

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

**Seventy-Sixth Session  
May 19, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:26 a.m. on Thursday, May 19, 2011, 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman William C. Horne, Chairman  
Assemblyman James Ohrenschall, Vice Chairman  
Assemblyman Steven Brooks  
Assemblyman Richard Carrillo  
Assemblyman Richard (Skip) Daly  
Assemblywoman Olivia Diaz  
Assemblywoman Marilyn Dondero Loop  
Assemblyman Jason Frierson  
Assemblyman Scott Hammond  
Assemblyman Ira Hansen  
Assemblyman Kelly Kite  
Assemblyman Richard McArthur  
Assemblyman Tick Segerblom  
Assemblyman Mark Sherwood

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Nick Anthony, Committee Counsel  
Julie Kellen, Committee Secretary  
Michael Smith, Committee Assistant

**OTHERS PRESENT:**

Connie S. Bisbee, Chairman, State Board of Parole Commissioners  
Brett Kandt, Special Deputy Attorney General, Office of the  
Attorney General; Executive Director, Advisory Council for  
Prosecuting Attorneys

**Chairman Horne:**

[Roll was called.] Today is a scheduled work session day, as well as tomorrow. Tomorrow is deadline day. If we get it done right, we will hopefully not have an evening Assembly Committee on Judiciary meeting tomorrow. With that, we will start with Senate Bill 42 (1st Reprint).

**Senate Bill 42 (1st Reprint):** Authorizes the testing of drivers of vehicles that cause fatal vehicle accidents or collisions for the presence of alcohol. (BDR 43-293)

**Dave Ziegler, Committee Policy Analyst:**

All of the work session documents should be up on the Nevada Electronic Legislative Information System (NELIS), both as individual, separate documents and as a big, compiled document.

The first bill is S.B. 42 (R1), which is sponsored by the Senate Committee on Transportation on behalf of the Office of the Attorney General. It was heard in this Committee on May 3 and was presented by Special Deputy Attorney General Brett Kandt and John Johansen from the Department of Public Safety. This bill requires a person to submit to a preliminary test to determine the concentration of alcohol in his or her breath.

[Continued to read from work session document ([Exhibit C](#)).]

There are no amendments.

**Chairman Horne:**

During the hearing, there were some concerns with this bill. My concerns are still the same. I do not see a need for this bill, but it is at the pleasure of the Committee.

**Assemblyman Ohrenschall:**

As I recall the hearing, I think there was testimony saying that there are not many people who the officer suspects of having consumed alcohol or drugs that are not tested. I am worried about a provision that would have a blanket test when perhaps there is no probable cause of the use of alcohol or drugs.

**Assemblyman Hansen:**

I think we need to remember that this only involves accidents resulting in a fatality. There are only a handful of cases where this bill will come into play. I would like to make a motion to do pass, as is.

**Chairman Horne:**

I am not accepting motions yet.

**Assemblyman Sherwood:**

I share some of the same concerns. Unchecked authority and power for law enforcement can sometimes go the wrong way. In this case, it is only for fatalities, and the law enforcement folks do need some discretion. If it is opened up to other things, I would certainly have reservations, but this is so limited in scope. I do not think we should tie the police officers' hands. We need to let them do their job. I am okay with this bill, but I can appreciate other members' reservations.

**Assemblyman Brooks:**

I do not know that we are taking for granted that fatalities are involved. I can appreciate that. I can recall this Committee having a question in regards to who can actually make a determination at the crime scene if the fatality was or was not caused by the individual who might be drug tested. I do not know that I ever really received any comfort in how this would be determined, since this normally takes a few days to figure out. I still have a concern with at what point do we say, "This person not only was involved in the accident but may have caused the accident, so now we are going to drug test this individual." There is still a question mark in my head on that.

**Assemblywoman Dondero Loop:**

I have some concerns. As I am reading this bill, I think this is already provided for in statute. Am I correct?

**Chairman Horne:**

Is what already provided for?

**Assemblywoman Dondero Loop:**

Can an officer already do this procedure if he has reasonable cause?

**Chairman Horne:**

That was my comment during the hearing. They are already doing this. A fatality accident does not happen without somebody being tested. If there is a surviving driver, and he is coherent, the officer is going to check to see if he is under the influence. If he is transported to a medical facility, the surviving driver will be tested there.

**Assemblyman Ohrenschall:**

I think the bill takes away discretion from the officer who arrives on the scene. This bill would call for a blanket test in any case where there is a fatality. Right now, the officer has discretion. I remember asking a gentleman from the Nevada Highway Patrol if he was aware of any instances of an officer who believed alcohol was involved in a fatal accident who was not able to get that test for alcohol. I remember him saying that he was not aware of any. I am a little troubled by the idea of a blanket test. During the hearing, I brought up an example, and maybe it is not the best example, but it is like if everyone outside a bank was stopped right after a bank robbery to see if they had the bag of money instead of just checking the one person where there is probable cause to believe he is the culprit. I think this is akin to that.

