

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Fifth Session
March 23, 2009**

The Committee on Judiciary was called to order by Vice Chair Tick Segerblom at 8:11 a.m. on Monday, March 23, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was video conferenced 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 Bernie Anderson, Chairman
Assemblyman Tick Segerblom, Vice Chair
Assemblyman John C. Carpenter
Assemblywoman Marilyn Dondero Loop
Assemblyman Don Gustavson
Assemblyman John Hambrick
Assemblyman William C. Horne
Assemblyman Ruben J. Kihuen
Assemblyman Mark A. Manendo
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Bonnie Parnell

COMMITTEE MEMBERS ABSENT:

Assemblyman Ty Cobb (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Kathyryn (Kathy) A. McClain, Clark County
Assembly District No. 15
Assemblyman Chad Christensen, Clark County Assembly District No. 13

STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Nick Anthony, Committee Counsel
Katherine Malzahn-Bass, Committee Manager
Karyn Werner, Committee Secretary
Steven Sisneros, Committee Assistant

OTHERS PRESENT:

Brett Kandt, Deputy Attorney General, Office of the Attorney General;
Executive Director, Prosecution Advisory Council
P.K. O'Neill, Chief, Records and Technology Division, Department of
Public Safety
Rebecca Gasca, Public Advocate, American Civil Liberties Union of
Nevada, Reno, Nevada
Tom Roberts, Director, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department, Las Vegas, Nevada
George Flint, representing Chapel of the Bells, Reno, Nevada
Margaret Flint, representing Arch of Reno Wedding Chapel, Antique Angel
Wedding Chapel, Silver Bells Wedding Chapel, Vegas Adventure
Wedding Chapel, and Chapel of the Bells, Reno, Nevada
Shirley Parraguirre, County Clerk, County Clerk's Office, Clark County,
Las Vegas, Nevada
Diana Alba, Assistant County Clerk, County Clerk's Office, Clark County,
Las Vegas, Nevada
Alan Glover, Carson City Clerk-Recorder, Carson City, Nevada
Nancy Parent, Chief Deputy Clerk, Office of the Washoe County Clerk,
Reno, Nevada
Tom Fronapfel, Administrator, Field Services Division, Department of
Motor Vehicles
Doug Busselman, Executive Vice President, Nevada Farm Bureau
Federation, Sparks, Nevada
Bryan Nix, Coordinator, Victims of Crime Program, Department of
Administration
Sandy Heverly, Executive Director, Stop DUI, Las Vegas, Nevada
Porsche Hughes, Victim Advocate, Stop DUI, Las Vegas, Nevada

Deirdre Masten, Private Citizen, Las Vegas, Nevada
Christina Conti, Program Coordinator, Victim Witness Assistance Center,
Washoe County District Attorney's Office, Reno, Nevada

Vice Chair Segerblom:

[Roll called. The Vice Chair reminded Committee members, witnesses, and members of the audience of Committee rules and protocol.]

The first bill that we will hear is Assembly Bill 461.

Assembly Bill 461: Makes various changes relating to older persons.
(BDR 15-126)

Assemblywoman Kathy McClain, Clark County Assembly District No. 15:
Assembly Bill 461 is a bill that addresses elder abuse.

[Assemblywoman McClain spoke from prepared text ([Exhibit C](#)), which included a review of the mock-up of the bill ([Exhibit D](#)).]

Although the clergy and attorneys were covered by confidentiality statutes in other areas, we felt that if we put them specifically in this bill, it would be stated very clearly.

[Continued to read from prepared text.]

We originally wanted multidisciplinary teams across the state but decided that we would start with a pilot program. Obviously, the largest share of the population is in Clark County, so we narrowed the pilot program down to Clark County for now.

[Continued to read from prepared text.]

Last year, we got the Unit for the Investigation and Prosecution of Crimes established, but we did not give them any money. This year I think we need to fund it. I am open for any questions.

Assemblyman Horne:

The problem that I see in this bill is in section 2, subsection 9, the no-plea-bargaining section. I really do not see how we can do that. In part, it risks losing a case altogether. Sometimes plea bargains are needed to get a person who is a danger to society off of the streets on other grounds when you cannot reach the underlying offense. I think it is pretty dangerous to make it all or nothing. I recognize that you have in there that there can be no plea bargain

unless the district attorney knows, or it is obvious, that the charge is not supported by probable cause. But these are assessments, and one district attorney can make a much different assessment than another district attorney will make on the exact same fact pattern. I do not know how that would be carried out. I think it is important to be able to keep the ability for district attorneys and deputy attorneys general to be able to negotiate cases when they are the best people to weigh the value of that particular case.

Assemblywoman McClain:

This is something that I talked to the drafters about a few times. In a way I agree with you, but in reality, they are being plea bargained. They are being assigned lower priority and are not getting done. I do not know how we solve that situation without putting something in statute. I would be happy to work with anybody on how we could reword it so that we can get the bad person off the street, if the plea bargain is appropriate. I want to make sure that the crime is not being swept under the carpet.

Assemblyman Horne:

When the district attorney is going to dismiss a case, he has to articulate the reasons why on the record. We have witness problems, et cetera, and they place that on the record. That would shed some light on why the district attorney has taken that action. Just like when a judge is giving a sentence, he articulates why he is giving that sentence and how he came to that particular determination. It is a matter of record. Perhaps we can make it so that, if a district attorney is going to plea bargain a case, he has to articulate the reasoning and rationale for doing it.

Assemblywoman McClain:

By having the multidisciplinary team (MDT) work together, they would not have to worry about plea bargaining by the time it gets to the district attorney. Maybe we could reword it to make it a little less onerous for the district attorneys and count on the multidisciplinary team to work it out. I am open to suggestions.

Brett Kandt, Deputy Attorney General, Office of the Attorney General, and Executive Director, Prosecution Advisory Council:

Since A.B. 461 is intended to improve the reporting, investigation, and prosecution of elder abuse, neglect, and exploitation cases, I would like to step back and briefly provide the Committee with an overview of our current efforts. Some of this was already touched upon by Assemblywoman McClain; I will try to avoid repetition.

As she indicated, this task force was formed back in 2006 by law enforcement, prosecution, and social service agencies to assess and improve our system, while protecting our seniors. Assemblywoman McClain was one of the founders of the task force and has been heavily involved ever since. I serve as vice chair of the task force. The task force recognized that we are with elder abuse where we once were with child abuse and domestic violence. Prior to the passage of federal legislation in 1974 that recognized and started providing funding to combat the problem of child abuse, we were fighting an uphill battle—not that we do not continue to fight the battle. Much the same thing happened in 1994 when federal legislation funding was passed to combat domestic violence under the Violence Against Women Act (VAWA). We are at that same point with elder abuse. There is an Elder Justice Act that has been pending at the federal level since 2002. It has not moved forward yet. If and when it does, it will provide additional funding for states and local authorities to address the issue of elder abuse. [See ([Exhibit E](#)).]

Our task force came together and decided that, until that time, we need to focus on system improvement. The first thing we did in terms of developing a strategic plan was to conduct a resource inventory and a needs assessment of the current systems in both Clark and Washoe Counties, and to a lesser extent the rurals. We made flow charts. How do reports get into the system? What are the different ways that the system may get notice that a senior is being abused, neglected, or exploited? And then, how do we go about investigating and addressing that issue? We figured that unless we had a map of what we are doing, we could not figure out how we could do our job better. The task force developed and is focusing on the following objectives: developing better lines of communication between the various state and local agencies that have responsibility in this regard; providing public education and raising awareness of the problem of elder abuse, fraud, neglect, and exploitation because we realize that a great deal of prevention can come through public awareness; improving the investigating, reporting, and prosecution of cases in part through training and specialization; and compiling statistics to highlight the problem of elder abuse, especially in our state.

