MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Fifth Session
March 25, 2009

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:14 a.m. on Wednesday, March 25, 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 Bernie Anderson, Chairman
Assemblyman Tick Segerblom, Vice Chair
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
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:

None

GUEST LEGISLATORS PRESENT:

Assemblyman David P. Bobzien, Washoe County Assembly District No. 24
Assemblywoman Peggy Pierce, Clark County Assembly District No. 3
Assemblywoman Ellen Koivisto, Clark County Assembly District No.14

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Cherie Jamason, President and CEO, Food Bank of Northern Nevada, McCarran, Nevada
Gerald I. Gillock, representing the Nevada Justice Association, Las Vegas, Nevada
Sarah Borron, Program Manager, Three Square Food Bank, Las Vegas, Nevada
Kitty Jung, Commissioner, Washoe County Board of Commissioners, Reno, Nevada
Robert Larkin, Chair, Washoe County Board of Commissioners, Reno, Nevada
Bob Webb, Planning Manager, Community Services, Community Development, Washoe County, Reno, Nevada
John Slaughter, Director of Management Services, Washoe County, Reno, Nevada
Christi Cakiroglu, Executive Director, Keep Truckee Meadows Beautiful, Reno, Nevada
Maia Dickerson, Program Director, Keep Truckee Meadows Beautiful, Reno, Nevada
Constance J. Brooks, Senior Management Analyst, Administrative Services, Office of the County Manager, Clark County, Las Vegas, Nevada
John McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Carson City, Nevada
Neil A. Rombardo, District Attorney, Carson City, Carson City, Nevada
Lucy Flores, Private Citizen, Las Vegas, Nevada

Brett Kandt, Executive Director, Advisory Council for Prosecuting Attorneys, and representing the Office of the Attorney General, Reno, Nevada
Kristin Erickson, representing the Nevada District Attorneys Association, Reno, Nevada
Steven O'Farrell, Sergeant, Regional Gang Unit, Reno Police Department, Reno, Nevada
Josh Martinez, Police Officer, Las Vegas Metropolitan Police Department, Las Vegas, Nevada, Representing the Nevada Sheriffs' and Cheifs' Association, Las Vegas, Nevada
Jason Frierson, Clark County Public Defender's Office, Las Vegas, Nevada
Orrin Johnson, Washoe County Public Defender's Office, Reno, Nevada
Richard Boulware, Las Vegas, Nevada, representing the National Bar Association Foundation and the National Association for the Advancement of Colored People
Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada
Ernest K. Nielsen, Attorney, Senior Law Project, Washoe County, Reno, Nevada
Sally Crawford Ramm, Elder Rights Attorney, Division for Aging Services, Department of Health & Human Services
Michael Foley, Clark County District Attorney's Office, Las Vegas, Nevada
Kathleen Buchanan, Public Guardian, Clark County Public Guardian's Office, Las Vegas, Nevada
Susan Swenson, Public Guardian, Carson City Public Guardian's Office, Carson City, Nevada
Nancy Hart, representing the Nevada Network Against Domestic Violence, Reno, Nevada
Lee Rowland, Northern Coordinator, American Civil Liberties Union of Nevada, Reno, Nevada

Chairman Anderson:
[Roll call was taken. The Committee rules were stated to those present.]

Let me open the hearing on Assembly Bill 332.

Assembly Bill 332: Revises provisions governing immunity from liability for donating, receiving or distributing certain grocery products or food. (BDR 3-1017)

Assemblywoman Marilyn Dondero Loop, Clark County Assembly District No. 5:
I bring Assembly Bill 332 before you today to help those citizens in the community who struggle to put food on their tables. Nevada has several wonderful organizations that help feed the hungry, and A.B. 332 will assist them in their efforts.

The bill is also designed to encourage donations of wholesome food. Nevada law provides immunity from civil liability for those who donate food and for those who receive and distribute donated food. Assembly Bill 332 clarifies that the immunity applies to perishable food that is donated, received, and distributed. I have heard about restaurants that have extra banquet food that could be donated to the needy but is thrown away because of the fear of civil liability. This bill is designed to encourage those restaurants and other entities to donate their excess food without fear of liability when the donation is made in good faith. You have letters in support of this bill from Dr. Mary Anderson, District Health Officer of the Washoe County District Health Department (Exhibit C), and Michelle Kling, a nutritionist and consultant in public health (Exhibit D).

Sarah Borron has an amendment proposal (Exhibit E) that she will explain in detail. I support the amendment proposal and ask for the Committee's support of A.B. 332.

If we need some clarification, Ms. Jamason can explain the process.

Cherie Jamason, President and CEO, Food Bank of Northern Nevada, McCarran, Nevada:
[Read from prepared testimony (Exhibit F).

Chairman Anderson:
Is it your amendment?

Cherie Jamason:
It is not my amendment, Mr. Chairman. However, I understand the rationale for it. The bill as it reads provides for the donation of food for needy individuals.

Food banks are warehousing and distribution programs. We receive donated food, which is often provided to other nonprofit organizations. We are a support system for nonprofit organizations that serve the ill, needy, elderly, and children. In some circumstances, we have a small handling fee that is charged on certain food products that go out of our doors. In our case, about 80 to 85 percent of what we distribute goes out the door for free. What comes in for free goes out for free. The bill as it is written seems to preclude that kind of

mechanism where it says, "Donate it and distribute it directly to the needy." I think what the amendment is trying to do is make sure that the concept of the warehousing and distribution mechanism is written into the statute, so we do not have to come back again and say, "We would really like it so the food can be distributed or donated to food banks that can then donate it to other organizations that can serve it, free of charge, directly to the individual."

Chairman Anderson:
My question revolves around whether there is going to be an ultimate determination as to which people are in need by way of a needs test.

Cherie Jamason:
Is your question whether there is an ultimate need in the individual?

Chairman Anderson:
Yes. I am asking about the definition of "needy individuals."

Cherie Jamason:
No sir, I think that the issue before you concerns products that are donated to a food bank, then the food bank supply is a food pantry, and then the food pantry gives it to a needy individual. They wanted to make sure that the food bank piece was included in the bill so we do not have to come back and have that inserted. The needy individuals, I think, are not in question at this moment. Most people who receive food assistance and stand in pantry lines are absolutely needy. We are currently being inundated by 30 to 50 percent more people seeking assistance.

Assemblyman Segerblom:
Have you been sued?

Cherie Jamason:
Never.

Assemblyman Segerblom:
Is this legislation in anticipation of someone suing you? Do you have liability insurance or have you tried to get liability insurance?

Cherie Jamason:
No, we have never been sued. This is about the donors' concern about liability. It is not our concern. We have $3 million dollars in general liability insurance.

Assemblyman Segerblom:
The donors actually give you the food, right?

Cherie Jamason:
They do. The issue at stake here, I think, is that there is a much broader opportunity to receive donated food by alleviating the concerns of donors who fear liability.

Assemblyman Segerblom:
The amendment seems to deal with the question of charging for food. When food is donated to you, you are the one who actually charges money when you distribute it.

Cherie Jamason:
I think that as it stands, the proposed bill covers the issue. The amendment was felt to be needed for further clarification. I am of the opinion that with or without the amendment, this revision, which is for the purpose of clarifying what perishable food is, will work.

Chairman Anderson:
Amendment 1 still troubles me a little bit, Ms. Jamason.

Assemblyman Carpenter:
My establishment does this. We donate it to FISH. They come by every morning to pick it up, and we always make sure it is refrigerated. There is enough food wasted in this country by restaurants to feed every needy person. I think it serves a great need, and I am glad to see this bill come forward.

Gerald I. Gillock, representing the Nevada Justice Association, Las Vegas, Nevada:
The Nevada Justice Association has a neutral position on this bill and sees the need for the bill. I think that the immunities requested in the bill are sufficient to clarify the situation. I have only had a capsule summary of the proposed amendment. We are concerned with the amendment because it codifies a fee for charging for food. I think that may in some way affect the bill's status under the federal Bill Emerson Good Samaritan Food Donation Act of 1996. I think that amendment would not necessarily be proper. We would certainly want more time to study it, but from first glance and evaluation, the amendment does not provide the protections afforded in the bill. We urge the Committee to take a hard look at that amendment because it may very well affect the Good Samaritan status of this bill.

Chairman Anderson:
We will see if our bill drafters can work out some language that is suitable and acceptable to everyone. I am still a little unsure about the first part of the amendment.

Assemblyman Horne:
I am still trying to work my way through this conceptual amendment as well. If this "fee" is not paid by the ultimate donor of the food product, would it not still be a Good Samaritan act? Would it not be a gratis type of thing that we would not have to worry about? That is where the civil liability would rest.

Gerald Gillock:
It is my understanding that those organizations have been charging this fee. It is allowed by federal regulations as well as by their operating policies. I do not see why it would have to be put into the statute because it does not refer back to the donor in any way. It just allows the people who are receiving the food and the people who are transporting the food to charge a fee amongst themselves, which is already being charged. I do not think it should be in the statute itself, because it might give somebody a tool to do away with the entire statute by fighting it on the basis that it is not a Good Samaritan statute. I heard the food bank indicate to this Committee that they have $3 million in liability insurance, so I do not think they are concerned about their protection. I think that the bill as written provides the necessary protection. For that reason, I think the bill as written would be a better piece of legislation than the amended version.

Assemblyman Horne:
If this proposed change would occur, you believe the Good Samaritan statute would not apply to whom—the donator or the distributor?

Gerald Gillock:
The proposed legislation is supposed to protect the person donating the food, and it does that. That is why I think we should not take the next step to provide protection to the person who may be delivering the food while driving under the influence, or something else. I think they are allowed to charge those fees, which they have already been charging, so let us not put it in the legislation.

Chairman Anderson:
I think that is part of the problem with what was proposed last time, also.

Assemblyman Horne:
I appreciate the bill, and I think it is probably going to be fine with the amendment. I do not see how the Good Samaritan statute is going to be at risk.

I would like to speak briefly about the tax portion of this. You mentioned that the Internal Revenue Service (IRS) is involved in this?

Cherie Jamason:
It is called shared maintenance or a handling fee. Food banking has been around for about 35 years. The Internal Revenue Service has regulations that govern distributors of donated food, of which food banks are one type, and it allows for a small fee to pay for basic operating costs. It is a tiny amount of money, it is up to 18 cents a pound, and it has no bearing on the quantity, quality, or value of the food. Rice or steak, if we had either, would be the same thing.

Assemblyman Horne:
Who pays this fee?

Cherie Jamason:
Partner agencies that receive food resources pay that fee. Most food banks, like ours, do not charge this fee. What comes to us for free goes out the door for free. It is, however, in the federal regulations. My perception is that the fee is irrelevant to this discussion. The concern that the food bank in the south had was whether or not the legislation would allow for the flow of food from a donor, to a food bank, to a partner agency, and then to the recipient. In the legislation, in the Internal Revenue Service regulations, and in our operating regulations, no recipient of food is charged. From my perspective, that is totally wrong. I think that as it is written in this revision, and as it is written in the Good Samaritan Act that was voted into law in, I believe, 1996, there is no mention of fees one way or the other. It is all about absolving a donor of food from liability if they are donating food with the intent of ending hunger or providing food resources to someone who needs food assistance. The Good Samaritan law is about shielding the donor from liability.

Assemblyman Horne:
As I was saying, Mr. Gillock, I was trying to understand how this amendment would affect the Good Samaritan statute. I have Ms. Jamason, here, explaining the federal regulations on these middle men. That was my concern. I did not understand how they would be subject to liability. If somebody at the end receives bad food and files suit, who could they file suit against? Would these middle men and the donor be liable under the current statute or the proposed amendment? The person receiving the food does not have to pay, so it is still gratuitous.

Gerald Gillock:
We should make sure not to abrogate the Good Samaritan statute or the purpose of this bill.

Chairman Anderson:
Ms. Jamason, let me come back to the question I raised initially. Your proposed amendment deals not with the perishable food definition but rather with the issue of adding a qualifier to define needy individuals. That was the nature of my question. Who determines who needy individuals are? That is one of the qualifiers that is in the amendment and not in current statute.

Cherie Jamason:
I do not know if there is such a thing as presumed in a piece of legislation. I believe the legislation makes that assumption already.

Chairman Anderson:
I was under the impression, in the past, that organizations did not want to put themselves into the position of making that determination. The fact that the organization was distributing food was demonstrable proof, by itself, that the recipient needed the food. Have you changed that position?

Cherie Jamason:
No.