**Assemblyman Daly:**

In reviewing the bill again, I am still not in support of it. As you recall from the hearing, I had some concerns. When I read it, the last sentence of section 1, subsection 1, lines 9 and 10 say, ". . . if the officer has reasonable grounds to believe that the person to be tested was: (a) Driving or in actual physical control of a vehicle . . . ." I think this creates confusion because now there is an, ". . . or (b) Driving or in actual physical control of a vehicle that caused an accident . . . ." If I was someone's defense attorney, I would ask, "Did you test him because he was in physical control or because he caused the accident resulting in a fatality?" I would argue over the concern of how and when the cause was determined. It could be argued that the test was given illegally because cause was not established. I do not think this bill is needed. They have reasonable suspicion as the criteria, and the person must be in control of the vehicle whether it was a fatality or not. I think this just adds confusion and does not meet the stated need. The stated need was different from the bill. They wanted to have a blanket test if there was a fatality if

a person was driving whether there was reasonable suspicion or not. I think this creates extra blanketed confusion. I will vote no.

**Chairman Horne:**

We will hold this bill back. Let us move on to Senate Bill 101 (1st Reprint).

**Senate Bill 101 (1st Reprint):** Revises certain provisions relating to certificates of marriage and the solemnization of marriage. (BDR 11-635)

**Dave Ziegler, Committee Policy Analyst:**

Let me mention that there are three amendments now, but when we looked at this the other day, there were only two. The first two are the same ones you saw the other day. The third one is the last page before you come to the next bill. It is not labeled except that at the top, it starts with *Nevada Revised Statutes* (NRS) 122.175. That is the amendment from Mr. George Cotton, and we received it the day before yesterday.

Senate Bill 101 (R1) is sponsored by Senator Manendo and heard in this Committee on April 21. This bill requires the county clerk to include on the reverse of the marriage certificate form only: (1) instructions for obtaining a certified abstract or copy of the certificate of marriage.

[Continued to read from work session document ([Exhibit D](#)).]

There are three amendments proposed by Assemblyman Segerblom, Ms. Flint, and Mr. Cotton.

**Chairman Horne:**

Which one is Mr. Cotton's amendment?

**Dave Ziegler:**

Mr. Cotton's amendment is a single sheet with excerpts from NRS Chapter 122. At the very top left-hand corner, it says NRS 122.175. It is right after the amendment that was submitted by Margaret Flint.

**Assemblyman Segerblom:**

I have been working with Mr. Cotton who owns one of the chapels in Las Vegas. He signed off on the notaries. When he realized we had a problem, he came back with this proposed amendment. I have no problem with it. We are dealing with the situation where, in my opinion, the current statute is unconstitutional because it limits the people who can marry to those affiliated with religious organizations. We need to have some kind of civil marriage process. The amendment by Mr. Cotton will get us there. This would allow the

clerks to have some type of screening process and to register people. Again, it will save Clark County hundreds of thousands of dollars because it can get rid of that lawsuit.

**Chairman Horne:**

I appreciate Mr. Cotton's work on this. People are getting married, including those of faith or no faith. No one came here to say he could not get married because he did not believe in a deity. I cannot believe it got to the point of a lawsuit. In my opinion, I bet the American Civil Liberties Union would have lost that lawsuit. That is just my opinion.

**Assemblyman Sherwood:**

On the third amendment, there is no header on that. It looks like it is part of the second amendment. It is ambiguous on the attached files. Notwithstanding, I concur with the Chairman on this. It is probably a meritless lawsuit. We had a remedy in place if you wanted a civil marriage. If we did this amendment and give discretion to the clerks, if I came in, on what grounds would I be denied? It is because the clerk has the discretion. We know how we feel about clerks with discretion. We have been through that with Ms. Parent. This is a straightforward bill. The amendments are ideological on your views of marriage being solemnized nonreligiously. The whole point of a religious marriage is that it is solemnized religiously. You still have to go through the state because it signs off on granting the authority to the religion and not the other way around. This was a no-brainer bill. Any amendments on this are ideologically driven, and as the Chairman correctly pointed out when we first brought this bill up, they are dubious at best.

**Assemblyman Hansen:**

Did we have testimony on this that said even an atheist society could come in and get licensed to do these sorts of things? If that is current practice, then the amendments are unnecessary. All of the arguments are about, "If you are an atheist and want to do this, you should be allowed." That is already the practice now. I suggest we pass this as it was originally introduced without the amendments.

**Chairman Horne:**

I think Ms. Parent was incorrect when she said she could do that according to how the statute reads. I do not put a lot of weight in Ms. Parent's testimony.

**Assemblyman Hansen:**

Can the Legal Division address that?

**Assemblyman Daly:**

There are other provisions in the bill that I did not have a problem with. The nontheistic organizations part was a problem. If this covers it and gets rid of the lawsuit, I think it has enough form to it that it can be managed. The first part of this in NRS 122.175 apparently only applies to Clark County. If this is a problem, should this be a statewide issue that needs to be addressed?

**Chairman Horne:**

That is a question for our Legal counsel.

**Nick Anthony, Committee Counsel:**

I believe the statute applies to both large counties and smaller counties. In subsection 2, it addressed counties under 400,000.

**Assemblyman Daly:**

I can support that amendment because I think it will meet everybody's needs.

**Assemblyman Brooks:**

I still have a problem with this amendment. It looks like the original one talked about notaries public having the authority to perform a marriage. I do not find comfort in that. I did get some false information from Ms. Parent when I asked her a direct question. I asked her if folks could get married now in the atheist society. She told me yes, but I have done some more research, and it appears they may not be able to. As my colleague stated, there is another civil remedy to get a judge to perform the wedding. After looking over this bill, I am in support of it as it was originally. That is where I stand at this point.

