender's Office

R. Ben Graham, Nevada District Attorneys Association

CHAIR AMODEI:

We will begin with testimony on justice reinvestment.

CARLOS BRANDENBURG, PH.D. (Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services):

Yesterday, The Honorable A. William Maupin, Chief Justice, Nevada Supreme Court, and Associate Justice James W. Hardesty, Nevada Supreme Court, and Senior District Judge Peter I. Breen, Administrative Office of the Courts, Nevada Supreme Court, talked about specialty courts. Mental Health Court is a valuable program. We have been able to reduce hospitalization, recidivism into the criminal justice system and increase community tenure. We should start looking at a major policy issue and commitment of investing into mental health programs as well as substance abuse services both within the Department of Corrections and the community. The State's inability to historically invest in these types of programs has resulted in a crisis.

SENATOR HORSFORD:

Have policy-related issues not specifically related to funding addressed treatment or services for substance abuse for those who are incarcerated?

DR. BRANDENBURG:

There were recommendations around the area of funding infrastructure for the providers. We have discussed how many providers are able to provide treatment on an outpatient basis. The Governor has put resources and funds into substance abuse. The \$9 million the Governor has put into the budget is the first substantial increase in the substance abuse arena since 1999 and will go a long way, but we need to commit to continuing to assess the infrastructure needs of the providers.

The new director of the Department of Corrections and I will be working on a memorandum of understanding of how we can look at the reentry program between the Department of Corrections and the mental health and substance abuse systems in the community to make sure released inmates are triaged into an existing service delivery system. This needs to be done in advance so these people do not fall through the gaps in our service delivery system. We need a policy and a programmatic realignment of resources.

SENATOR HORSFORD:

Yesterday, Associate Justice Hardesty indicated that, of the numbers of inmates who could potentially be released based on retroactive good time credits, many have mental health or substance abuse problems. The most effective method would be to assess them before they are released. Are you coordinating with the Department of Corrections or does something need to be done to ensure we properly assess people before they are released?

DR. BRANDENBURG:

That needs to be done. There is the possibility of 1,300 inmates being released. We have to develop an assessment procedure for both the substance abuse and mental health issues to triage those individuals into those services. That procedure or process does not currently exist.

SENATOR HORSFORD:

Your Department and/or divisions could be involved if that policy was implemented. Do you have resources in place that could assist in the process?

DR. BRANDENBURG:

Absolutely.

CHAIR AMODEI:

We will begin with the Work Session document ([Exhibit C](#), original is on file in the Research Library). Assembly Bill (A.B.) 25 has an amendment generated as a result of Secretary of State Ross Miller and Assemblyman Bernie Anderson meeting with concerned parties. What was the input after speaking with Secretary of State Miller?

ASSEMBLY BILL 25 (3rd Reprint): Makes various changes to provisions governing business associations. (BDR 7-544)

CHAIR AMODEI:

The issue boils down to concerns the bill is not specifically worded in terms of the available data. Was it public or private? Who is responsible for keeping the data? What are your thoughts?

ROSS MILLER (Secretary of State, Office of the Secretary of State):

That provision of the statute requires any entity filed in Nevada to maintain a current list of the registered owners. Upon request from the

Secretary of State's Office, that entity has to turn over the list of beneficial ownership if it is determined to be a legitimate criminal investigation. If the entity fails to respond to any interrogatories pursuant to that investigation, the Secretary of State reserves the right to revoke or suspend the charter.

This remedy gives law enforcement access to information without interfering with commerce. If a Nevada-based corporation seems to be involved in fraudulent activity, there should be a means where the documents are a part of the public record. One proposal requires that anytime you file an entity, you list the beneficial ownership information which makes it easier for law enforcement to get information in situations such as money laundering or shielding terrorist activities. Putting a state agency in charge of continually collecting amended ownership information is difficult to implement.

There are legitimate reasons why owners might not want to be readily identified. Maybe ownership is held in trust, some may not even be born as ownership is passed on to successors. A partner in a limited liability corporation (LLC) who does not want to disclose acquisition of a large parcel of land may do so through 50 different LLCs rather than come forward as a large corporation trying to buy all those parcels to incorporate a big development.

Assembly Bill 25 allows law enforcement to get at criminals without infringing on legitimate purposes for commerce and interfering its Nevada status as a prominent filing state. Giving the Secretary of State the discretion of working with law enforcement and requiring those entities to maintain the list of beneficial ownership information for disclosure benefits law enforcement to further their investigation.

One of our proposed amendments concerns how the Secretary of State would act in reviewing investigations and determining whether we turn over beneficial ownership information and coordinate with the Attorney General's Office.

The Secretary of State's investigator would review the initial requests from outside law enforcement agencies, consult with the Attorney General and only make the request inasmuch as the Attorney General or his/her designee approves the request.