Sarah Borron, Program Manager, Three Square Food Bank, Las Vegas, Nevada:
The Three Square Food Bank is the food bank that serves southern Nevada. We asked for some language to be included in the bill to ensure there are no barriers to food banks in this statute. Food banks, such as the Food Bank of Northern Nevada and the Three Square Food Bank, serve as the middle man, as you have been discussing. We want to make sure that is allowable. The language in the bill indicated that a business would give food to an organization that would then give it directly to needy people, whereas we, as food banks, give food to other organizations that then give the food to those in need. Additionally, as part of the Feeding America network, we typically charge a small shared maintenance fee to our partner agencies. If we get food covered by this statute, we would like to be sure that our ability to be the middleman and to charge a shared maintenance fee is protected. To answer the question you were asking about determining which people are needy individuals, the phrase "for ultimate distribution to needy individuals" comes directly from the Good Samaritan Act.

Chairman Anderson:
Are you currently prohibited from charging these fees?

Sarah Borron:
No. We charge fees. We have only been open for a year and a half, and this is our first encounter with this law. We knew some changes were being proposed

to make it easier for restaurants to donate. We thought that the proposed language might be seen as being in contradiction with our current practice, and we wanted to ensure that would not be the case.

Chairman Anderson:
The other suggestion was, since you are currently able to do it and no one has prevented it from taking place, it was presumed you would be able to continue doing it regardless of the potential change to the language. I think that was Mr. Gillock's point in his testimony. You are trying to legitimatize your practice and codify it into law.

Sarah Borron:
We want to make sure that no one will see this law as being in contradiction with how our food bank operates. Our food bank currently operates in conjunction with the Good Samaritan Act and with Feeding America.

Chairman Anderson:
Nobody is preventing you from doing that?

Sarah Borron:
No.

Chairman Anderson:
Let me close the hearing on A.B. 332 and bring it back to the Committee.

We will take a look at Ms. Borron's proposed conceptual amendments. We will ask the bill drafters whether we would need a needs test, which I still have some questions about.

Nick Anthony, Committee Counsel:
I can take a look at the federal law, look at that definition in the Good Samaritan Act, and report back to the Committee, or you could move without amendment today.

Assemblyman Horne:
I am inclined to believe it is probably okay without the amendment. We can pass it, and if Mr. Anthony comes back and says, "Oh no, we need this amendment," we can always put it on the desk for an amendment on the floor. I feel that it is probably okay without the amendment.

Assemblywoman Dondero Loop:
If we can pass the bill on, that would be great.

ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS ASSEMBLY Bill 332.

THE MOTION WAS SECONDED BY ASSEMBLYMAN HAMBRICK.

Assemblyman Carpenter:
I may have a conflict of interest, but I am going to vote on A.B. 332 anyway.

Assemblyman Manendo:
I had an email from somebody who was listening in, and they said that when a restaurant donates food, it goes to a place that holds on to that food until somebody else comes along and says, "Hey, I need it." Potentially, it could be two, three, or four days before that food is actually delivered to the person in need. How far are we stretching that? I could see if an organization goes to my favorite Italian restaurant and says, "If you have any extra lasagna, we are doing a feeding for our community"; they say, "Sure, no problem, here are a couple of pans"; and they distribute the food that day. I heard in the testimony there is a place that holds that food for what could be several days, and then another organization, working for a fee, collects that food and distributes it. Technically, it could be three, four, or five days before that food is delivered. Everybody is off the hook, and that food has been moved in and out of refrigeration at least a couple of times. I am concerned. I understand and agree with the intent of the bill, but I wonder how far this protection could stretch to let everyone off the hook.

Chairman Anderson:
When you go to the grocery store, Mr. Manendo, generally speaking, you do not put the ice cream in the grocery cart first. The reason you do not pick it up first is not because it is not the first thing on the aisle, it is because you know that it will have melted by the time you complete the rest of your shopping. I think that most people who deal with food on a regular basis recognize the inherent nature of safe food handling. That is the reason we provide health inspectors and other supervisory measures.

Assemblyman Manendo:
I agree, Mr. Chairman, but there are no health inspectors who oversee the handling of the food after it has left the restaurant.

Chairman Anderson:
If you went by a deli in a grocery store, you would not be picking up food that you thought could spoil in the next hour and a half if it was going to be

unrefrigerated. We are dealing with perishable foods, whereas in the past we dealt with other kinds of foods.

Assemblyman Hambrick:
I had a constituent raise the same question in this area. The bill, I believe, only concerns donations. Once the food goes into food banks, county health codes come into play. If the food is perishable and it goes below a certain temperature for a certain number of minutes or hours, they have to dispose of it. There are county and state health requirements that come into play after they have received the food.

Assemblywoman Dondero Loop:
If we need some clarification Ms. Jamason can explain the process.

Chairman Anderson:
Ms. Jamason, do you want to tell us how it works?

Cherie Jamason:
Food banks and any other food handling institutions are under the jurisdiction, as Assemblyman Hambrick said, of the county health department. The code regulating prepared and perishable food says to turn it over within 24 to 48 hours. My staff is all certified in safe-food handling by the county health department. There is a training process and a two-year certification. The food is picked up in refrigerated trucks, and the temperature is taken. There is a process called Hazard Analysis Critical Control Point (HACCP) that ensures food safety. The food is discarded after 24 to 48 hours depending on the time and temperature records that are kept. It is our commitment, the National Restaurant Association's commitment, and the Serve Safe Certification process's commitment that all food provided to people in need or not—it is the same process that a restaurant follows—is always safe to consume. It does not sit around for five days, for sure.

Assemblyman Segerblom:
The bill also exempts gross negligence, so, as Mr. Anthony pointed out, if it is something where they are intentionally or grossly negligent in handling the food, you could still sue for that. This has been invented by the trial lawyers. It is not a big deal. I think we ought to pass it.

THE MOTION PASSED. (ASSEMBLYMAN MORTENSON WAS EXCUSED.)

Chairman Anderson:
We will turn our attention to Assembly Bill 353.

Assembly Bill 353: Makes various changes concerning certain crimes related to property. (BDR 15-514)

Assemblyman David Bobzien, Washoe County Assembly District No. 24:
Assembly Bill 353 is the result of a long road taken by a very interesting collaboration with the Illegal Dumping Task Force in northern Nevada. This is a community effort consisting of Washoe County, the Sheriff's Department, Keep Truckee Meadows Beautiful, and a number of other concerned community players.

When I first ran in 2006, I had a series of decisions to make about how I was going to package my campaign and package my identity. I chose as my logo the outline of Peavine Mountain because, while the summit is not necessarily in my district, Assembly District No. 24 wraps around Peavine Mountain. Wherever you are in the district, as a resident, you have some interaction and appreciation for the public lands that make our quality of life in northern Nevada so grand. As such, I wanted to make a long term commitment to protecting that quality of life and strive to do so in my legislative service. So when the Illegal Dumping Task Force came to me and asked me to shepherd some legislation to give them more tools to deal with the issue of illegal dumping, it was a very easy decision to support them.

We have some issues with the bill that we are still working through. There was a concern brought up by the rural courts about a section of the bill that requires the prioritization of these cases in district court. We have an amendment that Mr. Slaughter will be presenting to address that concern. I believe we have an agreement between Clark County and Washoe County regarding some concerns arising over the mingling of the civil and criminal processes that are stipulated in this bill.

Chairman Anderson:
As a lifelong resident of Washoe County, the dumping in Washoe County has been a problem for as long as I can recall. As the community has continued to grow, the county has unfortunately become the recipient of more and more trash, such as refrigerators, old car bodies, tires, and other things that lower our quality of life. I consider your piece of legislation long overdue. I am hopeful that it will help the counties by putting more teeth into the statutes.

Assemblyman Carpenter:
In one section I see you have a population cap. I think illegal dumping is a problem in all counties. If this makes it easier and puts more teeth into ordinances, I do not think it ought to have a population cap.

Assemblyman Bobzien:
I believe my colleague is referring to section 5, which authorizes a solid waste management authority to establish a program to deal with illegal dumping. We will be hearing more about this from the county. If this dropped down to include Washoe County, presumably the health district would undertake such an effort. If there is interest on the part of the rural counties to also embark upon this, I do not see why we would not be able to remove the cap altogether.

Chairman Anderson:
Apparently it is working successfully in Clark County.

Kitty Jung, Commissioner, Washoe County Board of Commissioners, Reno, Nevada:
As you are well aware, we are unable to address real nuisances and achieve compliance without adding some more teeth to the law, especially when it comes to cleaning up the properties. We have run into a brick wall where we cannot even go out and clean them up and then bill the property owners. It is not just out in the desert; it is in other areas within our county, which is unincorporated county, where people must live next door to these properties. It creates quite a neighborhood disturbance. Some of these problems have taken on goliath size in terms of neighborhood disruption and the amount of money, in terms of time, that code enforcement officers and other staff have to invest only to find there is little or no remedy many years later. We really have to have something more to enforce this and to clean up the neighborhoods.

Chairman Anderson:
Washoe County is already over 400,000 people, but we use the figures from the 2000 census in state statute whenever there is a number reference. There are a few statutes that take a current population figure, but, generally, the statutes are tied to the national census, so the next time numbers will be reconsidered will be in the 2011 session of the legislature. There are a wide variety of issues that could be addressed and would have to be addressed by individual legislation if we want to deal with that population number. Of course, in the 2011 session, unless addressed by specific legislation, those numbers will go up to exclude Washoe County again. The numbers automatically increase to maintain the distinction between the largest populated county in the state and the less-populated counties.

Assemblyman Cobb:
One of the problems that we are seeing over and over again in this Committee is the issue of foreclosures, especially when we are dealing with common-interest communities and how they enforce their codes and regulations. This is not so much along the lines of how it is enforced, because

if you have the authority to clean it up, you just go in and clean it up. My question has to do with the automatic fine of $500 to $5,000. Given that a lot of people in common-interest communities cannot even mow their laws and keep up with their gardening, what are your thoughts in terms of providing some type of waiver for these fines if people are going through the foreclosure process?

Assemblyman Bobzien:
I think that is a very important point. It is an interesting dynamic, because I think as this effort started to bring together some new tools for the tool kit, the issue was more along the lines of rapid development and all the contractor work that was going on. The concern was that there were some bad actors, businesses, that were taking shortcuts to dumping. I think now that we are in this situation with foreclosures, including concerns about what common-interest communities are doing with their properties, it is a different scenario that we had not thought about.

Assemblyman Cobb:
I represent Peavine so I understand the need for this bill.

Chairman Anderson:
I do not think this issue only concerns Peavine.

Robert Larkin, Chair, Washoe County Board of Commissioners, Reno, Nevada:
The board of county commissioners has taken a position in support of this bill. In the last three years, the commission has engaged with citizens in extensive examination of all ordinances that deal with nuisances. We found ourselves lacking certain tools that would enable us to rectify the problem.

I have an anecdotal story that reminds me of this issue. A gentleman is on a ten-acre parcel. You would think that he would not be able to see the large amounts of material on his neighbor's ten-acre parcel. However, in this case the neighbor is a contractor. The contractor has fallen on hard times, and, rather than having storage someplace in the city or someplace that is zoned for it, he has placed all of his material on his property. In the mind of the neighbor who is trying to sell his property, this has significantly diminished the value of his property in the current marketplace. While that may or may not diminish the value of the property, it is problematic because we have had code enforcement officers out there who can only take so much action. The only recourse I could suggest to the landowner was to engage in civil litigation.

That is not right, Mr. Chairman. It is not right that the landowner's only recourse is to engage in private litigation, which would force a court to place

some kind of lien on the property, the lien would only be recoupable if the individual who caused the nuisance sells the property. I think this bill would give us additional tools that would enable the board of county commissioners, through our code enforcement, to bring a happy ending to these kinds of stories that come to us over and over again.

Bob Webb, Planning Manager, Community Services, Community Development, Washoe County, Reno, Nevada:

This bill has three distinct elements. The first element deals with criminal prosecution through the existing courts. That addresses Chapter 202 of *Nevada Revised Statutes* (NRS). The current criminal system typically provides jail time and/or fines for convictions of public nuisances. Neither jail time nor fines directly address the problem of public nuisance. Typically, after conviction and sentencing, the violation remains, the enforcement agency must cite the violator again, and it turns into a never-ending cycle. You have a copy of the talking points (Exhibit G) in front of you with pictures that show some cases on private lands in Washoe County. Current law permits a judge to order abatement in public nuisance cases upon conviction. This bill provides a complete process for abatement. It spells out for the judge and for the responsible agency, the agency that brought the citation forward, the process of how to proceed through the abatement procedure. More importantly, it also outlines the process for the citizen who is convicted of a public nuisance violation to let the citizen know what path that public abatement process will follow. That is the first element of the bill.