**Assemblyman Hammond:**

I concur with my colleague. After looking at all three of the amendments, I still believe the original bill that was drafted is a simple bill that needs to be passed in order to satisfy and remedy a problem we have been having. I was satisfied with my original motion, and I will make that motion again when the Chairman so desires.

**Chairman Horne:**

Assemblyman Brooks, in your concerns, were you reading the amendment Mr. Cotton proposed along with the other amendment, or were you reading it by itself? This does not have the notary stuff in it.

**Assemblyman Brooks:**

Maybe I am confused. I am looking at the very first one regarding NRS 122.062.

**Chairman Horne:**

That is the wrong page. This amendment deals with NRS 122.175.

**Assemblyman Brooks:**

Let me do some more homework.

**Assemblyman Frierson:**

There seems to be some confusion about which amendment we are talking about. On the Nevada Electronic Legislative Information System (NELIS), it is page 12. I think we are discussing that amendment exclusively. That deals with deputy commissioners of civil marriage who are not employees. I think a lot of the discussion at the hearing is not addressed at all in this amendment. I am perfectly comfortable with Mr. Cotton's amendment. It seems to be somewhat of a happy medium and does not bring some of the philosophical concerns into it but simply allows some flexibility. Nevada is a place where many people come to get married.

**Assemblyman Brooks:**

My apologies. This means that deputy commissioners will not be employees of the clerk's office, so I am in support of that.

**Chairman Horne:**

I will entertain an amend and do pass motion.

ASSEMBLYMAN FRIERSON MOVED TO AMEND AND DO PASS  
SENATE BILL 101 (1st REPRINT).

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HAMMOND, KITE,  
MCARTHUR, AND SHERWOOD VOTED NO.)

Let us move to Senate Bill 112 (1st Reprint).

[Senate Bill 112 \(1st Reprint\)](#): Revises provisions relating to the records that may be reviewed by a juvenile court in certain proceedings. (BDR 38-199)

**Dave Ziegler, Committee Policy Analyst:**

The next bill is S.B. 112 (R1), and it is sponsored by the Senate Committee on Health and Human Services on behalf of the Legislative Committee on Child Welfare and Juvenile Justice. It was heard in this Committee on April 28. The proponents were Senator Leslie and Judge Frances Doherty. This bill relates to procedure in juvenile proceedings.



[Continued to read from work session document ([Exhibit E](#)).]

There were no amendments.

**Chairman Horne:**

Are there any questions pertaining to S.B. 112 (R1)? [There were none.]  
I will entertain a motion.

ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS  
SENATE BILL 112 (1st REPRINT).

ASSEMBLYWOMAN DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will move to Senate Bill 128 (1st Reprint).

[Senate Bill 128 \(1st Reprint\)](#): Revises provisions governing guardianships.  
(BDR 13-156)

**Dave Ziegler, Committee Policy Analyst:**

Senate Bill 128 (R1) was sponsored by the Senate Committee on Judiciary on behalf of the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs. It was heard in this Committee on May 11 and presented by Senator Breeden, who was the Vice Chair of the interim committee, and Sally Ramm, Elder Rights Attorney, Aging and Disability Services Division, Department of Health and Human Services. This bill requires a private professional guardian to submit to and pay for a background investigation and to make the results available to the court upon request.

[Continued to read from work session document ([Exhibit F](#)).]

There were two amendments proposed on the day of the hearing. There was one from Ms. Butler at the Records Bureau, Department of Public Safety, and there was one from Mr. Brooks Holcomb. They are both attached.

**Chairman Horne:**

I am good with Ms. Butler's proposed amendment. I do not know if there is a need for Mr. Holcomb's amendment.

**Assemblyman Segerblom:**

I thought we had realized that his language was not necessary. However, he did have a good point.

**Assemblyman Hansen:**

I did not hear your thoughts on Mr. Holcomb's amendment. Did you think it was redundant?

**Chairman Horne:**

Yes, and at the end of the hearing, Assemblyman Segerblom started to realize the language was not necessary in the bill.

**Assemblyman Hansen:**

Is there no reason to put in an additional protection? Is it already in there to make sure somebody who has done something fiscally irresponsible or received a misdemeanor or felony is not allowed to participate in this program?

**Chairman Horne:**

Yes, it is under private guardian. There was an email chain where Mr. Holcomb was communicating with Sally Ramm, which said, "Thank you for the email-attached letter. Chairman Horne, I concur that my amendment should not be allowed to hold up passage of S.B. 128 (R1). It is too important a bill not to meet Friday's deadline." Mr. Holcomb asked that this bill go forward.

Are there any questions? [There were none.] I will entertain an amend and do pass motion.

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS  
SENATE BILL 128 (1st REPRINT).

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let us move to Senate Bill 159 (1st Reprint).

[Senate Bill 159 \(1st Reprint\)](#): Makes various changes governing offenders.  
(BDR 16-74)

**Dave Ziegler, Committee Policy Analyst:**

Senate Bill 159 (R1) was sponsored by Senator Gustavson and was heard in this Committee on May 4. Mr. Gustavson was accompanied by Elaine Voigt and Eddie Floyd from My Journey Home. This bill requires the Department of Corrections to provide information to inmates, upon their release, relating to obtaining employment and including information about programs that provide workplace bonds.

