MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON CORRECTIONS, PAROLE, AND PROBATION

Seventy-Fifth Session
March 19, 2009

The Committee on Corrections, Parole, and Probation was called to order by Chairman William C. Horne at 8:15 a.m. on Thursday, March 19, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman William C. Horne, Chairman
Assemblyman Tick Segerblom, Vice Chair
Assemblyman Bernie Anderson
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblywoman Marilyn Dondero Loop
Assemblyman Don Gustavson
Assemblyman John Hambrick
Assemblyman Ruben J. Kihuen
Assemblyman Mark A. Manendo
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Bonnie Parnell

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Nicolas C. Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Robert Gonzalez, Committee Secretary
Steven Sisneros, Committee Assistant

OTHERS PRESENT:

Luana J. Ritch, Ph.D., Chief, Nevada Bureau of Health Planning and Statistics, Health Division, Department of Health and Human Services
Thomas J. Fronapfel, P.E., Administrator, Field Services Division, Department of Motor Vehicles
Thomas A. Beck, Reverend, President, Religious Alliance In Nevada, Reno, Nevada
Jane Foraker-Thompson, Ph.D., Reverend, Episcopal Diocese of Nevada, Gardnerville, Nevada
Bonnie Polley, Reverend, representing Religious Alliance In Nevada, Las Vegas, Nevada
RoseMary Womack, representing the Ron Wood Family Resource Center, Carson City, Nevada
Howard L. Skolnik, Director, Department of Corrections
Jason Frierson, representing the Clark County Public Defenders Office, Las Vegas, Nevada
Lee Rowland, representing the American Civil Liberties Union of Nevada, Reno, Nevada
Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada
Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety
Connie S. Bisbee, Chairman, State Board of Parole Commissioners, Department of Public Safety
Kristin Erickson, Chief Deputy District Attorney, representing the Nevada District Attorneys Association, Reno, Nevada
Brett Kandt, Executive Director, Advisory Council for Prosecuting Attorneys, Office of the Attorney General

Renee L. Romero, Director, Forensic Science Division, Washoe County Sheriffs Office, Reno, Nevada
Kate Kruse, Professor, William S. Boyd School of Law, University of Nevada, Las Vegas, Nevada
Lucy Flores, Rocky Mountain Innocence Center, Las Vegas, Nevada
Chuck Callaway, Sergeant, Las Vegas Metropolitan Police Department, representing the Nevada Sheriffs and Chiefs Association, Las Vegas, Nevada
Ronald P. Dreher, representing the Peace Officers Research Association of Nevada, Reno, Nevada

Chairman Horne:
[Roll called. Chairman Horne reminded those in attendance of the Committee rules.]

Let us start by opening a hearing on Assembly Bill 252.

Assembly Bill 252: Provides for the waiver of fees for the issuance of certain forms of identifying information for certain persons released from prison. (BDR 40-521)

Assemblyman Bernie Anderson, Washoe County Assembly District No. 31:
Good morning, Mr. Chairman and members of the Committee. It is my pleasure to take up A.B. 252, which deals with the fees required for drivers' licenses and birth certificates, and other documentation necessary for a person to reenter into society in the modern age. One of the difficulties that we have had over time is trying to get people from incarceration and from other kinds of state custody positions back into the mainstream, so that they have an opportunity to rehabilitate themselves. The simple paperwork is something which we control in the state. It is moving dollars from point A to point B, in many cases. That is what this bill attempts to do. With that very short introduction, I have outlined the whole purpose of this bill. Conceptually, I hope that you are going to hear from people who have appeared in front of subcommittees over the last four years trying to delineate this problem. With a little bit of help, this bill will be able to move that forward. Here today is an individual who will submit an amendment expanding this opportunity to children who are coming from custody in state programs. That would be an acceptable amendment to the bill and make it much stronger so that we can do it in one fell swoop. I am not an expert in this area, nor do I wish to become an expert in this area. It is just an issue I think that we need to deal with, and this bill is a solution to the problem.

Luana J. Ritch, Ph.D., Chief, Nevada Bureau of Health Planning and Statistics, Health Division, Department of Health and Human Services:
Good morning. I am here today to speak to A.B. 252 that provides a waiver of the fee for obtaining a certified copy of the birth certificate to individuals released from prison within six months of release. We are offering an amendment to include children released from state custody as eligible for the fee waiver.

[Read from prepared testimony (Exhibit C).]

The adult population that would be eligible for this waiver is estimated to be approximately 360 individuals each year. The addition of children released from state custody would only add approximately 90 individuals each year.

[Continued to read prepared testimony (Exhibit C).]

I have provided the language of the amendment. The amendment is to extend the same fee waiver (Exhibit D).

Assemblyman Carpenter:
The bill, in one place, talks about an official or certified copy of a birth certificate, whereas in another place it talks about just a birth certificate. What is the difference in those? Why do you need one versus the other?

Luana J. Ritch:
If a person comes in to a vital records office and asks for a copy of their birth certificate, it is a certified copy. That is a legal term that relates to the issuance of an identity document on a very special high-security paper. That document is then used to prove identity for the Department of Motor Vehicles (DMV). In a post-9/11 world, we have requirements, adopted at both the federal level and throughout society, that a certified special paper security identity document be used, and that photocopies are not accepted. What is often called a verification copy that might be provided from us to another agency where all they want is an administrative verification, those photocopies and verification documents cannot be used to get a driver's license. They cannot be used to get employment. The DMV and other agencies are beginning to require a modern birth certificate. If you got your birth certificate many years ago, and it is worn or does not meet the current security requirements for the paper, you must get a new one. That is part of the issue here. An individual needs that certified document that meets those security standards.

Assemblyman Carpenter:
Likely mine is not good anymore.

Luana J. Ritch:
I could provide you with information on how you can obtain a new copy. We also offer that service over the Internet.

Chairman Horne:
Everybody knows who you are, Mr. Carpenter. Any other questions for Ms. Ritch? I see none. Thank you.

Thomas J. Fronapfel, P.E., Administrator, Field Services Division, Department of Motor Vehicles:
The Department has taken a neutral position on the bill. The purpose of my testimony this morning is to make sure the Committee is aware of the fiscal note that the Department prepared for this particular bill. For the fiscal year beginning July 1, we estimated, based on the information that we obtained from the Department of Corrections (DOC), that the fiscal impact would be approximately $98,000. For each year following this upcoming fiscal year, it will be approximately $86,000 per year. Again, those are numbers from the DOC based on, essentially, a worst-case scenario of the number of average releases per year for a number of years in a row from the DOC.