I also have with me Special Agent John College who is with the U.S. Immigration and Customs Enforcement. He will explain why it would be

beneficial for the Secretary of State to have the ability to request beneficial ownership information as opposed to using a subpoena to get that information.

CHAIR AMODEI:

Let me go back to the amendment as contained in the Work Session document ([Exhibit C](#)). Page 7 says you will maintain a listing of owners of record or a statement as to the location of that information and require the person responsible for the maintenance of that listing to inform you of any changes within ten days. Do I understand that you will not have the list but the name of the contact person responsible for holding that list who will provide it to you upon your request?

MR. MILLER:

That information is strictly confidential. The entity would be responsible for maintaining the information. We would assign a criminal investigator as a liaison to other law enforcement agencies. If a law enforcement agency contacted our Office through the liaison and said an organization is suspected of any criminal activity, we would have the authority to contact the responsible party on file with our Office and request they turn over the list of beneficial owners. We would confidentially turn that over to law enforcement.

CHAIR AMODEI:

Instead of you being the repository, you are the person law enforcement approaches for the information; you then go to the person designated in your files as the keeper of that information and request it from them?

MR. MILLER:

Yes, which is in direct contrast to what they are contemplating at the federal level wherein the Secretary of State's Office is the repository for all this information. This is difficult, if not impossible, to implement. There are compelling policy reasons why you would not want to do that. This seems to strike at the heart of a lot of the information needed by law enforcement while nevertheless keeping it confidential and preserving some privacy interests beneficial to commerce in this state.

CHAIR AMODEI:

This would affect between half a dozen and a dozen people. That is an important fact because as it is before us, there are no fees for that process.

MR. MILLER:

Correct, my securities administrator can probably address it in more substance, but that is the only provision where this would apply to a handful of Nevada-based transfer agents. The transfer agents are subject to licensing and inspection by the Secretary of State's Office. Much abuse seems to focus in using these Nevada-based transfer agents; this would allow us to inspect the records, in many cases proactively, to get ahead of some criminal activity and after the fact, when they are operating outside the jurisdiction of Nevada.

SENATOR CARE:

In a sense, we already do this. A stock transfer ledger required to be kept by the resident agent is not a public document but it has to be maintained. Your Office is empowered to ensure that maintenance. Nothing in here discourages people from incorporating in Nevada. It does not change anything. It simply says a list of the beneficial owners ought to be maintained somewhere so in the course of a criminal investigation, that information becomes available.

SENATOR AMODEI:

Is there anything you want to put on the record with respect to why a subpoena standard is not preferred in this instance?

JOHN COLLEGE (Resident Agent, U.S. Immigration and Customs Enforcement, Department of Homeland Security):

The subpoena process is sometimes not timely, which becomes an issue in investigations where we need the information in a short period of time and do not have time to go through the subpoena process. Something may be happening, and we need to provide that information to our colleagues or to another investigation somewhere else in the United States.

CHAIR AMODEI:

With that in mind, this has to be produced within five business days.

MR. COLLEGE:

Five business days is a bit long. In five business days, we should be able to come up with a subpoena.

CHAIR AMODEI:

If you had your preference, would you prefer three days?

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MR. MILLER:

If the Committee is not opposed, three days is more appropriate.

SENATOR CARE:

Besides money laundering, this investigation could be used for an alleged or purported nominee officer or used to penetrate the nominee officer and find out who is the beneficial owner.

MR. MILLER:

It could be used toward any criminal investigation. Complaints we are fielding as to Nevada not requiring sufficient information to give law enforcement the tools they need range anywhere from money laundering, terrorist activities to outright fraud cases that have been publicized.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 25.

SENATOR CARE:

The amendment is the Secretary of State's proposed amendment. We ought to have work done on the amendment by changing "legitimate criminal investigation" to just "criminal investigation," but that is something for the bill drafters to hash out, assuming the motion is adopted.

CHAIR AMODEI:

What about the length of time to respond at five days?

SENATOR CARE:

I would include three days in the motion.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

What is the pleasure of the Committee on A.B. 49?

ASSEMBLY BILL 49 (1st Reprint): Revises certain provisions concerning jury service. (BDR 1-145)

SENATOR MCGINNESS MOVED TO DO PASS A.B. 49.

SENATOR NOLAN SECONDED THE MOTION.

SENATOR CARE:

I am going to oppose the motion because I want to be consistent with my previous votes.

SENATOR NOLAN:

As someone selected for jury duty who sat through the entire process, watched two police officers summarily disqualified immediately upon finding out they were police officers and then endured another hour and a half of jury selection before they found out I was a Legislator and threw me out, this is an unnecessary exercise so I will be supporting the motion.

THE MOTION CARRIED. (SENATOR CARE VOTED NO. SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

We will now consider A.B. 50.