[Continued to read from work session document ([Exhibit G](#)).]

There are two proposed amendments, one from Assemblyman Hansen, a copy of which is attached, and one from Chairman Horne, which would simply delete section 2 of the bill.

**Chairman Horne:**

The only way I would like this bill to move forward is with the deletion of section 2. I do not know if that conflicts with Assemblyman Hansen's proposed amendment. Mr. Anthony, could you check on that?

Assemblyman Hansen's amendment should be on the Nevada Electronic Legislative Information System (NELIS). My amendment is not on NELIS because I just proposed to strike section 2.

**Nick Anthony, Committee Counsel:**

Yes, I believe your amendment would be in conflict with Assemblyman Hansen's. The proposed mock-up from Assemblyman Hansen proposes to make two changes solely to section 2. The first proposed change in subsection 1, paragraph (b), subparagraph (1), is that, ". . . the trustee may retain not more than 5 percent for administrative costs." The second proposed change, subsection 2, is that a trustee must be required to "give a bond in an amount fixed by the court."

**Assemblyman Hansen:**

My amendments were brought on behalf of Senator Gustavson at his request. There were concerns in the testimony that there needed to be some further controls on whomever would act as the trustee. I think Assemblyman Frierson brought up the fact that there was not a cap in the bill. That is why Senator Gustavson brought that forward. Also, the bonding requirement was brought forward to ensure that there was some protection to the person on probation that he does not get cheated by the individual acting as his trustee. That is where those amendments came from.

**Assemblyman Sherwood:**

I had some real concerns with the bill along with Assemblyman Frierson about unlimited payment. I think that 5 percent is in line with other trustee statutes we have already heard. If section 2 is deleted, I do not know what that would do as far as safeguarding that. Is the sponsor okay with passing this bill without section 2? If the sponsor is okay with your amendment, it seems that would be fine.

**Chairman Horne:**

I have not spoken with the sponsor about that deletion. I was approached and asked to process the bill. It was said that section 1 was very important. I was asked if I could live with deleting section 2 and moving the rest of the bill. I said I could do that. If he has real heartburn about this, we will let Senator Wiener know, and she will not concur with our amendment when it goes over there.

**Assemblyman Sherwood:**

Section 2 restricted it. The amendments from Assemblyman Hansen are more restrictive. If that is what it takes to get this moved on, I would be open to the Chairman's preference.

**Assemblyman Brooks:**

I thought Gary Milliken was also supposed to submit an amendment. In the amendment he shared with me, he deleted section 17, subsection 3.

**Chairman Horne:**

We are on a different bill.

**Assemblyman Frierson:**

My concern is that any penny we take away from a probationer to pay for something that can be done for free is a penny less that a victim, court system, or the Department of Parole and Probation (P&P) is getting. Oftentimes, the \$30 a month supervision fee is difficult for some of these probationers to make. The last thing I want to do is set a probationer up to fail because we add an additional financial responsibility on him by requiring that he pay a trustee to do what some organizations will help him do for free.

We have a diversion bill that started out in the Senate that creates a diversion program where community organizations come together to provide financial education and help folks open a bank account so they can deposit a check. Maybe they could actually earn some interest on their money rather than getting 5 percent taken away. Oftentimes, trustees are appointed for people who are not mentally capable of taking care of themselves. In this instance, there are people who might need the help but can find support otherwise. There are other people who are perfectly capable and are completing probation successfully. The notion that we would take some of that money that would otherwise go to a victim, P&P, for food, et cetera, is irresponsible. I think it was testified that in order to be able to go to the movies outside a budget, probationers would have to go to the trustee to ask. I think that is overly burdensome and would serve as a hindrance to these people. The organizations that want to do this mean well, and I am not concerned about them doing

something bad for the probationer. There are organizations that can do this for free. If a probationer wants to pay, he can pay, but I do not want to set him up for failure. I would support this if we delete section 2 and allow for information to be provided to those inmates but not burden them with a mandatory fee off the little bit of money they will earn once they are on probation.

**Assemblyman Hansen:**

I would suspect that if Senator Gustavson was here, since the Chairman is not happy with section 2, he would say to drop section 2 and pass the bill with section 1. I think there are legitimate concerns that Assemblyman Frierson and yourself have raised. I think we should process the bill that way.

**Assemblyman Sherwood:**

Philosophically, if there is something that can be done for free, we need to be consistent. We have heard testimony to move bills out of here that help certain organizations that pay to do things legally where other organizations do the same thing for free. We are diverting money to another fund, and they are taking fees to process it. I am asking for a little consistency intellectually. For some people to pay for things that the state or other organizations would do for free, let us do that for everybody and not just select folks.

**Chairman Horne:**

We had a motion to amend and do pass from Assemblyman Hansen.

ASSEMBLYMAN HANSEN MOVED TO AMEND AND DO PASS  
SENATE BILL 159 (1st REPRINT).

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will move to the next bill, which is Senate Bill 187 (1st Reprint).