Chairman Horne:
So, that is working from the assumption that every inmate released will request an identification card?

Thomas J. Fronapfel:
That is correct.

Assemblyman Carpenter:
What do you charge for one of these documents?

Thomas J. Fronapfel:
For a duplicate driver's license, our base fee, which goes to the State Highway Fund, is $14, and then we have a $3 per card fee that we pay the vendor for producing that particular card, whether it is a driver's license or an identification card.

Assemblyman Carpenter:
I guess we need to do some math, because the other witness said it was $360. Do you have that number, too?

Thomas J. Fronapfel:
Again, our numbers were based on the average number of inmate releases over several years. We have 5,108 releases at $17 dollars per card which comes up to the fiscal note that we prepared.

Chairman Horne:
The DMV is neutral on this, and normally we save neutral for last, but I thought it would be good information to have before hearing other testimony on this particular bill.

Thomas A. Beck, Reverend, President, Religious Alliance In Nevada, Reno, Nevada:
Thank you very much, Mr. Chairman. I have prepared testimony (Exhibit E). We are supporting A.B. 252 to put folks who are being released from prison on the same basis as we already have in the State of Nevada for homeless people, which is to give them access to get identification. A lack of identification is a significant detriment for people to reenter into society. A comment that was made previously was to get people back into the mainstream. There is this impediment for people who are released from prison. It is a real struggle to get identification after release and to regain their position in society. We recognize that the steps taken in A.B. 252 are only the first of very small steps in dealing with the present issues, but it represents very positive steps. We at the Religious Alliance in Nevada (RAIN) welcome this step as being a way to put a spotlight on the issues people face in order to regain standing in society and to move back into the mainstream. I know that there will be other comments from members of RAIN to support A.B. 252. It is an ongoing conversation that we have had with the Advisory Commission on the Administration of Justice. We support A.B. 252 because it helps people get back on their feet.

Assemblyman Segerblom:
What about the situation where the prisoner comes out and they were born in another state and they do not have a copy of their birth certificate? Is there any process by which they can get a birth certificate from another state? A lot of times, the other state will ask for a driver's license or a state identification card before they give you the birth certificate.

Jane Foraker-Thompson, Ph.D., Reverend, Episcopal Diocese of Nevada, Gardnerville, Nevada:
I was a criminologist for a full career. At the end of my career, I became an Episcopal priest, and then a prison chaplain. I have worked in the DOC here. The routine is that when people go into prison, all of their identification and belongings are taken from them. The DOC keeps the social security card and the driver's license in the offender's packet or file. Sometimes that is given

back to him when he is released, and sometimes not. Some things get lost, or perhaps they did not have these things in the first place. While they are on the yard, however, they have a photo identification (ID) that they wear all the time. If they were allowed to take that out when they are released, that would at least be a photo ID. That would be a beginning and a simple step that would not cost any money for the DOC. Otherwise, they come out without a social security card, because many of them did not have one. They come out without a driver's license, and most of them did not have a birth certificate when they were arrested. If they have family, sometimes they provide that to the DOC while they are incarcerated, and then the inmates will have it when they are released. Otherwise, they are released without any ID, which is a catch 22 because then they cannot apply for a job, rent, or do anything.

It is only with the help of organizations like the Ridge House and My Journey Home in the Reno area, and similar organizations in southern Nevada that some of the ex-inmates are aided with their reintegration into society. These organizations take them by the hand and drive them to the Social Security office and help them pay the fees. Others do not get accepted into these halfway houses and reentry programs, and they have no help. It is not the case where 100 percent of the offenders come out needing help, because some have family that have stayed with them and will help them. Some of them have worked while they were in prison, but that is only a small percentage of prisoners. Those who have worked have savings and will have money for those fees. This is for those who are truly indigent and have no help, no backup. This would be a help to society because it would allow them to start working again as soon as possible, rather than spending weeks or months trying to get their ID.

Assemblyman Segerblom:
In my own experience, I had a homeless constituent who was born in Indiana. He did not have a driver's license or a state ID. He could not get his birth certificate from Indiana because Indiana wanted proof that he had a state ID. He could not get a state ID because he did not have a birth certificate. I ended up getting the DMV to give him a temporary state ID, but I wonder if that could be added to this bill somehow, because I think we are going to find a situation where an ex-inmate does not have a birth certificate or an ID. Then they are really in the catch-22 situation.

Jane Foraker-Thompson:
Exactly. That happens to a large percentage of the inmates coming out. You walked somebody through the process; however, if the newly released inmate does not have somebody to take them by the hand, it is much more difficult. Remember, when people have been in prison for more than 18 months, they become socially disabled. If they have been in for 10, 15, or 20 years, they are

really socially disabled. They come out and they are shell-shocked. They do not know how to cross the street in traffic. They do not know how to make change. They are terrified by the noises. It is no wonder that people recidivate, because they are scared to death. Without help, they are not going to make it. This is just the first of many things they need, but it is a very concrete, basic need. It would be to society's benefit to provide that need to them.

For out-of-state ID, if they have caseworkers who have the time and the interest, they can write to another state and ask for a birth certificate. Or, if they have family or friends in that state, they can send them a letter with their signature and ask that they get the birth certificate for them. A lot of states do not want that intervener; they want to deal directly with the person named on the birth certificate. You have seen how that works. It is a merry-go-round. Somebody has to stop it.

Assemblyman Cobb:
We had a debate on another bill, talking about whether or not we want to create a special class of people to allow veterans to have their own courts. We supported that measure. Is there any type of requirement to prove indigence to receive this benefit, or are the inmates receiving this benefit just because they have been incarcerated?

Jane Foraker-Thompson:
It says in the bill that they would sign an affidavit for that, so they would need some backup to say that they are indigent.

Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada:
I am here with many different sentiments. I work with the Administrative Office of the Courts, and was asked by the chief justice and others to appear here this morning on this matter. The Bernie Madoffs will not be availing themselves of this service. The DMV called it a worst case scenario. Quite frankly, it would be the best case scenario if all of these folks could come in and get their ID. Initially, I suspect it will be a small handful. I think this is a step to save the State of Nevada money, in the very short term, to assist these people in getting some type of ID. The issue addressed by Mr. Segerblom is one that I have bandied about for the last 15 years, trying to get identification for the homeless, the indigent, and the prisoners. There is a provision that weeds out the Madoffs of the world in this bill, and I think that the chances of somebody with money availing themselves of this service would be pretty limited. On the other hand, even people with money sometimes end up in Mr. Segerblom's office seeking help. This would be a good first step.

Assemblyman Cobb:
I am sorry, I do not see that in the bill. Could you point out where they have to prove indigence?

