

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

**Seventy-Sixth Session  
February 21, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 9:04 a.m. on Monday, February 21, 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 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:**

Assemblywoman Olivia Diaz (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Lynn Stewart, Clark County Assembly District No. 22

**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Nick Anthony, Committee Counsel  
Jeffrey Eck, Committee Secretary  
Michael Smith, Committee Assistant

**OTHERS PRESENT:**

Julie Butler, Records Bureau Manager, Records and Technology Division, Department of Public Safety  
Jonathan Friedrich, Private Citizen, Las Vegas, Nevada  
Rebecca Gasca, Director, Legislative and Policy Division, American Civil Liberties Union of Nevada (ACLU)  
Sam Bateman, representing the Nevada District Attorneys Association  
Grady Tarbuton, Director, Washoe County Senior Services  
Connie McMullen, Chairman, Strategic Plan Accountability Committee for Seniors, Department of Health and Human Services  
Chuck Callaway, Director, Intergovernmental Services, Las Vegas Metropolitan Police Department  
Tim Kuzanek, Captain, Washoe County Sheriff's Office  
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Brett Kandt, Special Deputy Attorney General, Office of the Attorney General

**Chairman Horne:**

[The meeting was called to order, and roll was called.] There are 13 members present and one excused. We have a quorum. We have two bills before us today. We will open the hearing on Assembly Bill 125. Assemblyman Stewart is here to present these bills to us. Good morning, Mr. Stewart.

**Assembly Bill 125:** Revises provisions concerning the reporting of crimes against older persons. (BDR 14-154)

**Assemblyman Lynn Stewart, Clark County Assembly District No. 22:**

Good morning, Mr. Chairman and members of the Committee. I am presenting these two bills on behalf of the Nevada Legislative Committee on Senior Citizens, Veterans, and Adults With Special Needs. I was a member of that Committee between the 75th and 76th Sessions of the Nevada Legislature. This committee was chaired by Chairwoman Kathy McClain. I represent that committee very well, since I am a senior, a veteran, and have many special needs.

[Assemblyman Stewart referenced a prepared statement ([Exhibit C](#)).]

Assembly Bill 125 is rather simple. I will quickly go through the changes it makes. This bill involves making reports on crimes against older persons. In the past, any crime that was committed against an older person was reported. The first thing this bill does, in section 1, subsection 2, is restrict the reporting to only crimes that involve abuse, neglect, exploitation, or isolation of older persons. In the past, whenever an older person was a victim of a crime, it was reported, even if it was incidental. If a home was broken into, and it happened to be the home of an older person, then that was included in the criminal report.

Section 1, subsection 2 involves the reporting of crimes. We are limiting the types of crimes against older persons. Also, in the past, the word "may" was used. This word "may" is being changed to "must." Section 1, subsection 2 also addresses the detail in which the report must be made. The revisions are mainly to clear up some language and to make it easier for the repository where these reports are made to be more specific and to have a clearer record of crimes against older people.

Chairwoman McClain has been working on the Nevada Legislative Committee on Senior Citizens, Veterans, and Adults With Special Needs for many years. She is very passionate about this, and she has an excellent record of protecting these three categories of individuals.

I recommend passing this bill. I think it will clarify the language and provide a more detailed and specific report on crimes against these three categories of individuals.

**Chairman Horne:**

Thank you, Mr. Stewart. Are there any questions for Mr. Stewart on A.B. 125? Does anybody here in Carson City wish to speak in favor of A.B. 125? I see no one.

In Las Vegas, we have Jonathan Friedrich. Before you begin, Mr. Friedrich, I have your comments that you sent regarding this bill. However, your proposed changes or amendments for homeowners associations (HOAs) are not appropriate for this bill. You will have ample opportunities to suggest these particular types of changes when HOA bills are introduced. Mr. Ohrenschall?

**Assemblyman Ohrenschall:**

Let us say someone is accused of one of these crimes, and a report is filed, and either it does not go anywhere, charges are not filed, or, charges are filed, but they are dismissed or the person is acquitted. Does the name of that person end up in the registry forever? Is there a procedure where the person can try to remove their name from the registry if they have been acquitted or if the charges have been dismissed?

