

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fourth Session
March 26, 2007**

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 9:38 a.m. on Monday, March 26, 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 Valerie Wiener
Senator Steven A. Horsford

COMMITTEE MEMBERS ABSENT:

Senator Dennis Nolan (Excused)
Senator Terry Care (Excused)

GUEST LEGISLATORS PRESENT:

Senator John J. Lee, Clark County Senatorial District No. 1

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Kimberly McDonald, City of North Las Vegas
Randall Tindall
Cheryl K. Townsend, Director, Juvenile Justice Services, Clark County; Nevada
Association of Juvenile Justice Administrators

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Scott J. Shick, Chief Juvenile Probation Officer, Juvenile Probation Department,
Douglas County
Michael Pomi, Director, Juvenile Services, Washoe County; Nevada Association
of Juvenile Justice Administrators
Susan J. Meuschke, Nevada Network Against Domestic Violence

CHAIR AMODEI:

The hearing is opened on Senate Bill (S.B.) 303.

SENATE BILL 303: Amends the Charter of the City of North Las Vegas concerning the qualifications of municipal judges. (BDR S-80)

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

I will read my prepared testimony ([Exhibit C](#)). My community of North Las Vegas has no court of record; therefore, when something happens in court, no records are kept. If a case is sent to district court, it begins all over again. North Las Vegas does not deal with the public defender and has attorneys who are paid \$250 per case. My little town is growing and people in the community with investments, assets and responsibilities need attorney judges who can make decisions.

North Las Vegas has Judge Warren Van Landschoot, who was a police officer for 30 years and in court more than most attorneys. Senate Bill 303 would not affect his senior status. Senior status means when judges run for reelection and are reelected, their judgeship continues; however, when they lose their judgeship, they no longer have senior status. Therefore, should Judge Van Landschoot retire rather than lose an election, he can go to Elko and sit in for a vacationing judge, as well as travel throughout the state and continue to be a judge. Senate Bill 303 was designed by people like me who want to see our community grow in the judicial area.

KIMBERLY McDONALD (City of North Las Vegas):

The City of North Las Vegas is proud of Judge Van Landschoot, who is extraordinary and not the norm. His background is law enforcement and he served on the police force for 30 years. He has consistently maintained a high percentage of ratings among his peers and the attorneys that rate judges for the *Las Vegas Review-Journal*.

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The City of North Las Vegas opposes S.B. 303 because any charter change proposed or presented must have City Council approval and this measure was not presented for approval.

CHAIR AMODEI:

The hearing is closed on S.B. 303 and opened on S.B. 291.

SENATE BILL 291: Revises certain provisions governing civil practice in actions in which plaintiff is a nonresident or foreign corporation. (BDR 2-1309)

RANDALL TINDALL:

I am an attorney in Las Vegas and support S.B. 291, which amends *Nevada Revised Statute* (NRS) 18.130. I have a proposed amendment to the bill ([Exhibit D](#)). Currently, NRS 18.130 allows a defendant in a civil case to request a nonresident plaintiff post \$500 security in the event the plaintiff loses his or her lawsuit. That amount will cover the defendant's costs which are mandatory to be awarded if the defendant wins the case outright. The \$500 amount has not changed since 1971 and is inadequate to cover a defendant's cost, except through initial parts of litigation—perhaps one deposition, the filing fee and so forth—but after that the \$500 costs have been exceeded.

Nevada Revised Statute 18.130 allows the defendant to return to court and request additional money when the \$500 cost becomes insufficient. The problem with NRS 18.130, subsection 2, is the court has discretion to allow the cost increase. That is not the way it should work. The purpose of the statute is to protect a defendant from a frivolous lawsuit and if the plaintiff cannot pay the cost, this would cover it. However, with the discretionary part of subsection 2, courts are reluctant to allow those additional costs.