Jane Foraker-Thompson:
Line 17 refers to homeless. On line 20, it says, "A person who submits documentation verifying that the person was released from prison," and then, below that, "registration of a birth or death," and so forth. It is trying to say that it would be handled just like the homeless are right now. That wording could be added specifically to the ex-prisoners coming out.

Assemblyman Cobb:
So indigence is not required right now?

Jane Foraker-Thompson:
Right. It was the intent that it was just for the indigent.

Assemblyman Cobb:
I think that would be an appropriate measure, then. Thank you.

Ben Graham:
I have been working on this for 15 years. I have met with members of the prison staff and members of the homeless coalition. The issues are very far-reaching and hopefully there might be some provision. I think Mr. Segerblom touched on that, where there might be some kind of temporary identification that could be issued verifying that this person is known by a state agency, and then go from there. Thank you.

Bonnie Polley, Reverend, representing Religious Alliance In Nevada, Las Vegas, Nevada:
I would like to echo the comments of Mr. Graham and Reverend Foraker-Thompson. I would also like to submit my testimony in written form (Exhibit F). Thank you.

RoseMary Womack, representing the Ron Wood Family Resource Center, Carson City, Nevada:
Good morning, members of the Committee. During the interim, Joyce and I attended and testified at the Criminal Justice Interim Committee, on behalf of the Center, and proposed a reentry program.

[Continued to read prepared testimony (Exhibit G).]

Howard L. Skolnik, Director, Department of Corrections:
The Department supports this bill. We do, in fact, have some assistance already in place to provide some of the identification on a limited basis for inmates. We have received some grant funding for that. We have also put into place some staff that function in a reentry capacity within the institutions to help people get these IDs before they get out, but our resources are limited. This bill would assist us in meeting the needs of those who we are not helping right now. We do provide identification to the inmates when they get out, but it is an inmate ID; as such, it does not carry a lot of weight when they walk into the Bank of America or Wells Fargo. I would be happy to answer any questions.

Chairman Horne:
Typically, how would it work? Would you give them an additional document, besides their prison ID, to take to the DMV?

Howard L. Skolnik:
Ideally, what we would like to do is to work out a memorandum of understanding (MOU) with the DMV that would allow us to do just that: to provide documentation to the inmate on his release that he is, in fact, who he says he is. We have generally proven who he is, through either fingerprints or some other source. If we release the inmate with that, and the DMV recognizes that ID, it is a first step in the Real ID program. It is a problem right now. We are trying to expand the reentry program in the course of the next biennium, and would be able to provide more assistance to inmates in getting their birth certificates, even from other states.

Chairman Horne:
Do you think you will be ready if this is enacted on July 1, 2009?

Howard L. Skolnik:
We sure will try to be ready to go.

Jason Frierson, representing the Clark County Public Defenders Office, Las Vegas, Nevada:
I echo the comments of the other supporters, particularly with respect to this bill's ability to reduce recidivism by giving those being released the tools that they need to make a step towards succeeding. I believe the Washoe County Public Defender's Office is also in support.

Lee Rowland, representing the American Civil Liberties Union of Nevada, Reno, Nevada:
Thank you, Mr. Chairman. I agree with the comments of the other supporters of A.B. 252. With respect to our president of the board, Richard Siegel, who has been sitting on the Advisory Commission for the Administration of Justice, this is one of the very specific tools that was mentioned again and again as one of the critical pieces for reentry and rehabilitation. We commend you, because sometimes these small steps are really what it takes to get people reintegrated into the community. We think that it is a great bill. We thank the sponsor of the bill and the Committee for hearing it. I would like to also throw in a "me too" of support from Diane Crow at the Office of the State Public Defender. Thank you very much.

Assemblyman Cobb:
I support this bill in concept as well. However, I do not understand, because the American Civil Liberties Union (ACLU) specifically came and opposed a bill that would allow veterans to be put into diversion programs which would, in your opinion, create a class. This bill, as written, creates a special class of individuals who are convicts. You support creating a special class for them, but not veterans?

Lee Rowland:
I know that when I gave that testimony, you obviously disagreed with me. I may not have been clear about what our position was. The special class, from our point of view, really only comes into play when there is a fundamental right at issue. So giving people, say, a discount for a governmental ID would be fine with the veteran's exemption for that. The only place for us where that special class becomes a problem is when there is a difference in a fundamental right. Here, we do not think there are fundamental rights at issue. Instead, they are really critical steps to make sure people get into reentry. What it does not do is treat different people differently in the criminal justice system.

There were acute due process issues for us when we are talking about giving one class of people an option to get out of all the mandatory minimums that we oppose across the board. We think we should be treating all people humanely in the criminal justice system. Again, we think those are critical due process rights. That is a unique situation. There are plenty of veteran bills up before the session that we have not opposed because they do deal with things, like giving discounts for government benefits, housing and employment. This is actually the precise kind of thing where we think it would be appropriate to give an exemption for veterans or here, for a group of people who have just gotten out of incarceration and needs that special help. This does not have the same acute constitutional concerns for us that were present in the other bill.

Chairman Horne:
Is anyone else in favor of A.B. 252? Is anyone opposed? Neutral? I will close the hearing on A.B. 252. I will open a hearing on Assembly Bill 259.

Assembly Bill 259: Makes various changes relating to criminal offenders. (BDR 16-631)

Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada:
There are going to be some suggestions for language that we will ask to be removed, and a couple of other issues that were raised by other interested parties.

Mark Woods, Deputy Chief, Division of Parole and Probation, Department of Public Safety:
This bill is a result of several months of meeting with the Advisory Commission. In section 1, the change that is being requested is that the Director of the Department of Corrections (DOC) be allowed to place certain category B felons on a released inmate program under the supervision of the Division of Parole and Probation. Basically, it expands the Director's ability to put the most appropriate people into the community under house arrest, following the same rules that we have with other inmate programs, such as the 305, and 317 programs. Section 2 is what Mr. Graham was referring to. All the changes in section 2 need to be deleted because, at no given time, is a parolee going in front of a judge for any kind of revocation. All those changes in section 2 should be deleted.

Ben Graham:
I am taking responsibility for this being in here, and it should not be.

Chairman Horne:
No worries. I had that question for you, and you are taking it out, so now I do not have to ask a question.

Mark Woods:
The changes in section 3 and in section 6 provide for the DOC to decide where an inmate is going to be housed. In section 3 it was given to the parole board, and in section 6 it was to the courts and the Division of Parole and Probation. In all reality, the DOC is the institution that needs to figure out where people need to be placed, and they know the appropriate ways.