**Julie Butler, Records Bureau Manager, Records and Technology Division,  
Department of Public Safety:**

There is no registry of people that commit these crimes. It is simply a statistical reporting repository for incidents. We are not collecting names. We are just trying to collect data on how often these incidents occur and what occurred.

**Assemblyman Ohrenschall:**

I guess I misunderstood. Therefore, it would never happen that someone might be applying for a professional license or a state job, and then this report might come back to haunt them. This is purely statistical, correct?

**Julie Butler:**

It could happen, if somebody has a fingerprint-based background check conducted as a condition of employment, and the person was convicted of abuse or neglect, and by being so convicted of that crime was disqualified, then it could come back to haunt them. However, in terms of the Repository for Information Concerning Crimes Against Older Persons, it is just a statistical reporting database of what is occurring against this population and how often.

**Assemblyman Ohrenschall:**

Thank you, Ms. Butler. Thank you, Mr. Chairman.

**Chairman Horne:**

Thank you, Mr. Ohrenschall. Mr. Friedrich, you may proceed.

**Jonathan Friedrich, Private Citizen, Las Vegas, Nevada:**

Good morning, Mr. Chairman. I realize this bill does not deal directly with homeowner issues, and there are approximately 16 bills awaiting you this session. I plan to be in Carson City later this week to speak with you and your

colleagues. What I would like to see is based on the information I sent to you, which is that when an elderly homeowner is called before what I call a "kangaroo court," which is a hearing before the board members, and the elderly homeowner feels he has been unjustly "convicted," that this could somehow be included in this registry. You have added the word "exploitation." The *Nevada Revised Statutes* (NRS) 200.5092 defines what exploitation is, and that is what is happening to many seniors in the communities here that have older citizens living in them. There are probably a total of 20,000 to 25,000 people living in Sun City Anthem, Sun City Summerlin, and Sun City Aliante. There are endless reports and horror stories that have been trickling down to me describing all sorts of abuses. In the documentation I sent to Carson City, several are outlined. It is just a question of whether these types of abuses that are reported to the police can be included in this registry. That was my main purpose.

**Chairman Horne:**

Thank you, Mr. Friedrich. After speaking with Committee Counsel, this is outside that scope. I am not saying you will not be able to present these. There will be countless HOA bills on which you can make those recommendations, but this is not the bill for it.

This will be in the record here, on file, and I have read it. You will have opportunities to make those suggested changes.

Are there any questions for Mr. Friedrich? Mr. Stewart.

**Assemblyman Stewart:**

It is my understanding that the Office of the Attorney General is already quite diligently involved in mortgage fraud cases involving senior citizens; so I think that is being taken care of.

**Chairman Horne:**

Thank you, Mr. Stewart. I think the concerns of Mr. Friedrich are broader than that, in particular the actions by HOAs against senior homeowners. However, we will address that at another time. Are there any further questions for Mr. Friedrich? Ms. Butler.

**Julie Butler:**

The repository for information concerning crimes against older persons is housed within the Records Bureau, pursuant to NRS 179A.450. The Records Bureau supports the changes in A.B. 125 to narrow the definition of *crime against an older person* to be limited specifically to the abuse, neglect, exploitation, or isolation of older persons. We believe this narrowing of the

scope will allow my office to keep more meaningful statistics on crimes against older persons.

As you have heard, with the current language, we are capturing crimes where the age of the victim just happens to be over age 60 and not necessarily because the victim was targeted due to his or her age. For example, if a vehicle is stolen in the parking lot of a movie theater and the victim just happens to be over age 60, sometimes that is reported to us as an elder crime, when in fact the victim just as easily could have been 16 or 35.

We believe the intent of the original bill, which was Assembly Bill No. 461 of the 75th Session, was to capture the cases where the victim was specifically targeted because of his or her age. Therefore, we believe narrowing the scope to capture those substantiated cases of abuse, neglect, exploitation, or isolation will help us better capture the frequency of these terrible crimes.

**Chairman Horne:**

Thank you, Ms. Butler. Are there any questions for Ms. Butler? I see none. Thank you very much.

Is there anyone else in Carson City wishing to testify in favor of A.B. 125? Is there anyone in Las Vegas? Is there anyone opposed to A.B. 125? Ms. Gasca.

