MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Fifth Session
March 26, 2009

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 10:06 a.m. on Thursday, March 26, 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 Joseph M. Hogan, Clark County Assembly District No. 10

STAFF MEMBERS PRESENT:

Nick Anthony, Committee Counsel
Jennifer M. Chisel, Committee Policy Analyst
Katherine Malzahn-Bass, Committee Manager
Robert Gonzalez, Committee Secretary
Stephen Sisneros, Committee Assistant

OTHERS PRESENT:

Nathan Sosa, Legal Assistant, William S. Boyd School of Law, University of Nevada, Las Vegas, Nevada
Louise Bush, Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services
David Castagnola, Program Specialist III, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services
Susan Hallahan, Chief Deputy District Attorney, Family Support Division, Washoe County District Attorney's Office, Reno, Nevada
Kristin Erickson, Chief Deputy District Attorney, representing the Nevada District Attorneys Association, Reno, Nevada
Brett Kandt, Executive Director, Advisory Council for Prosecuting Attorneys, and representing the Attorney General, Reno, Nevada
Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada
Jon L. Sasser, representing Washoe Legal Services, Reno, Nevada

Chairman Anderson:
[Roll was called and Committee rules were reviewed.]

Let us open the hearing on Assembly Bill 280.

Assembly Bill 280: Enacts revisions to the Uniform Interstate Family Support Act. (BDR 11-571)

Assemblyman Tick Segerblom, Clark County Assembly District No. 9:
Assembly Bill 280 deals with an amendment to the Uniform Interstate Family Support Act, which takes the same principles which are applicable to that law

and applies them to international issues. You should have a copy of a pamphlet that the Uniform Law Commission has provided me (Exhibit C). You also have written testimony that Kay P. Kindred, a professor at the William S. Boyd School of Law, has provided (Exhibit D). She was supposed to testify today, but was unable to make it.

Chairman Anderson:
We will admit those materials into the record, along with your written testimony (Exhibit E).

Assemblyman Segerblom:
As you know, family law is related to each state. If you are divorced or have child custody issues or child support issues, it normally involves a decision by a court in a particular state. When the person with the child either moves out of the state or the person who is required to pay child support moves out of the state, how do you enforce those court orders? The Uniform Interstate Family Support Act was adopted so that I could take a judgment here in Nevada, go to New York, and force the person who was not paying child support to pay it according to the judgment here in Nevada. What we have done with this bill is to take that same principle and apply it to international law. If I have a judgment against someone here in Nevada, a spouse who is supposed to pay child support, and he goes to Mexico and fails to pay his child support, I can take the judgment here and go to Mexico to enforce that order.

This becomes a little bit more complicated because it involves a treaty. There was an international treaty that was signed by President Bush agreeing to the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. But treaties, as you know, have to be consented to by the United States Senate, and that has not happened yet in this instance. We are adopting this law, but it will not go into effect until the United States Senate consents to the treaty. It works both ways. If someone had a divorce in France and one of the parents moved here to Nevada, the person in France could take a judgment, come to Nevada, and force that child support to be paid. Conversely, if someone here in Nevada got a divorce and had a child support order, they could go to France and force the person in France to pay. It is a very important law that will not be something everybody uses on a day-to-day basis, but it was a long-time coming, and I would urge your support.

Chairman Anderson:
In A.B. 280, are we only adopting those amendments that were promulgated, or are we going to go back and take the entire document as first proposed? It has been modified over the last several sessions, as you very clearly lay out here. In 1996, we only picked up part of it, and then in 2001, we amended it again.

Are we now going to go all the way back and adopt the entire thing as it was first proposed in 1992?

Assemblyman Segerblom:
No, that was the part that dealt only with interstate issues. We are adding this piece to the existing law, which will allow international child support orders to be enforced. We will amend existing law to include countries. Everywhere where it says "state," we will change that to "state or country." Just as if we wanted to enforce a judgment in Utah, before, now we will be able to go to Mexico.

Chairman Anderson:
So there is nothing in this amendment that was rejected by earlier legislative bodies?

Assemblyman Segerblom:
No.

Assemblyman Kihuen:
Mr. Segerblom, how many other states have adopted this uniform act?

Assemblyman Segerblom:
We do not know that. We are ahead of the game. Probably because of Senator Care, we are very proliferative in the way we adopt these uniform laws. We would be one of the first states to adopt this law. I do not know how many other states have, if any. It will not go into effect until the United States Senate consents to that treaty. Treaties have to be ratified by both countries, and I am not sure that Mexico has adopted this, either. It would only work for countries that adopt the same treaty we adopted.

Nathan Sosa, Legal Assistant, William S. Boyd School of Law, University of Nevada, Las Vegas, Nevada:
I wanted to add, as well, that the treaty, when it is eventually consented to by the Senate, as it is expected to be, will not be enforceable until there is enabling legislation. With most international treaties, the Senate can consent to it, and the President can sign it, but it does not become effective until there is some sort of domestic legislation that makes it effective. Since we are dealing with family support issues and family law issues, it is a state issue. The various states would have to pass this enacting legislation. We are well ahead of the game, as Assemblyman Segerblom said, since the federal government has yet to ratify it. Once this happens, anyone in Nevada would immediately be able to utilize it for their purposes.

Assemblyman Segerblom:
When Congress does adopt these laws, they normally put a penalty in there. If a state does not adopt the law within two years, they will lose federal money. Even though I cannot promise that will be the case, it is foreseeable that we will have to adopt this at some point.

Chairman Anderson:
I guess the reason both Maine and Nevada would be the only two states that currently have it under consideration would be in anticipation of when that clock would start. If the federal government passed it in this upcoming Congress, that would start the two-year-clock time, and it would be possible for this issue to come up in the 2011 session and still meet the deadline.

Assemblyman Segerblom:
Of course, since we do not have annual sessions, yet, and because we have to do everything on a two-year basis, it is good to start the process now.

Chairman Anderson:
It would be nice, but it is not expected. There is no penalty if we do not do it right now because Congress has not yet passed it. It would not be possible for them to pass it this month, so we would be able to act on this legislation in our next session.

Assemblyman Segerblom:
Exactly.

Chairman Anderson:
I do not want anyone to have the impression that there is a gun at our heads, because I know how we feel about federally-mandated programs.

Assemblyman Ohrenschall:
When it talks about a tribunal in a foreign country, does that apply to American Indian courts, or are they not covered by this bill?

Chairman Anderson:
We have been dealing with that issue for some time. Maybe we could have that answered by representatives from the Division of Child and Family Services who may be coming forward. We can ask them that question. Mr. Sosa, do you feel comfortable answering this question?

Nathan Sosa:
I believe it says that the tribunal would have to be from a country that has also signed the convention, as well, so it would have to be reciprocal. It does not

apply to any nation or state that has not signed the convention and agreed to a reciprocal relationship. I assume that if the Native American tribes have not signed the convention as foreign states, this law would not apply to them.