ASSEMBLY BILL 50 (1st Reprint): Amends the exceptions authorizing the release of the home address of a peace officer by a law enforcement agency in certain circumstances. (BDR 23-146)

Amendments offered by the American Civil Liberties Union (ACLU) and Nevada Attorneys for Criminal Justice that recommend a centralized location where subpoenas will be accepted on not less than five separate occasions per week are on pages 11 and 12 of [Exhibit C](#).

I will explain my thought process. There was testimony that, when it came time to serve police officers with duty-related matters, they would be accepted or referred to various precinct houses or stations. I support the idea that officers have a right to privacy and not have that as public information. Someone from the Las Vegas Metropolitan Police Department said they thought it would be a burden if we required a centralized service location to which I disagree. If we are to protect officers from this disclosure, then there ought to be a centralized place with regular hours. Nothing is gained by putting someone in some sort of a contest to find a peace officer to serve him. From an operational viewpoint, I would not want servers sniffing around a precinct house or substation. To say it would be a burden to have a centralized location is a curious thing when you want a statute to protect private living information. It is not an imposition on the agency, it is a service to provide a centralized location.

SENATOR CARE:

I agree with Chair Amodei. It seems to me everyone would want a convenient, centralized location to effect service of process. The last thing the officers want is a process server walking up to an officer sitting in a coffee shop or in his car at a red light, which could happen. This bill does not negate any available service of process contained in the rules of civil procedure and makes it easier and more convenient to serve an officer. I think everybody would want to do it that way.

CHAIR AMODEI:

What is the pleasure of the Committee?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 50.

SENATOR HORSFORD SECONDED THE MOTION.

SENATOR CARE:

I have read the memorandum from the ACLU and am not suggesting I believe the allegations contained therein are factual. They have their version of the facts. I do not want it to be construed that we agreed to the allegations contained in the memo.

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CHAIR AMODEI:

My statements are operationally based. The last thing I want is a process server coming up to a peace officer who is on duty in god knows what situation in an aggressive fashion.

SENATOR MCGINNESS:

Is the motion including the three bullet points on page 9 of [Exhibit C](#)?

CHAIR AMODEI:

Yes.

THE MOTION CARRIED. (SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

Next is [A.B. 52](#).

[ASSEMBLY BILL 52 \(1st Reprint\)](#): Makes various changes relating to domestic relations. (BDR 11-421)

CHAIR AMODEI:

I do not have an objection to processing Assemblyman John C. Carpenter's bill with the provisions described in his handout ([Exhibit D](#)).

SENATOR HORSFORD:

Will the amendment add the third degree of consanguinity?

CHAIR AMODEI:

No, the amendment is that in [Exhibit D](#) which would not revisit that issue but include the notification report provisions and add Senator Washington's name to the bill.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED [A.B. 52](#).

SENATOR MCGINNESS SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:
Next is A.B. 63.

ASSEMBLY BILL 63 (1st Reprint): Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)

CHAIR AMODEI:
What is the pleasure of the Committee?

SENATOR CARE:
Could we find a way to amend this bill such that the court imposing a sentence enhancement provides a written finding?

CHAIR AMODEI:
Do you propose a written statement for how the discretion was exercised?

SENATOR CARE:
That is correct.

CHAIR AMODEI:
For purposes of moving the bill, we can add a conceptual amendment talking about when a court has discretion on whether to impose an enhancement and how much of it to impose.

The conceptual amendment would amend and do pass with the amendment consisting of language which provides findings that the district court would make in support of imposing the enhancement and the degree to which it was imposed.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 63.

SENATOR WIENER SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:
Next is A.B. 87.

ASSEMBLY BILL 87 (1st Reprint): Requires certain officers and employees of financial institutions to receive training concerning the exploitation of older persons and vulnerable persons and to report the suspected or known exploitation of older persons or vulnerable persons. (BDR 55-157)

CHAIR AMODEI:
The Nevada Credit Union League offered an amendment and the mock-up can be found on pages 16 and 17 of [Exhibit C](#).

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 87.

CHAIR AMODEI:
The amendment is the one proposed by the Nevada Credit Union League.

SENATOR WIENER SECONDED THE MOTION.

BRAD WILKINSON (Chief Deputy Legislative Counsel):
The amendment clarifies that a report has to be made by a designated reporter as soon as reasonably practical. It also indicates to whom the report is made.

CHAIR AMODEI:
This takes a lot of the responsibility off the tellers and puts it on somebody higher up the chain in the financial institution so they can have a little time to review it.

SENATOR WASHINGTON:
I wanted to make sure the onus is not on the tellers to provide the report.