**Rebecca Gasca, Director, Legislative and Policy Division, American Civil Liberties Union of Nevada (ACLU):**

As of now, we at the ACLU are opposed to this bill. This bill relates, in large part, to a bill that was presented to this Committee during the last session, which was Assembly Bill No. 8 of the 75th Session. That bill required a registration of those who had been convicted or accused of many of the things that are listed in this bill, in addition to some other crimes. We appreciate the Committee's interim work on narrowing the scope of this registry. One of our main concerns during the last session was the fact that a person did not have to be convicted of engaging in this crime in order to be included in this registry. I want to reflect the remarks made by Assemblyman Ohrenschall and thank him for putting that on the record.

It is noted that the bill itself is for statistical purposes. I believe you have my written remarks [[Exhibit D](#)]. We are concerned that while the identity of the victim is expressly prohibited from being included in this registry, it is not actually clear that the identifying information relating to the persons accused of committing such crimes is not being included. In fact, NRS 179A.450, section 2 states that the "Repository for Information Concerning Crimes Against

Older Persons must contain a complete and systematic record of all reports . . . ,” which by nature would include the names of individuals who were considered to have committed a crime or who have been alleged to have committed a crime. It further states that the record may include “(b) All cases that are currently under investigation . . . , (c) All cases referred for prosecution . . . , (d) All cases in which prosecution is declined or dismissed . . . , and (e) All cases that are prosecuted and the final disposition of such cases . . .” without expressly saying that personal information is not to be included.

In order to protect the due process rights of those who have been alleged to have committed these crimes, we think it is important that this bill specify that the identifying information of the people not be included, particularly because this bill states that it is only for statistical purposes. Therefore, the name and identifying information of such person would have no applicable use.

**Chairman Horne:**

Do you have any incidents of somebody’s name and identifying information of somebody accused being added to the registry? We heard from Ms. Butler today, who said they do not collect that information.

**Rebecca Gasca:**

No, as of right now, we do not. But this is an issue that came up during the last session, and this is the same kind of testimony that we put on the record then. We just think it should specify in state law that the identifying information of individuals will not be collected or used.

**Chairman Horne:**

Mr. Frierson.

**Assemblyman Frierson:**

Ms. Gasca, I do not know if the record was made the last time this measure came up, but has your position at all changed or softened by the fact that there is now a record?

**Rebecca Gasca:**

As I understand it, yes. Assembly Bill No. 8 of the 75th Session did not pass, so the collection of this information has been somewhat informal. What I understand is that this bill would expand the collection specifically for statistical purposes. Certainly, some concerns are allayed by the fact that it has been put on the record that, as of right now, it is not happening. For the due process rights of everybody concerned, I think it would be best for the state and for the citizens affected that it be clear that the personal identifying information of people should not be included from now on.

**Chairman Horne:**

Are there any other questions for Ms. Gasca? Mr. Hansen.

**Assemblyman Hansen:**

Am I to understand that if a person has been convicted, you do not have any problem with them being included in this registry? Is your concern only with those people who have been accused of a crime that were, in fact, exonerated or never brought to prosecution?

**Rebecca Gasca:**

I think there are two different issues at play here. This bill, as I understand it, is for statistical purposes only. If that is the case, then there is no need in general for any personal identifying information to be included. There would be no statistical use of the information if it were to include personal identifying information. If you go with the intent of the bill, nobody's name should be included. Certainly an individual who has been convicted of a crime has less of a privacy interest than those who have not. However, if you go along again with the intent of the bill, nobody's information should be included here. It should be used for statistical purposes only.

**Assemblyman Hansen:**

Has the ACLU actually offered an amendment to address that?

**Rebecca Gasca:**

We offered such an amendment during the last session. I am not sure why the Committee did not decide to accept that suggestion, while they did take into consideration a large portion of the rest of our testimony.

**Chairman Horne:**

Are there any other questions for Ms. Gasca? I see none. Thank you very much, Ms. Gasca. Is there anyone else in Carson City in opposition of A.B. 125? Is there anyone else in Las Vegas? Is there anyone wishing to go on the record as neutral?