Chairman Anderson:
I think Mr. Ohrenschall's question would be well addressed by the Division of Child and Family Services.

Assemblyman Segerblom:
Mr. Chairman, I am assigned to Native American law as part of my Uniform Law Commission duties, but I do not know the answer to your question. I will ask that question at an upcoming convention this summer in Santa Fe.

Chairman Anderson:
I was under the impression that you were anticipating that we would pass this bill in this session.

Assemblyman Horne:
Because the sovereign Native American tribes are under the purview of Congress—and I heard you say that this would be ratified by Congress—so I think, through that, they would be bound by that ratification. I am pretty sure of that. But, again, I am not involved in legal research. I am just a member of the Committee.

Assemblyman Gustavson:
I share the Chairman's concern about, in his words, the federal government holding a gun to our head and saying that we have to pass this. My concern also extends to our sovereignty. When we start talking about international law and international treaties, our sovereignty could be affected. I want to know if there is anything in this bill that would threaten or limit our sovereignty. I did not see anything in here, but I am not an attorney.

Assemblyman Segerblom:
We are giving up a limited bit of sovereignty. Assuming this went through, and our country adopts the treaty and another country adopts the treaty, if someone received a child support order through a legal process in that other country, then they could bring it to Nevada and ask the Nevada courts to enforce it. Now, Nevada courts would have the ability to refuse to enforce it based upon certain conditions, such as fraud. There are some limitations. In general, if it was a properly obtained judgment in a foreign country that participates in this treaty, the order would be enforceable here in Nevada. But it would just be for the purpose of having that child get the support, ordered by the court, to which they are entitled.

Nathan Sosa:
Those provisions that Assemblyman Segerblom mentioned, the conditions under which we would not enforce a foreign order or they would not enforce one of ours, are contained in section 26 of the bill. Included are conditions such as: if it is manifestly incompatible with our public policy, if they lack jurisdiction, if there was not due process, and if it was obtained through fraud. Also, regarding your concerns about giving up some of our sovereignty, there is a provision in, I believe, section 29 where the courts of either country would not be able to modify an order so long as the obligor (the person who is obligated to pay) resides in the original jurisdiction where that order was handed down, unless two conditions are met: one, the obligor submits himself to the second jurisdiction; or two, the tribunal in the second jurisdiction refuses to act when it is necessary. Essentially, the home jurisdiction, whether it is theirs or ours, maintains its authority over the case, so long as the obligor stays there. If the obligor moves, then Nevada would have an interest if the obligee and the child live here. In terms of foreign courts modifying our orders, it would only be in limited circumstances and only under those conditions. There are some safeguards in there.

Assemblyman Hambrick:
Considering many of the countries that we will be dealing with are under Sharia law, it seems as if this relationship could be lopsided in their favor. Also, for example, France has the Napoleonic Code. The laws of other countries are different from what we have here.

Chairman Anderson:
Dr. Kindred takes that position in her discussion. In my perusal of her written testimony, she makes a reference to the common law tradition upon which U.S. law is based in all states except Louisiana. I think the uniform acts have been applied in Louisiana, so they are valid even in jurisdictions utilizing the Napoleonic Code. Can I ask for someone from the Division of Child and Family Services who has responsibility for this area to come up?

Louise Bush, Chief, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services:
We are here today in support of A.B. 280, which, if passed, will adopt the most current version of the Uniform Interstate Family Support Act. The 2008 amendments provide a standardized process for enforcing the international child support cases. You have my written testimony (Exhibit F). Thank you.

Chairman Anderson:
In terms of interstate, in reviewing this piece of legislation, did you find that it will change your current practices within the United States?

David Castagnola, Program Specialist III, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services:
No, sir, it will not change our interstate relationships. It just adopts the amendments implementing the uniform international process.

Chairman Anderson:
Mr. Ohrenschall raised a difficult question. We have several indigenous groups here in the State of Nevada, and the question of the independent status of tribal groups has been of high concern. Mr. Gustavson has a reservation as part of his district, and I have a colony inside one of my districts. Both of those are a substantial issue in northern Nevada. How are you dealing with them under the current statutes? How is that working?

David Castagnola:
Currently, it can be difficult working with tribes, depending upon a variety of situations. As far as the list of 2008 amendments, it is our understanding, based upon guidance we have received so far from the federal Office of Child Support Enforcement, it does not impact or have anything to do with Indian Country cases. Only the foreign nations that are signatories to the Hague Convention—I believe there are 54 countries—would be included. To my knowledge, no American Indian nation is a part of that.

Chairman Anderson:
In Canada, they treat their native populations differently than we do here in the United States, in terms of their sovereignty. I want to make sure that we are not stepping on somebody's toes.

Susan Hallahan, Chief Deputy District Attorney, Family Support Division, Washoe County District Attorney's Office, Reno, Nevada:
The Indian nations are currently defined as a state, so we are already covered under current law with respect to the Indian tribes and nations. In this bill, it is covered in section 44, on page 11.

Chairman Anderson:
I will close the hearing on A.B. 280. The Chairman will entertain a motion. Recognize that this makes us the first state in the United States to have done this. Even Maine has not moved this quickly.

Assemblyman Gustavson:
I am not comfortable with the bill. I will vote no. I am not comfortable about jumping in and being the first state to pass it. I would have a higher comfort level if we had a little more experience and comments from the other states

about where they stand on this issue. I am still uncomfortable about the sovereignty issue and the constitutionality of the bill. Thank you.

> ASSEMBLYMAN HORNE MOVED TO DO PASS ASSEMBLY BILL 280.
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> ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.
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> THE MOTION PASSED. (ASSEMBLYMAN GUSTAVSON VOTED NO).

Chairman Anderson:
Let us take a look at the work session document, which Ms. Chisel has put together for the Committee. I had a discussion with Ms. Chisel last night. The chief sponsor of Assembly Bill 105, Assemblywoman Gansert, had an additional conversation with some folks in bill drafting, and has submitted an additional amendment. I have not had an opportunity to review it yet. We will see if we can put it on a later document, so let me remove A.B. 105 from the document.

Please understand that the bills I asked Ms. Chisel to put in the binder for you today are the ones where I thought we could reach some level of agreement. There is no consensus by which to judge this regarding the testimony that was given at the time. Ms. Chisel, with that caveat, let me open Assembly Bill 33.