Upon taking office in 2007, Attorney General Masto made elder abuse a priority of her administration, and she has given her full support to the task force. I want to step back to the last legislative session when the Legislature passed Assembly Bill No. 226 of the 74th Session, sponsored by Assemblywoman McClain. The legislation was intended to improve the system by coordinating efforts and maximizing the protection of our seniors. At that time, the Legislature recognized that our elderly population is increasing in our state. They also recognized that crimes of elder abuse are underreported. When they are reported, there can be obstacles to effective investigation and

prosecution. As Assemblywoman McClain already noted, part of A.B. No. 226 created this Unit within the Attorney General's Office for investigating and prosecuting elder abuse crimes. The Unit receives and tracks reports of elder abuse, acts as a resource to local authorities, and, under *Nevada Revised Statutes* (NRS) 228.270, has limited jurisdiction to investigate and prosecute cases in consultation with the district attorney who actually has jurisdiction over the case. While A.B. No. 226 created statutory authorization for this Unit, no additional resources were allocated to the Unit, so the Unit was organized and used existing personnel and resources from our office. Assembly Bill No. 226 also required the Department of Public Safety, Records and Technology Division, to compile records of crimes against older persons. Once again, we realized that we needed to compile statistics to highlight the problem, and one of the big problems in this area is that these crimes are underreported. Statistics on crimes against older persons are currently available for the first, second, and third quarters of 2008 on the Division's website. After the 2007 session, the Attorney General adopted policies and procedures by which cases are referred from the local authorities to the Attorney General's Office. The Attorney General also entered into a memorandum of understanding (MOU) with the Clark County Office of the District Attorney whereby, to the extent resources were available and would allow it, the Attorney General's Office is taking an active role in the investigation and prosecution of a limited number of cases. Once again, the MOU sets forth specific procedures by which a case is referred by the local authorities to the Attorney General's Office. Because its resources are so limited, the Attorney General's Office is focusing its efforts on mortgage fraud and is actively prosecuting a number of mortgage fraud cases with elderly victims.

Now that you have this brief overview of what our efforts have been to date, I would like to make some comments about A.B. 461. As Assemblywoman McClain detailed, section 3 of the bill would create a dedicated funding source for the Attorney General's Unit. As I indicated, when A.B. No. 226 gave the Unit statutory authorization, no additional resources were allocated, and the Unit has been operating using existing resources and personnel. Section 10 of the bill would appropriate a dedicated funding source of general fund money for the Unit, and this appropriation would allow the Unit to expand its efforts.

Section 2 would require the prosecuting attorney not to dismiss a case as already pointed out by Assemblyman Horne. A prosecutor's primary responsibility is not to win cases, but to see that justice is done. In assessing the totality of facts, circumstances, and strength of the evidence in a particular case in an effort to see justice done, the prosecuting attorney may determine that pleading a case serves the interest of the public and the parties involved.

Section 4 of the bill would amend NRS 174.175 to expand the statute to elder abuse cases. That statute currently allows prospective witnesses in criminal cases to have their depositions taken if they are unable to attend or are prevented from attending a trial or a hearing, if the testimony is material, in order to prevent the failure of justice. In essence, it allows them to be deposed and to preserve that testimony for use at a later date. If you expand NRS 174.175 to victims and witnesses who are older persons, you would promote judicial economy and serve justice. Without the availability of this testimony, many criminal cases involving older persons cannot be successfully prosecuted. Many times these victims, who are witnesses, die or become physically or mentally unable to testify at trial. Several other states permit preserving testimony in this same manner, including California. I did want to alert you to the fact that the Attorney General's Office is already seeking this authority, seeking to amend NRS 174.175 in this regard, through Senate Bill 45, which was passed unanimously by the Senate Committee on Judiciary on February 26, 2009.

It is section 6 of the bill that is of greatest concern to the Attorney General's Office. As detailed, this section would amend NRS 228.270 to require the Attorney General's Elder Abuse Unit to establish and supervise a multidisciplinary team in Clark County comprised of the various state and local agencies in that county that have responsibility for investigating and prosecuting these crimes. This multidisciplinary team would be required to review any allegations of elder abuse, neglect, exploitation, or isolation, or any death of an older person that is alleged to be from abuse or neglect. The duties of this multidisciplinary team in conducting such reviews are still unclear. However, if the Attorney General is given supervisory authority over the team, with the responsibility to make decisions regarding the investigation and prosecution of all elder abuse cases in Clark County, it would create significant jurisdictional problems. Local law enforcement agencies have specific authority for investigating crimes within their respective jurisdictions, including crimes against older persons. Likewise, the state's Aging Services Division and county protective services have specific authority for investigating allegations of abuse, neglect, isolation, and exploitation. Pursuant to NRS 173.045 and NRS 252.110, the prosecution of any criminal case is within the entire control of the district attorney in each county. The prosecution powers of the Attorney General are set forth and limited by NRS 228.120. The Attorney General may initiate a criminal proceeding only when acting pursuant to a specific statute, and NRS 173.045 does not generally empower the Attorney General to initiate a prosecution independent ...

Vice Chair Segerblom:

Excuse me, Mr. Kandt. I was looking at the most recent bill, and you are saying that Ms. McClain's final bill requires the Attorney General to dictate the prosecution?

Brett Kandt:

To me, it is unclear. But to the extent ...

Vice Chair Segerblom:

So you want that clarified?

Brett Kandt:

We believe the Attorney General's exercise of supervisory authority over this Unit, which is comprised of local authorities and agencies that have certain specific statutory powers over the investigation and prosecution of crimes against older persons, creates significant jurisdictional problems.

Using the Attorney General's authority to prosecute elder abuse cases under NRS 228.270 is limited in this regard. If you read the statute, it specifies that the Unit may investigate and prosecute such cases, "1. At the request of the district attorney of the county in which the violation occurred; 2. If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or 3. Jointly with the district attorney of the county." The statute, as written, recognizes that the Attorney General cannot initiate criminal proceedings independently and without consideration of the prosecution decisions of the district attorney. Therefore, the amendments proposed in section 6 of the bill would appear to create significant jurisdictional problems.

We also have concerns that creating a new level of case review could lengthen agency response times. Our final concern is that requiring the Attorney General to establish and supervise a multidisciplinary team of this type would require some resources that we do not currently have even with the proposed funding mechanisms in the bill.

Vice Chair Segerblom:

Are you saying that you do not want to have section 6? Do you have proposed changes?

Brett Kandt:

We have concerns about being the supervisory authority over a multidisciplinary team. The creation of these multidisciplinary teams under the supervision of the Attorney General has never been discussed by the task force. After the bill was

introduced last week and I had a chance to meet with Assemblywoman McClain to discuss the purpose of the amendments, and specifically the purpose of section 6, I learned of this multidisciplinary team model that exists in Orange County, California. I did some research and determined that the Orange County team is not statutory, but was created by an MOU. It consists of various local agencies in the county that have the responsibility and the authority for investigating and prosecuting these crimes. The California Attorney General is not involved in it and has no supervisory authority over the Orange County team. Certainly, the Orange County model has been successful and is worth exploring at the local level here in Nevada; but once again, the successful Orange County model had no involvement from the Attorney General. We have concerns whether the Attorney General would be the appropriate entity to have supervisory authority over a similar team here in Nevada.

In closing, significant efforts are underway to develop better lines of communication and improve the reporting, investigation, and prosecution of elder abuse cases. Law enforcement, prosecution, and social services agencies have all been a part of this effort. Clark County, Las Vegas Metropolitan Police Department (Metro), Clark County District Attorney's Office, the Division of Aging Services, and Clark County Senior Protection Services have all been a part of this effort. The Attorney General will continue to work with Assemblywoman McClain and the state and local authorities towards this goal. We want to recognize Assemblywoman McClain's leadership in this regard.

Vice Chair Segerblom:

Are you willing to work with Ms. McClain to see if there is anything in section 6 that we can keep?

Brett Kandt:

Most certainly. The bill was just drawn up last week, and the proposal had not been discussed prior to that among the entities involved. We had a chance to meet briefly with Assemblywoman McClain on Friday. We began discussing the bill and will certainly be happy to meet with her and discuss it further in an effort to come to a resolution for everybody.

P.K. O'Neill, Chief, Records and Technology Division, Department of Public Safety:

I just want to speak in favor of section 5. Regarding the responsibilities given to my Division, we will be able to comply with no additional manpower or fiscal impact to my Division, and we support the bill in that regard.

We are already keeping the majority of these statistics now. It is a better codification of our requirements; I think it will also make us more efficient.

Vice Chair Segerblom:

Is there anyone testifying in opposition to the bill?

Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada:

There are two issues that we see with this. The first is the section that prohibits plea bargaining. The American Civil Liberties Union (ACLU) supports increasing discretion when it comes to the criminal justice system. This is a clear prohibition on discretion when someone has no option to plead a case. This is particularly unique because anybody over the age of 60 is considered an older person. What this would do is open up the criminal justice system to a huge number of cases that could not be pleaded. We think there should be a fiscal note on that portion of the bill because it would open up many cases.

In the mock-up that has just been presented, paragraphs (m) and (n) were moved into section 1, subsection 4, and this would require clergymen, religious practitioners, and attorneys to report knowledge of abuse. There are clear, constitutional issues here because individuals in those positions have ethical and legal duties. There are only extreme reasons why an attorney or clergyman is permitted to break his oath and legal and ethical obligations, and that is for imminent danger.

Vice Chair Segerblom:

So you are saying that even though they obtain the knowledge through their professional capability, you still think they cannot disclose it?

Rebecca Gasca:

Retroactive, someone who has confessed to already having committed abuse, would clearly fall under a privileged conversation.

The way that I am reading the bill is that a clergyman or an attorney who knows that someone has already committed a crime would be forced to report it. This would mandate that an attorney or a clergyman violate their own ethical and legal duties and obligations to keep that information confidential. The laws that exist only force clergymen and attorneys to report the possibility of imminent or future extreme danger, not danger or possible abuse that has happened in the past. That would be a clear constitutional issue.

Assemblyman Anderson:

Has the ACLU decided that anytime a plea bargain is not available it immediately constitutes a fiscal responsibility for the district attorney that did not previously exist?

Rebecca Gasca:

This is a unique case in that it addresses all older persons, so in a case in which the victim is 60-years-old or older, the bill would create a large group of new cases in which any plea bargaining would be prohibited. There would be an increased cost and attention paid to those cases as a part of the criminal justice system.

Assemblyman Anderson:

And constitutionally you feel that that is wrong? Under which amendment to the Constitution would that be?

Rebecca Gasca:

It creates a separate class of victims that is large; therefore, we feel it merits a review.

Tom Roberts, Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:

Although we signed in as neutral on the bill, we had the same concerns as the Attorney General's Office had. We met with Assemblywoman McClain on Friday, and we are committed to working out the issues in section 6 regarding the multidisciplinary task force. We believe that Orange County has a good model; it always works well when you work together and look at things from a holistic approach. We will work with her on making improvements to the bill. So far, we have about an 80 percent submittal rate to the district attorney's office for our elderly abuse cases. That is pretty high when you talk about case closure rates, although we could definitely use some improvement for exploitation cases. Those cases are generally financial in nature and border on being civil cases, so we believe this task force would be beneficial to improving that rate.

Assemblywoman McClain:

I want to make a comment about the clergy and attorneys as mandatory reporters. They were in statute for years and years. Last session, at the 11th hour in a conference committee, they were taken out. All the agencies and organizations that deal with elder abuse have been up in arms since then. They were covered under other confidentiality statutes, but someone managed to pull them out, and it went right past everybody. They need to be back in. If

it is under the confidentiality laws, then fine, you do not have to report it. But other than that, yes, you do like everybody else.

Vice Chair Segerblom:

We will close the hearing on A.B. 461.

Chairman Anderson:

We have a few bill draft request (BDR) introductions. The first is BDR 3-978.

BDR 3-978—Makes various changes to provisions governing professional negligence. (Later introduced as [Assembly Bill 495](#).)

This act relates to professional negligence; revises the damages that may be awarded in certain actions based on professional negligence; revises various provisions relating to the statute of limitations in such actions; establishes certain evidentiary standards in such actions; repeals certain provisions related to such actions; and provides other matters properly relating thereto. This will be a controversial piece of legislation.

The Chair will entertain a motion for the introduction of BDR 3-978.

ASSEMBLYMAN SEGERBLOM MOVED TO INTRODUCE
BDR 3-978.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB AND MORTENSON
WERE ABSENT FOR THE VOTE.)

Next would be BDR 1-1110.

BDR 1-1110—Revises provisions governing judicial discipline. (Later introduced as [Assembly Bill 496](#).)

An act relating to the Commission on Judicial Discipline; revising the statute of limitations for filing certain complaints with the Commission; revising provisions concerning the grounds upon which the Commission may discipline a judge; authorizing the Commission to impose additional forms of discipline upon a judge who is the subject of a complaint; revising certain provisions concerning the confidentiality of the proceedings of the Commission; and providing other matters properly relating thereto.

The Chair will entertain a motion on the introduction of BDR 1-1110.

ASSEMBLYMAN HORNE MOVED TO INTRODUCE BDR 1-1110.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB AND MORTENSON WERE ABSENT FOR THE VOTE.)

Now we have a bill draft introduction for a bill that was requested by the Committee, BDR 14-1154.

BDR 14-1154—Provides for the collection and sharing of certain statistical data and information relating to the criminal justice system. (Later introduced as [Assembly Bill 497](#).)

This act relates to the criminal justice system; providing for the collection and sharing of certain statistical data and information relating to the criminal justice system; and providing other matters properly relating thereto.

This is the kind of traditional piece that we continue to ask for so that we can know what is really happening in the justice system. The Chair will entertain a motion for the introduction of BDR 14-1154

ASSEMBLYMAN CARPENTER MOVED TO INTRODUCE
BDR 14-1154.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, MORTENSON, AND PARNELL WERE ABSENT FOR THE VOTE.)

This is bill draft BDR 11-1156. It is a domestic relations act.

BDR 11-1156—Revises provisions relating to domestic relations. (Later introduced as [Assembly Bill 500](#).)

This is an act relating to domestic relations; revising provisions relating to adoptions; revising provisions relating to the termination of parental rights; and providing other matters properly relating thereto.

The Chair will entertain a motion for the introduction of BDR 11-1156.

ASSEMBLYMAN HORNE MOVED TO INTRODUCE BDR 11-1156.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, MORTENSON,
AND PARNELL WERE ABSENT FOR THE VOTE.)

The next one will be the introduction of BDR 15-1157.

BDR 15-1157—Revises provisions relating to sentencing. (Later introduced as [Assembly Bill 498](#).)

This is an act relating to sentencing; authorizing a court to impose a sentence that is under the prescribed minimum sentence under certain circumstances; authorizing a court to grant probation to a person who is otherwise ineligible for probation under certain circumstances; and providing other matters properly relating thereto.

The Chair will entertain a motion for the introduction of BDR 15-1157.

ASSEMBLYMAN MANENDO MOVED TO INTRODUCE
BDR 15-1157.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, MORTENSON,
AND PARNELL WERE ABSENT FOR THE VOTE.)

Another bill draft, BDR 14-1158.

BDR 14-1158—Revises provisions relating to discovery in criminal proceedings. (Later introduced as [Assembly Bill 499](#).)

This act relates to criminal procedure; requires a prosecutor to provide a defendant with certain discovery when the defendant is brought before a magistrate after an arrest; and provides other matters properly relating thereto. Within two days certain paperwork must be completed for adequate defense.

The Chair will entertain a motion for the introduction of BDR 14-1158.

ASSEMBLYMAN MANENDO MOVED TO INTRODUCE
BDR 14-1158.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, MORTENSON,
AND PARNELL WERE ABSENT FOR THE VOTE.)

And last we have BDR 9-1159.

BDR 9-1159—Revises provisions governing mechanics' and material men's
liens. (Later introduced as [Assembly Bill 501](#).)

This is an act relating to liens; revising provisions governing the commencement of certain work; revising provisions concerning claims of a lien; revising provisions relating to the attachment of certain liens to property; revising the requirements of a surety bond; revising certain notice provisions; revising provisions concerning waiver of certain rights or obligations; revising provisions governing the waiver and release of a claim of a lien; making various other changes pertaining to liens; and providing other matters properly relating thereto.

The Chair will entertain a motion for the introduction of BDR 9-1159.

ASSEMBLYMAN MANENDO MOVED TO INTRODUCE BDR 9-1159.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, MORTENSON,
AND PARNELL WERE ABSENT FOR THE VOTE.)

Chairman Anderson:

Let us turn our attention to the next bill of the morning, which is Assembly Bill 262. I believe there are some additional amendments that have been worked on from previous discussions, but some controversy remains about A.B. 262.