Senate Bill 187 (1st Reprint):      Revises provisions governing parole.  
(BDR 16-640)

**Dave Ziegler, Committee Policy Analyst:**

Senate Bill 187 (R1) is sponsored by the Senate Committee on Judiciary on behalf of the Advisory Commission on the Administration of Justice. It was heard in this Committee on May 4. Connie Bisbee, Chairman of the State Board of Parole Commissioners, presented the bill. This bill prohibits the State Board of Parole Commissioners from continuing or granting parole of a prisoner convicted of listed sexual offenses unless a panel evaluates the prisoner within

120 days of the parole hearing to determine the prisoner's likelihood to reoffend and provides a report to the Board.

[Continued to read from work session document ([Exhibit H](#)).]

There were no amendments.

**Chairman Horne:**

Just for clarification on the "does not have the right to be evaluated" part, I see Commissioner Bisbee out there.

**Connie S. Bisbee, Chairman, State Board of Parole Commissioners:**

The "does not have the right to be evaluated" means that, at random, an inmate cannot request another evaluation. It does not prevent the Board from requesting additional evaluations between a denial period of parole if the Board wanted to move him up to request a panel to do another evaluation. It does not permit an inmate to request evaluations at random that do not pertain to a parole eligibility.

**Chairman Horne:**

When they are parole eligible, the evaluation comes?

**Connie Bisbee:**

Yes, sir. It is automatic when they are parole eligible.

**Chairman Horne:**

Is there a high request rate for evaluations that are outside of that?

**Connie Bisbee:**

Occasionally an inmate will disagree with the results of an evaluation or say, "I think I can pass it now. I would like to have another one now."

**Chairman Horne:**

Are there any questions? [There were none.] I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS  
SENATE BILL 187 (1st REPRINT).

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will move to Senate Bill 201 (1st Reprint).

**Senate Bill 201 (1st Reprint):** Authorizes the Attorney General to establish a program to mediate complaints by offenders. (BDR 16-827)

**Dave Ziegler, Committee Policy Analyst:**

The next bill is sponsored by Senator Parks, and it was heard in this Committee on May 4. Keith Munro, Assistant Attorney General, accompanied Senator Parks that day. Senate Bill 201 (R1) relates to corrections and persons sentenced to imprisonment in a state prison.

[Continued to read from work session document ([Exhibit I](#)).]

There were no amendments.

**Assemblyman Sherwood:**

From the notes I have here, Director Cox said they already have a robust system in place to track this. The redundancy is something I have an issue with. The bigger issue is having the Attorney General (AG), who is supposed to defend the state, if you connect the dots, now is going to be prosecuting the state. It seems like we are going to the extreme for prisoners' rights at the expense of the state. This seems a little muddled, so I am having a hard time with it.

**Chairman Horne:**

The AG will not be prosecuting the state, but there is kind of a rub where the mediator will eventually become the defense attorney in the matter.

**Assemblyman Segerblom:**

I thought the testimony was that they will be volunteer mediators, so it will not be the Attorney General mediating these things. It does not mean you are letting all of the prisoners out of jail or even going soft on prisoners; this is just trying to save everybody some money and deal with complaints in a reasonable manner as opposed to generating lawsuits. I think it is a great idea. Anytime you can mediate, I think it is favorable.

**Assemblyman Frierson:**

I want to echo the sentiments of Assemblyman Segerblom. In habeas work, the Office of the Attorney General has to defend hundreds, if not thousands, of habeas corpus complaints. This mediation effort would likely decrease the number of filings that actually go to habeas proceedings for those cases where somebody says, "I did not get my crunchy peanut butter but got creamy peanut butter." If we can have a mediation program, we might prevent some of those frivolous habeas petitions that take years to deal with in the Office of the Attorney General. By having an internal mediation program, I think

this can only serve as a savings, and it is already done on a voluntary basis anyway.

**Assemblyman Hansen:**

There is a \$3.2 million fiscal note. The idea that we are going to do this voluntarily and for free is not accurate. Maybe something has changed. I want to find out if that is accurate or not. Is this out of date? This is from the Department of Corrections.

**Chairman Horne:**

That might have been on the bill as introduced.

**Assemblyman Hansen:**

Is that correct? There is no longer any fiscal note attached to this bill?

**Chairman Horne:**

Mr. Kandt, is that part of the original bill?

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

Yes, Mr. Chairman. You are correct. That fiscal note was placed based on the text of the original bill.

**Assemblyman Ohrenschall:**

I would like to echo the comments made by Assemblymen Frierson and Segerblom. I think if we can resolve these disputes before the inmate takes it to court, that could actually save the state money. If you look at the bill on page 2, lines 6 and 7, it says, "The Attorney General may establish a program for mediating complaints. . . ." If the Office of the Attorney General does not believe this is a good program, it does not have to do this. We are not tying its hands. The bill is permissive.

**Assemblyman Sherwood:**

By laying the groundwork, the original intent was to have a \$3.2 million fiscal note to gear up the process and "save us money" because we are afraid of an extreme lawsuit. By passing this bill, we accept the premise that somebody could bring the suit creamy v. crunchy. We just validated that. There is judicial discretion right now to say, "Hey, we are not going to hear the creamy v. crunchy." If we pass this now, what will happen next session? We will come back and get the rest of this. Let us not legislate based on the notion that we are afraid of lawsuits.



