

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

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

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:03 a.m. on Thursday, March 15, 2007, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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:**

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8  
Senator Dina Titus, Clark County Senatorial District No. 7

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Committee Policy Analyst  
Brad Wilkinson, Chief Deputy Legislative Counsel  
Gale Maynard, Committee Secretary

**OTHERS PRESENT:**

Scott Anderson, Deputy for Commercial Recordings, Office of the Secretary of  
State  
Scott Scherer, Nevada Resident Agent Association  
Gina Anderson  
Zoe Hardge

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Kimberly McDonald, City of North Las Vegas  
John S. Michela, Deputy Attorney General, Office of the Attorney General  
Gary Wolff, Nevada State Law Enforcement Association  
R. Ben Graham, Nevada District Attorneys Association  
Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department; Nevada  
Sheriffs' and Chiefs' Association  
Timothy Kuzanek, Washoe County Sheriff's Office; Nevada Sheriffs' and Chiefs'  
Association  
Joyce Harris  
Jason M. Frierson, Clark County; Clark County Public Defender's Office  
Cotter C. Conway, Washoe County Public Defender  
Michael R. Freda, Ph.D., Coalition for Grandparents Visitation Rights  
Gayle Farley, Coalition for Grandparents Visitation Rights  
Sandra A. McMaster, Coalition for Grandparents Visitation Rights  
Karen S. Goodwill-Freda, Coalition for Grandparents Visitation Rights  
Jacqueline Calvert, Coalition for Grandparents Visitation Rights  
David Loewen, Coalition for Grandparents Visitation Rights

CHAIR AMODEI:

We call this meeting of Senate Committee on Judiciary to order and open the hearing with Senate Bill (S.B.) 242.

**SENATE BILL 242**: Enacts the Model Registered Agents Act. (BDR 7-460)

SENATOR TERRY CARE (Clark County Senatorial District No. 7):

This bill is a Model Registered Agents Act and is open to amendments from states as needed. The bill was a project between International Association of Commercial Administrators made up of American and Canadian filing offices and the American Bar Association. Nevada is the only jurisdiction using the term resident agent; a registered agent is the same thing. The last state to change to registered agent was Massachusetts.

The bill is for commercial registered agents. A few national companies are registered agents for thousands of entities for acceptance of service of process and annual filings. The intent of the bill is to make it easier for various secretaries of state and commercial registered agents.

The main portions of the bill are sections 29 through 40. The definitions most applicable to describe a commercial registered agent are in sections 5 and 32. I am in agreement with amendments offered by Mr. Scott Anderson, Office of the Secretary of State.

Sections 41 through 43 offer standard language found in other model or uniform acts. Sections 44 through 169 are conforming amendments to those chapters governing existing entities in Nevada. Sections 170 through 194 are additional conforming amendments.

Section 50 of S.B. 242 deletes the requirement for filing some information with the Secretary of State, such as addresses of officers, directors and the like. Washington, D.C., has taken an interest in disclosure and information that may be made public.

The main substance of the bill is contained in the sections after the definitions. The idea is to make it simple. Other states have a commercial agent register or file one document to cover the filing of individual entities, and the information is posted immediately.

SENATOR WIENER:

Nevada is the last to convert from resident agent to registered agent. In current law, is there a commercial and noncommercial resident agent or are they separate?

SENATOR CARE:

We will be separating them. Currently, you are a resident agent. When I joined the drafting committee, I was not sure what a registered agent meant.

SENATOR WIENER:

Because I did not know about the noncommercial split, this is new language in addition to the registered versus resident. A noncommercial might be a small law firm. Could this also be an individual with one or two entities?

SENATOR CARE:

Yes. A handful of companies across the nation make a business of being a commercial registered agent. There will still be one or two small entities that should remain resident agents and not subject themselves to S.B. 242. This bill is for the big players being a registered or resident agent.

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CHAIR AMODEI:

Is there anything else for S.B. 242?

SCOTT ANDERSON (Deputy for Commercial Recordings, Office of the Secretary of State):

Our Office met with Senator Care to review this bill, and we support the Model Act. Presented before the Committee are our recommended amendments ([Exhibit C](#)). The reason for maintaining the addresses of officers and directors is Nevada has come under scrutiny from both federal and state levels regarding transparency and the ability to find those doing nefarious acts.

A provision is included in the Act to notify governors—which would be officers and directors—upon cancellation of a resident agent. We need this notification to comply with statute.