SENATOR MCGINNESS:

I am going to oppose this motion. During testimony, we heard it seems every time there is a reported case of this, the bank always finds someone subjected an elderly person to abuse by coming after their checks, getting them to write checks every week or even daily. As the language originally stated, the financial institution employees, officers or designated reporters are subject to a civil penalty. If we take out the employee, we still leave the designated reporter subject to a civil penalty for being a Good Samaritan and doing the right thing.

THE MOTION CARRIED. (SENATOR MCGINNESS VOTED NO.)

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CHAIR AMODEI:

Next is A.B. 92.

ASSEMBLY BILL 92: Revises provisions governing genetic marker testing of certain convicted persons. (BDR 14-805)

SENATOR CARE:

In the age of Big Brother, I do not see why it is necessary to submit a biological specimen for any felony. It is not necessary to include Category E felonies and stop the requirement at Category D felonies.

SENATOR WASHINGTON:

I spoke to the law enforcement communities concerning amendments proposed by the ACLU and they were opposed to some of them. I would like to hear more testimony.

CHAIR AMODEI:

We are probably going to have to break the vote down into the amendment components and see if there are four votes for those first. Is there any objection by the Committee on dealing with the issue of whether it is all felonies or Category D and up?

SENATOR HORSFORD MOVED TO APPROVE THE AMENDMENT TO A.B. 92 BY ACCEPTING THE CHANGE IT APPLIES TO CATEGORY D FELONIES AND UP.

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CHAIR AMODEI:

For the application of the bill, do you move that it applies to all or to Category D and up?

SENATOR HORSFORD:

I am referring to Category D and up.

SENATOR CARE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS AMODEI AND WASHINGTON VOTED NO.)

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CHAIR AMODEI:

Next is A.B. 107.

[ASSEMBLY BILL 107 \(2nd Reprint\)](#): Revises the provisions governing the possession of weapons at certain locations. (BDR 15-764)

ASSEMBLYMAN KELVIN D. ATKINSON (Assembly District No. 17):

I am here to present A.B. 107.

CHAIR AMODEI:

Do you have any objection to us moving the bill by saying it applies to high schools and below only? There were concerns about college campuses with dormitories and all the other relevant matters. We thought an easier way to keep the bill moving is limit the application to primary through high school. There were concerns about school-related activities.

SENATOR CARE:

If a campus fraternity wants to have a barbeque and someone has a knife longer than two inches, will they be arrested?

ASSEMBLYMAN ATKINSON:

Our target population was primarily the high schools.

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SENATOR MCGINNESS:

In the rural world where I live, high school rodeos are sponsored by a high school rodeo club. They always carry knives. This bill is too extreme.

ASSEMBLYMAN ATKINSON:

We are talking about school grounds but we did include language that would exempt certain activities like rodeos.

CHAIR AMODEI:

There is language providing for use in a class or as part of an educational program. Is there language in the bill about some element of knowingness?

SENATOR CARE:

Assemblyman Atkinson, the law reads that a person shall not carry or possess. Can we amend the law by saying a person shall not knowingly carry or possess? It is conceivable that in a high school, some kid as a joke might stick a knife in another kid's backpack and the kid carrying the knife does not realize it.

ASSEMBLYMAN ATKINSON:

I used that excuse all the time that someone else put it in there. I understand your point and do not have a problem with it.

CHAIR AMODEI:

What is the pleasure of the Committee?

SENATOR NOLAN MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 107.

SENATOR NOLAN:

I agree with the sponsor of the bill that it does not take much to explain away a weapon that might be placed in a backpack. When the circumstances unfold and an individual has been dummied up with a weapon, there will be an investigation; hopefully, the perpetrator would be sought out and the individual unknowingly carrying the knife would be exonerated. My amendment would include only the high school provision.

CHAIR AMODEI:

The motion dies for lack of a second. What is the pleasure of the Committee, another motion?

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 107.

SENATOR HORSFORD:

Is this with the provision suggested by Senator Care?

SENATOR WIENER SECONDED THE MOTION.

SENATOR HORSFORD:

I understand the suggestion to exempt higher education, although it says the definition for a dangerous knife is two inches or more in length measured from the tip of the knife to the extension of the blade. After all the tragic events, we want the same level of protection in our higher education institutions as we want in any public school. The bill clearly states there are exemptions for employees who are allowed to have knives due to job functions and pupils who are enrolled in a class or program. I would hate to water down the bill, not ensure public safety, wait for an event and then bring this bill back later. I ask the Committee to support the amendment and do pass the motion.

CHAIR AMODEI:

I do not disagree with any of the instances you have illustrated, but we have dormitories and apartments on campus with many supplies including knives. I am not suggesting we should water down the bill, but we are not able to draft an amendment dealing with college campuses by Friday.