**Chairman Horne:**

Did we just hear a Republican say, "We are not afraid of lawsuits," when we get all these bills saying, "We do not want to be sued. There are too many frivolous lawsuits." This is to address the frivolity of suits coming out of the prisons. There have been cases where the inmates' soup was cold, et cetera. These things happen. It is not like we are trying to avoid it just in case they want to sue. This is actually happening. This is a mechanism to mediate that and tell the inmate he is a knucklehead, and he needs to go back to his cell and eat his creamy peanut butter.

**Assemblywoman Diaz:**

I know we kind of focus on the frivolous lawsuits out there. I do believe there might be more serious complaints coming from offenders. I remember testimony from the wife of an inmate that said they were not taking adequate medical care of her husband. I think if a mediation program was established, we could maybe hear these concerns sooner and try to remedy them before they get out of hand. Sometimes we unintentionally do get ourselves into lawsuits because of not taking action in terms of adequately medicating an inmate or things of that sort. I think it behooves us to pass something like this to make sure that everybody is taken care of, namely the inmates and the state, so we do not have to deal with an expensive lawsuit down the road.

**Chairman Horne:**

Great point, Assemblywoman Diaz. I will entertain a do pass motion.

ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS  
SENATE BILL 201 (1st REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HAMMOND, HANSEN,  
KITE, MCARTHUR, AND SHERWOOD VOTED NO.)

Let us move to Senate Bill 221 (1st Reprint).

[Senate Bill 221 \(1st Reprint\)](#): Makes various changes relating to trusts, estates and probate. (BDR 2-78)

**Dave Ziegler, Committee Policy Analyst:**

This is a lengthy bill, and I would not pretend to understand every single aspect of it. There is a summary provided by the State Bar of Nevada. It is ten pages and is attached to the work session document. There is also an amendment, which is two pages and follows that ten-page summary.

Senate Bill 221 (1st Reprint) is sponsored by Senator Wiener and Assemblyman Segerblom. It was heard in this Committee on May 2. It was introduced by Assemblyman Segerblom. Julia Gold and Layne Rushforth from the State Bar Subcommittee of the Trust and Estate Section presented the bill. This bill makes numerous changes to statutes on estates, probate, and wills.

[Continued to read from work session document ([Exhibit J](#)).]

You may recall on the day of the hearing, there was a disagreement among some of the parties about the disbursements required to be made from income in *Nevada Revised Statutes* (NRS) Chapter 164. That is the subject of the proposed amendment presented by Mr. Solomon. I believe what happened is that the parties got together and reached a compromise.

To be clear on the amendment, it is the amendment to NRS 164.900 that is in the compiled work session document, and it is the very last page before the next bill. If the Committee favors that amendment, section 180.5 of the bill would be deleted.

**Chairman Horne:**

I know Assemblyman Ohrenschall has asked for the courtesy of having us address this bill tomorrow. He wants to follow-up on something. I am going to give him that courtesy.

**Assemblyman Ohrenschall:**

Thank you, Mr. Chairman. I appreciate it.

**Chairman Horne:**

That gives me another day to do some light reading on this as well. Let us move to Senate Bill 257 (1st Reprint).

[Senate Bill 257 \(1st Reprint\)](#): Revises various provisions governing graffiti offenses. (BDR 15-616)

**Dave Ziegler, Committee Policy Analyst:**

Senate Bill 257 (R1) is sponsored by Senator Wiener and was heard in this Committee on May 11. Senator Wiener presented the bill herself. This bill relates to malicious mischief and crimes related to graffiti.

[Continued to read from work session document ([Exhibit K](#)).]

There were no written amendments submitted. On the day of the hearing, the Chairman and the sponsor discussed the possible conceptual amendment

relating to the calculation of triple damages. This would be on page 4, section 2, subsection 2, lines 34 and 35. The concept is that the calculation of damages would run to a value as well as simply the cost of repair and removal of the graffiti.

**Chairman Horne:**

Are there any questions?

**Assemblyman Hammond:**

Are we considering the conceptual amendment with this?

**Chairman Horne:**

Yes. In regards to the conceptual amendment, I had asked a question about treble damages, which are damages relating to the cost of repair and the loss in value of the property. You can repair something, but the value has been diminished because of that repair. The judge still has the discretion on what that would be. If it was a significant amount of damage, and remediation did not bring it back to its original value, they would have to do accounting to show the diminished value of that property.

**Assemblyman Hammond:**

So your conceptual amendment would be the value of the particular item plus the cost to replace the item, whatever the determination of the judge would be?

**Chairman Horne:**

It would be treble the cost to repair or loss in value, whichever is greater.

I will entertain a motion.

ASSEMBLYMAN HAMMOND MOVED TO AMEND AND DO PASS  
SENATE BILL 257 (1st REPRINT).

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

**Assemblyman Kite:**

I did not hear the verbiage of the conceptual amendment.

**Chairman Horne:**

The judge may award treble damages on cost of repair or diminution of value, whichever is greater.

**Assemblyman McArthur:**

That was my same question too. I was trying to get a handle on the conceptual amendment.

**Chairman Horne:**

Are there any other questions? [There were none.]

THE MOTION PASSED UNANIMOUSLY.

We will move to Senate Bill 277 (1st Reprint).