There are concerns about fees; since we are taking away the third-party resident agent acceptance and appointing a resident agent, certain resident agents may be appointed without agreeing to pay a fee to resign. For someone who has been a resident agent, the fee should remain. We generate \$82,000 per year on resignation fees. With the loss of these fees, we will lose revenue.

Another item in the amendment is to allow the Secretary of State to prescribe new forms to which the documents will appear to maintain efficient filings.

CHAIR AMODEI:

Are there any questions from staff or further discussion on S.B. 242?

SCOTT SCHERER (Nevada Resident Agent Association):

We have a couple of concerns with S.B. 242. Washington, D.C., has gotten involved, and this bill does not address those issues. A bill with Senator Care and the Secretary of State's Office might address those issues. Another issue is being appointed without your knowledge and then having to pay a fee to resign; we hope to come to some resolution.

CHAIR AMODEI:

If there are no further comments, we will close the hearing on S.B. 242 and open the hearing on S.B. 232.

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**SENATE BILL 232**: Makes various changes to the provisions governing sex offenders. (BDR 14-17)

SENATOR DINA TITUS (Clark County Senatorial District No. 7):  
Please read my testimony ([Exhibit D](#)). There is a list of established community safe zones other states have implemented with their statutes to keep predators at a certain distance from locations frequented by children ([Exhibit E](#)).

A map of my district in the older part of Las Vegas illustrates why this bill is important. It shows an elementary school near South Maryland Parkway and East Flamingo Road where a number of sexual predators reside. This is just one school; there are many others.

I have a list ([Exhibit F](#)) of states using Global Positioning Systems (GPS) to monitor offenders in their communities.

CHAIR AMODEI:  
Are there any questions for Senator Titus?

SENATOR MCGINNESS:  
There is an amendment to S.B. 232, submitted by the City of North Las Vegas, extending the distance to 1,000 feet ([Exhibit G](#)). Do you support this?

SENATOR TITUS:  
Yes. I have no objections to the amendment. Electronic monitoring includes the GPS. If this needs to be included in an amendment, I will support it.

Senator Barbara K. Cegavske also had a bill using the GPS, and we are incorporating that language into this bill. I understand that Senator Cegavske has an amendment she would like to offer.

SENATOR BARBARA K. CEGAVSKE (Clark County Senatorial District No. 8):  
There is a measure in Arizona being considered that requires persons who register as sex offenders to provide an online registration or identifier as well as the name of the service provider where any changes or additions must be reported within 72 hours.

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The measure would include e-mails and Internet use and is an amendment I would like to see added.

CHAIR AMODEI:  
Are there any questions of Senator Cegavske?

SENATOR WASHINGTON:  
I have to question implementation of the bill with certain sex offenders under Tiers 1 and 2, with Tier 3 being the worst offenders. In the bill, it is not clear at which level you would require an electronic device be placed upon the offender. Also, what tier of offender could live within the radius prescribed in the bill?

SENATOR TITUS:  
I appreciate the distinction between sex offender classifications, but we are not targeting all sex offenders. This legislation is aimed at the most dangerous, repeat offenders who prey on children—persons convicted of an offense against a child under the age of 14. This is the starting point. You keep these sex offenders away from places where children gather by electronic tracking and keeping them in prison longer. The bill is very specific that Tier 3 offenses against children 14 years of age or younger require the device.

SENATOR WASHINGTON:  
Is it possible to amend the bill for clarification?

SENATOR TITUS:  
Absolutely. If the specific language you need is a Tier 3 or an offense against a 14-year-old or younger, then I would be glad to amend.

CHAIR AMODEI:  
Is there anything else the Committee would like to ask?

GINA ANDERSON:  
There is a transitional home for three child molesters and a rapist several houses away from my residence where we homeschool. There are other houses in North Las Vegas and some within 1,000 feet of schools.

We need to create community safe zones; we were unaware of the number of sex offenders. In our community, there are ten sex offenders: eight were crimes against children, three were rapists and one was a Tier 3.

Our children are afraid. These predators are out there and not monitored; they will not be monitored under this bill unless they are a Tier 3. Most of the sex offenders in our neighborhoods are Tiers 1 and 2.

It is a misdemeanor if the electronic device is removed. A sex offender may disable the device and get charged only with a misdemeanor; meanwhile, he has committed a felony. I favor a felony charge if the transmitter on the Tier 3 offender is removed. The bill mentions counselor; is that certified and how is that defined?