SENATOR HORSFORD:

I appreciate the issue about dormitories. As a person who served as a resident assistant at the University of Nevada, Reno, in Nye Hall with over 500 students and knocked on the door when there was a violation, I do not want to be confronted with someone who might have a dangerous knife with a blade of more than two inches. If that is understood as the rule— for example, you cannot have microwaves or heating plates in a dorm; there are a lot of things you cannot have in a dorm— and students know those rules ahead of time, they will not have knives. To have these types of instruments that could very well be used in an antagonistic way is troubling to me. I agree we are not able to redefine the proposal so we should stick with the existing law.

CHAIR AMODEI:

Is the motion to amend and do pass by leaving the higher education and including the word "knowingly"?

MR. WILKINSON:

The provisions about dangerous knives only apply to private and public schools and not postsecondary institutions or the university system. The only things that apply to the university system are the provisions about swords, axes, hatchets, machetes and other deadly weapons. I did not understand the proposal for adding "knowingly"; was that to modify all of the subsections or just the dangerous knife portion?

CHAIR AMODEI:

It modifies the dangerous knife portion. Senator Horsford, could you restate the motion?

SENATOR HORSFORD:

I would like to rescind my motion and work with the sponsor and Legal Division to craft something that gets to the intent of including Nevada System of Higher Education campuses on the list that prohibit dangerous weapons.

SENATOR WASHINGTON:

Does section 1 include knives with blades of two inches or more under "other deadly weapons"?

MR. WILKINSON:

A dangerous knife is specifically included as a separate item in subsections 2 and 3. A court could interpret that knife as not being included within the definition of other deadly weapons. If knives were included, there would not be any need for subsections 2 and 3. I do not know why the Assembly added those subsections.

SENATOR WASHINGTON:

Could you create a paragraph (j) to include other deadly weapon?

CHAIR AMODEI:

Interested parties can work on this for the next three days. We will list A.B. 107 as call of the Chair for further action. Next is A.B. 127.

ASSEMBLY BILL 127: Revises provisions relating to interception of wire communications. (BDR 15-1049)

CHAIR AMODEI:

The issue before us concerns the ability to record calls from a collection agency. What is the pleasure of the Committee? Hearing none we will review A.B. 137.

ASSEMBLY BILL 137: Revises provisions concerning acts of terrorism. (BDR 15-934)

CHAIR AMODEI:

There was no opposition to the bill and no outside amendments adopted. The discussion at the hearing concerned the wording "with intent to injure." There was discussion, how can you have a hoax that intends to injure someone? If a hoax is committed and there is no injury or death, is a Category B felony appropriate?

SENATOR CARE:

Should this be a Category B felony? After discussions with the bill's sponsor and in light of the testimony from Chief Justice Maupin and Associate Justice Hardesty, we talked about what we call felony creep occurring when we pass bills creating new crimes. I am going to suggest making it a Category D. I am going to move we amend and do pass the amendment to strike all references to injury and make it a Category D as opposed to a Category B felony.

CHAIR AMODEI:

How would that work if you attempted a hoax—if this bill is enacted—to exercise the public safety response and in the course of that there is injury or death? Are you aware of anything on the books that would allow a charge for that injury or death separate from the hoax gun, injury or death?

MR. WILKINSON:

I am sure a few crimes could conceivably apply under those circumstances. One of the prosecutors would probably be better able to answer, but it would not limit prosecution just to this section.

CHAIR AMODEI:

We will not act on this bill today for purposes of getting more information on if you do a hoax and nobody is injured or hurt, it should be a Category D felony.

If someone is injured, is it more efficient for us to plug in a Category B for injury or death? That would be an enhancement to the hoax.

SENATOR NOLAN:

In addition to the penalties put forth in the bill, is there the opportunity for those who are damaged economically to either recoup their economic damages or for the individual who caused the hoax to reimburse the responding emergency agencies for their costs?

MR. WILKINSON:

There is no specific provision included in the bill. Court could order restitution and probably would. Someone who was injured by one of these hoax crimes could also bring a civil action, although this does not create a cause of action.

SENATOR NOLAN:

If we are knocking this down to a lesser violation than what the primary author had wanted or law enforcement testified to, then it would be fair to consider adding language that would be a direct opportunity for people to recoup their financial damages.

CHAIR AMODEI:

Does someone want to make a motion today saying the hoax is a Category D felony and if it results in injury or death, then it is an enhancement to a Category B? No matter what, reimbursement for the responding agency is an appropriate part of the sentence upon conviction.

SENATOR NOLAN MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 137.

SENATOR WASHINGTON SECONDED THE MOTION.

SENATOR WIENER:

You are giving recovery to the responding agencies, but do economic damages cover everything in terms of recovery for a private cause of action? Would that be addressed?

CHAIR AMODEI:

Yes, they can do so without this bill.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:
We will consider A.B. 190.