The second element addresses a civil process in Chapter 244 of NRS. This allows the county to enact a public nuisance ordinance. It is discretionary on the part of the county. If the jurisdiction requires an ordinance to address a public nuisance, it will be based on citizen requests to address nuisance problems. The local jurisdiction can enact the ordinance to address the nuisance problems on private property. That civil process outlines a proven process to protect the citizen by a set procedure when a local jurisdiction orders a person to correct a nuisance problem on their property.

The third element deals with illegal dumping on public lands, specifically. That is under Chapter 444 of NRS. The first part of that element broadens the authority and the ability of the counties, under a solid waste management authority, to enact programs to control illegal dumping. This bill would lower that population cap to 100,000 to allow Washoe County, when it decides to have a solid waste management authority and an illegal dumping program, to do so. The county, as was noted earlier, has grown to over 400,000 people and faces the same challenges that Clark County does in illegal dumping on public lands. Washoe County, through the District Health Department, may not

establish a program in the immediate future. However, when budget and staffing enable such a program to be established, the county would like state authorization to do so. The final part of that third element clarifies where the civil penalties will go for convictions of illegal dumping. The bill broadens the authority to place that money into the county treasury, so that money can be used by the county through such organizations as Keep Truckee Meadows Beautiful to combat unlawful dumping in the county where the program or the problem occurs.

Let me take a moment to address the question about fines and waivers. Depending on the system, if you have a criminal system, which is really the first and third element, upon conviction a judge can order criminal and civil penalties. At that point I believe the judge would engage in a dialogue with the person who is being convicted about his ability to pay the additional fines. In the middle element, that is a civil process that is enacted by local jurisdiction, it would be incumbent upon the local jurisdiction to provide those waivers, or procedures for fees to be waived in hardship cases, as they adopt the ordinance. Hopefully, that addresses the question about fines and waivers.

Assemblyman Cobb:
Unless I am reading this incorrectly, section 1, subsection 1 says "may." It says "may" for each section.

Chairman Anderson:
Where, specifically, in the bill is your question addressed?

Assemblyman Cobb:
Regarding section 1, subsection 1, paragraphs (a), (b), and (c), you are saying there is discretion in the way this is written for each of those subsections, so that the judge would not have to impose each one of those subsections but would, instead, have the discretion to impose one or the other?

Bob Webb:
To the best of my knowledge, I believe it is set up that way. I would have to look at each one, but I can tell you that for subsection 1, paragraph (b), "if ordered by the court or magistrate," I assume it means that it would be voluntary on the part of the court or the magistrate.

Assemblyman Gustavson:
As you know, I have represented Sun Valley for quite a few years. I have had complaints on both sides of the issue. I know it is a problem; it is something we need to deal with. Some of the concerns I raised with the county commissioner and planning code enforcers dealt with trying to address the issue

of inoperable vehicles. Some people have them with the intent to restore them, but many have no intent to restore those vehicles, and it is a nuisance. How do we apply this law without harassing those people who have vehicles they intend to restore?

Bob Webb:
I believe that the key phrase for the civil process is the definition of public nuisance. Public nuisance is already defined in state law, and that is what the criminal element in Chapter 202 of NRS would hinge on. It is important for the local jurisdiction, the county, or the city, to make sure that the definition of public nuisance is clear so that there is a threshold, whatever that threshold may be. Having one, two, or three vehicles is not a public nuisance, but having four, five, or six may be. It needs to be clearly defined from the start: when does an inoperable vehicle problem grow to the magnitude of a public nuisance so that it can be acted upon and cleaned up?

Assemblyman Gustavson:
I want to protect people who have the true intent to restore vehicles.

John Slaughter, Director, Management Services, Washoe County, Reno, Nevada:
My role today is to talk about proposed amendments. There is a proposal from Washoe County that was provided to the Committee (Exhibit H). This is the result of discussions we had with the Administrative Office of the Courts. Their concern relates to section 1, subsection 3, which provides for these proceedings to be given priority on the courts' schedule. After discussion, we understand the possible impact this could have on scheduling, particularly on other statutorily or constitutionally mandated hearings. We have agreed to strike that portion of the bill.

Chairman Anderson:
If there is a true nuisance that you want to take care of right now, there must be some way to get to the justice court or the municipal court in order to do that. Mr. Webb, by removing this priority language, how are you going to do this? I am asking this because there is a subsequent bill that this may impact.

Bob Webb:
In my experience with the courts, specifically the justice courts of Washoe County, each judge sets his own calendar. It is possible to work through the district attorney's office to present extenuating circumstances to the judge, and then the judge will arrange the docket, if need be, to set cases on priority. I can understand their concern with requiring these cases to have priority because it lessens their ability to set their own dockets and their own

procedures. Personally, I believe this is a good change for the bill. If we need to, we can talk to a judge. We have that relationship, and they can move an item up on a docket.

Chairman Anderson:
For judicial discretion, we would prefer them to manage their own dockets.

John Slaughter:
As Assemblyman Bobzien spoke to in his introduction, Clark County pointed out some concerns they had with the bill. We have been working with them regularly for the past several days on that issue. We and the district attorney's office are in conceptual agreement: to make sure that the bill is very clear on the division between the criminal process and the civil process in these cases. We are very close to having some proposed language.

Chairman Anderson:
Am I to understand that this is a work in progress?

John Slaughter:
Yes.

Christi Cakiroglu, Executive Director, Keep Truckee Meadows Beautiful, Reno, Nevada:
We have been working with several local, state, and federal partners on prevention efforts for illegal dumping. In 2006, we were approached by Commissioner Weber and Karen Mullen, the director of Washoe County Parks & Open Space, to create a community-wide cleanup. As a result of that cleanup, for the last three years we have worked with over 1,500 volunteers to remove over 340 tons of trash from open space areas in Truckee Meadows. As we looked at the numbers when we started this effort in 2006, we decided we needed to start looking at ways to prevent illegal dumping. That is how the Illegal Dumping Task Force came about. We are here representing the Task Force to talk about why this is very important. As you know, trash tends to attract trash, and it does affect the property values of the community as well as the perceived value of the community itself, so this bill is important to the county in that way.

Maia Dickerson, Program Director, Keep Truckee Meadows Beautiful, Reno, Nevada:
I am here today to support this bill.

Chairman Anderson:
Ms. Dickerson, you know that there are going to be some ongoing discussions with the folks from Clark County pertaining to the bill. Is your intention to participate in those discussions, or are you leaving it to the enforcement officer and the two counties to work out their differences?

Maia Dickerson:
Our intent is to specifically support sections 5 and 6 of this bill. I believe Washoe County has spoken with Clark County about this, and they have no issues or problems with those sections.

Chairman Anderson:
Do you have a problem with the suggestion made by Assemblyman Carpenter to remove the population cap so that every county might have the opportunity to use the legislation if they choose?

Maia Dickerson:
No. We would support that.

Constance J. Brooks, Senior Management Analyst, Administrative Services, Office of the County Manager, Clark County, Las Vegas, Nevada:
We are neutral on this bill because we are concerned about the language that allows for the comingling of criminal and civil processes. We applaud the efforts of Assemblyman Bobzien, and we are thankful for this legislation that would provide us with more oversight to ensure compliance in the abatement process. As Mr. Slaughter said, we are working diligently with the Washoe County District Attorney's Office to come up with some language that would suffice for all parties involved, so we can ensure there is a delineation between the civil and criminal processes.

Chairman Anderson:
You realize, Ms. Brooks, that the only reason this issue is in front of this Committee, rather than the Committee on Government Affairs or the Committee on Natural Resources, Agriculture, and Mining, is because of the mixing of criminal and civil process.

Constance Brooks:
I am aware of that.

Chairman Anderson:
Ms. Brooks apparently is going to facilitate the involvement of Clark County to make sure that their concerns are fully vetted. Are you going to be the conduit through which Clark County is going to make sure things happen?

Constance Brooks:
Yes, sir.

John McCormick, Rural Courts Coordinator, Administrative Office of the Courts, Carson City, Nevada:
I am here today to express the court's appreciation to Assemblyman Bobzien and the supporters of this bill for recognizing our concern with page 3, lines 9 and 10 and to say that since they proposed an amendment to remove that language, the court is quite satisfied. The court recognizes this as a crucial community issue. I think courts across the state will make an effort to hear these in a very prompt and timely fashion.

Chairman Anderson:
We will close the hearing on A.B. 353 and bring it back to the Committee.

Let us turn to Assembly Bill 335.

Assembly Bill 335: Makes various changes relating to criminal gangs. (BDR 15-85)

Assemblywoman Bonnie Parnell, Assembly District No. 40:
I am here to present Assembly Bill 335 to you. Some of you who have read this bill have probably been a bit surprised. I am the lady who chairs the Committee on Education. I have spent my life giving students every opportunity to find success. I think at some point in time, people choose to cross the line. When they do it more than once, when they continue to victimize and intimidate others, then I become just as passionate on the enforcement side as I do on the prevention side. Because we all recognize we have a problem in this state with criminal gang activity, that is why I have A.B. 335 before you today.

Section 1 of A.B. 335 adds a gang enhancement to existing law only if the person had been previously found guilty of a similar crime. A gang enhancement would not happen on a first offense; I think that is important to note. For the enhancement to apply, the state must specifically plead that the person knowingly committed the crime for the benefit of a criminal gang. Also important to note in this section, a category E felony may be expunged after seven years. This does not follow the life of the individual who is committing these crimes.

Section 3 gets into an area that you just heard about in the previous bill. It talks about private nuisance with a civil remedy. This is the part of the bill that was the impetus for bringing it together. This section deals with situations where we have buildings or places regularly and continuously used by members

of a criminal gang to engage in or facilitate the commission of crimes. I spent about six months on the phone with a gentleman who lives in a mobile home park in Carson City. The gentleman is probably close to about 80 years of age and has lived in this mobile home park for 35 or 40 years; it is his home. The mobile home park has been taken over by a gang, with criminal gang activity taking place regularly. He did not know what to do. He is victimized in his home. Addressing private nuisance in this bill resulted from that issue.

Section 4 talks about juvenile certification. We all heard Assembly Bill 237 last week, the issue of the juvenile 14-to 16-year-old being tried as an adult. I am certainly interested with seeing what happens with A.B. 237. If that is part of this bill that we need to amend out, I am more than willing to do that based on constitutional issues.

Section 5 repeats information on public nuisance, this time giving it a criminal remedy.

Section 6 allows a board of county commissioners to adopt nuisance ordinances for gangs.

Section 7 has the same language, but it allows a city to adopt a nuisance ordinance relating to gang activity. Section 7 also provides that a member of a criminal gang, who is subject to an injunction and who knowingly and intentionally commits a material violation, is guilty of a misdemeanor.

I think it is important to note that there are two additional gang bills being heard this session. Senate Bill 143, sponsored by Senator McGinness, deals with the issue of gang recruitment. Assembly Bill 154, sponsored by our colleague, Assemblyman Munford, relates to the prevention of gang involvement. Together, these bills comprehensively deal with the issue of criminal gang activity in our state and, most importantly, give those dealing with this challenge increased resources to prevent and combat this ever-increasing problem.

Assemblyman Carpenter:
In section 1, subsection 2, it says, "If a person is punished pursuant to this section, the court may, in addition to any other penalty imposed, issue an order suspending the driver's license of the person...." I wonder if the offender has to have a punishment before they can take the driver's license away or if they could take the driver's license away first. Last session, when we passed the graffiti bill that allows authorities to take away driver's licenses, it really cut down the graffiti situation in Elko. I think this is the penalty that really catches them, because they do not want to lose their driver's license.

Assemblywoman Parnell:
That is why we added this to the bill. I think Mr. Rombardo can answer the more specific question.

Neil A. Rombardo, District Attorney, Carson City District Attorney, Carson City, Nevada:
With regard to the specific question that Mr. Carpenter asked, it is my understanding that the person would have to be punished, which requires a prosecution or some sort or conviction. That is how I read the statute. I guess if you were to change it, as you requested, it could be an arrest. That would probably be a change that you might be interested in if that is how you are doing it in Elko. Today I am here to support this Assembly bill. I have several pages of testimony (Exhibit I) prepared, but I am going to give you the truncated version.