[Senate Bill 277 \(1st Reprint\)](#): Revises provisions governing certain acts by juveniles relating to the possession, transmission and distribution of certain sexual images. (BDR 15-10)

**Dave Ziegler, Committee Policy Analyst:**

As some of you just pointed out, there was a typo in the previous bill. Where it said "page 2," it should have said "page 4."

Senate Bill 277 (R1) is sponsored by Senator Wiener and was heard in this Committee on May 5. This bill prohibits a minor from knowingly and willfully using an electronic communication device to distribute or transmit a sexual image of himself or herself to another person.

[Continued to read from work session document ([Exhibit L](#)).]

There were no amendments.

**Chairman Horne:**

Is everyone comfortable with this?

**Assemblyman Hansen:**

Is 18 the age of the minor in this? I just wanted to double check.

**Chairman Horne:**

I will entertain a motion.

ASSEMBLYMAN KITE MOVED TO DO PASS  
SENATE BILL 277 (1st REPRINT).

ASSEMBLYMAN HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will move to Senate Bill 348.

**Senate Bill 348**: Eliminates limits on the amounts of certain property that is exempt from execution. (BDR 2-779)

**Dave Ziegler, Committee Policy Analyst:**

Senate Bill 348 is sponsored by Senator Roberson and heard in this Committee on April 21. Senator Roberson was accompanied by a gentleman from the National Association of Insurance and Financial Advisors. This bill makes all money, benefits, privileges, or immunities accruing or in any manner growing out of life insurance exempt from execution, regardless of the annual premium paid.

[Continued to read from work session documents ([Exhibit M](#)).]

The Chairman has proposed an amendment, and a copy is attached.

**Chairman Horne:**

To make it clear, we all heard Assembly Bill 223. Remember the whole \$1,000 wildcard and whatnot? It passed out of here and is over in the Senate right now. This bill is proposing to make exemptions of people's monies, annuities, life insurance, et cetera. My proposal is that if one group can have an exemption, then the other group should be able to have their \$1,000 exemption as well. They can ride on the same horse, and this one is a good breed. I propose to amend A.B. 223 into S.B. 348 and both sides get what they want.

**Assemblyman Segerblom:**

In reality, there is not much of a trade-off because they are getting millions of dollars exempt. We are just trying to exempt \$1,000. Assembly Bill 223 was heard in the Senate yesterday, and you cannot believe the opposition for poor people receiving this \$1,000, which is already in the law. I think this is an appropriate amendment. What is good for the goose is good for the gander.

**Assemblyman Sherwood:**

To my colleague, there is no goose or gander. We are all in this together. We repeatedly said that these two bills were not the same, and now we are somehow making them the same. The folks who need this, on both sides, are folks who need this. This is not about rich people against poor people. It is the poor plumber who had a judgment for \$700 and had not been paid for 18 months who now does not get a judgment. We must stop with this philosophical us versus them. This is just bad legislation. The other bill had nothing to do with liquid assets. Most of the people who would get it would be

the children of people like teachers. Now the innocent family members are in trouble. We must stop with the philosophical blinders.

**Chairman Horne:**

If I had a client who had some judgments out there against him, and he had one of these annuities, you do not have to be dead to benefit from it. I would set up his account to pay off his bills without it ever coming into his personal bank account and making it subject to a judgment debtor coming in and getting it. He would be avoiding creditors just because he could.

The other bill is us against them or poor against rich; it was \$1,000, which is already in law. In the other, you are talking about tens of thousands of dollars that you could exclude. I will have to disagree with you on that.

**Assemblyman McArthur:**

Has this amendment been discussed with the author of the bill at all?

**Chairman Horne:**

When I thought of doing this, I actually spoke with Senator Roberson, and he is opposed to it. He said he was opposed to it with every fiber of his being. I told him that was too bad because I think that he could get his bill. The sponsors of A.B. 223 could get their bill as well because one does not hurt the other. As Assemblyman Segerblom said, what is good for one is good for the other. I do not understand that opposition. It is not like we are gutting S.B. 348 and putting A.B. 223 into it without the provisions of S.B. 348.

**Assemblyman Hansen:**

The only problem I have is that we just got this amendment, and I am not sure what it does and does not do. Is there a way we could delay the vote on this until tomorrow so we could actually have an opportunity to digest this fairly lengthy amendment that you proposed?

**Chairman Horne:**

This proposal has been out there for a while.

**Assemblyman Hansen:**

Assemblyman Kite and I were just discussing that \$1,000 provision. Is this only for life insurance policies, or is this any amount in a bank account or whatever?

**Chairman Horne:**

The language in A.B. 223 is the amendment. You voted against it.

**Assemblyman Hammond:**

I am going to side with the sponsor of the bill. As you mentioned, he is adamantly opposed to this, so I will be voting no if the amendment is attached to it.

**Assemblyman Brooks:**

I think I am back now. This is a well-crafted amendment. If we are all in this together, then if you owe a debt, you owe a debt. If it is the last \$1,000 in your account, or if it is \$1,000 you take from a life insurance policy, it does not matter. If you owe it, you owe it. I find it hard to believe that we would have any problem with the bill that says the plumber is going to get paid either way. As far as I am concerned, what about the family of the individual who goes home and has his account swept and cannot feed his children that week? The bottom line is that if we are going to hold people accountable to pay their debt, then we are going to hold them accountable across the board.