Assembly Bill 33: Revises provisions governing subsequent convictions of battery which constitutes domestic violence. (BDR 15-261)

Jennifer M. Chisel, Committee Policy Analyst:
The Committee heard A.B. 33 on March 2, 2009. It was presented by Brett Kandt, on behalf of the Attorney General's Office. Assembly Bill 33 provides that, once a person has been convicted of three domestic violence battery offenses within a seven-year time frame in Nevada, or within any time frame within another jurisdiction, any fourth or subsequent domestic violence battery offense is a category B felony, no matter how much time has passed since the prior convictions (Exhibit G). As the testimony indicated, this bill is patterned after the existing driving under the influence (DUI) statute in Nevada to capture repeat offenders. There was an amendment proposed in writing by the Nevada Attorneys for Criminal Justice that would delete the new language in subsection 4 of section 1 of the bill, which is on page 3. That would maintain the law as it exists now. According to the testimony, the sponsors and the proponents of the bill oppose this amendment.

Chairman Anderson:
It would appear that if we were to accept this amendment, we would gut the bill in terms of its intent. If there is no motion, then we will put it on the board, and it will not appear in the binder again.

Assemblywoman Parnell:
I was unclear on your comments as to whether or not the sponsor, the Attorney General's Office, agreed with the amendment.

Chairman Anderson:
Ms. Chisel accurately reflected in her statement that the proposal by Ms. Rasmussen would gut the bill, and it would not be in the best interest of what the sponsor is trying to accomplish. The difficulty is in trying to duplicate the DUI statute and bring it over to the crime of domestic violence battery. The seven-year limit for DUI spawned a contentious fight, which took a long time to resolve because once you reach the third offense, it is forever. This is a dramatic step. The amendment is not helpful to the bill. It would, in fact, undo the majority of what was intended.

Assemblywoman Parnell:
I just wanted to confirm on the record that the sponsor was not in support of the amendment.

Assemblyman Carpenter:
I need some clarification. In Nevada, the third offense would be a category C felony and the fourth offense would be a category B felony?

Nick Anthony, Committee Counsel:
Yes, that is correct. Your third offense within seven years would be a category C felony. An additional fourth offense after that would raise it to a category B felony.

Assemblyman Carpenter:
If it was after the seven years, then what happens?

Nick Anthony:
I believe that is the particular amendment we are talking about in subsection 4. Subsection 4 would say that if it is after the seven-year period, any fourth offense would be elevated to a category B felony.

Chairman Anderson:
So it would be a lifelong elevated offense.

Assemblyman Segerblom:
I admire the concept behind the bill. I am concerned, however; given the way our domestic violence statutes work. When an officer is called out, he must arrest one of the parties and oftentimes these people cannot afford a lawyer. They end up pleading guilty to a battery charge. They did not know at the time that it might lead to this consequence, a felony. I think we are potentially going to sweep in people who are there because of their economic status as opposed to what they have done. I think the goal is laudable, but I am opposed to the bill.

Assemblyman Horne:
It does not matter that the fourth offense could happen 15 years later; it would be elevated to a category B felony. It takes away a lot of discretion. It is not sitting well with me. I did not hear compelling testimony addressing the need for the bill: how our current system is not working with the third offense becoming a category C felony.

Assemblyman Ohrenschall:
My recollection of the reason for the original seven-year limit was to provide an incentive to a batterer, who committed an awful crime, to try to get treatment and turn his life around. I am worried that this might take that incentive away. I am all for harsh penalties for harsh crimes, but I oppose this.

Chairman Anderson:
We have made great strides relative to domestic violence statutes here in the state over the last 15 years. It may be approaching the time when the penalties for domestic violence should be elevated, but I just do not think that the environment is right for it at this particular point in time. I am concerned about the underlying question regarding the adequacy of full information and disclosure, at the time of the first domestic violence offense, as to what the long-term effects could be. That was part of the criticism of the DUI statutes in the past. Somebody may not recognize the gravity of the first offense, and that is the reason we gave the second DUI offense such an elevated level of sanctions. I will not support this piece of legislation in this form.

Assemblyman Carpenter:
If the bill is not passed, does that mean if you get three domestic battery offenses within three years, it would be a category C felony, but if you then get a fourth offense, it goes back to a misdemeanor?

Nick Anthony:
My understanding of the existing law is that for any third or subsequent offense within the seven years, you are still guilty of a C felony. That is the existing language.

Assemblyman Carpenter:
Does it not have to be within seven years?

Kristin Erickson, Chief Deputy District Attorney, representing the Nevada District Attorneys Association, Reno, Nevada:
Yes, Mr. Anthony is correct. If there is a third offense within seven years, it is a felony; however, if you get a fourth, and there are not three offenses within that seven-year window, it goes back to a misdemeanor.

Chairman Anderson:
So what this does is remove the statute of limitations question.

Brett Kandt, Executive Director, Advisory Council for Prosecuting Attorneys, and representing the Attorney General, Reno, Nevada:
That is what we were trying to address with the proposed amendment to the statute. We wanted to avoid situations involving somebody who has demonstrated, because of their repeated convictions, that they are what I would call serial batterers. They have had a felony conviction, they have been to prison, they have been to counseling, and they still do not get it. Because of what we perceive as a shortcoming in the statute, we did not want them to receive only a misdemeanor conviction because it fell just outside of the seven-year window. As I indicated in my original testimony, because domestic violence is a crime that tends to elevate in its severity, we have concerns that the serial batterers will end up severely injuring or killing somebody if they do not face the lifetime felony status once they have reached felony status.

Assemblyman Cobb:
That is essentially what Ms. Erickson said and why I made the motion that I made. I do not think that we need to be extending more bites at the domestic violence apple. Currently, as described, you can batter someone three times in seven years and then wait one day over seven years, and, suddenly, it is a misdemeanor again. That does not make any sense to me. I think we need to be serious about prosecuting these people. Thank you.

Assemblywoman Parnell:
I would agree with Assemblyman Cobb's comment. I think it is a really terrifying system where you have had three convictions, you have your fourth

after seven years, and it goes back to a misdemeanor. You have to recreate that schedule, I imagine. I support the bill as it was presented.

Chairman Anderson:
That was the reason I suggested that the amendment not be taken into consideration. I think it cuts to the heart of the question.

Kristin Erickson:
In Washoe County, we treat domestic violence just like DUI cases. They have to fill out a waiver which advises them of their rights and of the consequences of a third domestic violence conviction. They are aware of the consequences should they reoffend.

Chairman Anderson:
Of course, then this would affect all of those people who have not been informed in the past at the time of their first conviction. So, let us say that they were involved in some sort of domestic violence situation with a girlfriend, then with other girlfriends at different times, but within seven years, and then a fourth event that would be outside the limit of seven years. The first three offenses would all count?

Kristin Erickson:
That is correct. If they plead guilty to a domestic violence crime, they will fill out a written waiver, which advises them of the consequences of subsequent convictions, except if they are from out of state, in which case there may not be that waiver.

Chairman Anderson:
It is true regardless of whether it is in this jurisdiction or in any jurisdiction?

Kristin Erickson:
That is correct.