I would like to share with you some of the things we have accomplished here in Carson City over the last two years since we came to realize that we have a gang problem. Recently in Carson City we launched the Gang Response, Intervention, Prevention, and Suppression (GRIPS) program. It is a multifaceted program in which we have gathered together local, state, and regional leaders in our community to come up with new ideas to prevent young people from getting into gangs, to intervene in cases where gang members are on the verge or at risk of becoming new gang members, and, when necessary, to suppress gang criminality where gangs and their members have made the choice to use their gangs as an instrument of violence, narcotics trafficking, the destruction of private property, and other criminal behavior.

We have realized that we cannot prosecute our way out of this issue. That is why we are here today in support of this bill. No matter how many times we prosecute these people and put them in prison, there is somebody behind them to take their place. That is why the injunction that is related to the nuisance is so important to us and our efforts in Carson City. As Assemblywoman Parnell pointed out to you, we have areas in Carson City where we know these gangs are located and we know what they are doing. They intimidate those in their neighborhood to stay in their homes at night and to live in fear. That refers to the 80-year-old man that Assemblywoman Parnell pointed out. I can go down there and prosecute these gentlemen over and over again, but eventually somebody is going to be there to take their place and eventually they are going to get out of prison and return to their lifestyle. That is the cold, hard fact. I am asking you to pass the injunction law, which is described in sections 6 and 7. That allows us to enjoin the criminal gang activities from certain areas, to keep them out of those areas.

I have to suggest an amendment to sections 6 and 7. Currently, sections 6 and 7 specifically state, "any specific gang member." The intent of this legislation, when I met with Assemblywoman Parnell, was not targeted toward specific gang members but entire gangs themselves, preventing them from being in an area. I can see that some of you are concerned by this and are thinking, "Is that okay? Is that legal?" It is legal: it has been upheld in Texas, Florida, and California. It is time to put Nevada on the cutting edge of the law. That is where this bill is, and that is where we need to be. We have gang issues that stem from Carson City, to Clark County, to Elko, to Ely. Last month I was very proud to go down and present our program to the Las Vegas Metropolitan Police Department and show them the different things we are doing here in Carson City. They have adopted a lot of what we are doing, and they are strongly in support of these new ideas that we are bringing to you today.

The last section that I would like to touch on is section 1, which is the criminal gang enhancement for misdemeanors. A criminal gang enhancement for misdemeanor offenders is very important to us. Gang members know what they can and cannot do to avoid felonies. They tell us all the time: "I did not go that one step further because I knew it was a felony." What we want to be able to do, once they have been prosecuted once, is have the opportunity to prove a gang enhancement and have them convicted of a category E felony. It is important to point out that a category E felony results in mandatory probation. It is also important to point out that a gang enhancement is not something that is easily proved. It is not something that a prosecutor is going to want to do in every single misdemeanor case.

I want to give you an example of a gentleman who I sent away for six years just yesterday, Mr. Fuentes. Mr. Fuentes is a known gang member. He has seven misdemeanor offenses, all of them somehow gang related. His defense lawyer said, "He has only committed misdemeanors; he should not go to prison." He has terrorized our community for nine years. He is 26, and he has had a criminal history since he was 18 yeas old. This is the type of person for whom this enhancement is meant. I strongly encourage you to pass this bill.

Chairman Anderson:
Did you bring an amendment in writing?

Neil Rombardo:
No. I suggest you take out the language that says, "any specific member."

Chairman Anderson:
I am in a quandary as to section 6, which says, "A temporary or permanent injunction against any specific member of a criminal gang...." How would a

court, not recognizing a specific gang member, be able to proceed under your potential amendment?

Neil Rombardo:
The courts throughout the United States where this has been done, primarily Texas, California, and Florida, have accepted that the prosecutor, or the district attorney's office or city attorney's office may go into court and put forth who the leaders of the gangs are, and consider it proper service to serve the leader of the gang. It is known throughout law enforcement that gang members communicate with each other. That is how they remain cohesive. Once the leader is served, that is considered proper service. That has been upheld in every jurisdiction that has had successful gang injunctions. It would be incumbent upon me as a prosecutor or as the city attorney to show that to the court.

Chairman Anderson:
If I had a gang symbol on me, and you served who you perceive to be the leader of the gang, that would be considered service on me?

Neil Rombardo:
Yes and no. What I am required to do as part of my prosecution of this civil injunction is point out all of the gang members who we are enjoining, but we are enjoining the entire gang. It is incumbent upon me to list the members of that gang. We do not want to be stuck in the situation of having to personally serve every single gang member. That is my concern with the way the law is currently written. If you enjoin a specific gang member, I have to give service to every gang member.

Chairman Anderson:
The way you envision this happening is that the district attorney's office, or the city attorney, or whoever is using this law, would have to list each gang member in order for that to be considered proper service.

Neil Rombardo:
You have to list the gang, and somewhere in your documents you have to list the members.

Chairman Anderson:
I could have a marking that indicated I was once a member of that gang, but if I was not listed on the document, you could not consider me served.

Neil Rombardo:
I think that is correct. It is not a service issue at that point. The injunction would not apply to you.

Chairman Anderson:
That is predicated on the belief that somebody has been served?

Neil Rombardo:
Correct.

Assemblyman Kihuen:
My question, Mr. Rombardo, is regarding section 1, subsection 1, paragraph (b), where it says, "The person commits that violation knowingly...." Is the definition of "knowingly" written anywhere?

Neil Rombardo:
The determination of "knowingly" would be made by the court. Knowingly, in our terms, is the specific intent to commit crime. Basically, the defendant knew that this was the purpose of committing the crime.

Assemblyman Kihuen:
If a person who is not a gang member is at a party hanging out with his buddies who are gang members, and the police come and arrest everybody, would that person who is not part of the gang be knowingly committing a violation?

Neil Rombardo:
No.

Assemblyman Horne:
This injunction would apply to a gang member's home. In the scenario that Ms. Parnell illustrated today with the gentleman who lives in a mobile home park, a gang member could be his next door neighbor living in his home, and people come there. To enjoin somebody from their home I think could be problematic. I do not know whether this issue has been addressed in these other jurisdictions that you mentioned. I have a friend of mine who calls himself the "pasty gangster." He hangs out at his house, and all of his gangster friends come over. I do not know if they are doing gang activity or whatever, but you are going to enjoin them from coming to his house, and is he going to then have to move?

Neil Rombardo:
No. I am not going to enjoin him from his home. Clearly, we cannot do that. These are injunctions for when gang members and gangs have taken over

communities. Clearly, I cannot go into your home and enjoin you from activities inside your home, but I can enjoin you from the public activities that you do outside of your home, or what you do to your next door neighbor, or the damages, harm, and threat you cause to the entire community that you have taken over. That is the issue.

Assemblyman Horne:
I guess that goes to my point. In some places the neighborhood that has gangs and gang members is not only their neighborhood, they live there. They live down the street from each other, and the next street over, and the apartment complex across the way. I think it becomes problematic when you start enjoining people from where they live. It is not like you are enjoining them from hanging out at the skating rink or public places like the mall. These are neighborhoods where their mothers, grandmothers, brothers, sisters, et cetera also live there. I understand what you are trying to do, but in some jurisdictions that is really going to be problematic.

Neil Rombardo:
I think it would be incumbent upon us as prosecutors to understand the situation. That is partly why we do what we do. Again, a gang member who is walking from his home to his grandmother's home is not engaged in gang activity. I am worried about the gang members who sit in front of driveways and do not let you through unless you pay a toll to them or the gang members who sit on the corner and threaten little girls as they walk by. I am not worried about a gang member walking from mom's house to grandma's house; that is not gang activity.

Assemblyman Segerblom:
Is this a civil remedy that the prosecutor is using?

Neil Rombardo:
Yes. This is a civil remedy that counties and cities can use.

Assemblyman Segerblom:
Does the city attorney's office have a civil division and criminal division? I am a little concerned about the criminal division pursuing civil remedies. Do you do this in other areas?

Neil Rombardo:
We would do this through our civil division.

Assemblywoman Parnell:
It is worth noting how we use the term "gang." I think it is extremely important in this conversation and in this bill that every time you see the word "gang" written in the bill, it is prefaced by the term "criminal." It is a gang that is choosing to engage in criminal activity. There is a real separation from the generic use of the term "gang."

Chairman Anderson:
That is, I think, one of the difficulties of the bill. There are those who want to be in or think they should belong to a gang, who I consider to be more dangerous than actual gang members because their desire to get into the gang is so great that they will do anything to bring the attention of the gang to them.

Assemblyman Manendo:
I have a very special constituent who lives next door to a family that has a son and a cousin living in their home. On Friday when I went home to Las Vegas, they were in their driveway, in their car, smoking pot, drinking beer, and they are all under 21. The yard was littered with beer cans and garbage. From time to time they trespass on everybody's property in the cul-de-sac. They sit on the lawns and benches, hang out in people's back yards, and block other people's driveways. They do not ask for a toll, but they play loud music, and you cannot even get into your own driveway. How do you really know they are in a gang? We know they are in a gang; the mother told us so. I am trying to understand.

Neil Rombardo:
It is not an easy process. I think that is something that needs to be pointed out. These cases are huge. There are normally several banker's boxes full of documents. It is not as simple as showing a couple of acts; it takes years. To specifically get somebody certified as a gang member, first, the law enforcement agency must determine whether the gang exists in their community. Once that determination is made, they then have contact with individuals. Through a series of different investigative techniques, commonly called field interviews, they determine whether or not the member is an associate of the gang, which means he is not a full-blown member, or whether or not he is a member of the gang. There are 12 criteria we use in Carson City. If you meet three of those criteria, you are a gang member. If you meet two of them, you are an associate. You look for things such as tattoos, monikers, and specific gang activity that are related to that gang. Once you have made the determination that a person is a gang member and you have certified them as a gang member, there is federal law that allows you to keep that certification only for five years. The federal government is considering increasing that, but somebody can get off of the list as well. It is not as simple as identifying a gang member based on appearance; it is much more than that.

Assemblyman Manendo:
Whether they are in a gang or not they are terrorizing this neighborhood. I think it should apply to everybody who is doing these things.

Lucy Flores, Private Citizen, Las Vegas, Nevada:
I had the opportunity to work on a gang injunction with the city attorney of Southgate the summer before I started law school. I wanted to clarify that in terms of the specifics of the gang injunction, they are not all created equal. There is such a thing as an unsuccessful gang injunction. One of the first major studies on the efficacy of gang injunctions came out of the University of California, Irvine and the University of Southern California. One of the things that came out of this research was that the injunction itself has to be limited in geographical scope. It is not just a matter of going into a city, and having the police department say, "We have gangs everywhere; let us enjoin them all." That is not how it works. It is not feasible, and it is not constitutional. One of the important things to keep in mind is that we are going into small neighborhoods that have a high concentration of gang activity, which, as Mr. Rombardo noted, has generally been kept on record by gang units of the police departments. In terms of how these gang members know that an injunction exists, generally, at least for the injunctions I have seen that have been studied and determined to be effective, once a gang member has had contact with police because he was committing some sort of gang-related crime or participating in gang activity, he is served at that moment. They are continuously serving new gang members and putting them on notice that an injunction exists. Once they are on notice, you can continue to enforce the injunction.

I was inadvertently brought into this issue because, during testimony before another committee, I disclosed that I was involved in gang activity at a very young age. As a matter of fact, I was on juvenile parole at the age of 15. That is where my personal interest in this subject stems from. That is why I continually work in the community on gang prevention. I do not consider myself an expert, but I thoroughly versed myself on gangs because I have witnessed what gangs do to communities and what they do to families. There are different things that can be done in order to prevent and deal with gang violence and criminal activity. I firmly believe, not only because of my personal experience but also because of research that has come out, that injunctions and nuisance statutes are effective. As an example, when I was 14, I had not yet been sentenced to the correctional facility, and for whatever reason, my friend, who was also a gang member, and I decided to go into a rival gang's territory. I keep thinking that had there been an injunction at the time I would not have had to witness him getting stabbed when we were attacked by the rival gang. It is important to note that the injunction prevents gang members from getting

together and promoting gang activity. It does not prevent them from hanging out in their homes. When I was released from the correctional facility, I knew that the most important thing for me to get out of that lifestyle was to not hang out with gang members. I literally kept myself confined to my own home because in the area I lived in, North Las Vegas, there were obviously gang members, including my friends, all around and I did not want to see them. That was the only way I was able to stay out of more criminal gang activity.