Assembly Bill No. 510 of the 74th Legislative Session, allowed a carrot for those people who are on probation. If they were doing well on probation, they

earned 20 days off of their time for every month that they were on probation. To date, that has been a very successful program; however, as has been testified to in the past, there are very few intermediate sanctions available to the Division and to the state prior to revocation. What this section does is add an intermediate sanction that we think the judges could take huge advantage of. The way it works is, if a probationer has earned time off of probation and then they have some violations, instead of having to go right to revocation, this will allow the courts to take all or part of the good time credit that this person earned while they have been on probation. We see it as a very good tool as an intermediate sanction prior to putting someone away for a violation.

Chairman Horne:
We are talking about probationers, not parolees.

Mark Woods:
Correct. We talked about this earlier with the district attorney's office. We are using good time credits in both areas, but this is the good time credits earned while on probation for your time on probation. It has nothing to do with incarceration.

Section 5 has a couple of areas we would like to address. When Assembly Bill No. 510 was passed, a lot of work was done on it. During the entire process, we were talking about felons. When the bill became law, "felon" was put in and "gross misdemeanor" was left out. The result of that is we supervise inmates, parolees, felons, and gross misdemeanants. The inmates, felons, and the parolees can earn good time credit. The gross misdemeanants, technically the lowest level and most appropriate level, were not given this carrot. This allows the gross misdemeanant to receive the same amount of credits as a felon would on probation. It also defines how you get this. The previous law said that, "for any serious infraction," and everyone's interpretation of a serious infraction was different. We are asking to delineate how a parolee would get good time credits. You would get 10 days if you are current on all your fiscal issues. You earn another 10 days if you are involved in a program or work. So, a person can either get zero days because they are not doing either, they can get 10 days because they have one or the other, or they can earn up to 20 days if they are doing everything they are supposed to.

One of the biggest issues we ran into very quickly was with those people in drug court, or any specialty court. Mainly it was the drug court, but we also have the mental health courts out there. Most of the specialty courts have anywhere from a year to 18 months that you need to be involved in to truly get the benefit of the court. However, the way the law was written, you can earn enough credits to get off probation in the middle of court. We are requesting

that, while they are in that specialty court, they earn no good time credits. However, when they successfully complete the specialty court, they are able to not only earn good time credits from that day forward, but they will also be given the good time credits that they would have earned if they were not in specialty court. We feel that gives them an extremely good carrot to motivate them to get involved. It also encourages them to stay in the program as the sentencing judge had intended. The way it is written now, there would be no reason for a person to want to go to specialty court because they would be hurt and spend more time on it. This covered most of our bases there.

Assemblyman Carpenter:
Maybe I missed it, but in section 2, would you explain that part of the bill on page 5?

Mark Woods:
The way it is written addresses the jurisdiction dealing with a parolee. Parolees will be taken back before the parole board. They are the body that has jurisdiction over that individual. The wording that put in "or a court," to our knowledge and understanding, there is no reason that a parolee would go in front of a court on a case. If they had a second probation case, yes, but not for their parole.

Assemblyman Anderson:
If you remove the court in this part of the bill, when you come to the later sections, how do you get them back into court?

Mark Woods:
In the other sections, they are referring to probation. At that time, the court has the jurisdiction over probation. In section 2, they are talking about a parolee. The court does not have jurisdiction, the parole board does.

Assemblyman Carpenter:
If a person is on parole and messes up, and they take him back to the county jail, then it is always the parole board's responsibility? The judge never gets involved in those situations?

Mark Woods:
There are a lot of different situations to refer to. If it was a parolee who violated, and the violation did not involve new charges, they would pass through the local jail as they are being moved out to the DOC. That is usually done within a couple of days. They will not see the judge at that time at all. There are those cases where a parolee's violation would result in new charges, at which time they go to the county jail. They would have to answer for the

new charges to that judge at the same time as they have to answer to the parole board for the violation of their parole.

Connie S. Bisbee, Chairman, State Board of Parole Commissioners, Department of Public Safety:
We are neutral on A.B. 259. I did have a conversation with Judge Hardesty, and section 2 was not intended to address parolees since the law already has them coming back to us.

Kristin Erickson, Chief Deputy District Attorney, representing the Nevada District Attorneys Association, Reno, Nevada:
Our only concern was with section 2, but since that language is being deleted, we have no further concerns.

Howard L. Skolnik, Director, Department of Corrections:
The Department is neutral on some of this bill, and in favor on some of this bill, and wants to delay some of this bill. We are in favor of the modification of the category B offenders. During the last session, A.B. No. 510 removed some folks who were previously eligible for house arrest in the general language of the category B offenders, particularly those individuals that were in institutions under Driving Under the Influence (DUI) as a category B offense. This would allow the Department to once again place those folks back in the community under supervision, which we feel is an appropriate thing to do. We feel that the removal of them was an unintended consequence of A.B. No. 510 and we are very much in favor of that modification.

In terms of the entire area of the placement within the Department of individuals for six months, we are most in favor of the language that returns the authority to the Department for deciding where those individuals go. We have folks who should not be in the same institution as other people for their own safety and protection. The inability that was stated in the prior language really did jeopardize our ability to protect people. That being said, in the two years since this was passed, we have not had, to my knowledge, a single inmate brought to us under this six-month trial. What I would like to do is ask the indulgence of the Committee. We have a meeting tentatively scheduled next week with the majority of the criminal justice community who are involved, along with Dr. James Austin, to try and develop an amendment to this that would meet the needs of all intermediate sanctions. We are looking at the Hawaiian Hope Project, which had some really successful results. It is basically a two to three day reminder that you do not want to go back inside an institution. We met with Senator Horsford, along with the Department of Health and Human Services, about developing a substantial intermediate sanction program that would involve significant treatment for substance abuse, alcohol, and any other

mental health area that might be necessary,. I think that, if we have the opportunity to develop language that meets all those needs and bring it back to the Committee, the Committee would benefit from that.

Assemblyman Anderson:
This is a bill with which I was not happy when we passed it in 1997 because there seemed to me to be a value in pulling people back into the prison so the judges could show people in diversion programs that they were very serious. It is kind of like the analysis that one of the members made on the floor yesterday with the difference between "shall" and "must." People often wonder why we sometimes say "shall" and other times say "must" because, to most of us, they mean the same thing. In reality, when you tell someone, "you shall do this," and they do not do it, they do not understand. But when you say, "you must do this," they clearly understand there is no choice. The judge sending you back to prison for 120 days says, "This could be your permanent residence. You did not understand that." So, I was disappointed when we lost that.