Chairman Anderson:
We are talking about same or similar conduct as a battery on page 5, section 2, subsection 2, paragraph (b) of the bill, at lines 19 through 21, specifically.

Assemblyman Horne:
We are talking about seven years. In my experience, I have not seen batterers, who come before the system, drop below the radar for seven years. I do not see this huge number of people who, the day after the seven years, start battering again. If they are batterers who are not getting it, as they say, they are going to be battering within that time, and we are going to be getting them

in the system. That is why they get these felony convictions, because they do not get it. They are incapable of staying under the radar for that seven-year period. This is a rolling seven years. Those previous convictions roll. The clock starts fresh with the last offense.

I do not see that there is a large void that creates these people who are dropping off the map and perpetrating these terrible, violent crimes against their spouses or loved ones and ending up getting convicted for only misdemeanors. Those who get convicted of felonies after their third offense oftentimes get their fourth offense within that seven-year period because that is the type of person they are. Then they get their fifth offense within that seven-year period because they do not get it. The domestic battery charge itself is not always difficult to obtain. We see domestic violence charges stem from arguments between spouses, where both spouses are arrested. One person has grabbed the other one's wrist, and one has slapped the other. These cases are not always so cut-and-dried. Domestic battery offenses are easy to get, along with the fourth, fifth, and sixth one, as well. I do not see a large population of these terrible offenders dropping off the map and being unable to be prosecuted for a felony.

Assemblyman Carpenter:
I do not think that we should allow people to keep committing domestic violence. I understand where Mr. Horne is coming from, but I think in this situation we see these horrendous crimes. I know I am going to vote for the bill.

Chairman Anderson:
I will entertain a motion.

> ASSEMBLYMAN COBB MOVED TO DO PASS ASSEMBLY BILL 33.
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> ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.
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> THE MOTION PASSED. (ASSEMBLYMEN ANDERSON, HORNE, KIHUEN, MORTENSON, OHRENSCHALL, AND SEGERBLOM VOTED NO.)

Let us turn the attention of the Committee to Assembly Bill 120.

Assembly Bill 120: Makes changes concerning orders for protection of victims of sexual assault. (BDR 15-625)

Jennifer M. Chisel, Committee Policy Analyst:
The Committee heard primary testimony on A.B. 120 from Andrea Sundberg, Executive Director of the Nevada Coalition Against Sexual Violence. The bill authorizes a victim of sexual assault to request a temporary or extended order of protection against a person who allegedly committed the sexual assault (Exhibit H). The language in this bill is modeled after the protection orders available for victims of stalking and harassment. After the hearing, the Chairman received a request to expand the provisions in A.B. 120 to all victims of a crime of violence, which does still include sexual assault victims. Attached is a conceptual amendment which inserts the phrase "crime of violence" in place of "sexual assault." This would be a policy question for the Committee to consider.

Chairman Anderson:
I have asked for the amendment to be included because it seemed to me that, while it is a much broader question which was not fully vetted at the time of the hearing, it was a discussion that you all needed to hear.

Jennifer M. Chisel:
The effective date of this bill is upon passage and approval.

Chairman Anderson:
Mr. Carpenter, according to my notes, you had several questions regarding concerns you had raised on page 6 of the bill, section 6, subsection 3: Any law enforcement agency may enforce a court order issued pursuant to the section. In addition, you had a concern on page 4, section 3, lines 14 and 15: a temporary order may be granted without notification. Mr. Horne, I believe you raised questions on page 5, paragraph (c), lines 3 through 9: at the time of the violation or within 2 hours after the violation the person has a concentration of alcohol and prohibited substances.

Assemblywoman Parnell:
I think the other questions that were of concern to people that day were the use of terms such as "reasonably believes" or "who allegedly." I would add that to the list of concerns.

Chairman Anderson:
The Chairman is in doubt; that is the reason it is here. I am of the opinion that it is a strong piece of legislation that would be helpful.

Assemblyman Segerblom:
The amendment came to us through a criminal defense attorney in Las Vegas who is one of my constituents. One of her neighbors had a child who had

committed violence towards my constituent's family. He was going to be let out of prison, and my constituent was trying to find a way to stop him from moving back into the neighborhood. The police said that there was nothing they could do. This is why we are attempting to expand the bill from just sexual assault crimes to crimes of violence. It would have to be a crime that is more than a misdemeanor. It would have to be a felony violent crime.

Chairman Anderson:
Mr. Segerblom, do you think we should move the bill with this amendment, even though we have not had a hearing on the amendment?

Assemblyman Segerblom:
I think the record is clear, and the difference does not make much difference. I would support the amendment even though we have not heard it.

Chairman Anderson:
I hesitate to move the responsibility to the other house for public testimony on the broader nature of the amendment, because that is what we would be doing.

Assemblyman Cobb:
I think I have the same concern you do that we did not have the ability to ask questions about this during the hearing. One specific concern would be: this is a self-certifying standard in terms of a person who reasonably believes something. If we were to add this language, it would be a person who reasonably believes that they were a victim of a crime of violence, which is the threatening use of force or violence punishable as a felony. I am just trying to figure out who exactly would make a determination as to whether or not the individual reasonably believed that the threat or use of violence rose to the level of a felony.

Nick Anthony, Committee Counsel:
The definition of "reasonably believes," on page 3, would be a question for the trier of fact, so ultimately the court would be the one making that determination. Whether or not to issue the order would be a question for the trier of fact, the court.

Assemblyman Carpenter:
Even with that explanation by Mr. Anthony, I still have a problem. Even though the judge may have to decide, I think a lot of these things are just given because they believe the person. Unless there has been some kind of action brought against the person, against whom the restraining order would apply, it leaves me with a bad feeling to have that in the law.

Chairman Anderson:
So then the bill comes back to the board, or is the Committee of the opinion that we should move it? Okay, nobody wants to do anything.

We will turn our attention, then, to Assembly Bill 168.

Assembly Bill 168: Revises sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other persons involved in trafficking in controlled substances. (BDR 40-653)

Jennifer M. Chisel, Committee Policy Analyst:
The primary speaker on A.B. 168 was Judge Herndon, who chaired the Advisory Commission on the Administration of Justice's subcommittee to Study Mandatory Drug Sentencing Statutes and Substantial Assistance Statutes. This bill is the result of a recommendation to expand the substantial assistance statute in Nevada to allow a court to reduce or suspend the sentence of a drug trafficker if the defendant provides substantial assistance in the investigation or prosecution of another person involved in trafficking (Exhibit I). The Committee has four amendments to consider on this bill. The first comes from the American Civil Liberties Union (ACLU) and can be seen on the first page and the top of the second page of the mock-up that is attached. This allows a court to reduce or suspend a sentence of a trafficker who lacks knowledge useful to the prosecution to provide substantial assistance, but who is willing to cooperate. The second amendment was proposed by Ben Graham. This amendment further broadens the bill to allow a court to reduce or suspend a sentence of a trafficker if the defendant provides substantial assistance in the investigation or prosecution of any offense. This amendment can be found on page 2 of the mock-up, next to the corresponding explanation box that is subsection 3. Mr. Carpenter proposed the third amendment to make a change to the language where it says, "taking into consideration the government's evaluation." He felt that the word "government" sounded more like federal law, so the proposal would be to put "state's" or "prosecuting attorney's" or some other more-local type of language. The fourth amendment was presented by Mr. Horne to change the effective date to "upon passage and approval."