[Assembly Bill 262](#): Makes various changes concerning the issuance of marriage licenses. (BDR 11-961)

Margaret Flint, representing Arch of Reno Wedding Chapel, Antique Angel Wedding Chapel, Silver Bells Wedding Chapel, Vegas Adventure Wedding Chapel, and Chapel of the Bells, Reno, Nevada:

I come to you today for your consideration on A.B. 262. Last Wednesday, we met in person with Chairman Anderson; Amy Harvey, the Washoe County Clerk; and her assistant, Nancy Parent; and telephonically with Alan Glover, the Clerk-Recorder from Carson City; Shirley Parraguirre, the Clark County Clerk; and her assistant, Diana Alba. We went through the bill and came to some agreements. With your permission, would you like me to walk you through the bill?

Chairman Anderson:

The proposed amendment ([Exhibit F](#)) is based upon the telephone meeting with the clerks from Carson City and Clark and Washoe Counties, which Ms. Parent is here representing. This is the amendment that was agreed to allowing a marriage certificate to be issued when the ceremony is for a renewal of vows, but only if there is a recorded license. The statement must be added on the certificate indicating that it replaces the certificate of marriage that was previously issued but could not be verified. This does not prohibit wedding chapels from issuing a certificate of renewal without a license.

The amendment would delete section 2, revising other provisions as necessary so that the minimum age for marriage—which is the controversial part of the piece of legislation that is proposed—with the consent of parents is 16 years. Applicants under 16 must still obtain permission from the court. It would not change the age from 16 to 15.

Margaret Flint:

I am fine with those amendments.

Chairman Anderson:

Section 3, subsection 2 retains "shall" on page 3, line 18, and removes "may" on line 19.

Paragraph (c) of subsection 2 of section 3, lines 26-30, clarifies that the secondary document must either include a photograph of the person or be a document for which identification must be verified as a condition of receipt of that document.

Paragraph (f) of subsection 2 of section 3 increases the age to 25 years. No proof of age is required if the person clearly appears to be over the age of 25 years.

The amendment retains "shall" in subsection 3, on page 3, line 45, and adds, "except as otherwise provided in this subsection," after "shall."

The amendment revises the language in subsection 3, on page 4, lines 6-7, to read, "The county clerk shall not deny a license to an applicant who states that he does not have a social security number, or who states that any other answer is unknown."

The amendment revises the language in subsection 4, on page 4, lines 32-33, to read, "The county clerk shall not deny a license to an applicant who states that he does not have a social security number or who states that any other answer is unknown." That was left to the bill drafter to verify the social security number was not required. In my subsequent conversation with the Legal Division, I was told that this language would be acceptable to meet federal requirements.

In subsection 6, on page 5, line 9, insert a period after "subsection 2," and delete the remaining language on lines 9 and 10. Also delete the new subsection 8, on page 5, lines 14 to 16, and renumber the remaining provisions accordingly.

Under section 4, subsection 3, page 5, line 37, remove the word "shall" and insert "may." In addition, instead of crediting the money to the State General Fund, as designated in lines 41-42, provide that the money must be placed in the county general fund if the fee is approved by the county commissioners.

Section 5 will be replaced with an amendment to NRS 247.305, which includes the same language, so that the fee is collected by the county recorder. In addition, the amount of the fee on page 6, line 11, will be increased to \$10, with \$5 of the fee deposited in the Account for Aid for Victims of Domestic Violence in the State General Fund, and \$5 to be deposited in the county general fund. That makes this bill a money opportunity for the victims' rights group.

Margaret Flint:

I would like to talk about that very briefly. There is a Senate bill, Senate Bill 14, which addresses a money issue for the Aid for Victims of Domestic Violence account as well. They were originally asking for a \$5 increase in the marriage license fee. I knew they were going to come back to the Legislature wanting more money, and I have been trying to determine how to get more money without increasing the fee for the marriage license. I thought of increasing the fee for the certified copy of the marriage license rather than the marriage license

itself. A certified copy is a document that has to be obtained after the fact for any legal purposes, including the Department of Motor Vehicles. Social Security requires a certified copy to do a name change. If there is an immigration issue, Immigration and Customs Enforcement (ICE) wants a certified copy. The military would also require a certified copy.

I submitted an exhibit ([Exhibit G](#)) which shows raising the marriage license fee itself will not raise nearly the amount of money they are looking for. Last year, Washoe County issued about 12,000 marriage licenses, yet 28,366 certified copies were sold. In Clark County, they issued 96,825 marriage licenses, but the county recorder's office sold 168,944 certified copies. That would create revenue for aid to domestic violence of \$986,550. Since they are looking for more, I also thought of raising the fee on the commissioners of civil marriages ([Exhibit H](#)). I included some estimates on that. We would create almost \$120,000 in new revenue if we increased the \$5 that they already get by \$15, for a total of \$20. Although they would like to have more, this is what we can do, and we think it is a generous offer considering the state of the economy. It would create over \$1 million for them, and we hope they will consider this offer.

Assemblyman Horne:

Section 3, subsection 4 of the bill adds, "The county clerk shall not deny a license to an applicant for stating that an answer is unknown." On an application, a person can put down "unknown" for any number of reasons in any section. Putting "unknown" anywhere on the application opens things up to fraud since it is so broad. You do not find that problematic?

Margaret Flint:

I do not think the statute was intended for items such as date of birth or age. Those are covered in a different statute because they are mandated identification requirements. On the marriage license application there are various questions such as mother's maiden name, mother's place of birth, and so forth.

I had a situation with a clerk not long ago. An applicant from Iraq could not spell his mother's last name in English. The clerk handed back his identification and his \$55 and told him to come back when he could spell his mother's name in English. This is why we are trying to clarify the language. If there are questions an applicant cannot answer, he can state that the answer is unknown.

Assemblyman Horne:

I am concerned. Those little things are not problematic. It is things like date of birth. Do you have many applicants under the age of 16, with the appropriate consent, apply for marriage licenses?

George Flint, representing Chapel of the Bells, Reno, Nevada:

There are laws within this chapter that mandate that applicants must have photographic identification, a birth certificate, et cetera. There is nothing within the basic name, place, serial number, date of birth, et cetera, that this bill would apply to. It only applies to areas such as when older people may not have records of their mothers' maiden name. That is what this alludes to; it in no way expands the opportunity to defraud.

Assemblyman Horne:

Again, are there many 15-year-olds trying to get married?

George Flint:

No. First of all, both the wedding chapels and the clerks do a magnificent job of looking at and checking identification before anyone is taken to the courthouse or presented before the clerk. In the 16- and 17-year-old group, parents must go along with them to prove their relationship to the applicant. The situation that has been alluded to, 13- or 14- or 15-year-olds on their own, does not happen, because there is no way for them to comply.

Assemblyman Horne:

Maybe that is amended out.

George Flint:

If I may continue, in the original bill, we had asked to allow parents to sign for 15-year-olds as the threshold instead of 16-year-olds. However, we agreed in our meeting with the Chairman to take that out. Certain cultures arrange marriages for young men and women of 15- and 16-years-old. I do not see that very often, maybe 60 times in a year. We take them to the district judge who decides if it is appropriate. Some weekends the judges are not available, so we thought it might be practical, but we agreed to remove it from the bill.

Chairman Anderson:

The amendments that I have outlined are the result of our meeting on Thursday afternoon with Ms. Parraguirre and Ms. Alba from Clark County, Ms. Parent and Ms. Harvey from Washoe County, and Mr. Glover from Carson City.

George Flint:

Mr. Segerblom came to us weeks ago about a mandatory minimum age of 18 for the witness at the wedding. We asked that it be 16. We were under the impression that Mr. Segerblom had a written amendment to present. I apologize that I misunderstood, but we are all in agreement that the witness at a wedding should be at least 16 years of age.

Chairman Anderson:

That was not part of our discussion on Thursday.

George Flint:

I do not believe we discussed it Thursday. Nevada law currently allows a wedding with only one witness; it used to be two.

Chairman Anderson:

Mr. Flint, how old does a witness have to be?

George Flint:

There is no age limit, and that creates problems. We have people come in with four- and five-year-old children, or they would like their first born son to be a witness. I had a case the other day where a couple came in with a German shepherd and wanted him to be a witness.

There has been no minimum age limit for a witness. I think that 16 is a good age. It allows younger sisters to be a witness at an older sister's wedding.

Chairman Anderson:

I can see where someone might have a younger sister to whom she would like to give that honor.