The impact was to your medium facilities, because those beds and the protection that was needed for those people who were going to be there for a short period of time, became an economic burden that you just could not take.

Chairman Horne:
Mr. Anderson, let me interrupt you. While this has some relation to the current bill, what you are talking about in 1997 should relate to Assembly Bill 257.

Assemblyman Anderson:
I am sorry. What is going to be the impact on you for pulling people back into the corrections system? Will this create a bed problem for you?

Howard L. Skolnik:
Probably not. What we are looking at now is the development of two independent intermediate sanction programs that would be operated in conjunction with the Department of Health and Human Services. We were fortunate enough to recently have an addition to our staff. Our new warden was previously the deputy director of community services in another state, and has operated these programs for some time. We have a meeting scheduled tomorrow to identify specific program components and staffing patterns which we will be bringing to this meeting next week. The problem that we had in the past was that we really had no ability to deal with these folks. We could not put them in general population because they had not been convicted of anything yet. What we did was we took them in, and we did our initial diagnostic program, which takes about three weeks. We then put them in a cell and let them sit for the remainder of the 120 to 180 days, because there was nothing

else for us to do. There was no program for them. It was pretty much an arbitrary placement that we could not accommodate in the system. What we are looking at now is the development of something meaningful for these folks that would be beyond just the evaluation period, but also provide some kind of programming, depending upon what their needs are.

Assemblyman Segerblom:
What is our timing? Do we have the ability to hold onto this until they come back with that amendment, or do we have to do something?

Chairman Horne:
I think we have a little time, but Director Skolnik should make a note that we need to work quickly on this and get it back to us as soon as possible. I will close the hearing on A.B. 259. At this time, we will take a five-minute recess.

[Five-minute recess.]

Chairman Horne:
I will reopen the hearing on A.B. 259. There is a small issue. Ms. Combs will explain.

Allison Combs:
There is just an amendment needed to address the portion of the bill that allows someone who goes to a specialty court to, in effect, use all those credits that they would have earned in order to truncate their specialty court program. We need language that will delay the awarding of that reward until after the specialty courts have run their course. The division is going to submit some language to address that.

Chairman Horne:
This was initially in the draft, but somehow it was left off. It will be brought back and provided to the Committee during the work session. I will again close the hearing on A.B. 259, and open the hearing on Assembly Bill 279.

Assembly Bill 279: Makes various changes relating to certain convicted persons. (BDR 14-518)

Assemblyman Bernie Anderson, Washoe County Assembly District No. 31:
This bill is the result of all the hard work done by the courts from a study highlighting the need for sentencing reform and problems in parole and probation.

Brett Kandt, Executive Director, Advisory Council for Prosecuting Attorneys, Office of the Attorney General:

I am here to express the Attorney General's and the Council's support for section 2 of this bill, which would require, upon the conviction of a defendant for murder or felony sexual offense, the automatic preservation of identified biological evidence secured in connection with the criminal case until the sentence is carried out.

I have done a great deal of research on this topic, at the request of the Advisory Commission on the Administration of Justice. I spared this Committee my 10-page research memo on the subject. I would be happy to provide additional background research information, if so requested by any of the Committee members. To sum up, currently the federal government, 27 states, and the District of Columbia automatically require the preservation of certain biological evidence, upon conviction for certain crimes. Primarily, these other statutes require the preservation of identified biological evidence for possible deoxyribonucleic acid (DNA) testing or other forensic analysis. I have provided a letter to the Committee that details those statutes and those other jurisdictions.

On the scientific side, science has demonstrated that DNA is unique, DNA testing is highly reliable, and a wide range of evidence can be tested for DNA. Since DNA can be particularly determinative of guilt or innocence in homicides or felony sex crimes, the preservation of biological evidence for possible DNA testing in these cases is certainly in the interest of justice. The proposal set forth in section 2 of A.B. 279 was developed in consultation with the Clark County and Washoe County crime labs, law enforcement, and prosecutors statewide.

Subsection 1 contains the proposed automatic preservation requirement and, in consultation with all of these individuals and agencies that were involved in developing this language, it was felt that this automatic preservation requirement could be enacted without any significant fiscal implications upon the agencies affected.

Subsection 3 provides for the disposal of bulk evidence without compromising the preservation of the identified biological evidence. Subsection 4 provides that agencies can establish procedures for the retention, preservation, and disposal of biological evidence secured in connection with other criminal cases that would fall outside the scope of the automatic preservation requirement in subsection 1. Ms. Romero will indicate that, currently her lab attempts to secure and preserve identified biological evidence for a wide variety of cases, beyond just those that we are proposing to address in this statute.

We do have one concern with subsection 2 in the bill. It does not reflect the recommendation that was originally made by this group. Subsection 2 of section 2 would require that the defendant approve the consumption of any biological sample for post-conviction testing. We had intended that this subsection would only require notice to the defendant in the event the state decides to test a sample. We would propose that this subsection read "biological evidence subject to the requirements of this section may be consumed for testing upon notice to the defendant." This is very key and important, and I want to stress that subsection 2 as written would essentially give a defendant veto power over whether the state could test evidence in its possession. That would be very problematic. Once again, I want to emphasize the strong support for this proposed section of the bill from the Nevada District Attorneys Association, the Nevada Sheriffs' and Chiefs' Association, and perhaps others that may testify later.

I would ask the Committee, when considering a possible automatic preservation statute, to please consider that it should work in harmony with the state's post-conviction DNA testing statute, whether that is the statute in its current form, or whether the statute is amended as a result of any other proposal. Those two pieces need to work together and compliment one another. The purpose of an automatic preservation statute is to ensure that identified biological evidence is available in the event somebody files and seeks post-conviction DNA testing. They need to work together, work in harmony, and compliment one another.

Chairman Horne:
Mr. Kandt, in section 2 subsection 2, in that amendment, you want to change to "notice." I understand and appreciate that, but I am curious. What happens when you are going to consume this biological evidence for testing, but it is such a small sample that there is nothing left for the defense? Sometimes they wish to have independent testing.

Renee L. Romero, Director, Forensic Science Division, Washoe County Sheriff's Office, Reno, Nevada:
Currently, it has been our standard practice, if we have a situation where we are going to consume the evidence, such as a single hair root, we notify the prosecution and request that they notify the defense. We will consume the evidence upon agreement between the prosecution and the defense in the form of a stipulation or a court order; otherwise we do not do the testing.

I do support the amendments here in section 2.

Assemblyman Ohrenschall:
At the Washoe County lab, do you currently preserve DNA evidence of all crimes, or do you limit it to murder and felony sexual offenses?