Chairman Anderson:
Let me draw the Committee's attention to the mock-up, which was prepared by the Research Division. As you will note at the top of the page, the researcher and I have talked about this already. I only want to draw your attention to it because Legal gets the final say. Regardless of who does the mock-up, the language has to come from the Legal Division. This was done by the researcher for me, predominantly because I want to know how it is going to fit in here. It

seemed to me that most of you would like to see how it all flows together and where each of those amendments might fit in. So, Ms. Chisel has gone out of her way for this Committee. Note that this document shows proposed legislation. We are dealing with the conceptual idea of the amendments as they would apply.

Assemblyman Carpenter:
I like the bill as it is, other than my amendment and Mr. Horne's amendment.

Chairman Anderson:
The Chairman will entertain an Amend and Do Pass motion with the amendment regarding the entity evaluating the assistance program. It amends page 2, line 27, by striking the word "government's" and adding the term "state's" or "prosecuting attorney's" so it is clear that we are not talking about the federal government but our government at the state level. Mr. Horne's amendment wants the effective date to be upon passage and approval rather than waiting until October 1, 2009, so that it has an immediate effect.

Assemblyman Horne:
Mr. Graham's amendment provided for a change to the offense covered by the bill to include other types of charges besides trafficking.

Chairman Anderson:
I was under the impression that Mr. Carpenter was only concerned about amendments 3 and 4. Mr. Carpenter, would you wish Mr. Graham's amendment to be included in your discussion?

Assemblyman Carpenter:
I would like to hear Mr. Horne's comment.

Assemblyman Horne:
We are trying to provide an incentive for cooperation, but, as the bill is written, that cooperation only extends to trafficking. Mr. Graham's amendment proposes to broaden that so we can give an incentive to cooperate to other offenses, as well. I do not think that is necessarily a bad idea.

Ben Graham, representing the Administrative Office of the Courts, Carson City, Nevada:
As the Committee heard from Judge Herndon and others, this suggested amendment to change the language to "any offense" broadens the bill to benefit not only the law enforcement community but also, primarily, a defendant who may not have any substantial knowledge about the higher-level drug dealing but is willing and able to help the enforcement community in other areas. In effect,

he almost earns his way out of the more serious charge. I think this was actually a consensus amendment agreed upon by the defense bar, the prosecutors, and the police, as a result of the hearings by the Advisory Commission on the Administration of Justice. From our standpoint, we ask that you include "any offense" to give a defendant a break, where it is warranted.

Chairman Anderson:
Mr. Carpenter, do you want to amend your motion in section 1 of the bill to add the suggestion of Mr. Graham, on behalf of the Administrative Office of the Courts, to provide substantial assistance regarding any offense, as well as your and Mr. Horne's amendments?

Assemblyman Carpenter:
Yes, Mr. Chairman.

Assemblyman Ohrenschall:
I seem to recall Judge Herndon talking about the case of someone coming across the state line who did not have a criminal or violent history but was arrested and had enough of whatever the substance was to qualify as a trafficker. He did not have many options, and he did not have anything he could offer by way of information to try to help. I like Ms. Rowland's amendment, which, when a case such as this one appears, would give the judge some kind of leeway.

Chairman Anderson:
I think Mr. Carpenter and Mr. Horne are of the opinion that amendments 2, 3, and 4 work. Do you want to try to convince them that amendment 1 should be included?

Assemblyman Ohrenschall:
I like amendments 2, 3, and 4 as well, but I would like 1 through 4.

Assemblyman Segerblom:
I would agree with Mr. Ohrenschall as far as amendment 1. I am not sure how you would reach the standard of being able to say that you would offer information that you do not have, but if there is a mechanism to implement that standard, then I do not think you should penalize someone because they do not have information; conversely, I am not sure you want to reward someone just because they do. The key is that somebody wants to offer assistance, and we want to help that person get a lesser sentence, I think.

Chairman Anderson:
It opens the door rather broadly to judicial discretion, I guess, in the plea bargaining arena, much more dramatically than I think the Advisory Commission on the Administration of Justice had intended. I do not think that their intent in offering the legislation is harmed by trying to perfect their bill with amendment 2, which is the same group of people, nor is it harmed by Mr. Horne's proposal of "upon passage and approval." Amendment number 3 is, I think, a choice of the Committee in terms of trying to clarify. It does no harm to the bill. We are still discussing the bill. I think that amendment 1 does bring forth several other issues.

Assemblyman Cobb:
I want to echo your comments. I agree with you that we have some good legislation here. Amendment 1 is going to be very problematic, especially, if I am reading this correctly, the last line of amendment 1 which suggests that, even if the prosecutor already knows the information, the person is going to be probationable. This does not make any sense to me. I think that opens the door for individuals to simply repeat information everyone already knows and then claim equal rights under the law in terms of applying the law when they go before the judge arguing, "Hey, just because somebody else knew the information already does not mean that this law should not apply equally to me under the 14th Amendment to the *Constitution of the United States*; therefore, I should get off." I disagree with amendment 1, and I agree with the Chairman that we should not jeopardize this bill by including it.

Assemblyman Horne:
I respectfully ask that Ms. Rowland's amendment not be included. The plain hard facts are that sometimes small fish do not have any information to give. It would be irrational to reward someone because, if they did have some information, we know they would give it to us. That is just part of the business. They either have the information or they do not. I think broadening it to other offenses is good. Sometimes you just do not have information, but we are not going to give you credit for being willing to give us information if you were to have it.

Chairman Anderson:
I agree, Mr. Horne, but I think Ms. Rowland brought forth a very important point. Within the judicial process, it seems that if you are somebody who is there for the first time, you may not know the information you know until, all of a sudden, you discover that it is of value to the prosecutor in some other arena.

Assemblyman Manendo:
Maybe I am reading it wrong, but if someone does not have information but they can get the information, is that enough of a tool? I do not recall if that is something that law enforcement feels is worthy of counting. For example, when questioned, the defendant might say, "I do not really know, but I think I might know somebody in the neighborhood that did something. I bet you I can figure it out."