I was the senior litigation attorney for the MGM Mirage and handled numerous cases where I had to request increased costs, which were routinely denied. I took a couple of cases to trial where there were nonresident plaintiffs and the court denied the increase in costs. We defended the case and costs were awarded for approximately \$10,000, but the plaintiff could not pay those costs. One plaintiff declared bankruptcy and the other settled. Had those been allowed, we would have received them.

Senate Bill 291 will benefit the entertainment industry, casinos, hotels, Washoe County and Clark County airports, and limousine and cab companies.

Most frivolous lawsuits in Nevada come from nonresident plaintiffs who vacation here, become upset for one reason or another and file a lawsuit as a means of retribution. This bill, if enacted as drafted, should put a stop to many frivolous lawsuits by nonresident plaintiffs. The defendant will go back to court, weigh into the litigation and request costs incurred, which will be approximately \$7,000 to \$15,000 at that point. The court will be required to force the plaintiff to post additional nonresident security.

The proposed change to S.B. 291 in NRS 18.130, subsection 2, paragraph (a) takes away the court's discretion and defines what costs will be allowed. It spells out that estimates of the cost are sufficient evidence to allow the court to award them.

The proposed change to S.B. 291 in NRS 18.130, subsection 2, paragraph (b) specifies the court must award the dollar amount of the increased costs that exceed the initial cost bond which is requested to be increased to \$1,000, which should more adequately cover the reality of today's litigation environment.

The proposed change to S.B. 291 in NRS 18.130, subsection 2, paragraph (c) puts a limitation on increases. I have heard judges in the past say, "If I do what you want, Mr. Tindall, you will come back to court every three weeks and request another increase." Paragraph (c) says the defendant must request another increase 60 days prior to trial and can request it only once prior to trial unless the nonresident requests another continuance.

The proposed change to S.B. 291 in NRS 18.130, subsection 2, paragraph (d) takes away the discretion to stated proceedings. Currently, if the court awards increased costs, the court has discretion to let the case go on even though the plaintiff does not pay the costs. This proposed change makes the court put a stay in place until the bond is paid.

The proposed change to S.B. 291 in NRS 18.130, subsection 4 makes dismissal mandatory if the plaintiff does not post the increased security costs.

CHAIR AMODEI:

There is a letter from William Patterson Cashill in regard to S.B. 291 ([Exhibit E](#)) which will be submitted for your review. After perusing the letter, please feel

free to submit a response to the Committee within three days of the date of this hearing and the record will be held open for that purpose.

The hearing is closed on S.B. 291 and opened on S.B. 294.

SENATE BILL 294: Repeals the provision concerning mandatory detention of a child who commits certain acts pertaining to domestic violence.
(BDR 5-958)

CHERYLN K. TOWNSEND (Director, Juvenile Justice Services, Clark County; Nevada Association of Juvenile Justice Administrators):

I will read my prepared testimony ([Exhibit F](#)). This legislation only concerns children, not adults, in regard to domestic-violence referrals. We need to work collaboratively with law enforcement, juvenile court, the office of the district attorney, the public defender's office, domestic violence advocates, family service and mental health agencies to make sure we have a system of response in place based on the needs of each case.

SCOTT J. SHICK (Chief Juvenile Probation Officer, Juvenile Probation Department, Douglas County):

Logistically and demographically, S.B. 294 would not impact the rural detention centers as it does Washoe and Clark Counties. However, we walk through this with a great deal of discernment based on the implications of overriding a 12-hour domestic-violence hold order. Due to logistics and distances between centers, contract juvenile detention centers and rural counties without detention centers, we sometimes overlap 12 hours, 15 hours and sometimes 24 hours based on transportation and so forth.

We agree with and support the concept of S.B. 294. We use the mental health screening tool, the risk assessment instrument and have on-call probation officers that are the final level of review when a child is returned home under the 12-hour requirement. With the override, our officers would be held to full responsibility for that decision. We have professional people in the field.