There is plenty of research that shows that, if this is implemented correctly, it is effective. In addition to that, Assemblywoman Parnell noted that she is thinking of this as a comprehensive tool that is being added to the law enforcement arsenal. I know that we are not testifying on the other bills, but it is important to note that when you have this type of tool added in with prevention programs that deal with youth before they get involved in gangs, it is a comprehensive way of dealing with gang activity.

Chairman Anderson:
You are a great example of the ability of the system to work if you take advantage of the opportunities that are given to you. As a teacher—I think that Ms. Parnell and Ms. Dondero Loop share this point of view—we believe that education is part of opportunity, and that is what makes this piece of legislation so difficult to deal with. That is, when you criminalize something, our society, given its propensity for sharing information through criminal history checks, could take those opportunities away. I believe that the modifications made to this bill have already removed some of those concerns. We are hopeful that we can leave law enforcement agencies with the ability to make sure our communities are safe without taking away the third part of what I consider the three legged stool: first, to protect society; second, to punish the person for what he has done; and third, to change behavior. I believe behavioral change is possible, although there are some who do not think it is possible.

Assemblyman Kihuen:
Out of all the districts in the State of Nevada, Assembly District No. 11 and Assembly District No. 28 are the ones with the highest rates of criminal activity. They are my neighbors. They are people whom I see on a day-to-day basis. When I get out of my apartment, I have to look everywhere. I have been robbed at gunpoint before. I appreciate the intent of the bill. Considering your past, what are your thoughts on part one and part four of the bill?

Lucy Flores:
Given my personal experience, I cannot imagine committing misdemeanors and having those misdemeanors in furtherance of gang activity being increased to a felony. I do not know what that would have done to me. Additionally, in

general, tough-on-crime statutes in and of themselves tend not to work. However, these issues have been raised already, and as Chairman Anderson has stated, there are some issues in the bill that have been cleaned up. I think we are open to tightening-up the language in those particular sections. Assemblywoman Parnell stated previously that section 4 regarding juvenile certification depends on another bill. I know that there has been a Supreme Court decision that deals with that section as well. That section might be entirely deleted from the bill. Going back to section 1, I know that we are working on tightening-up some of that language and making sure that we are addressing the hard-core recidivist gangbangers that we really want to address and not catching the two-or three-time misdemeanor offenders who are trying to prove themselves to the gang. The intent of this bill is to focus on the hard-core recidivists.

Assemblyman Kihuen:
My only concern is that there are going to be people serving longer terms for minor offenses. Every now and then—I do not know if they are gang members or not, but they look like gang members in my community—they invite me to play football on Sunday afternoons. I will go out there and play football with them, and if the police were to arrive, I would not want to be arrested for being a gang member. I want to make sure that people do not get longer prison time for minor offenses.

Lucy Flores:
Another thing to note is that it requires mandatory probation before it goes to prison time. I think Mr. Rombardo could speak to that as far as prosecution and whether or not it would result in prison time. As I noted earlier, I think that we are open to amending the language to ensure that we are catching the hard-core recidivist gangbangers.

Brett Kandt, Executive Director, Advisory Council for Prosecuting Attorneys, and representing the Office of the Attorney General, Reno, Nevada:
The Attorney General is in support of this bill and has submitted a letter in support of the bill.

Opponents of the bill will tell you that it constitutes an unconstitutional attack on "urban culture." However, the issue here is not the type of clothes that an individual wears or the music that they listen to. This bill is sufficiently narrow in its scope, affords due process, and affords prosecutors the discretion they need to use the enhancements when appropriate. This is about addressing the harassment and intimidation by criminal gangs of citizens in their neighborhoods, their businesses, and in public places. Criminal gangs are a

problem throughout Nevada; we all know that. The local authorities need the tools in this bill to formulate an appropriate response.

Kristin Erickson, representing the Nevada District Attorneys Association, Reno, Nevada:
We support this bill.

Steven O'Farrell, Sergeant, Regional Gang Unit, Reno Police Department, Reno, Nevada:
We are in support of this. I hope you see the benefit. This gives us additional tools to combat gang activity in our area. They are growing, we see a lot of it, and it is a daily battle for the line officers that are here today. We really appreciate any help we can get.

Chairman Anderson:
How do you think that this bill will help you as an officer? What would you get to do with this bill that you do not currently get to do?

Steven O'Farrell:
This gives us one more tool in our belt. When the kids find out that there are other sanctions that can be used against them because of their actions as gang members, there are more restrictions on their actions, and they can be held more accountable for their actions, the word spreads to the gang members. They say, "We did this crime and we got this punishment." Especially for those kids who are on the periphery of gang activity, they may not want to commit crimes that could get bumped up to a felony crime. I think that will deter some of those kids. We have kids in our area that definitely hang out at certain locations within the city, and they do cause problems within those areas. They cause fear within that community, and they cause a lot of other problems: the drive-by shootings, the fights, the theft, and everything that goes along with it. I think that nuisance abatement would be a great thing.

Josh Martinez, Police Officer, Las Vegas Metropolitan Police Department, Las Vegas, Nevada; representing the Nevada Sheriffs' and Chiefs' Association, Las Vegas, Nevada:
I am also representing the Nevada Sheriffs' and Chiefs' Association. We are here to support the bill. We believe, as Sergeant O'Farrell and others have stated, that this would provide us with another mechanism to help target the gang activity within our communities. The main reason is that it would hopefully spread the members geographically and discourage association once an injunction is placed. When you have a gang injunction you are able to limit that association. We have to target the higher-ups in these gangs. In Las Vegas we are seeing hybrid gangs, where different gangs are coming

together to conduct their criminal activity, which is creating a real problem for us. The nuisance issue, as Sergeant O'Farrell said, would allow us to target them when they have homes, businesses, or other areas where they hang out.

Jason Frierson, Clark County Public Defender's Office, Las Vegas, Nevada:
We are in opposition to this bill. We understand the good of the bill and agree with the prevention efforts by the sponsors of the bill.

I want to make two points. The first is that we cannot prosecute our way out of this. I agree with that wholeheartedly. I think that the criminal provisions of this bill are problematic because that is exactly what it is trying to do. It is trying to take what we currently have in *Nevada Revised Statutes* (NRS) 193.168, our current criminal gang enhancement bill, and hammer on misdemeanors and gross misdemeanors as well. I have not heard any testimony that clearly explains why the current criminal gang enhancement statute is not adequate. I believe the sponsors of this bill spoke to focusing, not on people on the fence, but the serious, violent gang members. That is what our current criminal gang enhancement statute currently does. It is our position that that is where the focus should be.

I also want to highlight Lucy Flores's story. Lucy Flores would not be here if this bill were in existence where she grew up. The point is that we are not giving up on kids because there is always a Lucy Flores who might be able to overcome it without having the label of a felon. There is an opportunity to apply to have your record expunged after seven years. That is just an application. That does not necessarily mean you are going to have your record successfully expunged, and seven years is a long time to wait to remedy that situation. This bill essentially makes a felony of every single activity of a member of a criminal gang. It takes any misdemeanor, if they have previously done something similar, to a felony level. I understand Mr. Rombardo's attempt to put teeth into their efforts. I have had an opportunity to meet with Mr. Rombardo and Assemblywoman Parnell on a couple of occasions to talk about this, and I certainly understand where they are trying to go with this bill. This is essentially dropping the hammer by prosecuting more and prosecuting more harshly, as opposed to focusing on preventive measures.

There is another bill that was mentioned on gang recruitment. We did not oppose that bill. We believe there is some language in this bill that could be worked on. I worked on the graffiti bill and agreed that the driver's license restrictions would be a powerful tool, and I do not have an issue with the driver's license restrictions in this bill. I think that it is a powerful tool that helps those young individuals where driving is the privilege they value the most. We do not have a problem with using that penalty to help refocus those young

individuals. We are certainly willing to work with the sponsors of the bill to come up with language that would be productive in dealing with the nuisance and injunctive aspects of this bill. But we believe that the criminal gang enhancement portions of this bill go too far and run the risk of preventing people like Ms. Flores from being able to overcome criminal behavior and thrive.

Orrin Johnson, Washoe County Public Defender's Office, Reno, Nevada:
We certainly share Mr. Frierson's concerns with the criminal aspects of this bill. I would like to point out that Mr. Rombardo testified that the gang member, who had previously only been convicted of several misdemeanors, went to prison for six years. There are gang enhancements already in the statutes, and we believe that current law is adequate. Our office represents children, juveniles who are on the cusp of adulthood, and we do not want those people who are on the periphery of the gang or may already be on a gang-watch database to be brought into this, to have the hammer dropped on them, when there is still hope and there is still a good chance that they can get out of it, that they can become like Lucy Flores.

I want to speak about the civil injunction aspect of this bill because it often impacts our clients while they may be accused of a crime waiting for trial. We are concerned with the civil injunctions because they require a lower burden of proof. This makes it harder for them to work with us on their defense, or it is just bad for them if they are not a gang member, which is always something we are concerned about. These injunctions, especially as they are written in the bill, are a sledgehammer solution. One of the things that Ms. Flores testified about, regarding the studies she reviewed was that these injunctions need to be very limited in geographic scope, but the bill talks about cities and counties. If her testimony is accurate, that it needs to be limited in scope, the language in this bill may cause more harm than good.

Finally, the concern we have with the injunctions and the lower standard of proof is something that Assemblyman Kihuen said, that the guys he played football with look like gang members. I am not sure what that means. I think everyone has an idea of what that means, and it probably means different things to different people. We want to be very careful that we are not wrapping people up because they are playing the music too loud next door and people are worried. We want to target the real gang members who are real threats; nobody disagrees with that. We do not want to go after the kids who are just hanging out and maybe looking up to gang members. We do not want to, ironically, push the kids into that life.

Assemblyman Segerblom:
Would the public defender be available for the civil remedies?

Orrin Johnson:
No. We do not handle civil remedies. We are not there to do that. The only civil stuff our office deals with is dependency matters, such as family matters.

Assemblyman Segerblom:
Someone who did not have a lot of money, if they were involved in a civil action, would have to hire a private lawyer?

Orrin Johnson:
Yes. That is correct.

Assemblyman Horne:
We have the portion of the bill that removes driver's licenses, which I do not have a problem with. We currently do that with driving under the influence (DUI). A DUI has two components: it has a criminal component and an administrative component. That administrative component is the suspension of the driver's license. This seems similar to that: you have a criminal component and an administrative component, which you are using to take the driver's license away?

Nick Anthony, Committee Counsel:
I believe you are referring to section 1 of the bill. That is an enhancement provision that gives the court the authority to take away a driver's license. That is modeled after our graffiti statutes. In 2007 there was a bill that went through that gave the court the authority to hold driver's licenses upon the conviction of certain graffiti offenses. This was specifically modeled after the graffiti criminal offenses.

Assemblyman Horne:
This would be at the sole discretion of the judge?

Nick Anthony:
Yes. That is correct. It says the court "may."

Richard Boulware, Las Vegas, Nevada, representing the National Bar Association Foundation; and the National Association for the Advancement of Colored People:
On behalf of the organizations I represent, we are opposed to this bill. Particularly, representing members of the community who would be disproportionately impacted by this bill, communities of color, we are very concerned about it. While we understand the concern about gangs and how they have ravished communities, we do not believe that creating felonies for low-level crimes is an appropriate way to deal with that. I think it sends the

wrong message to our young people: if you make a mistake, we are not going to intervene on your behalf, but we are going to give you a felony.

It is important to recognize that a felony conviction is a severe impediment to integration into our society. While I recognize the desire to have a substantial penalty, it is also important to recognize that when you have a felony conviction, you are less likely to be employed and it is more difficult for you to get loans for education. We also believe that there are intervention mechanisms that would be more appropriate in these cases.

I am deeply troubled by the possibility of individuals, who may know or are connected to gang members, either through family connections or through their neighborhood, being caught by this bill. My concern relates to how someone is defined as being in a gang. The bill basically says, "We are going to look at the way you walk, the clothes you wear, and the people you hang out with, and based upon that, we are going to make a determination as to whether or not you are in a gang, affiliated with a gang, or acting for the benefit of a gang. Particularly in communities of color, this would be a deeply troubling mechanism for doing that. There are certain aspects of urban culture, generally, that are mimicked or copied by individuals within the culture. I find it to be a false premise that an individual could actually determine at any given moment what would be the specific code of conduct, words used, or clothes worn by a particular gang. I understand that, unfortunately, we already have a gang enhancement that carries some of that language, that I do not agree with.