Kristin Erickson, Chief Deputy District Attorney, representing the Nevada District Attorneys Association, Reno, Nevada:
The question of whether or not substantial assistance has been rendered is a decision for the judge. It could be exactly what you are saying: if they are able to provide information, the judge may say, "That is good enough," or the judge may say, "Just giving a name is not good enough." It is a gray area.

Chairman Anderson:
So law enforcement may ask for information and put it into the judge's decision box, and the district attorney's office may offer it as part of the discussion, but there is no guarantee as to what the judge is going to do, regardless.

We will vote on the Carpenter/Horne motion of Amend and Do Pass A.B. 168, accepting the Graham and Administrative Office of the Courts amendment and the amendments proposed by Mr. Carpenter and Mr. Horne.

> ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 168.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Let us now turn our attention to Assembly Bill 189.

Assembly Bill 189: Revises provisions governing the eviction of tenants from property. (BDR 3-655)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 189 extends the time periods for eviction proceedings (Exhibit J). As the Committee will remember, there was quite a bit of testimony on this bill. Several issues were raised during the hearing. Jon Sasser, the primary proponent of the bill, provided several amendments for the Committee's consideration. The first is an amendment to the bill as a whole to ensure that its provisions apply only to residential real estate and not commercial real

estate. Amendments 2, 3, and 4 can be found on the attached mock-up. The second amendment is found on page 2, and it restores the existing stautory time frame for nuisance evictions. Amendment 3 is on page 4 of the mock-up. The language in subsection 6, next to the text box, created administrative problems for the courts and process servers, so the amendment proposed by Ben Graham addresses those administrative issues. The fourth amendment, which was mentioned by Jon Sasser during the hearing, restores the existing statutory time frames in foreclosure cases. This can be found on page 6 of the mock-up.

Chairman Anderson:
Mr. Hogan, I want to make sure we are clear here. If you would like to come forward, I want to get you on the record. The first amendment, suggested by Mr. Endres, you had conceptually agreed to. The second amendment, by Officer Kellie, dealt with issues that she raised at the time. I presume you have no problem with those.

Assemblyman Joseph M. Hogan, Clark County Assembly District No. 10:
Yes sir, they are entirely acceptable.

Chairman Anderson:
As to the concerns raised by the Administrative Office of the Courts and seconded by Constable Gronauer from Las Vegas, relating to the summary removal of tenants, is that amendment acceptable in terms of process?

Assemblyman Hogan:
Yes, Mr. Chairman, that is correct.

Chairman Anderson:
And Mr. Uffelman's amendment, as suggested by the banking group, is acceptable, Mr. Sasser? It does no appreciable harm. I am asking you these questions because, had you had the opportunity to develop the bill and send it back to redrafting, some of those issues would have been vetted earlier and not have to be here in an amended format.

Jon L. Sasser, representing Washoe Legal Services, Reno, Nevada:
The amendment to which you are referring is also acceptable.

Chairman Anderson:
Had you had the opportunity to more fully vet your draft, those questions would have been taken care of in the original bill, as I understand it.

Jon L. Sasser:
Yes, sir.

Chairman Anderson:
The Chairman will entertain an Amend and Do Pass motion on A.B. 189. Those amendments being those set out in the document and in the proposed mock-up prepared by the research department.

Assemblyman Carpenter:
I must state that I do have a conflict of interest because this bill mentions mobile homes and the rental of mobile homes, which we do. I have never voted on a mobile home bill, so I am going to abstain from this one.

Chairman Anderson:
You are exercising Rule No. 23 to abstain from voting due to your being an owner of a mobile home park?

Assemblyman Carpenter:
Yes, sir. And we also own mobile homes that we rent out.

Chairman Anderson:
Okay. A conflict is clearly demonstrated. Your intention is to abstain from voting on this issue. Well, I own a rental. I am not abstaining from voting on this particular issue. I do think that it probably affects me, as it does any other rental. I have but one, and as soon as I can sell it, I will not have one.

The Chairman is awaiting an Amend and Do Pass motion.

Assemblyman Cobb:
I still have a problem with this bill, even as amended. As we heard from the testimony during the hearing, there are a lot of people hurting right now on both sides of this issue. This is especially true in Nevada where we have a very high foreclosure rate. People are leaving their homes, moving into smaller homes, and renting their homes out. In essence, we are taxing Peter to pay Paul. They are both people who are on the same level. They are hurting. One side may need more time to come up with money, but the other side needs to pay their mortgage. There is nothing in this that allows the individual to recover the fees they are charged when they are late on their mortgage, which is generally 5 percent of a mortgage payment. On top of that, once you are late on your mortgage payment, you have a lower credit rating. A lot of times that means that your credit card interest jumps from 8 percent to 20 percent. It is all because of what someone else has done to you. In essence, what we are doing is favoring one side over the other in a situation where both sides are hurting.

Grace periods will disappear from rental agreements, even though right now they are almost universal. Individuals will immediately move for eviction, which will raise the costs of rental properties across the state, simply because they have to cover themselves. Again, we are talking about two people who are on the same level, and we are going to, as a society, decide to side with one of those two parties that are both hurting. I would urge the Committee not to vote for this provision.

Assemblyman Hambrick:
I agree with Mr. Cobb. We heard several individuals testify that this will have an adverse effect on the good renters. I will be voting against the bill, Mr. Chairman.

Assemblyman Ohrenschall:
In response to the comments of my colleague from District 26, I do not think this bill tries to go too far in favor of one direction. I think, remembering the hearing and looking at what other states are doing, our landlord-tenant law has been largely in favor of the landlords for the last 30 years, and I think this tries to give a little more protection and balance for tenants.

Assemblyman Gustavson:
I do agree with my colleague from Reno. I know that this is a hot issue, but we heard in testimony, too, that to get an eviction right now takes almost 30 days, even though there is a 5-day grace period. Now it takes almost 30 days to actually get that eviction. This really hurts the landlord, we know, because they have to make their payments, too. Their credit rating gets worse because they cannot make their payments. That is not going to help everybody all the way around. There are a lot of problems with it. I do have a lot of concerns about the bill, and there are other issues that I will not go into now, but I just wanted to voice my opinion on that.

Assemblyman Mortensen:
I am in the process of evicting someone right now, but I will be voting yes for this bill.

Assemblywoman Parnell:
This is really a tough one for me. I am probably going to be supporting it, but I reserve my right to change my vote on the floor. I heard from a lot of my constituents, many of whom I know personally. I would like to reserve what I do on the floor to give them a chance to look at the amendments, as it will probably be coming out of this vote.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 189.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN COBB, GUSTAVSON, HAMBRICK, AND MCARTHUR VOTED NO. ASSEMBLYMAN CARPENTER ABSTAINED. ASSEMBLYWOMAN PARNELL RESERVED HER RIGHT TO CHANGE HER VOTE ON THE FLOOR.)

Chairman Anderson:
Let us turn our attention to Assembly Bill 209.