Law enforcement requested communication with the field officer who arrested the child when planning to return the child home, which could impact the decision. There are resources in the rural communities to address domestic violence, family separations and single-parent issues. Therefore, the impact on us would be limited.

MICHAEL POMI (Director, Juvenile Services, Washoe County; Nevada Association of Juvenile Justice Administrators):

I echo the comments of my counterparts. In Washoe County, approximately 317 youths have been brought to juvenile detention. There was an escalation of 150 girls in 2005, which dropped incrementally in 2006. Girls seem to be more impacted. Dr. Fran Sherman, from Boston College University, is working with Washoe County to not have a disparate over representation of females in the juvenile justice system. We are also an Annie E. Casey Foundation site in Washoe County and in the last year of our grant funding.

I worked with members of the community to help them understand the position of juvenile justice administrators. We sense this has an impact on our communities. Stakeholders who come to the juvenile detention alternative initiative are law enforcement and community members who establish the level of response given by juvenile justice to each individual child. That is the basis of juvenile court. Juvenile court has a wide array of power under the leadership of Judge Frances Doherty to intervene with families and have appropriate consequences short of a mandatory 12-hour lockup. Research has shown 24-hour lockup is harmful to children.

Our response was an evidence-based practice in Washoe County called Aggression Replacement Training, which every child on a violence-related offense through our juvenile court is required to attend. We are studying the outcomes which should be prepared by the end of April. The training has been in place for one year.

SUSAN J. MEUSCHKE (Nevada Network Against Domestic Violence):

We support making sure juveniles are treated as juveniles with a certain latitude and different process than adults. Senate Bill 294 repeals a statute passed in 1999, brought forward by the Las Vegas Metropolitan Police Department (Metro) when they were having a difficult time with children who had abused their parents; then the parents were required to pick them up within the next four to six hours. The Metro said it was a problem because juvenile courts were fining parents if they were unable to pick up their children. The Metro determined this concern should be addressed legislatively by instituting a 12-hour hold within the juvenile statute.

We talked with juvenile justice about alternatives to total repeal of the legislation. We would provide the requested latitude and flexibility while making

it clear to domestic-violence people it might be unsafe to return an abuser child to parents who are the victims. We support the need and desire to make our systems work in the best possible way. We request the Committee look at the amendments originally created for this bill as an alternative to total repeal.

SENATOR WIENER:

An alternative to full repeal might be language such as, "except under certain circumstances," which would give discretion to the professionals when to release a child sooner, but would give them the 12-hour mandate if it is needed.

BRAD WILKINSON (Chief Deputy Legislative Counsel):

We could work on language that would accomplish it. I helped Mr. Pomi with the original drafting of the measure. We looked at alternatives while formulating the language in the bill draft. I will assist in resolving the concerns.

CHAIR AMODEI:

The hearing is closed on S.B. 294 and opened on introduction of Bill Draft Request (BDR) 3-659 and BDR C-661.

BILL DRAFT REQUEST 3-659: Requires masters appointed by a justice court to possess qualifications at least equal to those of the justice of the peace for the township in which the master is appointed. (Later introduced as [Senate Bill 479](#).)

SENATOR MCGINNESS MOVED TO INTRODUCE BDR 3-659.

SENATOR WIENER SECONDED THE MOTION.

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

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BILL DRAFT REQUEST C-661: Proposes to amend the Nevada Constitution to allow the Legislature to establish an intermediate appellate court. (Later introduced as [Senate Joint Resolution 9](#).)

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SENATOR WASHINGTON MOVED TO INTRODUCE BDR C-661.

SENATOR WIENER SECONDED THE MOTION.

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

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CHAIR AMODEI:

There being no more business to come before the Committee, the hearing is
adjourned at 10:06 a.m.

RESPECTFULLY SUBMITTED:

Barbara Moss,
Committee Secretary

APPROVED BY:

Senator Mark E. Amodei, Chair

DATE: _____