SENATOR HORSFORD:

Thank you, Ms. Anderson and the other residents of North Las Vegas for being here. These issues brought by Ms. Anderson were also addressed before the City of North Las Vegas. The sex offender residing in this community—which is part of my district—did so based on a loophole in the system and did not allow for that facility to be properly licensed by the State of Nevada. There were no public notifications to residents in the community until the Tier 3 sexual offender issue came into law.

Through the efforts of Ms. Anderson, there will be a companion bill alongside of Senator Titus's that tightens the licensing and regulation process for halfway houses for sexual offenders.

ZOE HARDGE:

If this bill says sex offenders cannot be within 2,000 feet, what are we doing about offenders presently residing in the area? They own houses and can rent them out. We cannot kick them out, so it would not change for us.

BRAD WILKINSON (Chief Deputy Legislative Counsel):

Under the provisions of the bill as drafted, it applies retroactively to people who are already on probation, parole or lifetime supervision; they would have to move.

Ms. HARDGE:

This would only apply to the Tier 3, correct?

MR. WILKINSON:

The way the bill is drafted, it does not classify people by tier categories, although some would be Tier 3. There are no requirements.

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MS. HARDGE:

The bill states offenders will pay for monitoring devices. If the offender cannot pay, who will, or does the offender not get one?

MR. WILKINSON:

The offender is required to pay to the extent possible. If the offender cannot pay, the state will.

CHAIR AMODEI:

Are there any questions from the Committee for the speakers?

KIMBERLY McDONALD (City of North Las Vegas):

We support S.B. 232. Las Vegas is the second fastest growing city in the nation. With growth comes a social and economic ill. The sex offender issue has to be addressed. The loopholes in the system have allowed permits to be issued to nonprofit housing organizations without a business license to operate. We are working on legislation to secure tighter statutes to address these issues.

Our amendment appears in the bill, section 4, page 5, line 39, which expands the distance from 500 to 1,000 feet for the safety zone for children.

SENATOR WASHINGTON:

Mr. Wilkinson, several sessions ago, we dealt with halfway houses; did we exclude the ones in which sex offenders reside?

MR. WILKINSON:

No.

SENATOR WASHINGTON:

If those houses will still have to be licensed and certified, I am confused. Ms. McDonald, are you saying these houses were not licensed or certified?

MS. McDONALD:

Yes. It is my understanding that because they are operating as a nonprofit organization, they were not required to obtain a city or state license.

SENATOR WASHINGTON:

Mr. Wilkinson, I thought this issue was addressed.



MR. WILKINSON:

It was in S.B. No. 282 of the 73rd Session. They were nonprofit and did not obtain licensing. Under the terms of the statute, they were required to obtain one. I do not know if you classify this as a loophole so much as not complying with statute. It may not have come to light due to them being nonprofit.

SENATOR HORSFORD:

I would like to go over this with Senator Washington. There is a provision under the *Nevada Revised Statutes* and the *Nevada Administrative Code* that if these halfway houses are only for residency, then the licensing for these houses changes. These homes are operated as true halfway houses with support services and counseling. They should have been licensed but did not do a full disclosure. We are working toward changing this.

MS. McDONALD:

On the local level, we will be strengthening our ordinances. Transitional homes will have to obtain proper licensing.

JOHN S. MICHELA (Deputy Attorney General, Office of the Attorney General):

I have a written statement ([Exhibit H](#)) on behalf of Attorney General Catherine Cortez Masto which expresses her support of S.B. 232.

SENATOR CARE:

In reviewing section 1 of the bill, are you aware of other statutes that prohibit a defendant from entering a plea of nolo contendere?

MR. MICHELA:

I am not aware of any other statutes.

GARY WOLFF (Nevada State Law Enforcement Association):

Many of our members are parole and probation officers, and we support this bill. I am a grandfather, and there is nothing worse than a sexual predator against our children.

SENATOR WASHINGTON:

Mr. Wilkinson, most of the Tier 3 offenders opt to stay in prison to avoid lifetime supervision. Does this bill address this?

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MR. WILKINSON:

Lifetime supervision was enacted in 1995 and would affect those released. It will not affect those incarcerated prior to 1995.

SENATOR WASHINGTON:

I recall trying to make it retroactive.

R. BEN GRAHAM (Nevada District Attorneys Association):

This is an emotional topic, and we support the measures taken for S.B. 232. As prosecutors, we have concerns in section 1 about negotiating cases. Primarily for the protection of the victim, it is necessary to lower a charge to get a conviction. We will continue to work with legislation on this bill.