Renee L. Romero:
Currently, at the Washoe County crime lab, we preserve all biological evidence.

Assemblyman Ohrenschall:
What is the rationale with limiting the preservation to murder and felony sexual offenses, and not having it be more expansive? Why not all category A and B felonies?

Brett Kandt:
The feeling was that we were trying to craft a statutory preservation requirement that would have minimal fiscal impact. Currently, the crime labs preserve a great deal of biological evidence that extends beyond the category of crimes we are discussing here; however, they have issues of storage and what they can do in the future in terms of storage and preservation of that evidence. In addition, the rural agencies that would be affected by a statutory preservation requirement have issues of storage, retention, preservation and their existing resources. It is also an issue with the courts. Quite often, as a result of the criminal proceeding, courts then come into possession of evidence that was introduced. They have got to store, preserve, and retain that evidence. The courts are running into issues of space and resources when dedicating to preserving this evidence. That is something that was also communicated from Chief Justice Hardesty in his conversation with the court representatives. We were trying to craft something that would ensure preservation for the class of cases in which the DNA evidence is to be particularly determinative of guilt or innocence in a post-conviction DNA testing matter, and yet allow the agencies affected to plan for their future storage retention, preservation needs, and resource limitations.

Assemblyman Ohrenschall:
Would it be a much larger burden to go from what is currently in the statute to, let us say, all the categories of offenses for the storage?

Brett Kandt:
Once again, and this is based upon the representations made to me by the crime labs, other agencies that would be affected, and the courts, is that it would. It could result in an unfunded mandate upon some of the agencies affected.

Assemblyman Carpenter:
It concerns me that DNA is probably the greatest thing we have to either prove guilt or innocence, and we are letting the money situation get in front of it. So often, it is going to save the agencies and everyone much more money than it is going to cost them to have to store this. We have something that works very well, and yet we are not doing what we are supposed to do, in my opinion.

Brett Kandt:
Once again, you are part of the Advisory Commission on the Administration of Justice. I know you are well-versed in a lot of the issues that were discussed and considered. We are talking about preserving the evidence for purposes of post-conviction DNA testing. We are not talking about preservation of the evidence throughout the course of the criminal proceeding leading up to the conviction. I think every effort is made to ensure that the evidence is preserved through that point in time. We are talking about after the conviction and preserving it for the purposes of that post-conviction DNA testing. In fact, in subsection 4 it specifically states that nothing in this automatic preservation statute would preclude agencies from adopting policies and procedures for the preservation of identified biological evidence for other cases as well. We are focusing on this class of cases because, up until now, it appears that it is this class of cases in which post-conviction DNA testing has resulted in somebody possibly being exonerated. If you look at the more than 200 cases that are set forth by the National Innocence Project, homicide and sexual assault cases are the majority of DNA exonerations to date. By and large, we are talking about cases that involve murder or a sex crime. That is why we are focusing on this.

On the issue of subsection 2, regarding our request that it be changed to "notice to the defendant," I want to point out that "notice," under the current practice, includes the opportunity for defense counsel to have their own expert present for the testing of that sample.

Chairman Horne:
Section 3, which addresses post-conviction DNA testing, is going to be amended from this bill, since it is addressed in Assembly Bill 179. I concur with Mr. Kandt that the two have to work in tandem for both of them to be effective. Thank you, Mr. Kandt.

Kate Kruse, Professor, William S. Boyd School of Law, University of Nevada, Las Vegas, Nevada:
Mr. Chairman, I come to speak in support of A.B. 279. I think evidence preservation is a very important issue for the state to address. Last week, I was here before this Committee talking about the importance of post-conviction

DNA testing. I echo the comments of Mr. Kandt, that DNA evidence is absolutely a different kind of evidence from other evidence that is in criminal cases. It is different, not only during pre-trial, but also in the post-conviction setting, which is why it is important to have procedures for dealing with DNA post-conviction.

Like I said last Tuesday, most evidence—eye witnesses, other kinds of testimony that people might give—becomes stale as time passes. Witnesses can disappear, their memories can become less clear, and as time passes it is difficult, if someone is granted a new trial, to recreate the evidence that was available at the time of the original trial. Biological evidence, or DNA, from the crime scene is absolutely the opposite, because what happens over time is that DNA technology continues to expand and become available to test more kinds of evidence and create new information based on more sophisticated newer analysis of old evidence. It really makes a lot of sense to treat the preservation of biological evidence and the ability to petition for testing of evidence post-conviction differently than the way we treat other kinds of issues with the finality of convictions and newly-discovered evidence. I think it is absolutely correct that preservation of biological evidence serves everybody's interests, similarly to DNA testing.

Law enforcement agencies have their own interest in preserving evidence, because if it is there, it can be tested with new technology to open up new roads of investigation in cold cases or even in future cases to link offenses together. I think that is partly why most of the agencies that we are talking about already have, even in the absence of a statute, policies for preserving this evidence. Prosecutors have an interest in having this evidence saved because, should a defendant post-trial get a new trial for some reason that is unrelated to innocence, the prosecutors have an interest in having all the evidence be there, and be available for additional testing, so that it can possibly provide stronger evidence as time goes on. Of course, the constituencies that I most clearly serve are the people who have been wrongfully convicted and who may be serving sentences for crimes that they have not committed. They obviously have an interest in having that evidence preserved so that maybe someday in the future they can prove what they have been telling all along, which is, "I did not do this."

When we are talking about truth seeking, I think crime victims more than anyone have an interest in knowing what really happened. Not, is there enough evidence to convict someone, or not is there some way to get out of this conviction, but what actually happened. So, having that evidence available to find the truth is really most important to them. I agree that this issue is connected to the issue of post-conviction DNA testing. I am pleased to see that

the compromises that we worked out in that area are going to be preserved to some extent by committee work to coordinate these bills.

I am also pleased to see the language, which was compromised language through the Hardesty Commission process, in subsection 4 that says that agencies are not limited to these crime categories. This statute is not intended to limit preservation policies which already exist for other crime categories. However, I noticed that, in attempting to coordinate this bill with the testing bill, somehow testing got narrowed down to murder and sexual assault. Despite the fact that the preservation statute says that agencies can certainly preserve evidence in a broader range of crimes, I think that testing needs to be available in a broader range of crimes, even if automatic preservation is limited to murder and sexual assault. I think testing needs to be available in a much broader range of crime areas because agencies do have their own incentive to preserve more evidence. They will be preserving more evidence, and if that evidence exists and is in their possession and control, the person who is in prison for the crime ought to be able to petition to have it tested.