**Sam Bateman, representing the Nevada District Attorneys Association:**

I signed in as neutral. I have spoken with Ms. Butler and Assemblyman Stewart regarding some of our concerns about this before. I think we at the District Attorneys Association are probably part of why some of this is before you today. I appreciate and I agree with limiting the types of cases that we are required to report, as we are currently in the statute as an agency that is included in this process of reporting. I am a little concerned about switching from "may" to "must" in section 1, subsection 2. You will see that the office of the district attorney, as outlined in paragraphs (d) and (e) of subsection 2, is



required to present some information and report to this repository. Since 2009, I do not know whether the offices of the district attorneys have been doing the greatest job in providing this information to Ms. Butler. I think this registry in some respects helps her to do her job. On the other hand, the reporting requirements are somewhat onerous on the district attorneys associations under paragraphs (d) and (e). That is why I have some concern about switching it from a "may" to a "must." You will note, for instance, section 1, subsection 2 paragraph (d) states, "All cases in which prosecution is declined or dismissed and any reason for such action." As you know, Mr. Chairman and Mr. Frierson, from working in the legal system, there could be a fair amount of these cases that could apply to a variety of cases in our office and could be handled by a variety of deputies. Given the staffing issues in our office, it becomes a little bit onerous for us to identify cases which were either declined or dismissed in the process, and then have to provide reasons why. Providing information to the Division of Public Safety on the kind of decisions that accompany prosecuting cases, why negotiations occur, or why a case might be dismissed will be difficult for us.

I appreciate the reduction in the number of cases that we are talking about. I am a little bit concerned about switching from "may" to "must" in section 1, subsection 2. This might actually provide more specific information enabling us to be able to report regarding individuals that are involved in the prosecution. The terminology of "may" versus "must" is one of the concerns of the district attorneys' offices. We will continue to try to improve our participation in reporting and recognizing the problems that exist in doing so.

**Chairman Horne:**

Thank you, Mr. Bateman. Are there any questions for Mr. Bateman? I see none. Do you have any further comments, Mr. Stewart?

**Assemblyman Stewart:**

We appreciate the testimony that has been given, and we are willing to work with people to try to make the bill more acceptable to everyone. However, we do have a great desire to protect these three categories of people, particularly the elderly. We hope that in the future, we will receive better reporting. One of the reasons we have this bill is because the reports have not been received from any of the agencies. We hope that the district attorneys will be more diligent in providing those reports. The "must" part will perhaps encourage them to do so.

**Chairman Horne:**

Thank you, Mr. Stewart. I see from the record that Mr. Bateman said they have not been doing a good job providing information to you.

We will close the hearing on A.B. 125. We will open the hearing on Assembly Bill 126. Mr. Stewart.

**Assembly Bill 126: Makes various changes concerning vulnerable persons.  
(BDR 18-153)**

**Assemblyman Lynn Stewart, Clark County Assembly District No. 22:**

Regarding A.B. 126, the intent is to protect older and other vulnerable persons. Chairwoman McClain is very passionate about this. She has great experience in this field. I will try to present her views and the views of the Committee.

[Assemblyman Stewart referenced a prepared statement ([Exhibit E](#)).]

I will address some portions of the bill. Section 1, subsections 1 and 2 identify vulnerable persons and include them, in addition to the elderly that already have protection under this area of the law. Section 1, subsections 1 and 2 identify what a "vulnerable person" is. It reads: ". . . a person 18 years of age or older who suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness . . . ." We are expanding this to include those persons described in section 1, subsections 1 and 2. Additionally, in sections 3 and 4, we are changing the name of the protective organization. That is just a matter of housekeeping.

We have what are multidisciplinary teams (MDTs), which are groups of law enforcement entities organized to protect the elderly, and, hopefully now, the vulnerable. In the past, MDTs have organized together in some cases to carry out the protection of these vulnerable and elderly persons. In section 5, subsection 2, we are changing this bill to read "The Unit *shall* organize . . ." these MDT teams.

We realize that this is going to perhaps cause some concern to some groups, but we want to put this language forth at this point and perhaps work with them later. Section 14, subsection 2 again uses a "shall" rather than a "may" as far as reporting is concerned. Section 14, subsection 6 makes the report more mandatory.