ROBERT ROSHAK (Sergeant, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We support this bill and the amendments. This bill makes it more manageable to keep track of offenders.

TIMOTHY KUZANEK (Washoe County Sheriff's Office; Nevada Sheriffs' and Chiefs' Association):

The Sheriff's Office is in full support of the bill and will do anything to assist in managing these predators.

SENATOR WASHINGTON:

Mr. Graham, can you think of an instance where section 1 would be detrimental in a severe sexual offense and need to be pled down to try the case?

MR. GRAHAM:

On occasion, you have young victims reluctant to testify. It is better to get a lesser plea rather than subjecting victims to a trial and verdict of not guilty. The police and prosecutors take this seriously, and we are reluctant to give up our ability to negotiate positive outcomes.

SENATOR WASHINGTON:

I understand the intent of section 1. If those provisions are made law and a prosecutor had to let a potential predator free because they could not plead nolo contendere, not guilty or plea bargain, this may be detrimental to public safety as opposed to providing security.

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MR. GRAHAM:

That is correct. There will be people who would go free and not be prosecuted.

SENATOR CARE:

Mr. Graham, referring to section 1, are you aware of other statutes where the defendant is prohibited from entering a plea of nolo contendere?

MR. GRAHAM:

I am not aware of that restriction. You could do it, but it would hamper prosecution.

SENATOR CARE:

Subsection 2 of section 1 reads, "The court may accept from a defendant a plea of guilty to a sexual offense only if the defendant admits in court that he committed the sexual offense." Is guilty not guilty?

MR. GRAHAM:

The psychiatrist or psychologist will say the road to redemption is through confession. In prosecutorial terms, the offender is asked if the crime he/she is accused of is true.

SENATOR CARE:

I have to be clear on what we are doing. I take the 2,000-feet limitation to mean that if a casino has a video arcade for children, the parolee can never enter?

MR. GRAHAM:

It can be interpreted this way.

SENATOR CARE:

The question whether a sex offender would have to move was raised. I read the bill to say the offender has to move but can still maintain rights to the property.

MR. GRAHAM:

That sounds accurate.

SENATOR NOLAN:

I am looking at section 6, subsection 4 of the bill and wonder who receives lifetime supervision? How is that determined?

MR. GRAHAM:

I am not clear on how it is determined. Certain offenders would have lifetime supervision. This is a developing area of the law.

SENATOR NOLAN:

I will ask Legal to provide information on the different offenses, the categories they fall under using the tier system and how and who receives lifetime supervision.

MR. WILKINSON:

A specific list of offenses for which people are subject to lifetime supervision is included as part of the sentence. I can obtain that list.

JOYCE HARRIS:

I have provided the Committee with some information ([Exhibit I](#)). There are nine transitional houses on Lawry Street. We have been told by parole and probation representatives that they could have as many houses as they want. These houses are rented out, and there can be up to ten persons per household. There are over 100 persons in our neighborhood along with sex offenders.

What bill can help us? I have been residing here for 30 years. There are others with the same or more longevity. These people have been grandfathered in and have rights. We are homeowners and cannot go anywhere. What can you do to help us?

CHAIR AMODEI:

I can have someone from the Legislative Counsel contact you and get all the facts. I will also involve the people at the Division of Parole and Probation and the district attorney to get you an answer to your questions. If there is something during the course of the session that we can do, we will. Legal Counsel, see that you get all contact information from these folks in Las Vegas.

MS. ANDERSON

Section 4, page 5, lines 39 through 43 list a number of places where the offender must be distanced. Does this include homeschooling?

CHAIR AMODEI:

Ms. Anderson, I am making the same offer to you as with Ms. Harris. Legal Counsel will get your questions answered.

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

We do not oppose creation of a community safe zone or the goals to track, monitor and set registration requirements. There are concerns on practicalities and how they work. I share Senator Washington's concerns on serious offenders and those that warrant negotiating down to a lesser offense.

The Clark County District Attorney's Office does not unnecessarily negotiate cases down; they handle them in a responsible manner. Negotiation for a lesser charge is done when warranted or a serious offender could be released.

There are constitutional implications on where someone resides, but I believe these things can be worked out. We are willing to work with sponsors of this bill to make it practical.