ASSEMBLY BILL 190: Makes various changes to provisions governing criminal procedure. (BDR 14-655)

SENATOR CARE:
The issue of the public record relies on reassurances submitted by Brett Kandt, Advisory Council for Prosecuting Attorneys; there are no amendments offered.

SENATOR CARE MOVED TO DO PASS A.B. 190.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:
Next is A.B. 193.

ASSEMBLY BILL 193 (1st Reprint): Makes various changes concerning pleas, defenses and verdicts in criminal actions. (BDR 14-152)

MR. WILKINSON:
There were three bills dealing with issues relating to the reinstatement of the guilty but mentally ill plea and competency of criminal defendants. Assembly Bill 193 reinstates the guilty but mentally ill plea. Assembly Bill 369 had to do with standards under which a person who had been found not guilty by reason of insanity would be treated. Earlier, the Committee processed Senate Bill (S.B.) 380 which is currently in Senate Finance, and S.B. 380 is A.B. 193 and A.B. 369 combined.

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ASSEMBLY BILL 369 (2nd Reprint): Makes various changes to provisions governing the civil commitment of a person found not guilty by reason of insanity. (BDR 14-1155)

SENATE BILL 380 (1st Reprint): Makes various changes concerning defendants in criminal actions. (BDR 14-279)

MR. WILKINSON:

Senate Finance is probably going to gut and replace S.B. 380 with another proposal so this Committee could process both A.B. 193 and A.B. 369 or combine those into one bill if that were more desirable.

There are two proposed amendments to A.B. 193 in the work session document, Exhibit C, on pages 46 and 47. The second amendment submitted by the Department of Corrections supersedes the first amendment from R. Ben Graham.

CHAIR AMODEI:

Is there a reason why we cannot combine both bills into A.B. 193? Is there a germaneness issue?

HOWARD SKOLNIK (Director, Carson City, Department of Corrections):

The modification we are requesting would eliminate the fiscal note on these bills by allowing us the discretion of determining the location and the type of treatment these individuals would receive.

ASSEMBLYMAN WILLIAM HORNE (Assembly District No. 34):

Assembly Bill 369 was my bill whereas A.B. 193 came out of A.C.R. No. 17 of the 73rd Legislative Session. I do not have a problem with combining the bills. I have seen the proposed amendment from Jason Frierson addressing the concerns from the Department of Corrections, concerns which would have included a fiscal note; I am comfortable with that amendment.

SENATOR MCGINNESS MOVED TO AMEND AND DO PASS AS AMENDED A.B. 193.

CHAIR AMODEI:

This motion includes the corrections amendment and to amend A.B. 369 into A.B. 193.

SENATOR WIENER SECONDED THE MOTION.

SENATOR WASHINGTON:

Was the fiscal note for the treatment after the verdict?

MR. SKOLNIK:

Yes, the original bill required a separate facility to be established by the Department of Corrections for the treatment of these individuals. A separate facility requires the building of that facility which is a substantial fiscal note. This change would allow us to treat these individuals within the limitations of our existing facilities.

MR. WILKINSON:

I want to clarify the reference of an amendment from Mr. Frierson. I do not have that amendment.

JASON M. FRIERSON (Clark County Public Defender's Office):

After reviewing the Department's proposed amendments, we believe a sentence could be added at the end if the Department approves. It would address our concern that individuals who plead guilty but mentally ill or are found guilty but mentally ill will continue to receive the treatment a licensed psychiatrist or psychologist deems appropriate. The sentence I propose to add would read, "If the person is returned to the general population, the Department shall continue to provide treatment as is medically indicated for his mental illness."

MR. SKOLNIK:

We have no objections to that addition.

SENATOR NOLAN:

The amendment included "return to the general population." I understand there are general populations and then different levels of confinement other individuals who have psychological or sexual issues might be returned to as opposed to the general population. This may need to be broadened.

CHAIR AMODEI:

We have a motion and a second.

SENATOR MCGINNESS:

I will restate my motion to include Mr. Frierson's language.

SENATOR NOLAN:

My concern is the amendment "if they were returned to general population," which I understand is different than being returned to other types or forms of confinement in the prison system. The intent is that if the person is being treated regardless to whatever terms of confinement they are returned to, that they continue to receive treatment. I do not know if it is semantics or not, but maybe we need some clarification.

MR. SKOLNIK:

Were we required to place an inmate in temporary segregation, there may or may not be access to some levels of treatment that would otherwise be required. I would prefer the language say "general population."

CHAIR AMODEI:

There is a motion and a second to amend and do pass.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

We will now consider A.B. 364.