Assembly Bill 209: Revises provisions governing the attendance of certain offenders at meetings of panels of victims of crimes relating to driving under the influence. (BDR 43-872)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 209 deals with victim impact meetings in driving under the influence (DUI) cases (Exhibit K). The bill removes the court's discretion to order a defendant to attend a victim impact panel meeting, regardless of the distance from the defendant's home. However, as the Committee will recall, an amendment was proposed to restore that portion of the bill to maintain the court's discretion in those situations. The other amendment for the Committee to consider is to require that the defendant attend a live meeting of a victim impact panel. Those amendments can be found on page 2 of the mock-up.

Chairman Anderson:
As a member of the Committee, I was a bit disturbed with the appearance that, in the largest community in the state, there is only one monthly meeting. While I have been reassured that one of the other communities also has a meeting once a month, it still surprises me in terms of the process. I know the judges were a bit concerned about what the amendment might do regarding their ability to get people in and out of court and through this particular process. I am mindful of the questions that initially came up in DUI discussions when victim impact panels were first suggested. Mr. Carpenter and I were serving in Transportation when Judge Lehman pointed out that when you went to traffic school for a DUI, they just went in and turned on a TV set, you watched it, at the end somebody came in and turned off the TV set, and you left. We added the victim impact panel to try to make people much more aware of the human impact of DUI. We have been very open to bringing in victims who have lost a member of their family and offenders who have been incarcerated as a result of their DUI, in order to give them the opportunity to have their voices heard.

I am mindful, in particular, of a young man I used to have come speak to my government classes. He was a senior and a football player at the University of Nevada, Reno. He broke up with his girlfriend. He went drinking with his friends and was involved in an automobile accident that resulted in the tragic death of a lady who was driving home from work with three small children. His opportunity to play professional football immediately disappeared. His opportunity to graduate from college immediately disappeared. This is somebody who had not been a regular driving-drunk individual in the past. In fact, if anything, he rarely if ever drank at any time in his life. It was truly a life-changing event. It was always very impressive to the students because he was young enough that the students identified with him. I think that was very important.

I understand what they are trying to accomplish here. I am a little disappointed, however, that more meetings are not available so that people, in a 24-hour environment, can participate in this kind of panel with a live group. I am not sure that I can support the bill, but I do feel that it is important that we debate the bill. Mr. Manendo, it is your bill, and you have the right to defend it.

Assemblyman Manendo:
Thank you, Mr. Chairman. For a while there, I thought you were making the case for the bill. I appreciated that. You made several comments that are really dead-on. There is absolutely a difference between somebody who does not make a complete stop at a stop sign, is ordered to go to school, and watches a little monitor, and somebody who is a DUI offender. I think that is the intent of the bill, and that is what the intent was when we started doing these live panels. We wanted to bring the lesson to real life for people to really see what is going on. I have been to so many I cannot even count them. I have been there and watched people come in who really had bad attitudes who were probably thinking, "This is just going to be a waste of my time. I do not know what I am doing here." Yet, by the time it was over, the panel really affected their lives. I think that is why so few who go through this panel reoffend. It speaks volumes.

You mentioned the courts. I know there is one judge who, to my understanding, has never been to a victim panel. He was against the live meetings. During the hearing, I invited him down to attend a live meeting. We do have meetings in Henderson and at the Flamingo Library. Years ago, we used to meet at the County Commission Chambers in the Bridger Building. Unfortunately, we outgrew that venue, and we had to find another venue that was larger. I have been assured that, if we ever get to the point where we need a larger venue or to hold the meetings on more days, we will do that. The only people who we turn away are those who show up intoxicated, or who are

disruptive and uncontrollable. Maybe they need to go home and sleep it off and come back another day, but they have several opportunities to come to the panel.

Chairman Anderson:
I would point out that one of the suggestions I made at the time to various people was that a court could set up a log for people to sign up for various meetings. Apparently, that was not of concern to anybody. I think it is important that we maintain the 60-mile language because it was not Mr. Manendo's intention to remove that language. Mr. Anthony, amendment 1, "attend in person," versus "live meeting," was part of the debate at the time. Would you help remind the Committee about that?

Nick Anthony, Committee Counsel:
I believe the discussion that day included some concern about pre-recorded or tape recorded meetings. So the amendment would just specify that the person must attend in person, at the defendant's expense, a live meeting. I think that should clarify the intent.

Chairman Anderson:
And that is in the mock-up, in that fashion, I believe.

Assemblyman Horne:
We had discussions with judges on this, and more than one judge was opposed. It would have been different if we had some type of testimony or data showing that those who were not attending these live in-person meetings were reoffending at a greater rate than those who did. We did not hear anything about that. It seemed to be a subjective determination that, if they are not doing it, then they are obviously not getting it. I do not know if I can support this bill as written.

Assemblyman Segerblom:
Mr. Manendo, do you have any idea what percentage of DUI offenders go to the live meetings?

Assemblyman Manendo:
I do not have the exact figures for how many go to a live panel meeting as opposed to watching the digital video disc (DVD), but I do know, just from folks who are signing people in to these live meetings, that very rarely do they see a repeat offender. I think that is part of the reason why it has been so successful.

Assemblyman Segerblom:
But, to your knowledge, there has not been a huge drop-off, as far as going to these presentations?

Assemblyman Manendo:
I do not know if there is a huge drop-off. I think it kind of varies. Unfortunately, these folks keep getting arrested, so we always have people attending. As far as the numbers, though, I do not have those.

Chairman Anderson:
Is there a cost to the person who goes to this? They have to pay for attending?

Kristin Erickson, Chief Deputy District Attorney, representing the Nevada District Attorneys' Association, Reno, Nevada:
In Washoe County there is a one-time fee of, I believe, $25. It may have increased to $30. The same holds true for Clark County, from my understanding. Apparently, it has increased to $40. Thank you.

Chairman Anderson:
If the Committee would be of the mind, I would suggest that a possible way to solve this problem would be to, on behalf of the Committee, formulate a letter to all the judges at the municipal level and above to recommend attendance at a live presentation, rather than to utilize any other method, and stating that would be the preference of the Committee. I think that would be appropriate because I believe there is a substantial difference between a live presentation and a pre-recorded demonstration. I think that any kind of live presentation from a victim of any crime is better in order to see the emotional impact, particularly on the perpetrator, who may be genuinely sorry for his actions. Alcoholism and drinking are, to a certain extent, compulsive behaviors that need to be treated, and that is the reason we have treatment programs for people with that particular kind of addiction. The reality of being exposed, in person, to the harmful effect of alcohol is a deterrent and therefore should be encouraged. I would offer the letter as a suggestion to the Committee. If the bill does not pass or is not accepted, then I would offer the letter as a suggestion on your motion.

Assemblyman Manendo:
Mr. Chairman, were you accepting a motion?