That aside, I do think that the automatic preservation ought to extend to a broader range of crimes than murder and sexual assault. It is true that homicide and sexual assault cases are the majority of DNA exonerations to date. But I think, part of the reason for that is because DNA technology has been available to date mostly to test samples of bodily fluids that are found at homicide and sexual assault crime scenes. Technology for the analysis of DNA is continuing to develop, crime scenes are being analyzed differently, and different things are being collected from crime scenes because there is the ability. Evidence is being collected in different ways, so there is biological evidence that is being collected from hair without follicles and from finger prints. We just do not know what new techniques the future brings. Evidence preservation is about the future, not about the past. It is about what is going to be needed in the future, not about what happened in the past. I have heard throughout my discussions with people in Clark County and Ms. Romero this morning that the crime labs are already preserving evidence in a broader range of crime categories. I do not know why we need to limit the crime categories in Nevada so severely.

Mr. Kandt's research on the different state statutes is very helpful. I have done my own checking and research on that. They are hard to categorize and count because there is a lot of different things that are built into different statutes. Mr. Kandt has helpfully organized them in his memos in terms of automatic preservation and qualified preservation. But whether you look at qualified or automatic preservation, in 23 jurisdictions, the statutory language extends to any felony or any criminal conviction. The language is very broad. In 23 states, out of those cases that he was talking about, only three states—two automatic

and one qualified—limit preservation to murders and sexual assaults. Only three, despite the fact that the majority of cases where testing has resulted in exonerations in the past have been with homicide or sexual assault. There are about 11 jurisdictions that are somewhere in the middle, where automatic preservation of biological evidence applies to violent crimes or some other combination of crimes. I do not think that we need to be as limited as this statute makes it. I do not think it would be good public policy to be as limited as this section makes it.

I have not really heard the case that it is going to create a fiscal impact. I heard Mr. Kandt say that it might, in the future. But, it seems consistent with the current practices of the agencies that I am aware of to preserve evidence in much broader crime categories. If it is simply putting current practices into law, it is not really having a clear fiscal impact. There is one important change that should be made, and that is to change the word "murder" to "homicide." Homicide is the slightly broader category than murder. Homicide includes manslaughter. In order to be eligible for federal funding under the National Institute of Justice, a state needs to show they have a preservation statute that applies to murder, non-negligent manslaughter, and sexual assault. So, at the very least, that ought to be changed.

I am also suggesting clarification; just to make sure that A.B. 279 applies to evidence that is currently in the possession of the state, not just to evidence from convictions that occur in the future.

Chairman Horne:
Professor, you prepared a memo?

Kate Kruse:
I have prepared a summary of my testimony.

Chairman Horne:
We will enter it into the record (Exhibit H). Just for clarification: your testimony today was in support of A.B. 279, however, you are of the opinion that it is too limiting and that it should be broader. There are at least 23 states that have no restrictions as it does in this bill. If nothing else, you believe that the word "murder" should be expanded to "homicide" to include non-negligent manslaughter, et cetera.

Kate Kruse:
Yes, that is correct. I am not suggesting language, nor am I proposing an amendment. I know that, within the Chief Justice Hardesty's Advisory Commission on the Administration of Justice, Assemblyman Carpenter

suggested a broader crime category of A and B felonies where people are serving more than ten years. I think that would be appropriate. I just think that the reasons for limiting it so narrowly are not compelling.

Chairman Horne:
In the work session document, we can have a conceptual amendment as to expanding the bill to include A and B felonies where offenders are serving at least 10 years, and also the suggested amendment to change "murder" to "homicide." That would be conceptual, since you do not have anything written, but it would be great if you could forward proposed amendments that point out exactly what you are envisioning.

Lucy Flores, Rocky Mountain Innocence Center, Las Vegas, Nevada:
I wanted to add that, there has been some comment made that the post-conviction is very much tied to preservation. I wanted to note that A.B. 179 does include A and B felonies for post-conviction DNA testing. I just wanted to reiterate that point. It would make sense to expand this language to include A and B felonies as well if we are going to consider those expansions, because it would match the post-conviction bill that, as we have all noted, is closely tied to the preservation issue.

Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada:
The 120-day evaluation, for those of us who were around for awhile, was something that we used for a number of years. It was felt to be a useful tool by many, but we felt that it might be better utilized. For awhile, it was removed from the judges' toolbox. It is my understanding, in the discussion with the prison folks and others, that some form of intermediate incarceration would help the courts, parole personnel, and defendants to figure out an appropriate sentence. This is a work in progress. Mr. Skolnik and others are working on some other alternatives, which would blend in the best of the 120-day evaluation. With that, I am primarily here as a liaison.

Chairman Horne:
From what I understand, you were speaking in the last hearing on A.B. 259**,** on what work you are going to be doing to address that intermediate sanction, which is going to apply to this portion of A.B. 279 as well. Is that correct, Director Skolnik?

Howard Skolnik, Director, Department of Corrections:
That is correct, Mr. Chairman. We have a meeting scheduled for Tuesday morning. With some luck, we will have language drafted by the end of the day to be available to this Committee and anyone else who needs it. I would like to

talk briefly about the DNA storage. Section 3 subsection 11 indicates that the charges for this will be paid by the Department of Corrections. I would like for the Committee to have the information regarding that. We have done an average of what it has cost us in the past to do this DNA testing.

Chairman Horne:
Section 3 is going to be deleted from this bill.

Howard Skolnik:
Oh, never mind.

Chairman Horne:
Anything else, Director Skolnik?

Howard Skolnik:
We will hopefully have that language by next Tuesday.

Chairman Horne:
That would be great. Any further questions from the Committee? I see none.

Jason Frierson, representing the Clark County Public Defender's Office, Las Vegas, Nevada:
We are in support of A.B. 279. We have worked with the interested parties to help come up with language, and we will continue to do so.

Lee Rowland, representing the American Civil Liberties Union of Nevada, Reno, Nevada:
We are also in support of A.B. 279, specifically the pieces dealing with the preservation of biological evidence. We also would like to thank Mr. Kandt for his hard work on this bill. Like Professor Kruse, we would note that we do support a broadening of the bill. We have not offered an amendment, in part, because we are part of the Advisory Commission on the Administration of Justice. We will support it if it does end up that way; however, I would note, as she did, that we do not see anything necessarily inconsistent about having the ability to test the DNA be wider than the preservation. I do not think that is necessarily inconsistent. If that evidence is there, it should be available for testing. We would support the broadening of the bill, and we also support the bill as it is written. It is a great step in the right direction. We also support A.B. 179, and we thank the Committee for considering these serious issues.