George Flint:

Even though the law only requires one witness, there is space for two signatures on every certificate. If someone under age really wants to be the witness, she could sign the certificate, but someone at least 16 would have to be the second, or primary, witness.

Assemblyman Horne:

I get witnesses very, very young in court in criminal matters. Having no age limit is problematic, but a witness only needs to be able to understand proceedings, know the difference between the truth and a lie, et cetera. A child as young as six-years-old can be on the stand. I had a child witness who was about six-years-old "hand me my hat" on the stand. She knew her stuff and

understood what she had witnessed and was able to articulate it. Sixteen is really not that big of a deal.

Assemblywoman Dondero Loop:

While I appreciate my colleague's reference to those children who are witnesses in criminal cases, I have this vision of a bunch of kids deciding that somebody is going to get married, the parents telling them to go ahead, and then we have a bunch of kids getting married. That is the vision that I have, and maybe that does not happen, but I think that if we are requiring 16-year-olds to have a parent's signature to get married, we should require parents or somebody older to be there.

Chairman Anderson:

Current law is that there is no age requirement for the witness. We would be putting in a minimum age. You would rather make the minimum witness age 18 years of age even though we allow a 16-year-old girl to get married?

Assemblywoman Dondero Loop:

Correct.

Chairman Anderson:

We are changing the proposed 15 years back to the current age of 16. That is what the current statute is.

Assemblywoman Dondero Loop:

But those under 18 still have to have the parent's signature. Is that right?

Chairman Anderson:

The consent of a parent or legal guardian would remain at 16, as it currently is in statute.

George Flint:

One-third of all California weddings take place in Nevada. There are not many under age 16- or 17-year-olds getting married. The current training from schools and parents is raising the average age. Thirty years ago, more girls were married during their 18th year than any other year. It is amazing that most of the weddings of 16- and 17-year-olds are for noticeably pregnant women whose parents want them to marry. Or, like I said earlier, they are of a culture where marrying young is traditional. I assure you there is no huge wave of Californians coming to Nevada to get married at these minimum ages because they want to marry young; young marriages are actually on the decline. We originally thought, since the courts usually rubber stamp approval for 15-year-olds to marry—sometimes not even talking to the applicants—it would

make more sense to just allow the parents to sign. However, we ran into some opposition in our meeting, so we took it out of the bill. So, as it has been for over a hundred years, you must be 16 to get married with your parents' approval.

Chairman Anderson:

We will ask that the proposed amendments that have my name on them ([Exhibit F](#)), with the change in section 4, subsection 3, page 5, of "line 17" being changed to "line 37," be made part of the record. The handout that refers to, "In every case there shall be at least one witness at least 16 years of age" would be part of that as suggested by Mr. Segerblom.

With that we only have one issue left. Mr. Flint, you have an additional amendment, of which there was no agreement within the group.

George Flint:

You are correct; there was no agreement.

I appear before you this morning to propose the same amendment ([Exhibit I](#)) that I brought before this Committee in 2003. The amendment would be that, in counties with less than 400,000 in population as of the last United States national census, wedding chapels within those counties could be established as locations where marriage licenses could be purchased. This could probably be done by an agreement between the clerk and the county commissioners, as has been done for 15 years already in Winnemucca in Humboldt County. The Winnemucca Floral Shop has a wedding chapel within it that made an agreement 15 years ago that, when the courthouse was too busy to issue marriage licenses, the flower shop could issue them, or when the courthouse clerks go home at night, the flower shop would issue the licenses. Humboldt County saves money by not staying open on weekends and letting the wedding chapel issue the licenses. Granted, it is a small area, but they have issued 5,000 licenses—give or take a hundred or two—under this program. It has worked perfectly, and the county clerk will agree there is no problem. The worst problem they had was a few years ago when they inadvertently numbered two wedding licenses in a row with the same number, but they straightened it out the next day.

In 2003, when I brought this issue before this Committee, it created such a problem that I requested it be taken out of the bill. But four weeks ago I received a call from Amy Harvey, the Washoe County Clerk, who said it is time to reconsider it, and after meeting, we all agreed it is a good idea. However, we took this out of the proposed amendment ([Exhibit F](#)) since Clark County did

not want it. We have now amended the language so that Clark County will not be included ([Exhibit I](#)).

I would like, with your permission, to go through the language very quickly. We have tried to address all of the 2003 issues. We took the existing language from *Nevada Revised Statutes* (NRS) 122.061. We would encourage the adoption of subsection 3 that says the clerks in counties under 400,000, which excludes Clark County, shall appoint marriage licensing agents in commercial wedding chapels. These agents would need to be at least 21 years of age; have a minimum, verifiable three-year employment record within the licensed wedding chapel industry; maintain computer and printer software compatible to the issuance of marriage licenses; complete a training course and receive a certificate of completion at a cost to the applicant of \$100 paid directly to the county clerk—current agents in counties that already have existing programs will not be required to obtain further training or certification; and pay to the county clerk an additional one-time fee to be established by the clerk for software installment and technical support. This came from Ms. Harvey in Washoe County.

Subsection 4 states that a certified licensing agent must file all hard copies of a marriage license application with the county clerk on the first available business day; collect from the applicants marriage license fees associated with marriage license issuance; maintain a credit or debit card account with the county clerk for the daily transfer of fees; and make marriage licenses available to the general public, not just those weddings taking place at Chapel X, Y, or Z. And we have suggested that a licensing agent may charge an additional \$10 for that service, but I think we can live with \$5.

Subsection 5 says that any certified licensing agent whom the county clerk believes has failed to comply with the provisions—and I think this is terribly important and very compelling, good, potential language—shall be subject to review by the office of the county clerk; may if he so desires be represented at a review hearing by legal counsel at his own expense; and may present evidence and witness testimony in his defense.

Subsection 6 says that any certified licensing agent who is found negligent of his responsibility will forfeit his certification for a period of 90 days and pay directly to the county clerk's office a fine to be determined by the clerk of no more than \$1,000. That person could retake the training course at a new expense of \$200. That would set aside any possibility that anyone would be careless or do a borderline thing, especially with \$1,000 attached to it, or even if the fine was \$10.

Finally, in all counties that qualify to participate in the certification of licensing agents, the board of county commissioners shall determine the hours during which the office of the county clerk that issues the licenses shall remain open. Clark County does not have a problem; they are still selling nearly 100,000 licenses a year. They are making enough money to keep the courthouse open until midnight. Washoe County, which was mandated four years ago by this Committee and Legislature to stay open until midnight, can no longer afford to stay open that late. To stay open, it is costing them approximately \$100,000 a year beyond what they make in sales. This proposed amendment offers them an opportunity to negate the mandate to stay open until midnight. The chapels can take over and save Washoe County close to \$0.5 million in the two-year period until 2011.

This section of the bill shall become effective July 1, 2009, and shall expire, or "sunset," on July 1, 2011, unless legislative action continues its existence. It does not need to be more than a pilot program because, unless you continue it in two years, the procedures will return to having the county clerks' offices issue all of the licenses. This could be good for private enterprise, it could save the county money, and it will work. We can do a good job, we would like to have a chance to prove it, and all we ask is for a two-year test.

Chairman Anderson:

Is there anyone speaking in opposition of the legislation?

Shirley Parraguirre, County Clerk, County Clerk's Office, Clark County, Las Vegas, Nevada:

I would like to address a couple of things that have come up. The first is the age of a witness. I was going to make the same comments that Assemblyman Horne did. This issue came up in Clark County, and I asked our district attorney for an opinion. As Assemblyman Horne pointed out, in courtrooms, it depends on the maturity of the child and not just a specific age. Therefore, I feel the witness's age could be under 16. I understand Assemblywoman Dondero Loop's concerns about allowing a witness to be under 16, when a 16- or 17-year-old minor needs a parent's consent to marry. However, there is a difference between a child of 16 deciding to marry and one who is only witnessing a sister getting married. I see a difference. Our district attorney suggested that the minor sign the certificate along with an older person.

The issue I have with the revision to A.B. 262 is the two sentences that say they need a social security number, but any other "unknown" would be acceptable. I think it is too broad. There are some questions asked on the license form that should be mandatory, like the date of birth, place of birth, and

number of prior marriages. Where we normally see couples indicating "unknown" might be on their parents' maiden names, fathers' names, or their parents' places of birth. I do not have a real issue with accepting them, and we do if they indicate "unknown" on those, but I think it is too broad to say that any item can be listed as unknown, with the exception of social security numbers. I would like to see that tightened up because I do fear they could give us "unknown" on just about everything. Our hands would then be tied and we would have to issue the license.