COTTER C. CONWAY (Washoe County Public Defender):

I support S.B. 232 and community safe zones. My concerns are in section 1. These are the same concerns Mr. Frierson and Mr. Graham share. I sent my concerns to the members who sponsored this bill ([Exhibit J](#)). It is the opinion of the Washoe County Public Defender's Office that plea bargaining should be left to the discretion of the prosecuting attorney.

Sex offenses also include indecent exposure and statutory seduction. There are circumstances where courts must be allowed to weigh each case and judge accordingly.

There is an objection for increase in penalties for offenses above 20 years and repeat offenders. Under existing statute, repeat offenders receive life without parole. Twenty years is appropriate, and the board can make a decision when an offender comes up for parole.

SENATOR WIENER:

In drafting section 1, was the intent for it to be a Tier 3 or not plea down to a lower tier, or does this involve all tier levels?

MR. WILKINSON:

Provisions in section 1 are not set for any tier level. It is not apparent, but on lines 17 and 18, page 2 of S.B. 232, there is a definition of sexual offense. Under NRS 179A.073, it defines acts upon a child as: sexual assault, statutory sexual seduction, use of a minor in pornography, promotion of a sexual

performance of a minor, possession of a visual presentation depicting the sexual conduct of a child, incest, solicitation of a minor to engage in crime against nature, lewdness with a child, luring a child or mentally ill person. This statute also defines a child as under 16 years of age.

SENATOR WIENER:

The list of sexual offenses and what we heard as examples of plea opportunities are not included.

MR. WILKINSON:

It does not appear to be the case.

SENATOR WIENER:

If we did nothing and retained everything as is, then the offender will have the opportunity to do the same thing.

MR. CONWAY:

That would be true with the exception of an example of statutory seduction. The definition given by Legal Counsel it will not restrict our ability to negotiate.

MR. WILKINSON:

This provision was included in S.B. No. 325 of the 69th Session.

CHAIR AMODEI:

This is an issue that has received a lot of input. I want to give Counsel a chance to answer the questions asked.

SENATOR WASHINGTON:

Maybe Counsel can answer this question. On the enhanced sentencing for sexual predators increasing the years from 20 to 25, will this maintain integrity of the 40 percent served? It was not mentioned in the bill.

CHAIR AMODEI:

We close the hearing on S.B. 232 and open the hearing on S.B. 204.

**SENATE BILL 204**: Revises provisions governing the granting of the right to visit a child to grandparents and great-grandparents of the child. (BDR 11-806)

SENATOR MAURICE E. WASHINGTON (Washoe County Senatorial District No. 2):

This is a bill where you wish legislation did not have to be introduced. Due to the circumstances, legislation addresses visitation rights to the grandparents and great-grandparents. It was former Senator Ann O'Connell who took the lead on this fight.

MICHAEL R. FREDA, PH.D. (Coalition for Grandparents Visitation Rights):

I am here to urge you to pass S.B. 204 and have written testimony from pages 2 through 8 of our "Rationale Documentation in support of S.B. 204" ([Exhibit K](#), original is on file in the Research Library).

GAYLE FARLEY (Coalition for Grandparents Visitation Rights):

I have written testimony in support of S.B. 204 ([Exhibit L](#)).

SANDRA A. MCMASTER (Coalition for Grandparents Visitation Rights):

I urge your support for S.B. 204 and have written testimony on page 75 of [Exhibit K](#).

KAREN S. GOODWILL-FREDA (Coalition for Grandparents Visitation Rights):

Support by this Committee is urged for S.B. 204. I have testimony on pages 127 through 130 of [Exhibit K](#).

JACQUELINE CALVERT (Coalition for Grandparents Visitation Rights):

I will read a statement on behalf of Phil and JoFran Murphy ([Exhibit M](#)).

DAVID LOEWEN (Coalition for Grandparents Visitation Rights):

I have been asked to read a statement from Delphine Boswell ([Exhibit N](#)). I am a grandparent and became involved with the Grandparents' Coalition about a year ago. My son and his family moved in with me, and I was unaware my son was involved with methamphetamines until he was caught and sent to jail. Since then, I have not seen my grandchildren. I support S.B. 204.

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CHAIR AMODEI:

If no one else is to speak on S.B. 204, we will close the hearing. If there is no further business to come before this Committee, we are adjourned at 10:55 a.m.

RESPECTFULLY SUBMITTED:

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Gale Maynard,  
Committee Secretary

APPROVED BY:

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Senator Mark E. Amodei, Chair

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