What we are doing here is expanding the group of people we are trying to protect by including the vulnerable. We propose to change the name of the organization to reflect the inclusion of the vulnerable. We also propose to make

the Office of the Attorney General responsible for organizing the MDTs, which would carry out the protection.

Mr. Chairman, that briefly summarizes the bill. I believe you have a statement from Chairwoman McClain.

**Chairman Horne:**

Thank you, Mr. Stewart. I do. As you stated earlier in the last bill presentation, Ms. McClain is very passionate in this subject area; so I am sure I will not do the reading justice. She could not be here today, but I will give her the courtesy of reading this into the record.

"The intent of A.B. 126 was to make it difficult for the key players to ignore the realities of elder abuse and become a cohesive team in addressing these issues."

[Chairman Horne continued to read from Ms. McClain's written statement ([Exhibit F](#)).]

Are there any questions for Mr. Stewart? Mr. Kite.

**Assemblyman Kite:**

Thank you, Mr. Chairman. I support both of these bills. My only stumbling block is the definition of "vulnerable person," which means "any person 18 years of age or older who . . .," and then it lists more criteria. Why are we excluding someone under 18 years old who has the same physical or mental disabilities?

**Assemblyman Stewart:**

They are excluded mainly because the Committee was specifically involved with older persons. Normally, we deal with those 60 and over. In this case, we are going down to 18. I believe there is other legislation that protects minors.

**Chairman Horne:**

We have laws on the books to protect minors. This task force is for mostly seniors and vulnerable persons. Mr. Hammond.

**Assemblyman Hammond:**

Thank you, Mr. Chairman. Assemblyman Stewart, it says here that one in five of these elder abuse incidents are reported. How is this bill going to increase the number of cases that are actually reported? What prohibits them from being reported now?

**Assemblyman Stewart:**

It is my understanding that in the past these various agencies have been lax in doing the reporting. Former Assemblywoman McClain has much more knowledge of the history of this than I do. I have spoken with her. She has been upset and concerned that the reporting has not been more accurate and that the agencies have not been more diligent in doing the reporting. Making this mandatory would ensure that they did that. Perhaps some part of it has been due to a shortage of staff, but the Committee felt that these reports need to be more accurate and that the agencies need to be more diligent in complying with this bill so that we can get a more accurate account of the amount of abuse that is occurring.

**Assemblyman Hammond:**

The crime is being reported. It is just not being reported as a crime against the elderly or the vulnerable. Is that correct?

**Assemblyman Stewart:**

That is part of the problem. Up until this point, the reports have been just against the elderly, and not the vulnerable.

**Assemblyman Hammond:**

But the crime has been reported.

**Assemblyman Stewart:**

That is correct, but the crime has not been categorized. We do not have the information that the Committee would like, regarding how many of these crimes are committed against the elderly.

**Assemblyman Hammond:**

Thank you, Mr. Chairman. Thank you, Mr. Stewart.

**Chairman Horne:**

Are there any other questions for Mr. Stewart? Mr. Brooks.

**Assemblyman Brooks:**

What is the authority of the MDT? Is it just a recommending board or an advisory board to the Attorney General?

**Assemblyman Stewart:**

It is a coordinated effort to bring together law enforcement from the city, county, and the state to act as a team to investigate and prosecute these cases.

**Assemblyman Brooks:**

I received an email from a constituent that is questioning elder abuse within governmental agencies. It reads in part, "What about governmental agencies that abuse the elderly? They are not mentioned in this bill, but government abuse of the elderly is happening, and it is happening right now."

[Assemblyman Brooks continued to read from a written statement ([Exhibit G](#)).]

**Chairman Horne:**

If I can stop you, Mr. Brooks, is this from Barbara Kubichka?

**Assemblyman Brooks:**

Yes.

**Chairman Horne:**

I have that. It has been placed into the Nevada Electronic Legislative Information System (NELIS), as she had requested. This came in on Saturday or Sunday. She requested that we postpone the hearing. Unfortunately, I did not want to do that on such late notice. Her comments will be in the record.

**Assemblyman Brooks:**

This bill does not discuss if there is governmental agency abuse against the elderly. I would like to know whether that has been considered in this particular bill.

**Assemblyman Stewart:**

There is no limitation. It includes abuse from wherever it might come, whether it is from the government, from private individuals, or from organizations. As far as I am concerned, it includes abuse from whatever the source may be.