On Mr. Flint's amendment regarding the wedding chapels issuing licenses, my fear is that, at the end of the pilot program, if it worked satisfactorily in the smaller counties, it could become law in Clark County. I had a meeting in Clark County some years ago, invited over 100 wedding chapel owners, and I believe the most we had in attendance was 8 or 9. Some of my comments during the meeting with Chairman Anderson last week came out of that meeting with the wedding chapel owners. The Clark County marriage chapel owners stated that a lot of the people working their front counters are very young people making minimum wage who do not want to do this. They do not want to undertake the responsibility of having to determine if a child has proper consent, if there is a proper court order, or if the parent who presents the consent has a proper paper trail to show she is really the mother.

I mean no disrespect to anyone, but I have some concerns. I do not believe that chapels are disinterested parties; I believe they would have a financial interest. Since they would benefit from performing the marriage ceremony, would they issue the license if the situation was borderline? I believe it is the Legislature's purpose to create good public policy, not to meet the needs of a specific group.

Although I am totally opposed to the idea, I would suggest you make this a county option if you are inclined to do anything. If Washoe County cannot afford to keep its marriage license bureau open until midnight, the board of county commissioners should make the decision to keep it open or let the chapels issue licenses. The burden should be on those with the fiscal responsibility.

Diana Alba, Assistant County Clerk, County Clerk's Office, Clark County, Las Vegas, Nevada:

I think Mrs. Parraguirre has covered it completely, and we are generally very happy with the amendments that came through as a result of our discussion.

Alan Glover, Carson City Clerk/Recorder, Carson City, Nevada:

We are neutral on the bill itself. I appreciate your time working out the amendments so it is a workable bill. However, we are here in very strong

opposition to Mr. Flint's amendment on chapels issuing marriage licenses. The main issue on that topic is that the chapels have a conflict of interest. They have a financial benefit in issuing licenses. Marriage licenses are not like hunting and fishing licenses; they are a very important vital record like birth and death records, which the state issues. You can use a marriage license for many things. As clerks, we want the records as accurate as possible. We review our records and correct any errors. I do not have the number of errors that occurred in the chapels over the years, but my marriage clerk does. Carson City only has one licensed wedding chapel, and I am not sure if they have renewed their license. At one time we had ten, and we were open 24/7. We remain open on Saturdays in Carson City. We stopped being open on Sundays because we were not issuing enough licenses on that day.

The amendment also has some technical problems. We would be back here with a whole set of legislation on how hearings would be held if agent certification was revoked. I am not sure that July 1, 2009, would be a good date to make changes. To work out the mechanics of how this would be done would probably take our information technology (IT) department at least a year. Some of the counties do not have an IT department and perhaps not even a website.

My final point is on the Humboldt County issue. I have talked to the clerk there, and the woman who works at the chapel is a deputy clerk; she is sworn in and has limited power. They only sell licenses after the hours that the courthouse is closed and on weekends. I have been informed that the license to sell marriage licenses would be revoked if there was another chapel in town.

Chairman Anderson:

The amendment that has my name on it, which was prepared in part by our Legal Division from the results of that meeting, ostensibly covers most of the issues as we had agreed. The issue of someone stating that an answer is unknown is still questionable. The rest of the amendment we agree on.

Alan Glover:

Yes, we do. When Ms. Parraguirre was speaking, it hit me that one of the unknowns on there is the number of marriages. A lot of people do not like to put that down because it is their 12th marriage and their potential spouse thinks it is their first. That is very important information, and that might be one that we want to make mandatory.

Assemblyman Manendo:

I was going to mention that we currently allow car dealerships to issue vehicle registrations. I wonder why this would be any different. Does Mr. Glover have any comments on that?

Alan Glover:

The difference is that it is such a vital issue because a marriage license has both legal and social ramifications to it. You have children, you have property, and unfortunately there are a lot of divorces. I think that is what makes it unique from simply registering your car or getting a hunting or fishing license. It is a terribly important document that can be used for identification and other things.

Chairman Anderson:

I have a letter here from the Washoe County Clerk, Ms. Harvey ([Exhibit J](#)). I have not had an opportunity to make a comparison between the amendment that came from our Legal Division and the first part of Ms. Harvey's letter.

Nancy Parent, Chief Deputy Clerk, Office of the Washoe County Clerk, Reno, Nevada:

The letter ([Exhibit J](#)) that you have before you was drafted on Friday prior to receiving anything from Ms. Lang. We have reviewed Ms. Lang's two-page document, and we feel that it does represent what we agreed to last week.

As for Mr. Flint's amendment, the Washoe County Clerk did speak with the Flints a week or two ago when we found out what our budget cut request was going to be. We were struggling to figure out how we were going to continue our operation. That was the reason that we considered it. It was totally against our better judgment, it was with great reservation that we undertook those discussions, and it was prior to talking with our counterparts throughout Nevada, all of whom have expressed their opposition to this idea. Granted, in Humboldt County they do have one chapel and one person who they have authorized to issue licenses for a number of years. I do not think they come anywhere near the volume that we expect if it were to be done in Washoe County. Since having those discussions and finding out from our counterparts that they did not think it was a good way to go, we have found we can keep the marriage bureau open the hours that are currently set by statute. His offer to change the hours if we let them issue licenses is appealing because it would save the county money, and if you are considering it, we may be able to help you evaluate that.

We are against the chapels issuing licenses even though they have a fiscal interest in it because they could perform the ceremony. They do tend to be more lenient on identification issues. We do not think it should be that way.

Also, one thing that is absolutely required on a marriage license is a social security number. Those have been deemed by the Legislature to be confidential. We maintain very strict confidentiality of social security numbers once they come into our public record. It is critical that if the social security number is in the hands of private industry, they must have the same obligation to protect and preserve it as we do. It is another piece of information accessible to theft.

Looking at court orders, evaluating guardianship papers, and determining whether the person who is signing on behalf of a minor has the actual authority to do so is complicated. It is hard for our staff to do it; most of the time, they go to a supervisor to have the legal document evaluated and approved. We know that the chapel industry is struggling, but we do not think it is serious enough to take this critical government function and transfer it to private industry. We think it will hurt our citizens in the long run.

Assemblyman Segerblom:

Does anyone know if marriage licenses are issued by private individuals as opposed to government anywhere around the country?

Nancy Parent:

Our research shows they are issued in Hawaii and California. We have checked into California and have spoken with clerks in Los Angeles County. They have a great number of problems in the administration of chapels issuing licenses. They have trouble with chapels and licensing agents charging additional funds.

George Flint:

The chapels that issue licenses in California were created for confidential marriages to legitimize children and families who already have children. To buy one of those licenses in a chapel in California, you have to sign an affidavit that you are already living together as husband and wife. They are not the regular marriage licenses that we are talking about today. However, that is a 120-year-old procedure in California.

On the other hand, the state of Hawaii gives the commercial wedding photographers the permission and the obligation to sell marriage licenses.

Assemblyman Horne:

In trying to keep our marriage business, Nevada does some unique things. We recognize marriages from all 49 other states and the territories. There are states that have common-law marriages, which Nevada does not. In some of those states, you can get married at any age just by saying that you are

married. Then when these individuals come to Nevada and claim to have a common-law marriage, we must recognize it.

George Flint:

In 1969, when Paul Laxalt became governor, he thought he was blindsided by some Nevada quick-marriage opponents. I created a white paper that proved that 15 percent of our entire tourist economy directly relates to weddings. Clark County is down 17,000 licenses in the last three years and Washoe County is down 1,735 licenses. That is one of the reasons that our economy is down. Our coming before you is not just philosophical; we are trying to help the economy.

Tom Fronapfel, Administrator, Field Services Division, Department of Motor Vehicles:

As the bill was originally drafted, the Department was opposed to the two sections that made the changes from "shall" to "may." Now with the amendments that have been agreed upon, we are now neutral in our position.

Chairman Anderson:

We will close the hearing on A.B. 262 and bring it back to the Committee.

[Recessed for five minutes.]

We will start with Assemblyman Christensen's bill, Assembly Bill 286.