ASSEMBLY BILL 364: Revises certain provisions relating to the use of a grand jury. (BDR 14-1303)

ASSEMBLYMAN HORNE:

My proposed amendment on page 61 of [Exhibit C](#) provides a defendant is entitled to submit a statement to the grand jury that the grand jury must receive, providing whether a preliminary hearing was actually held, and if so, that evidence was insufficient to warrant holding the defendant for trial. During the hearing, the District Attorneys Association had concerns that this would bar them from the grand jury. This proposed amendment still allows prosecutors to go to the grand jury even though they had an unsuccessful preliminary hearing. It also gives the defense attorneys an opportunity—if they so chose—to present a statement to the grand jury that when a preliminary hearing was held, a judge found it insufficient to bind over the defendant.

This statement would not be an argument of facts and situations that occurred at the preliminary hearing; it would be boilerplate language just like you would have in a guilty plea agreement. It will be a simple statement stating a preliminary hearing was held and a judge found evidence insufficient. There will be no arguing on exactly what evidence was presented. Prosecutors may bring the exact same evidence used at a preliminary hearing. This proposal was shared with the Nevada District Attorneys Association. They asked for one additional word to be added at line 15. They want the word "considered" inserted between "was" and "insufficient" and then they would accept the amendment.

R. BEN GRAHAM (Nevada District Attorneys Association):

The one word addition will not eliminate a total ruling, but it would be acceptable to this amendment.

SENATOR CARE:

If the statement is read to the grand jury, is the intent to influence the grand jury in its deliberations?

ASSEMBLYMAN HORNE:

Not at all, the intent is to define fairness in the process. The district attorney's office was attempting to take another shot at getting a case bound over and the grand jury was not aware a judge had already seen that very evidence and deemed it not sufficient.

My original bill asked district attorneys to provide additional, substantial evidence in order for a case to be presented and argued in a district court later whether there was sufficient evidence. This change gives a grand jury the knowledge a case had been heard before a judge. There will be no arguing over the merits of evidence or reasons why a judge found it insufficient, just a blanket statement that it occurred. The grand jury would still weigh the evidence submitted by a district attorney's office. The defense attorney would not be allowed to make arguments, opening or closing statements other than the statement a preliminary hearing has been conducted and the case was not bound over.

SENATOR CARE:

There was testimony during the 71st Legislative Session about a particular insurance company that repeatedly failed to participate in good faith in

mandated mediation because in the back of its mind they would just request a trial and wear down the plaintiff and settle, which would be cheaper than going to trial. As a result, the Legislature said if there is a trial de novo, the jury is informed, told the result of the arbitration award and then told to ignore that information. With that circumstance in mind, would you object if we were to say the defendant could have this statement in your amendment but add a second sentence that reads, "However, ladies and gentlemen of the jury, you are not to consider that information as evidence one way or the other in your deliberations," or something like that to clarify the statement is not evidence to be considered by the grand jury?

ASSEMBLYMAN HORNE:

It would not give me much heartburn; it is almost like ringing a bell and saying you did not hear it.

SENATOR CARE:

That is what we did in 2001.

ASSEMBLYMAN HORNE:

I do not know what effect such a statement would have. You would mandate the grand jury to not consider what they were told. This amendment is giving limited information. It is not bad information for the jury to have. I am not necessarily of the belief that because a grand jury hears that statement, they are going to ask why they are here. Some may actually say they do not care, and judges are letting too many people out anyway. The statement will not have an ill effect.

SENATOR CARE:

There is a distinction; a jury is impaneled one time for one trial, but a grand jury is impaneled for a 12-month period and hears several cases.

CHAIR AMODEI:

What is the pleasure of the Committee?

SENATOR NOLAN MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 364.

SENATOR HORSFORD SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATORS AMODEI, McGINNESS AND
WASHINGTON VOTED NO.)

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CHAIR AMODEI:
Next is A.B. 194.

ASSEMBLY BILL 194 (1st Reprint): Makes various changes to provisions
regarding victims of domestic violence and sexual assault. (BDR 3-1055)

CHAIR AMODEI:
There was a proposed amendment by Nancy Hart, Nevada Network Against
Domestic Violence, and language in section 6 about reimbursing costs to the
applicant for attending a hearing. Was there any reason why that reimbursement
does not go both ways?

ASSEMBLYMAN HORNE:
Going both ways was not discussed in the original bill. They were asking for
personal injury due to domestic violence and that was amended out to go
strictly for the applicant seeking the order to be made whole for their expenses
by having to seek an extended order because of the actions of another.

CHAIR AMODEI:
I do not have a problem with that, but if there is not a finding, then the cost for
being subjected to that should also be reimbursed.

ASSEMBLYMAN HORNE:
I do not have a problem with that concept.

CHAIR AMODEI:
What is the pleasure of the Committee?

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 194.

CHAIR AMODEI:
With the amendment being Ms. Hart's amendment and amending section 6 to
make it apply both ways?