Chairman Anderson:
It depends upon the nature of the motion, I guess. I would like to hear what your motion is.

Assemblyman Segerblom:
Mr. Manendo, if you are interested, I will make a motion to write a letter directed to all of the municipal court judges and above telling them that we believe live presentations with victim impact panels are desirable and the preferred method. We can also try to keep some kind of statistics to see if it is effective. My concern is that there does not seem to be any need for it right now, but if they are going to walk away from this process, then at some point we need to take some action.

Assemblyman Manendo:
I think if the Committee feels a live presentation is that important, then we should go with the bill because that is what we are saying in the bill. We are mandating the live presentations, with the exception of those who live beyond the 60-mile radius. I guess we could write a letter, but if we really mean it, let us just put it in statute and make them go, because, as the Chairman said, it really has a huge impact on people.

Chairman Anderson:
I think that is what the original bill did. I think the existing law says very plainly, "attend, at the defendant's expense, a meeting of a panel of persons who have been injured" or are members of their family. That was the original discussion. I think this bill is broadening the original intent, particularly with regard to the ability to get people in and out of the live meetings. I would accept Mr. Segerblom's suggestion. Mr. Manendo, we will poll the Committee.

> ASSEMBLYMAN SEGERBLOM MOVED TO DRAFT A LETTER TO ALL JUDGES AT THE MUNICIPAL LEVEL AND ABOVE ADVISING THEM THAT THE COMMITTEE PREFERS LIVE MEETINGS OF VICTIM IMPACT PANELS.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION FAILED. (THERE WAS NO RECORD OF WHO VOTED AGAINST THE MOTION HOWEVER THE CHAIR MADE THAT ANNOUNCEMENT.)

Let us open the hearing on Assembly Bill 237.

Assembly Bill 237: Revises the provisions governing the certification of certain juveniles as adults for criminal proceedings. (BDR 5-825)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 237 deals with juvenile offenders who may be certified as adults for criminal prosecution (Exhibit L). The bill addresses a Nevada Supreme Court case that held a portion of Nevada's juvenile certification statute unconstitutional. The bill also raises the age for discretionary or presumptive certification from 14- to 16-year-olds. The Nevada District Attorneys Association proposed a different approach to cure the unconstitutionality of the existing statute, by prohibiting a juvenile's incriminating statements from being used while still allowing the court to certify a juvenile with substance abuse or emotional problems that led to the criminal activity. This amendment can be found in the mock-up. I wanted to note that I only put one portion of the bill in here, just to save paper and to show you the District Attorneys Association amendment.

There is a second amendment for the Committee to consider having to do with the age of certification. The District Attorneys Association proposed that the existing statutory age of 14 for both discretionary and presumptive certification be retained in the statute. There is also a second choice for the Committee. This was proposed by the Chairman. This is a compromise on the age issue to retain the existing age of 14 for discretionary certifications but to raise the presumptive certification age to 16, as it is drafted in the bill.

Chairman Anderson:
The Supreme Court brought this issue forward, and I felt that it was better addressed by our legal staff. I felt that by changing the age we have struck a middle ground that might be acceptable to both sides of the issue and clear up certain ambiguities that have caused some problems. You will recall, when we heard the bill originally, the folks from the Division of Child Protective Services were here and indicated their general support for that idea and their ability to deal with the population. Circumstances have dramatically changed. This might help them.

Assemblyman Carpenter:
The amendment that you are offering is a good compromise, so if you would entertain a motion that is what I would do.

Chairman Anderson:
The Chair will entertain an Amend and Do Pass motion, the amendment being that of 2(b), and dividing the age questions, retaining existing statutory language of 14 for discretionary certification of juveniles.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 237.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will now open Assembly Bill 257.

Assembly Bill 257: Prohibits the taking of an excessive number of certain free publications under certain circumstances. (BDR 15-532)

Jennifer M. Chisel, Committee Policy Analyst:
Assembly Bill 257 was presented by Assemblyman Kihuen to prohibit the theft of excessive numbers of free newspapers (Exhibit M). The Committee has two amendments to consider. The first is to extend the provisions of the bill to include magazines, and the second was an American Civil Liberties Union (ACLU) amendment proposed to prohibit a property owner from removing the publications if the news rack is located on a portion of the property that is a public forum. This language is provided in the amendment and is attached.

Chairman Anderson:
It appeared to me that Mr. Kihuen suggested that adding magazines was merely an oversight in drafting and would fulfill the intent of the bill. Mr. Lichtenstein's amendment did no irreparable harm to the bill. Both amendments should be accepted.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS ASSEMBLY BILL 257.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let me open Assembly Bill 264.

Assembly Bill 264: Revises provisions relating to defendants who are incompetent. (BDR 14-995)

Jennifer M. Chisel, Committee Policy Analyst:
The bill limits the type of category B felonies that qualify to those that are violent (Exhibit N). It requires that a risk assessment be completed by the Division of Mental Health. It requires a court finding that the defendant's dangerousness requires commitment to a secure facility, and it addresses the conditional release provisions. During the hearing, the Division of Mental Health proposed two amendments. The first amends the procedure for the risk assessment to ensure that it is completed. The language is on page 1 of the mock-up. The second amendment adds to the list of violent category B felonies. That is found on page 2 of the mock-up.

Chairman Anderson:
The amendments are those suggested by Ms. Leslie to clarify the intent of the bill. The Chair will entertain an Amend and Do Pass motion.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 264.

ASSEMBLYMAN MORTENSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Anderson:
With that, we are adjourned.

[Meeting adjourned at 12:33 p.m.]

RESPECTFULLY SUBMITTED:

_____
Robert Gonzalez
Committee Secretary

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 26, 2009 Time of Meeting: 10:06 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster.
A.B. 280	C	National Conference of Commissioners on Uniform State Laws	Amendments to the Uniform Interstate Family Support Act (2001).
A.B. 280	D	Kay P. Kindred	Written testimony regarding A.B. 280.
A.B. 280	E	Assemblyman Segerblom	Introductory remarks to A.B. 280.
A.B. 280	F	Louise Bush	Written testimony regarding A.B. 280.
A.B. 33	G	Jennifer Chisel	Assembly Bill 33 work session document.
A.B. 120	H	Jennifer Chisel	Assembly Bill 120 work session document.
A.B. 168	I	Jennifer Chisel	Assembly Bill 168 work session document.
A.B. 189	J	Jennifer Chisel	Assembly Bill 189 work session document.
A.B. 209	K	Jennifer Chisel	Assembly Bill 209 work session document.
A.B. 237	L	Jennifer Chisel	Assembly Bill 237 work session document.
A.B. 257	M	Jennifer Chisel	Assembly Bill 257 work session document.
A.B. 264	N	Jennifer Chisel	Assembly Bill 264 work session document.