Assembly Bill 286: Revises the provisions governing the crime of trespassing.
(BDR 2-833)

Assemblyman Chad Christensen, Clark County Assembly District No. 13:

Assembly Bill 286 deals primarily with a trespassing issue. It is also affectionately known as "the squatter's bill," and I will explain why.

I want to address the article "Unwelcome guests flap headed to court" ([Exhibit K](#)) and read part of it briefly. It refers to a gentleman who invited a 50-year-old woman and her 20-year-old daughter to stay in his home in Florida to help them out. [Read from handout ([Exhibit K](#)).]

If you listen to this, you think, "Really. That is impossible. It cannot be." Had I not experienced this personally, I would never have believed it. I have a sister-in-law who is young and has a heart the size of Texas, whose neighbors were foreclosed on. The constable showed up, evicted the neighbors from the house next door, and she felt bad for them. There was a man, a woman, the sister, and a daughter. She allowed them to stay with her even though her

house was small, and they moved their stuff into her garage. Four or five weeks later, I received a phone call from my mother-in-law telling me that the guests would not leave, that they were still there. I know all kinds of people who could help, I thought. I could make a few phone calls and make them leave. I learned, however, that we have deficiencies in our law. I met with representatives of the Las Vegas Metropolitan Police Department (Metro) at my sister-in-law's house, and we thought these people would leave, but they got very angry. They said, "We know our rights. We do not have to leave. We know that it is a 30-day process." They knew all of the steps that you have to go through. I was shocked. I thought I was going to be able to get them to leave by flexing a little muscle, but the officer from Metro said that they deal with this all of the time. Once they hang their clothes and set out their toothbrush, it is a long process to get squatters to leave.

As the saying goes, "No good deed goes unpunished." After my sister-in-law paid for the constable to come out and post the notice, there was a slip-and-fall incident that caused a cut arm on one of the squatters. The squatter reported it, so it looked like my in-laws were going to be sued. In the end, Metro came back, and they did leave. I decided this is something that we need to address, especially when law enforcement told me that this is a significant problem.

The intent here is if someone is in your house and they have worn out their welcome, the property owner or the person who allowed them in, can also let them know it is time to go. If they are not willing to leave, law enforcement can cite the person for trespassing.

Chairman Anderson:

We will make note that there is a Nevada Supreme Court opinion, unlike Florida, that upholds the right of the owner.

**Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation,
Sparks, Nevada:**

I am here in support of this bill.

Chairman Anderson:

Is there anyone to speak in opposition of the bill?

Assemblyman Carpenter:

It is my understanding of this bill that if you give an oral or written notice to someone that they need to leave, law enforcement can charge them with a misdemeanor. Is my reading of this piece of legislation correct?

Assemblyman Christensen:
That is my understanding.

Chairman Anderson:
We will close the hearing on A.B. 286, and we will turn to the final bill of the day, Assembly Bill 283.

Assembly Bill 283: Revises provisions governing the payment of compensation to certain victims of crime. (BDR 16-609)

Assemblyman Mark Manendo, Clark County Assembly District No. 18:
The Victims of Crime Program (VOCP) assists victims of crimes by paying a variety of benefits, including but not limited to lost wages, medical bills, counseling, burial expenses, relocation costs, and prescription drugs. The VOCP is the first in the nation to adopt aggressive cost containment measures, including medical bill review and the application of insurance industry medical fee schedules to hospitals and other medical bills. Nevada VOCP is among the most, if not the most, effective and efficient victim compensation programs in the country. I spent most of the day yesterday looking over other states' programs around the country. I did not find a single state that is more accessible, transparent, and responsive than ours. No one can provide assistance faster, with less hassle or delay, and I want to thank Bryan Nix, the coordinator of the Nevada Victims of Crime Program, for all the work he has done.

Basically, what A.B. 283 does is remove the limit on the total amount of compensation that may be awarded to victims.

Bryan Nix, Coordinator, Victims of Crime Program, Department of Administration:

I have already submitted eight pages of testimony to the Committee ([Exhibit L](#)) that has a lot of information about the program, statistics, et cetera.

Very briefly, in the 20 years that I have been the coordinator of the Victims of Crime Program, this is the fourth time I have been before the Legislature regarding the cap on victim claims. When I was first appointed to this program, the cap was \$15,000. It was raised once to \$25,000, and again to \$35,000, and then it was raised to its current cap of \$50,000. This cap was originally placed on the VOCP when it was first envisioned by the Legislature and adopted as a program in 1969. The purpose of the cap was obvious: control must be maintained over the potential cost of this unknown program. Nobody knew how many applications would be filed or the cost of each application. The

Legislature wisely imposed a cap on those claims. Over the years, that cap has risen, and today I am asking you to remove that cap completely.

Nevada Revised Statutes (NRS) 217.150 and 217.130 provide power to the board of examiners to adopt regulations and to adopt claim payment practices and policies. The board has adopted policies over the years and is about to adopt a new set of policies that define even further the control on these claims. What we want to do is remove this cap for a very limited number of claims each year, that is, for catastrophic injury claims. The purpose of this bill is to give flexibility to the program, to provide extra benefits to those victims who were injured in very serious catastrophic incidents. A \$50,000 cap really limits our ability to help those victims. The medical bills alone can be \$0.5 million or \$1 million for someone with catastrophic injuries. Our goal is to provide extra benefits to catastrophic victims.

Our website has a great deal of information on it. We have worked really hard to make it a very educational tool for victims, victim advocates, law enforcement, and others. Today we are launching the first full-Spanish website in America for Victims of Crime Programs. Every page of documents will be in Spanish except our report page. That is a first as well. We have been working very hard to implement a variety of programs, and this program for catastrophically-injured victims is one of our most important programs this year. We are not looking for any more money for this.

Assemblyman Horne:

Mr. Nix, it seems that, although the statutory cap is currently \$50,000, by policy, you have lowered the cap to \$35,000. But now you want to remove it. It seems counter to your own policy. I do not understand why you would lower it and then ask to have the cap removed.

How do we provide a mechanism, if we have no cap, to prevent potentially depleting the fund?

There is a degree of arbitrariness in this process already, but with no cap you could have one victim whose expenses go up to \$75,000 and someone else who believes that their injuries are just as severe or more so, might get less. They may have complaints that they are being treated differently than others.

Bryan Nix:

On page 3 of the handout, I show you average benefits paid by crime type. That is an average of all claims in our system now. What this chart shows is the average cost, depending on the type of crime, is in the range of \$3,000. The average cost of claims for a hit and run is about \$7,500, driving under the

influence (DUI) is about \$6,200, domestic violence is \$3,200, et cetera. The board of examiners imposed a \$35,000 cap on claims, \$15,000 less than the statutory cap. That was one of the ways we tried to curtail costs of the program a number of years ago when there was not adequate funding to pay all of the claims. We have kept that cap in place because it is adequate for 90 percent of the claims. That is why this chart shows that the large majority of victim claims are well below even that \$35,000 cap. Most claims, like sexual assault, may just be primarily counseling bills, or maybe medical costs. Where we see the biggest cost is in the vehicle crimes, DUI and hit and run, because there is a vehicle involved that causes severe and serious injuries.

I have worked with Sandy Heverly to develop something that would help those few victims—one or two a year—who have catastrophic injuries, such as their legs were cut off and they are now a quadriplegic or paraplegic, or they have been completely blinded by the crime. Our current cap of \$35,000, or even \$50,000 in those rare cases, is simply insufficient to adequately address those victims' needs. I would like to stress that we are talking about one or two claims a year where the claim could exceed beyond \$35,000 or \$50,000. The controls would be maintained by the board of examiners; we would have very specific policies about how these claims are paid. It would not be arbitrary; it would be documented. We believe that the impact on the program is absolutely minimal. We have very good control of the finances and funding of this program. For the first time in years, with some of the programs that we have implemented over the years, we have an Internet-based claims management system that allows us to review and control all of our claim costs. We do not think this will have a financial impact on the program at all.

Chairman Anderson:

Mr. Horne's question is why would we not worry that we are going to potentially drain the fund with one or two cases? I heard your explanation, but I am not sure what the safeguard is going to be. If I understand your response, you think because the agency has a \$35,000 cap, the board of examiners will change that to a larger number. Is that what you are anticipating?