**Assemblyman Frierson:**

I feel compelled to make a comment about what seems to be a degradation in the integrity of this process. I have a great deal of respect for this body and the members of this Committee. We can agree to disagree. It does not make it some philosophical line in the sand or something other than a genuine position on an issue. I believe that S.B. 348 is a good bill. I believe A.B. 223 is a good bill. I am supporting them because I believe they both serve to protect assets against creditors in a way that protects the holder of those assets. We can break it down to liquid or not or however we want, but any effort to suggest that our positions are less than genuine on these issues is problematic and takes away from the system. I hope that the supporters of S.B. 348 understand that this measure supports the provisions of S.B. 348. The provisions of A.B. 223 simply echo that in another way. With that, I support the measure and the amendment. We had a hearing on the other amendment. I do not want either to die, and I hope this allows for us to proceed with a good policy to protect people who have assets in one way or another that they need.

**Chairman Horne:**

Was that a motion?

ASSEMBLYMAN FRIERSON MOVED TO AMEND AND DO PASS  
SENATE BILL 348.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HAMMOND, HANSEN,  
KITE, MCARTHUR, AND SHERWOOD VOTED NO.)

We have one more bill, which is Senate Bill 376 (1st Reprint).

[Senate Bill 376 \(1st Reprint\)](#): Increases the penalty for certain technological crimes. (BDR 15-1000)

**Dave Ziegler, Committee Policy Analyst:**

Senate Bill 376 (R1) is sponsored by Senator Cegavske and was heard in this Committee on April 29. She was accompanied by Mr. Jeff Crampton, a private citizen, and Sam Bateman from the Clark County Office of the District Attorney. This bill provides that a person who knowingly, willfully, and without authorization interferes with the use of a computer, network, or system, or uses or accesses a computer, information service, network, telecommunications device, telecommunications service, or system is guilty of a category E felony, rather than a misdemeanor.

[Continued to read from work session document ([Exhibit N](#)).]

There were no amendments.

**Chairman Horne:**

This was the bill where the guy dated the crazy woman who hacked his email. Are there any thoughts on this bill?

**Assemblyman Ohrenschall:**

We have spent a lot of time in this Judiciary Committee talking about how we can effectively combat crime and making the most of our citizens' tax dollars. I know that you have worked so hard on this with the Advisory Commission on the Administration of Justice. I think the intent of this bill is laudable, but I am worried about the felony in here. I do not know if it is the most prudent use of our scarce resources as a state to have this be a felony. This bill gives me some concerns.

**Assemblyman Frierson:**

I think that what this bill is trying to accomplish is perfectly fine. My problem is that I believe that existing law already treats this conduct as a category B felony. The gentleman who testified was victimized, and I think he was further victimized by not having his case charged under the existing statutes. The way this bill is written, there is no malicious intent, even in the language. If I leave my cell phone, and somebody picks it up and checks it without permission, he has committed a crime. If I open up my computer, and the email was up of whoever last borrowed it, and I access his email, it is a crime. I think we have existing laws to cover partially the conduct that is being targeted here without casting the net so wide. I would fear that in every



single domestic case there would be an allegation that somebody checked the other person's email or used somebody's cell phone or computer. That concerns me in that we have existing law to cover it. I think the behavior in the case that gave rise to this bill was extremely problematic, and I think the federal government ultimately got involved. That was probably appropriate. I do not know if that gives any reason to expand any penalty or create any new legislation when we have laws that are available, or in this case, were actually used to deal with the situation.

**Chairman Horne:**

I have those same concerns. Are there any other comments or questions? [There were none.] I think this bill goes a bit far. I feel sorry for the gentleman who testified, but there are bills already on the books, both state and federal, that deal with this. I think Senator Cegavske is probably listening. I do not think the votes are there, so I do not want to throw it up there for defeat. I will pull the bill back. We have one more day.

The last bill, Senate Bill 403 (1st Reprint), upon request, will be held until tomorrow. That concludes our business for today. Mr. Ziegler, how many bills do we have left?

**Dave Ziegler:**

Not including the bills that were rolled over today, there are 14 more bills.

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**Chairman Horne:**

We have approximately 16 or 17 more bills for tomorrow's work session.  
We can do that.

The meeting was adjourned [at 9:59 a.m.].

RESPECTFULLY SUBMITTED:

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Julie Kellen  
Committee Secretary

APPROVED BY:

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Assemblyman William C. Horne, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** May 19, 2011

**Time of Meeting:** 8:26 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 42 (R1)	C	Dave Ziegler	Work Session Document
S.B. 101 (R1)	D	Dave Ziegler	Work Session Document
S.B. 112 (R1)	E	Dave Ziegler	Work Session Document
S.B. 128 (R1)	F	Dave Ziegler	Work Session Document
S.B. 159 (R1)	G	Dave Ziegler	Work Session Document
S.B. 187 (R1)	H	Dave Ziegler	Work Session Document
S.B. 201 (R1)	I	Dave Ziegler	Work Session Document
S.B. 221 (R1)	J	Dave Ziegler	Work Session Document
S.B. 257 (R1)	K	Dave Ziegler	Work Session Document
S.B. 277 (R1)	L	Dave Ziegler	Work Session Document
S.B. 348	M	Dave Ziegler	Work Session Document
S.B. 376 (R1)	N	Dave Ziegler	Work Session Document