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARE VOTED NO. SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

What is the pleasure of the Committee on A.B. 230? Hearing no response, we will go to A.B. 298. There were questions and concerns about whether it applies to internal agency investigations

ASSEMBLY BILL 230 (1st Reprint): Revises certain provisions relating to the jurisdiction of justice courts. (BDR 1-519)

ASSEMBLY BILL 298 (1st Reprint): Makes various changes to provisions concerning peace officers. (BDR 23-1027)

SENATOR CARE:

That is correct; also, there was discussion about clarifying punitive action meaning disciplinary action.

MR. WILKINSON:

Punitive action is already defined as disciplinary action for the purposes of those sections. With respect to the issue of whether this applies only to internal investigations, it does in fact apply only to those and does not require an amendment for further clarification.

SENATOR MCGINNESS MOVED TO DO PASS A.B. 298.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARE VOTED NO. SENATOR WASHINGTON WAS ABSENT FOR THE VOTE.)

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CHAIR AMODEI:

Next is A.B. 359. Have we heard from Steve Holloway, Associated General Contractors?

ASSEMBLY BILL 359: Revises provisions governing certain statutory liens.
(BDR 9-1011)

SENATOR CARE:

The sponsor of the bill is continuing to work on it in light of the testimony and questions asked yesterday. Let us look at it tomorrow.

CHAIR AMODEI:

Testimony on A.B. 418 indicated they wanted to put it back the way it was originally introduced in the Assembly.

ASSEMBLY BILL 418 (1st Reprint): Makes various changes relating to unarmed combat. (BDR 41-889)

SENATOR NOLAN:

With regard to boxing fights where I sat as a paramedic, one of my ringside duties dealt with injured individuals. This bill came about as a result of a fight in which a boxer sustained a head injury. I treated him initially prior to his transportation to the hospital where he died from his injuries. The bill was put in place to help remedy those type of events. Sig Rogich requested an appropriate amendment, but it is exactly what we were looking to do when we originally created this legislation. I will move to amend and do pass with the amendment proposed to restore the language.

SENATOR CARE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 418.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Is there an update for A.B. 421?

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ASSEMBLY BILL 421 (1st Reprint): Establishes the crime of participating in an organized retail theft ring. (BDR 15-1292)

SENATOR CARE:

I was handed an e-mail this morning by one of those who participated in the drafting of the bill; I would like to meet with him and discuss the bill tomorrow.

CHAIR AMODEI:

Is there discussion on A.B. 483?

ASSEMBLY BILL 483: Revises provisions concerning the enforcement of judgments. (BDR 2-1408)

SENATOR CARE:

This bill offers protection to those people who would not need the protection offered by the homestead exemption which we extended to \$10 million. This is the earned income tax credits and \$1,000 kicker,

SENATOR CARE MOVED TO DO PASS A.B. 483.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:

Next is A.B. 498. Senator Horsford, you had some training and certification issues. There is a mock-up on pages 76 and 77 of Exhibit C which I assume talks about designated person, test results only available for the purposes of the chapter and the designated person trained to take samples or specimens is designated by the enforcing authority.

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

CHAIR AMODEI:

What is the pleasure of the Committee?

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 498.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:
We will discuss A.B. 515 tomorrow.

ASSEMBLY BILL 515: Clarifying that certain judicial employees are local government employees who have the right to join or refrain from joining an employee organization. (BDR 23-1379)

CHAIR AMODEI:
Based on a potential amendment, we have a request from the district court to consider A.B. 519 tomorrow.

ASSEMBLY BILL 519 (1st Reprint): Enacts provisions concerning the sealing of certain court documents. (BDR 1-1404)

CHAIR AMODEI:
What is the pleasure of the Committee on A.B. 521? Hearing no response, what is the pleasure of the Committee on A.B. 522? I do not hear a response.

ASSEMBLY BILL 521 (1st Reprint): Revises provisions relating to the crimes of fraud and racketeering. (BDR 15-500)

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

SENATOR CARE:
Let me go back to A.B. 498. The motion by Senator Horsford was to amend and do pass. There is language that is not substantive, but the terminology uses "declaration" as opposed to "affidavit" that is inconsistent with the language contained in S.B. 71 which is part of the Uniform Parentage Act.

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SENATE BILL 71 (1st Reprint): Enacts certain provisions of the Uniform Parentage Act. (BDR 11-719)

SENATOR CARE:

I ask the Committee rescind its previous action to consider adding this language change to Senator Horsford's amendment to be consistent with S.B. 71.

SENATOR CARE MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON A.B. 498.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED A.B. 498.

SENATOR HORSFORD:

This is to be sure the language is consistent with S.B. 71.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR AMODEI:
We are adjourned at 10:54 a.m.

RESPECTFULLY SUBMITTED:

Lora Nay,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____