Bryan Nix:

No, actually I think we will keep the \$35,000 cap in place at the board of examiners level because it satisfies the large majority of all of our claims.

Chairman Anderson:

If that is going to happen, why are we changing it from \$50,000?

Bryan Nix:

Because it is only in those rare cases, one or two or three cases a year, that we may need to pay \$75,000 or \$100,000. It depends on the particular needs of that catastrophically-injured victim.

Assemblyman Horne:

In these catastrophic cases, how far above the current cap do you anticipate the fund would expend if there is no cap? I am concerned about what happens if you have a bad year and at the end of the fiscal year you have had two or three cases that required \$200,000 each. I do not even have an idea what would be an appropriate amount in those extreme cases.

Bryan Nix:

We do not believe there are that many claims. This does not mandate that we pay a certain amount over and above \$50,000. We would manage that amount through the board of examiner policies. There would probably be some kind of a board cap on these types of claims. We are just asking that the authority to present those caps be vested in the board so we have some flexibility about how we address this program. We will strictly control those claims through the management of the claim itself.

Chairman Anderson:

The question is, shall the caps be set by the Legislature or by the Board of Examiners?

Assemblyman Ohrenschall:

For someone who was injured catastrophically, someone who lost their legs and became a paraplegic prior to the date this might pass, would they be eligible for help from the fund?

Bryan Nix:

I think the board of examiners has the flexibility that they would be able to. We have a current claim where we would potentially be interested in paying additional funds over the cap. I think when you take the testimony from Las Vegas you might see what I mean.

Sandy Heverly, Executive Director, Stop DUI, Las Vegas, Nevada:

I am the Executive Director and victim advocate for Stop DUI. Thank you for the opportunity to speak in support of A.B. 283.

My fear and most horrific example came to pass on July 7, 2008, in Las Vegas. On this day, Porsche Hughes became the face of what was to be A.B. 283. Porsche Hughes, a 26-year-old mother of two young children, ages 2 and 4,

was sitting at a bus stop at Flamingo Road and Boulder Highway. She was waiting for the bus that took her to work every morning. A drunk driver, Stephen Murray, lost control of his truck and crashed into the bus stop. Ms. Patricia Hoff, who was sitting next to Mrs. Hughes, was killed, and due to the severe injuries that Mrs. Hughes sustained, both of her legs have been amputated. The current statute we are addressing today limits the amount of the VOCP assistance Mrs. Hughes could receive at \$50,000. Assembly Bill 283 is designed to remove that cap and to leave the discretion of the award amount to the board of examiners, which I believe is capable of making those decisions. Prosthetics are expensive, and depending on the particular need, can cost tens of thousands of dollars, partly because they contain microprocessors that help smooth the gait and improve the balance. Obviously, in Mrs. Hughes' case, the cost would be double and, combined with other needs, would easily exceed the current VOCP benefit. Porsche Hughes is challenged with extraordinary physical, emotional, and financial trauma. Given that the VOCP fund is solvent with sufficient funds to address these special circumstances, which is my understanding from Mr. Nix, innocent victims such as Mrs. Hughes should not be discriminated against by denial of additional assistance because of catastrophic injuries they sustained through no fault of their own. Again, Porsche Hughes was just sitting at a bus stop.

The purpose of this legislation is not to revictimize Mrs. Hughes and others further by denying additional benefits this bill would provide. Some have voiced concerns that if this measure was approved, it would deplete the fund. We encountered the same concerns when then Lieutenant Governor Bob Miller and I were seeking to change the statute so that it would allow DUI victims to be included to receive benefits from the Victims of Crime compensation fund. That was nearly 20 years ago, and DUI victims did not deplete the fund then nor will they deplete it now. Fortunately, these types of DUI-related catastrophic injuries have been rare. Mrs. Hughes is the first double-amputee DUI victim in Nevada that I am aware of, and I pray that she will be the last. I respectfully request that you pass A.B. 283 so we can move Mrs. Hughes and others along to achieving some semblance of recovery.

Porsche Hughes, Victim Advocate, Stop DUI, Las Vegas, Nevada:

I became a member of Stop DUI on July 7, 2008. I am a 27-year-old, married, mother of two, who graduated at the top of my class in 2000 and who has been a Certified Nursing Assistant (CNA) for the past eight years. Prior to this accident, I enjoyed running, dancing, and spending time with my young children. I have worked since the age of 15 and pay my taxes like everyone else. On July 7, 2008, I was going to work. I was hit by a drunk driver, and I witnessed someone next to me, Patricia Hoff, die. Since then, I have been hospitalized for two months, lost both of my legs, had numerous doctor bills,

and suffered psychological trauma and physical trauma; it has been an ongoing process for me. With the passage of this bill, people like me who are victims would be able to get their quality of life back. I am speaking for those who survived the crime and for those who are not here, who cannot speak. It is we victims who are innocent and just looking for help. All I want is my quality of life back. Having quality of life means being able to walk, standing up on both feet, being able to work, and taking care of my family as I did in the past. I strongly believe that this bill will help do that.

Deirdre Masten, private citizen, Las Vegas, Nevada:

I am a domestic violence victim who has an open claim with the VOCP. I support raising the cap of \$50,000. I was told that my case was capped at \$35,000. You have the handout ([Exhibit M](#)). On page one, the benefit maximum per claim says \$35,000. On page 2, the VOCP benefits and covered expenses are limited to \$35,000. On page 4, the department of administration says \$50,000. On page 5, compensation program policy says the claim can be extended up to \$50,000. On page 6, it says an additional \$15,000, for a total of \$50,000. On the last page is an approval letter for both incidents with different dates compiled on one claim. My question is what exactly is the current cap? Is it \$35,000 or \$50,000? Why are my claims combined and capped at \$35,000?

Chairman Anderson:

That would be an appropriate question to direct to Mr. Nix at his office. I am sure he would be happy to respond to your particular questions. The handout is from you, so do you want this to be officially placed in the state record? Generally speaking, we do not put people's personal records into the official record, and I would advise you not to do that, but if that is your desire, I will do what you wish.

Deirdre Masten:

What I desire is to have my question answered if the cap is \$35,000 or \$50,000?

Chairman Anderson:

Statutorily, we have a \$50,000 cap, which is what the state has mandated that the board cannot go beyond. In order to keep the fund solvent, some time ago the board had set a \$35,000 cap, so that left them a \$15,000 sum that they could potentially use. Any difference between the two, you would have to discuss with the VOCP. They are asking to remove all caps, but that does not mean it would go to \$100,000 or more. I do not recommend that the victim have the material entered into the record but, at her request, the material will be entered ([Exhibit M](#)).

**Christina Conti, Program Coordinator, Victim Witness Assistance Center,
Washoe County District Attorney's Office, Reno, Nevada:**

[Read from prepared statement ([Exhibit N](#)).]

Assemblyman Manendo:

It would have been nice if the last witness would have talked to me. I have never met her, heard from her, or had any communication with her at all. I am offended by that.

Chairman Anderson:

We will close the hearing on A.B. 283.

We are adjourned [at 11:21 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 23, 2009

Time of Meeting: 8:11 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 461	C	Assemblywoman Kathy McClain	Prepared written testimony.
A.B. 461	D	Assemblywoman Kathy McClain	Proposed amendment
A.B. 461	E	Brett Kandt	Miscellaneous information on Elder Abuse
A.B. 262	F	Assemblyman Bernie Anderson	Proposed amendment
A.B. 262	G	Margaret Flint	Statistical report dated March 23, 2009, "Marriage License Issuance"
A.B. 262	H	Margaret Flint	Statistical report dated March 23, 2009, "Commissioner of Civil Marriages"
A.B. 262	I	George Flint	Proposed amendment
A.B. 262	J	Nancy Parent	Letter to the Committee dated March 23, 2009, from Amy Harvey, Washoe County Clerk
A.B. 286	K	Assemblyman Chad Christensen	Article from tampabay.com Know it now. by Eileen Schulte, Times Staff Writer, published January 26, 2009, "Unwelcome guests flap headed to court."
A.B. 283	L	Bryan Nix	Letter to the Committee dated March 19, 2009, containing testimony and information about the program and statistics

A.B. 283	M	Deirdre Masten	Victims of Crime Program handout, "Available Benefits"
A.B. 283	N	Christina Conti	Letter to the Committee dated March 20, 2009