Certainly, we do not want to use this bill to take what are low level crimes and turn individuals, who can be saved, into felons. That is also important because it is during incarceration that people are recruited into gangs, so this bill could have the exact opposite effect of what it intends. By sending people to juvenile detention, you make them more susceptible to recruitment by criminal gangs and you ostracize them from the communities in which they live, such that the gangs may be the only place where they can find support. We should be giving them that support. We should be reaching out to these individuals at this critical moment, at this critical juncture, when they have minor offenses, when they can be rescued. As previous individuals have said, there are crimes where we need to go after hard-core gangbangers. There is no doubt about the fact that if a person commits a serious crime, there are other statutes that apply and there is an existing gang enhancement statute. This particular statute goes after low-level crimes by people who are probably not hard-core gangbangers. That, to me, is the point at which we need to interact and intervene on other people's behalf.

The other aspect of this bill that I am very concerned about is the issue having to do with property owners and their connection to, or alleged support of, the facilitation of gang interaction. This is going to disproportionately impact property owners of color who have people in their communities or family members, who may or may not have criminal records, but have been associated with gangs. It would encourage, in effect, profiling on the part of property owners to ensure that they are not going to be subject to recovery or other fees resulting from having individuals, who they may or may not know are gang members, associating on their property. For example, you could have an individual who owned a home, where he is trying to bring people who are in gangs together to resolve issues, be subject to civil penalties by being accused of supporting the facilitation of gang interaction. Again, I understand the desire to avoid having places that are gang hangouts and allowing those places to operate unfettered. At the same time, I think that this language operates with a very broad stroke. As a result of that, it captures people who may want to help gangs. Nonetheless, it encourages the profiling of young men, in particular, in terms of who they associate with and where they hang out. The last thing that we want to do is kick individuals out of places where they might find support, where they might find input that may prevent them from being in a gang. I think that is important because young people who are ostracized are the most likely to be recruited. For those reasons, I am strongly opposed to the portion of the bill that focuses on penalizing owners because of their connection with the support of gangs.

I also think there are legal issues with this bill that may require legal action on the part of the National Association for the Advancement of Colored People (NAACP). Beyond that I am concerned about the actual effect of the bill, particularly on communities of color, as it relates to gang activity.

Assemblyman Hambrick:
I reject your premise about profiling. I think it is way off the base in this particular bill. On the property side, in traditional black and Hispanic neighborhoods in Washington, DC, Detroit, and Chicago, in the heart of those communities, they do not have these problems because the neighbors have gotten together. Why cannot neighbors get together, whether in North Las Vegas or Carson City, to protect their neighborhoods? My second question is where does personal responsibility come into play? We have heard testimony that some of these individuals are as old as 27. God forbid if we should expect adult behavior after the age of 19, but how do we protect the neighborhoods and when does personal responsibility come into play in this equation?

Richard Boulware:
There is substantial tension, at this point in time, between communities of color and law enforcement. It continues to be an issue. I have worked with and tried to work with law enforcement on these issues in this community and others. Part of it has to do with efforts to try to work together around issues and not try to criminalize issues; try to intervene without there being some sort of criminal penalties. Part of the difficulty is that there is distrust of law enforcement amongst certain communities. That, unfortunately, leads to problems in terms of not being able to successfully work out some of these issues. Also, there should be recognition of the fact that communities do work quite a bit on these projects. I am a member of 100 Black Men, which mentors young African American men. They also mentor other groups, for example, at the Pearson Center in Las Vegas. There is a great deal of activity that goes on in connection with communities trying to assist young men and women from falling into these traps. My concern is for people who may not have had the benefit of two parents, like I did, who are professionals and who can provide them with support. I do not want to give up on these children. I am not saying there is no personal responsibility involved because of course there is. I am saying that as a result of the support that I had, I was able to stay out of trouble when I might not otherwise have been able to do that. I think that we need to recognize that.

The other thing we need to recognize is the long-term consequences of making people felons. When somebody becomes a felon, we need to recognize the long term consequences. I am not saying that people do not need to take personal responsibility. I am saying that the severity of the penalties in this bill can, in effect, impede that type of responsibility in the long term. It takes some of us a little bit longer to mature than others; we all recognize that. At the same time, I want to make sure these young people have an opportunity to get help, in particular those individuals who do not have the kind of support that I had or probably what the members of this Committee had, because I think it is important.

Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno, Nevada:
The American Civil Liberties Union of Nevada (ACLU) is concerned about A.B. 335 for several reasons. First, sections 1 and 2 essentially create new penalties for repeat misdemeanors that are in furtherance of gang activities. Second, such misdemeanors would result in a category E felony. Our concerns are essentially that kids caught engaging in graffiti twice are likely to be immediately charged as a felon and then potentially certified to adult court, which is section 4 of this bill. An issue that is not clear to us is whether or not

this bill requires misdemeanors to even be charged as a felony, but that might be something that subsequent work can clear up.

Sections 3 and 5 create a new private nuisance, which is subject to a private civil lawsuit, and a public nuisance, which is enforceable by state and local officials, for any house that members of a criminal gang "regularly and continuously use" to engage in or facilitate crimes by the criminal gang. Our concern here is that it is an associational issue. The nuisance statutes do not rely on criminal activity. Basically, facilitation refers to a conversation. Unlike a meth lab or dog fighting, for instance, there is no actual physical evidence of a crime, so we are concerned about the vagueness in this language.

By far the most problematic portions of this bill are sections 6 and 7 which allow cities and counties to establish civil injunction standards for enjoining activities of gang members. There is no requirement for criminal conviction. There is no requirement that the activities be criminal in nature, and this could directly threaten the right of association that individuals have, as noted in cases like *The City of Chicago v. Morales*, 527 U.S. 41 (1999), heard by the United States Supreme Court. This bill may very likely encourage discriminatory enforcement activities because there is no definite standard.

Assemblywoman Parnell:
Something very important to point out which seems to be clouded by those in opposition, is that section 1, that deals with category E felonies, only refers to adults. That is not a juvenile section. It also has mandatory probation, and it provides for expunged records at seven years. I think that is important to note. Section 4 is the separate section referencing juveniles, and I have said that is completely dependent on the outcome of Assembly Bill 237. I will also note, lastly, that sections 6 and 7 are civil, not criminal, issues, contrary to what the last speaker said.

Chairman Anderson:
We will close the hearing on Assembly Bill 335 and bring it back to Committee.

[Called a ten minute recess.]

[Resumed the Committee meeting.]

Let us turn our attention to Assembly Bill 320.

Assembly Bill 320: Revises provisions relating to guardianships. (BDR 13-906)

Assemblywoman Peggy Pierce, Clark County Assembly District No. 3:
I am the proud sponsor of Assembly Bill 320 which enhances the process for a proposed ward in guardianship cases. I was introduced to this subject by Ernest Nielsen of the Washoe County Senior Law Project. Ernest told me of a case where a senior woke up one day and discovered, with no knowledge of how this happened, that she had become a ward of the court. She had not been consulted, she had not been warned, it just happened. Assembly Bill 320 is an effort to ensure that this does not happen to any of my senior constituents, and that this does not ever happen to anyone of any age in Nevada again.

Ernest K. Nielsen, Attorney, Senior Law Project, Washoe County, Reno, Nevada:
[Spoke in part from prepared testimony (Exhibit J).

I will talk about what the bill does. There are four basic due process issues that are addressed by this bill. Section 1 simply requires that the petitioner, before a final order is entered, must provide the court with an assessment of needs of the proposed ward, completed by a physician, which identifies the proposed ward's capacity and limitations and how such limitations affect the proposed ward's ability to remain safe. I do not think there is much controversy about that. It provides some information that the court can then look at when they make their final determination, whether to dismiss the guardianship petition, whether to order that the guardianship be of the estate or of the person, or whether to define some limitations on the guardianship, which we would call "special guardianship" in the statute, where the authority of the guardian is specified in the order.

Section 2 does two things, but it focuses on the right to an attorney. As it is right now, a proposed ward does have a right to an attorney. However, there is nothing in the law that says they are to be informed of that fact, so the first portion of section 2 requires the judge, in the first encounter with the proposed ward, to inform the proposed ward of the fact that he or she has the right to an attorney.

The second part of that section deals with a common event, where the proposed ward is excused from coming to court. The issue, here, is how do we communicate with a proposed ward when they are not in court? The point of this section is to devise a way for that communication to occur. The way the bill is currently written, an agent of the court interviews the ward, then comes back and reports to the court. There is an amendment that tries to get rid of that process because people feel that is a very expensive way to do it.

Section 3 focuses squarely on the issue that in many cases a ward does not come to court for any of the hearings because they are excused through the mechanism that *Nevada Revised Statutes* (NRS) 159.0535 describes: if a physician or some other provider signs a certificate that says that person is excused from coming to court and provides some reasons, the court often excuses that person from having to attend. Obviously, our desire is to have as much interaction between the proposed ward and the court as possible, so one of the things that we have done in section 3 is allow the ward to appear by video conference. That is an alternative, one suggestion in the bill. We have also outlined that rural counties would not have to have the court have an agent; they would simply rely upon a physician. In the amendment I have put forward, we have substantially modified how that process works (Exhibit K): basically, taking advantage of guardianship processes that already exist.

Section 4 is the section that has galvanized the most controversy. Its focus is when a ward is moved to a locked facility, where they lose their rights to certain liberties, we believe the ward is entitled to contest that move. The bill is all about addressing how to get the ward's concern communicated to the court so the court can do something about it. What we propose in the bill is that in all cases, similar to other types of issues, the guardian would have to come to the court to get permission to put that person in a locked facility. We recognize that is an additional cost, and one of the things that you probably know is that, in general, except for public guardians, the entire cost of this guardianship system is borne by the wards by their estates and their income. Most of the comments to me on this legislation indicate that we need to reduce the cost that this bill might impose on the ward.

Chairman Anderson:
Who have you shared the amendment with, Mr. Nielsen? I know you have shared it with the chief sponsor. I have an email and a letter from the Clark County District Attorney's Office on the issue. I presume you have shared this with them. If not, I would ask that you do so because I would like to see this issue moved along.

Ernest Nielsen:
I have been speaking, not with the Clark County District Attorney, but with the Clark County Public Guardian. I will make a point of contacting the Clark County District Attorney.

In the proposed amendment that I have submitted to you, there are no changes to section 1. I think people seem to be fine with that. It is the basic information that is given to the court so that the court can make an informed

decision about the guardianship. In section 2, instead of having the court provide an agent, which is an expensive process, we basically use the mechanism that already exists to excuse the ward from being in court. It requires the person who is signing the certificate to indicate to the proposed ward that he has the right to counsel and to note the response of that proposed ward and send it back to the court at the time when the court would recognize the legitimacy of the ward's absence. That is the primary process that we have changed in the amendment. One of the procedural things that we have adjusted is on page 6 of the amendment. It is labeled (d) but it should have been labeled (b). That allows the court to take the form and make it useful for this purpose. The second piece of the change allows that form to be broken up into different parts so different people can sign it.

Section 4 is the piece that has significant challenges. Earlier, we said that you had to go to court in order to get permission to move the ward to a locked facility. We have changed the scope of this so that we are specifically referring to only long-term residential-care secure units. We are not talking about emergency acute care; that is a whole different universe. We can avoid going to court if the move to a secured unit is documented by a physician's order. I understand from most of my colleagues in the room that that is the normal way the process works: a physician indicates that this person should be in a locked facility. If you do that you do not have to get previous court permission. However, because we a looking for a vehicle to enable that ward to be able to communicate to the court that they have some problem with being moved to a locked unit, without incurring additional cost, we are trying to use the system that already exists. So the amendment says that the physician's order should indicate that he has advised the ward that the ward has the right to oppose this move and the right to an attorney. That physician's order gets attached to a report that the guardian submits to the court. Obviously, that is a change from current practice, but it is trying to stay true to totally eliminating any new costs. The way the amendment is written, if the ward indicates via the physician's order that he wants an attorney or he wants to challenge the placement, then the court is to have a hearing. This is for cases where the ward is not represented by an attorney. Where the ward is represented by an attorney, when the attorney gets notice that the ward has been moved to a locked facility, the attorney knows what to do. He can talk to the ward, he can interact with the ward, and he can decide whether there is a reason to call for a hearing.