Chuck Callaway, Sergeant, Las Vegas Metropolitan Police Department, representing the Nevada Sheriffs' and Chiefs' Association, Las Vegas, Nevada:
We support A.B. 279. We share the concerns voiced earlier by the Washoe County Sheriff's Office regarding storage, preservation, and maintenance of that evidence. Thank you.

Chairman Horne:
Ms. Romero, if this Committee were to expand the bill to A and B felonies, and change "murder" to "homicide," what type of impact would this have on Washoe County? Do you anticipate that would be a huge impact? An unmanageable impact? The reason why I have not included Clark County in this question is because they have already stated that they already keep everything. Washoe County, from my understanding, doe not. Is this correct?

Renee L. Romero:
What we are preserving, from the crime lab point of view, is the evidence that has been submitted to us. So when, let us say a couch cushion, is submitted to us, we cut out the stain, use up to half of it for testing, and preserve the remaining half of that specific stain. What leads into question here is the other evidence that is collected at these types of crime that is not submitted to the crime labs. There is a vast amount of evidence that is collected that is never tested. It is not deemed provided and agencies would then bear the burden of saving all of that evidence as well.

Chairman Horne:
So, any estimate you give would be very speculative. You do not know how much evidence is collected, because not all of it is submitted. Having to preserve all A and B felony evidence you think would be overly burdensome? Is it doable?

Renee L. Romero:
I think Washoe County could preserve the evidence from A and B felonies.

We perform testing for all of Nevada, except for the Las Vegas area. We have been preserving biological evidence on behalf of the other agencies since the late 1980s. We would not be able to preserve all collected biological evidence. That would fall onto the individual agencies, such as the Elko police department and the Elko Sheriff's office. We could continue to preserve the remainder of the stains that are sent to us, but it would be a burden to preserve the collected evidence that we have not analyzed. If they choose to send it all to us and say that all of it needs to be subsetted, now you are going to have a burden on the crime lab where we are going to be removing stains and swabbing items from

things that do not require any DNA testing. I never want to have a situation at a crime scene where you would have investigators not collecting for fear of too much preservation. The standard practice has always been to over-collect. You do not know what you are going to need in the future.

Assemblyman Anderson:
Having seen the evidence rooms at both Washoe County and at the courthouse, both in the civil and criminal area, I know that there are plane wings and huge pieces of furniture. It is a mountain of materials which has become a burden. However, I was under the impression that the DNA question is because of the unique nature of its development, which as new technology comes along, allows us to both exonerate those who are wrongly imprisoned and also make sure that those found guilty can be cross-matched to more serious crimes. So, I think that was the whole purpose of this particular piece of legislation. While I think Mr. Carpenter made that point earlier, that none of us want to put someone in prison who does not rightfully belong there, we also wanted to make sure that with this new technology, we take advantage of it so those people who are guilty are placed in prison. We place a huge burden on Ms. Romero's office to preserve the evidence, but it is an economic part of technology. It is an important part if we want true justice in our society.

Assemblyman Mortensen:
I have the same old question that Mr. Anderson brought up. We were talking about the cost, and we heard earlier testimony that said that broadening the crime categories would allow us to be eligible for federal grants. Would those federal grants cover the additional cost that you would have? Do you have any feel for what these grants might be?

Renee Romero:
It is possible that the grants could cover storage space. That is what we are looking at here: additional storage space. For some, it could be as simple as purchasing one of those portable pod units. They would have to be temperature controlled to have an office-type environment. It is possible that this could be covered by a grant opportunity.

Chairman Horne:
Professor Kruse's testimony was that, to be eligible for that grant and federal funds, we would have to change the word "murder" to "homicide." We would not necessarily have to expand automatic preservation of biological evidence to all A and B felonies.

Assemblyman Carpenter:
I think that the rurals are going to have to step up to the plate, especially in the area of storage. I do not see how that is a big deal for them. I imagine that they pay you for the testing, do they not?

Renee Romero:
Yes, we do have a contract with the rural agencies for testing, but not necessarily for storage of their evidence.

Assemblyman Carpenter:
I think they need to step up on the situation of storage, whether they help you with storage, or they do it on their own. I have seen storage that we have in Elko, especially when I was on the County Commission. We have everything from nuts to bolts there. Every once in awhile they try to get rid of it. I think, on DNA, that is a different situation than trying to store every rifle and every chair. Thank you.

Renee Romero:
I agree that we should be preserving the potential DNA evidence for retesting. When DNA technology was first introduced to forensic science, the thought was that all of this evidence must be maintained in a dried frozen condition. As technology has advanced, it is appropriate to preserve it in a room temperature environment. You could not preserve it in a portable unit without temperature controls. I think, prior to this point in time, we have been preserving it on behalf of the agencies we serve because we have purchased refrigerated rooms which are now bursting at the seams. I am waiting to see how this all works out to determine what I could return to those agencies. We will not destroy anything but the little coin envelopes that we have from auto thefts and these lower crime cases. I would like to return them to those agencies, who could store them at room temperature.

Ronald P. Dreher, representing the Peace Officers Research Association of Nevada, Reno, Nevada:
We support A.B. 279, and we echo the discussions regarding the amendments to section 2. Thank you.

Chairman Horne:
Are there any further questions? Is there anybody in opposition? Is there anybody who is neutral? I will close the hearing on A.B. 279.

We have some business before the Committee. We have a bill introduction. This is bill draft request (BDR) 16-1127, an act relating to parole, which requires

mandatory release on parole for certain prisoners who were under the age of 16 when the offense was committed and who meet certain requirements.

ASSEMBLYMAN OHRENSCHALL MOVED TO INTRODUCE BDR 16-1127.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Horne:
Is there any other business to be brought before the Committee? We are adjourned.

[Meeting adjourned at 10:31 a.m.]

RESPECTFULLY SUBMITTED:

_____
Robert Gonzalez
Committee Secretary

APPROVED BY:

_____
Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Corrections, Parole, and Probation

Date: March 19, 2009 Time of Meeting: 8:15 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda.
	B		Attendance roster.
A.B. 252	C	Luana Ritch, Department of Health and Human Services	Prepared testimony
A.B. 252	D	Luana Ritch, Department of Health and Human Services	Proposed amendment
A.B. 252	E	Thomas A. Beck, RAIN of Nevada	Prepared testimony
A.B. 252	F	Bonnie Polley, RAIN of Nevada	Prepared testimony
A.B. 252	G	Rosemary Womack, Ron Wood Family Resource Center	Prepared testimony
A.B. 279	H	Kate Kruse, Professor, UNLV Boyd School of Law	Prepared testimony