The last section affected by this proposed amendment is section 5. Clark County proposed the amendment as a way to help facilitate the communication that we are trying to achieve. Section 5 deals with the annual report that the guardian of a ward submits to the court. There is no hearing

when this report is received. It is simply a report that the court receives and hopefully reviews to see how the court's ward is doing. What we have added to it is that within 30 days—I guess I should have put 10 days—of moving the ward to a long-term secured unit, the guardian must submit that report, with the attached physician's order, to the court as well as to all people who have appeared in the case, including counsel for the ward, if any. In amended subsection 3, if the court sees in the report that the ward is protesting the move to a secured unit or wants an attorney to help him, the court is to have a hearing.

After talking to my colleagues, I think that one of the ways this can be reduced is by having the court appoint an attorney to look into this issue. What we are really looking for is having some access for that ward to be able to speak, either through himself or through an attorney, about the issue. As my colleagues will say, a large majority of these moves are not going to be protested. However, there are some, and our office has received a handful of these cases where people have contacted us, either directly or through administrators of nursing homes, and said, "I do not know why I am here. I do not know why I have to be in a locked unit." We are trying to find some way for the ward to be able to let the court know that he has a problem and to allow some options for the court. That is basically the issue here.

I know there is a lot of tension between safety and liberty at stake here. I know that we, as representatives of wards, are always concerned about trying to make sure that the person's life is as they would like it to be, as best as possible. That sometimes includes being able to take a walk around the block, but maybe there is a risk of being hit by a car. I also understand that from the guardian's perspective there is an issue of liability. They do not want to have any accidents happen to their ward.

Chairman Anderson:
I am trying to think of a scenario that puts somebody in an emergency situation where the ward would suddenly realize that they do not want to be where they are. The situation would be that there are no relatives to make decisions for me, there was an emergency that caused me to be placed in a life-threatening situation, and therefore, somebody had to make a determination for me. Thus, a guardian was appointed by the court to make those decisions. Later on my health improves, and I try to figure out who made these decisions for me and why the decisions were made. Is that not the question we are trying to address?

Ernest Nielsen:
That is why we advocate advanced directives, so people can tell us what they want to have happen to them if they no longer have the capacity to make decisions for themselves. I think that some people who want to testify on this bill would say that sometimes when a transfer is made because a person is incapacitated, and then they recover their faculties, there needs to be a mechanism for that person to say, "I do not belong here anymore." That is what that section is trying to achieve.

Chairman Anderson:
Mr. Nielsen, is this a work in progress, or do you think you have reached a compromise?

Ernest Nielsen:
I think we are pretty good on the first three points, although I believe that the public guardian from Carson City is going to suggest that we use forms that would be put into statute, which I have no objection to as long as the forms are sufficient. We are still working on section 4, and we are looking at a viable and realistic way for the communication to happen that satisfies everybody, including the ward. We are not quite there on section 4.

Chairman Anderson:
In other words, this is a work in progress.

Sally Crawford Ramm, Elder Rights Attorney, Division for Aging Services, Department of Health & Human Services:
[Spoke in part from prepared testimony (Exhibit L).

I am here to support A.B. 320 which would revise Nevada's guardianship laws to provide much needed due process for prospective wards.

Not long ago in a rural county, one of our advocates was called by a long-term care facility and asked to come and talk to a resident because they felt that the resident did not belong in their facility. When the advocate arrived there, she found the man to be fully articulate, a good historian, competent to express himself, and able to handle all of his own activities of daily living, which is why the facility was questioning why he was there. He did not need their help. Of course, he agreed, and he wanted to come home.

However, he could not go home; he had been placed under a guardianship. He had never been to one of his own guardianship hearings, so the judge had no way of knowing how smart and competent this gentleman was. The decision to place him under guardianship was based on medical notes the judge saw that

said he needed help. The evidence at the nursing home disproved this diagnosis, but that was not enough to make the judge change his mind.

By the time I was informed of this situation, the man had been able to get an attorney. Previously, he had not been represented by counsel because he did not know that he was entitled to one. He did not even know the hearings were happening. The attorney told me that his client did not belong in the nursing home and did not need a guardianship over his person. The attorney said he was going to do all he could to get it changed so the man could get out of the secured facility and go home, so he could have more freedom. In the final analysis the attorney made a deal with the guardian that said the man could go to a group home where he would have more freedom of movement, but he would not be able to go back to his own home. The attorney told me he made the deal because he realized, after looking at the case and talking to people, that the judge made his decision on the guardianship based entirely on medical notes. The attorney was afraid that if he took the case back into court, not only would the man not be able to go home, he may not be able to leave the locked facility. He made the deal with the guardian, and the man went to the group home.

Assembly Bill 320 addresses all of the issues in this case. It requires the court to make certain that the proposed ward is aware of the hearings and aware that he has a right to counsel. It requires medical personnel to give a thorough documented report to the court on the proposed ward's capabilities. Currently, our system often gives more due process rights to criminals than to persons who are about to become wards of the court. In a survey of Washoe County cases Judge David Hardy found that only 12 percent of the proposed wards were represented by counsel between January 2000 and June 2006. Only 39 percent of the proposed wards attended the first hearing. Statistics are not available on how many wards actually have counsel, but in the hearings I have attended I can tell you that very few of them have counsel, but the guardians always have an attorney. Those attorneys are almost always paid for by the ward.

Guardianship is a serious court proceeding in which all of a person's rights can be taken from them. Oftentimes this is a necessary thing because the people cannot take care of themselves. Without the advantage of seeing the prospective ward, a judge cannot really know what his capabilities are or his wishes. Without the benefit of counsel, a prospective ward cannot navigate the judicial system. I think it is important to remember that the guardianship laws should protect the ward because the ward is the vulnerable person and the one most affected by the decisions. The laws cannot be simply for the convenience of the guardians or the judicial system, or based entirely on economic issues,

because the affect on these people's lives is too important, too all encompassing, and too hard to reverse.

Chairman Anderson:
Is this issue not addressed in the other two bills in the other house that may be coming forward?

Sally Ramm:
That is correct. This one is unique.

Michael Foley, Clark County District Attorney's Office, Las Vegas, Nevada:
I think it is important to note where we oppose this bill. The public guardian—we cannot speak for all private guardians—already does the things mandated in this new bill, except for section 4. As you can see in the county's proposed amendment, the main difference between our amendment and the bill is in section 4, where we added a requirement for a petition and an added court hearing (Exhibit M). To do that, the lawyer would have to consult with the doctors.

What you have here is an important policy choice, which is of course the Legislature's choice. I echo all of Ms. Ramm's concerns that she talked about for protecting the rights of proposed wards. We definitely want that. If there is an abuse or just a callous arbitrariness in any appointment of a guardian, you can have tragic results. I think that you as a legislative body have to protect the rights of wards at all times. You just have to keep in mind that any new hurdles you put in there have a direct cost that is going to be borne by these vulnerable people. If you have somebody who has $1 million in the bank, this is a perfect bill. In the majority of cases, people have less than $20,000 in their bank accounts. Any time you add an extra hearing, there could be another $5,000 or $10,000 spent on lawyers and doctors. We use private attorneys at the county public guardian's office. Generally, their rates are anywhere from $200 an hour to $350 an hour, because they are specialists. Plus, you have costs, you have accountants involved, and so forth.

Section 4 of the bill adds subsection 6 to the statute, which requires a separate petition and separate court hearing, and preparation time for the lawyers. In the majority of the cases this is going to be a big burden on the assets of the average ward. A lot of the times the reason we have a guardianship in the first place is because family members or somebody else has complained that this vulnerable person is going to have his money depleted by family members, strangers, or exploiters. The whole purpose of starting the guardianship was to protect their assets. Then the guardian may find out through a doctor that the ward needs to be placed in some structured or restrictive living environment, so

that is what the guardian does. Every year the guardian has to file a report to the court for approval. Any time we have taken any action like this at the behest of a physician, we put it in the next annual report because it can be added then at very little expense. At that point the judge rules on whether it was an appropriate action, or whether or not the ward should be placed in a different setting.

Again, we are all for more rights for wards. It is just a matter of what it will cost.

Kathleen Buchanan, Public Guardian, Clark County Public Guardian's Office, Las Vegas, Nevada:
I think Mr. Nielsen's bill is very well intentioned. I support his bill except for section 4 and section 5. I am going to briefly detail my concerns. When you look at section 4, it says a physician would make the notation that the ward either opposes the move or not. I truly believe that is not a physician's duty. I believe it falls into the state ombudsman's role to do that. There is already a process in place to do that. Mr. Nielsen and I had that discussion last evening.

Chairman Anderson:
Did you feel that Mr. Nielsen rejected your suggestion or was he open to it?

Kathleen Buchanan:
He was very open to it.

Chairman Anderson:
Since this is under construction, we can assume that part of that issue is going to be addressed?

Kathleen Buchanan:
I would hope so. Section 5 of Mr. Nielsen's amendment was incorporated from our suggestions, and I appreciate that. I would like to go to subsection 2 of section 5. It says, "With a copy on all other parties...." That is really where I have the issue. I think it needs to say, "Appropriate parties entitled to notice...," because they are already there through their annual accountings. I really do not think we want to say, "All other parties...." That could include exploiters and abusers, especially in our cases.

Chairman Anderson:
Are you planning on participating in the discussions and trying to amend the language of the bill?

Kathleen Buchanan:
Absolutely. Mr. Nielsen and I are in agreement on this.

As one last point, Mr. Nielsen's amendment refers to "counsel." Guardians ad litem (GAL) are attorneys. They represent the wards better, because they represent the best interest of the client, and an attorney does not. They have to represent what the client wants, even a demented claim.

Susan Swenson, Public Guardian, Carson City Public Guardian's Office, Carson City, Nevada:
You have the proposed amendment (Exhibit N) in front of you that we have written for A.B. 320. We will also work with Mr. Nielsen.

We oppose Mr. Nielsen's language because, for the most part, it is very confusing. The biggest thing I am bringing to the table is actually a form. This is the psychological and clinical evaluation form that my county and a lot of the rural counties have been using. We do not have court investigators. We do not have a lot of the services in the rural counties that a lot of the larger counties have. This has worked very well for us. We do get wards who are so incapacitated by an illness or a stroke that they do not understand what the process is at that time. In my situation, I have had a lady who recently was cleared from having pneumonia three times in a winter, having psychological issues, and having not been on her medication. When she asked me if she could move out of the facility with her boyfriend, I immediately took it into court. She did not need to get an attorney, and she cleared that issue. She is on her own, with her own social security going back to her. This is not what happens every time when you have private guardians. The other issue with this form is that when you have somebody who is doing it *pro per* they have not hired an attorney because they are doing it on their own for a family member and they have no money to go into court with an attorney. This form would give them a lot of guidance on how to have the professionals determine whether the ward needs to be at court. There are a lot of issues that go beyond whether or not a ward has been told about guardianship. We use this form every year for the annual report. We use it to release the guardianship on that senior who has improved.

Chairman Anderson:
Have you had an opportunity to share your views on these issues with Ms. Ramm and Ms. Buchanan?

Susan Swenson:
Yes. I have distributed this form to them, and hopefully we can work this out.

Chairman Anderson:
Do you feel that this form would be of value in the larger counties, Clark County and Washoe County?

Susan Swenson:
I have asked Washoe County, and I have an email from Kim Spoon, who is a professional private guardian from Guardianship Services of Nevada in Reno. They agree with this form. We have left it open so that it can be modified for a county's specific needs and the specific needs of the judge, but all of the larger counties already have some type of annual reporting form. If this is sufficient or if we could change it to make it work in their larger counties, we will work that out.

Chairman Anderson:
Let me suggest to the groups that are going to be working on this, that the form be for counties of less than 100,000 people in certain situations where people are appearing on their own behalf.

I will close the hearing on Assembly Bill 320 and bring it back to the Committee.

We will turn to Assembly Bill 309.

Assembly Bill 309: Revises provisions relating to the crime of stalking. (BDR 15-994)

Assemblywoman Ellen Koivisto, Clark County Assembly District No. 14:
I am bringing this bill, A.B. 309, on behalf of the family of Jana Lindsey Adams, who lived in my district. Jana was murdered by a stalker, someone she knew, on January 16, 2008. She left behind five daughters. One was one-month-old. This is a little girl who is growing up without a mother; she will never know her mother.

This bill adds texting to the stalking statute. Text messaging appears to be a stalker's new favorite tool, according to a study by the United States Justice Department's Bureau of Justice Statistics that was released last month. Text messages are pervasive by nature. Until you read your text message you are going to hear a little noise that indicates you have a message. Not only that, if you are receiving unwanted text messages, chances are you are paying for them. The Bureau's study found that in 23 percent of stalking or harassment cases in 2006 the antagonist had used some form of so-called cyberstalking, text messaging, or email. Cyberstalkers use the faceless avenue of cell phones, computers, or home or office phones to perpetuate the harassment. This comes

from the president of Working to Halt Online Abuse (WHOA). For data collected up to 2007, WHOA reported that 39 percent of harassers were male, while 30 percent were female. Meanwhile, 61 percent of females reported being harassed compared to 21 percent of males. Forty-six states have antistalking laws that refer to electronic forms of communication. Only four states, Tennessee, Texas, Utah, and Washington explicitly name text messaging.

If this passes I would like it to be known as Jana's Law.

Section 2 can be removed from the bill. There may be a concern in section 1 about emotional distress. Emotional distress can be deleted if people have a problem with that.

Chairman Anderson:
I will enter into the record the messages that were addressed to you, Ms. Koivisto: a message from Natalie Wade Beckstrand, a message from the Mishler family, a letter by Kami Lindsey, a letter from Cole Lindsey, a letter from Conley Lindsey, and a letter from Jennifer Haywood, all in support (Exhibit O). Enter the letter from Lisa Scovil into the record (Exhibit P). Include a copy of the Utah law as part of the record for reference (Exhibit Q).

Assemblyman Carpenter:
I am glad that you are going to remove the language in section 2, especially the first part, because I think that actually decreases protection.

Assemblyman Gustavson:
I agree with my colleague about that part of section 2: emotional distress. I am happy to see you have agreed to delete that. My question is on page 3, line 30, "the actor from a telephone." Could you explain what "the actor" means?

Assemblywoman Koivisto:
That would be the perpetrator.

Assemblyman Gustavson:
Why do they use the word "actor?"

Nick Anthony, Committee Counsel:
That was a word we put in the bill when we were drafting it. We modeled this after Utah as well.

Assemblyman Gustavson:
Do we have a definition of "actor" somewhere in *Nevada Revised Statutes* (NRS)?

Nick Anthony:
I can certainly take a look. I do not think we have a definition of "actor" in this bill. Usually, if a term is undefined you would look to a standard dictionary definition to determine the meaning of that word.

Assemblyman Gustavson:
I did not want that to be a problem with the bill.

Nancy Hart, representing the Nevada Network Against Domestic Violence, Reno, Nevada:
I am here to testify in support of adding text messaging, in particular, as a form of stalking and harassment. I am handing out an article that appeared in the *Reno Gazette Journal* a few weeks ago (Exhibit R). It highlights the fact that text messaging is a growing problem across the country. The United States Department of Justice report found that in 23 percent of stalking and harassment cases reported in 2006, the perpetrator used some form of cyberstalking. As Ms. Koivisto mentioned, only four states explicitly name text messaging. This would make Nevada one of those handful of states where we explicitly list text messaging as a form of stalking or harassment. The Network absolutely endorses that effort.

We also appreciate that section 2 is going to be removed. We thought that presented some problems, and those problems have been resolved with the deletion of section 2 of the bill. We are neutral for the remainder of the bill, with the exception of section 1. We support that section 1 defines text messaging, but there are some issues with some of the other language there. Assemblywoman Koivisto mentioned emotional distress. There may be other concerns about some of the language.

Chairman Anderson:
So you are under the impression that we are removing section 2 in its entirety?

Nancy Hart:
Yes.

Assemblyman Horne:
In section 1, paragraph 6, the part that identifies the defense, or lack thereof, of not needing actual notice. I think it is problematic. There are instances where someone perceives they are being stalked or harassed by the "actor," when that is not the "actor's" intent. I think it is an important step to first tell somebody to stop.

Nancy Hart:
It is my understanding that current law does not require that kind of notice. The crime of stalking or harassment is committed when a person does the activity that constitutes harassment or stalking. Like other criminal statutes, there is no requirement that we notify a particular person that a particular act is illegal, but if you commit that act, you are accountable for it. This provision in section 1, to me, simply codifies that no notice is required, but I do not believe notice is required even without it.

Assemblyman Horne:
Under this bill, when you go to court you cannot even present your lack of intent: you did not know there was a problem because the person never said it was a problem. You may not be required to show it, but today somebody would be able to present a defense. You are taking away the ability to use the mental state of that person to explain their actions. You are saying, "We do not want to hear what your explanation is. We are charging you with stalking." I think that is problematic.

Nancy Hart:
I can see what you are saying with respect to subsection 6, paragraph (b): "Did not intend to cause the victim to feel terrorized...." I still do not see that subsection 6, paragraph (a) is a problem. There is no provision in the law for requiring the victim to say, "You are bugging me. I do not want you to stalk me anymore. If you continue to stalk me, I am going to call the cops and have you arrested for stalking." With strangers who are stalkers you would not want to do that. You would not want to engage in any kind of communication with your stalker. I see what you are saying with respect to subsection 6, paragraph (b), that as a defense, you may want to be able to argue that your activities were coincidental to whatever was happening and you had no intention of following this person. But regarding the notification requirement, there is no requirement under current law. It may be more helpful to have a prosecutor answer that question.

Assemblyman Horne:
I am not suggesting that it be a requirement to give notice; I am saying that a person should be able to say he was not given notice. If someone is being stalked, for instance, and she calls the police and says, "There is this guy who keeps coming by my workplace. I do not know who he is, but he is creeping me out." The police come by, they take a report, and they question him. They tell him that he is disrupting the workplace, he is harassing that person, and he needs to stop. In a court of law that person may try to put up the defense that he did not have notice. It might be unsuccessful, but at least he could present it. I am not saying that they have to be given notice in statute. I am saying

that a defendant should not be precluded from being able to put forth lack of notice as a defense.

Assemblyman Hambrick:
I wonder if you would consider taking out the word "text message" and use a work such as "wirelessly" or "digitally" to try to cover future technology. Who on this panel five years ago would have thought of texting? I try to think of what may be coming down the pipe in the future. I am going to vote in favor of the bill whether this idea goes forward or not, but perhaps you could come up with a phrase to include future technology.

Chairman Anderson:
We will take that into consideration. I am sure that the primary sponsor of the bill has no objection to looking down the road and taking future technology into consideration.

Assemblywoman Koivisto:
I would prefer to leave in text messaging and other technology. I do not want to take out text messaging.

Nancy Hart:
I would add that the definition for text messaging in the bill may already be broad enough to incorporate other forms of electronic transmissions. Right now we know what text messaging looks like, but there might be other forms of electronic communication.

Assemblyman Cobb:
My concerns were addressed by Mr. Horne's question and follow up questions as well.

Assemblywoman Parnell:
I wanted to note that Senate Bill 163, which is more in the context of a school environment, refers to cyberbullying, and there is a definition of electronic communication in that bill that Ms. Koivisto may want to look at. It is a little broader, but it includes texting.

Nick Anthony:
If I could direct your attention to subsection 3, on page 1, where it reads, "a person who commits the crime of stalking with the use of an Internet or network site, electronic mail...." We have added the words "text messaging," but you also see the existing language: "or any other similar means of communication to publish, display, or distribute information." So I think we are covered by that broad language. We should go ahead and define text

messaging, because that is not a standard everyday term, but I think the existing language, "or any other similar means of communication," would cover us in the future.

Kristin Erickson, representing the Nevada District Attorneys Association, Reno, Nevada:
We are in support of this bill. Texting has become quite a problem, and including this in the stalking statute will be quite helpful.

Lee Rowland, Northern Coordinator, American Civil Liberties Union of Nevada, Reno, Nevada:
We have submitted a proposed written amendment to you (Exhibit S). I now know that Assemblywoman Koivisto is open to removing the emotional distress language. That is a third of our proposed amendment.

The other two parts of our proposed amendment are my attempt to reflect what the majority of other states have done with their stalking codes. The reason we have done this, from the America's Civil Liberties Union's (ACLU) point of view, is because of due process concerns that stalking is not a specific intent crime. That means that if you have no intention to do anything bad, but you harass somebody or engage in this course of conduct, you could be convicted of a stalking crime that could ultimately be a felony conviction. The solution is to add a specific intent requirement. After looking at all of the states, which I have included in the written testimony for you, 60 percent of the states make it a specific intent crime, meaning you have an intention to frighten someone or terrorize them or do something that is unwanted. As we start to expand this to text messaging, certainly that will potentially have first amendment implications if the law is enforced in an overly broad way. The problem is when you keep extending a statute that does not have an intent requirement, any time you add something that might be in a gray area, you are now combining two gray areas. The intent language frees you up to add more things to the statute without worrying about getting into that constitutional gray area as often. Our amendment would simply change the words from "that would" to "intended to," so the course of conduct is intended to cause a reasonable person to feel terrorized, frightened, intimidated, or harassed. That also makes moot some of the concerns about whether or not the language on page 3, subsection 6, lines 8 through 14, about a lack of notice is a defense to a stalking charge. From my point of view, that would not be an issue if an intent requirement was included in the language. Most states that have the intent requirement, as most of them do, have language that says, "It is not a defense that you were not told," but the reason that is not as problematic is because we know the perpetrator had malicious intent. Really, it is a policy choice. We

think it is a better law, a better policy, and more protective of due process to adopt a specific intent clause.

The final amendment that we suggested tightens up the definition of third person to apply to only a member of the victim's family or household. Again, I did a survey of all of the jurisdictions that included some third party. With only four exceptions, there are dozens of states that say immediate family, household member, close family relation, or something like that. I think the problem of going beyond an existing relationship is that you get to the point where somebody stands up in a crowd and says, "I am going to assassinate a political individual." Every single listener at that event would potentially have been standing under the stalking statute, because any reasonable person would feel terrorized, but they have no relationship with the person who has been threatened. Clearly, you want there to be some relationship to that third person so there is a meaningful threat.

I think that making these changes would eliminate concerns when you go back to add to this law in the future. We have absolutely no concerns with the sponsor's intent with respect to text messaging or third parties, but we would like to have our changes made.

Chairman Anderson:
Did you share your proposed amendments with Ms. Koivisto?

Lee Rowland:
Yes.

Chairman Anderson:
I am concerned about raising felonies to move from a gross misdemeanor to a category D felony, rather than a category E felony, where probation is an option. The first offense is a gross misdemeanor. A subsequent offense is a category D felony. That is moving up the ladder pretty quickly.

Assemblywoman Koivisto:
I felt it should be a category D felony because it includes prison time. These are people who have been stalking, terrorizing, and harassing. If they are given probation, that activity is likely to continue.

With respect to the intent comments that Ms. Rowland provided, there is obviously general intent in all criminal activity. With respect to section 1, subsection 1, there is always the requirement that a prosecutor show general intent. That is in case law and codified in the *Nevada Revised Statutes* (NRS). It is not as if this is a crime that does not have some intent that is connected to

it. I think that without the ability to go on further, there is an explanation for why the second paragraph of section 1 talks about the intent to cause harm. That is aggravated stalking which is a felony that includes prison time. I would suggest that is why section 1 is a misdemeanor instead of a felony. I want to make sure that the Committee remembers that general intent is a part of every criminal prosecution.

Chairman Anderson:
You have no objection to limiting third persons to a member of the victim's family or household?

Nancy Hart:
I think that improves the bill a great deal. We are neutral on this section, and I think that is an improvement.

Chairman Anderson:
Let me close the hearing on A.B. 309 and bring it back to the Committee.

We are adjourned [at 12:59 p.m.].

RESPECTFULLY SUBMITTED:

_____
Kyle McAfee
Committee Secretary

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 25, 2009 Time of Meeting: 8:14 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 332	C	M. A. Anderson	Letter in support.
A.B. 332	D	Michelle Kling	Letter in support.
A.B. 332	E	Sarah Borron	Proposed amendment.
A.B. 332	F	Cherie Jamason	Testimony in support.
A.B. 353	G	Bob Webb	Talking points and pictures.
A.B. 353	H	John Slaughter	Proposed amendment.
A.B. 335	I	Neil Rombardo	Testimony in support.
A.B. 320	J	Ernest Nielsen	Testimony in support.
A.B. 320	K	Ernest Nielsen	Proposed amendment.
A.B. 320	L	Sally Ramm	Testimony in support.
A.B. 320	M	Michael Foley	Proposed amendment.
A.B. 320	N	Susan Swenson	Proposed amendment.
A.B. 309	O	Assemblywoman Koivisto	Messages in support.
A.B. 309	P	Lisa Scovil	Letter in support.
A.B. 309	Q	Assemblywoman Koivisto	Copy of Utah stalking bill.
A.B. 309	R	Nancy Hart	*Reno Gazette Journal* article.
A.B. 309	S	Lee Rowland	Proposed amendment.