**Chairman Horne:**

Are there any other questions for Mr. Stewart? I see none.

Grady Tarbutton is here in Carson City. He is signed in to testify in favor of A.B. 126.

**Grady Tarbutton, Director, Washoe County Senior Services:**

Washoe County has had a vulnerable adult multidisciplinary team for about 2 1/2 years. The team members include the Washoe County Sheriff's Office, the Reno and Sparks Police Departments, the Office of the District Attorney of Washoe County, the Office of the Public Guardian of Washoe County, the Aging and Disability Services Division of the Department of Health and Human Services, and some nonprofit partners as well. We speak in favor of

this bill, because adding vulnerable adults to our investigations and this work makes it easier for us to do our job.

Our MDT goes a little bit further than just prosecutions. We talk about 24/7 response, because law enforcement is frequently driving seniors or vulnerable adults around in the back of their patrol cars with no place to take them, and they do not know what to do with them. They need that support, and our intent is to have our MDT do that through the collaboration of the agencies. We also have a clinical portion, which means a social worker is assigned a case. They meet monthly to staff the cases and come up with the best strategies to deal with those cases. We also have a training component. Not all of these elements are mentioned in the bill, but we like having local control. By that I mean the ability to make the decisions to meet the needs of the local community. I understand there is going to be an amendment proposed later by Mr. Kandt from the Office of the Attorney General. I also want to support that, as well.

**Chairman Horne:**

Thank you, Mr. Tarbutton. Are there any questions for Mr. Tarbutton? I see none. Thank you very much, sir. Is there anyone else signed in here in Carson City to speak in favor of A.B. 126?

**Connie McMullen, Chairman, Strategic Plan Accountability Committee for Seniors, Department of Health and Human Services:**

I am here to express my support of A.B. 126 as written regarding vulnerable persons. I also support the provision in section 5, subsection 2, which says "the Unit *shall* organize or sponsor one or more multidisciplinary teams to review any allegations" of elder abuse, neglect, and exploitation.

[Connie McMullen read from a written statement ([Exhibit H](#)).]

I have worked for 12 years on these issues, both as the City of Reno senior advocate under the task force for the Second Judicial District Court in Washoe County, and as a member of the Special Advocates for Elders. None of the issues seem to get resolved.

[Connie McMullen continued to read from a written statement ([Exhibit H](#)).]

**Chairman Horne:**

Thank you, Ms. McMullen. Mr. Frierson.

**Assemblyman Frierson:**

I am in support of this measure in theory. As far as policy goes, this imposes an obligation on a body that exists in an agency, whether that agency be the state or local government, to do something that right now they have the discretion to do, presumably when they have the resources. This bill would make it mandatory. I wonder whether the intent of the bill is to have somebody do more than what they are doing right now, or whether it is to have them continue to operate in their current fashion.

**Connie McMullen:**

That was the intent. We have always felt in the past that money always seems to drive the issue. We would like to see these wonderful efforts that are going forward in Washoe County established in Clark County and other communities in our state.

Elders are a very fragile group of people. We would not like to see their public safety and welfare driven by money. Nobody pays me to be here. I do this because I care about my state. I would hope that that would drive this bill.

**Assemblyman Frierson:**

Would it not be more efficient for the mandatory nature of this bill, the mandatory collection and reporting of data, to be more dependent on each of those local governments? The different local governments have different levels of need, different resources, and different kinds of problems. I do not know if I have an issue necessarily with making it mandatory. I am wondering if it would be better served and more efficient if it were done on the local level where they can take into account individual needs.

**Connie McMullen:**

I agree with that portion of the amendment. I do believe it addresses that at the county level, and that is a good thing, but I think if it is not a requirement that they move forward, they may not do that, as already has been expressed in the previous bill.

**Assemblyman Hammond:**

Ms. McMullen, you are the second or third entity so far that has gotten up and talked about this bill and your support for it. My comments actually were right in line with those of Mr. Frierson. I have only sat on this Committee for the last couple of weeks, and so far we have heard several bills. We have discussed the need for flexibility in some cases. I am still wrestling with myself over why we need to mandate this. I cannot imagine there are too many law enforcement officers out there not caring for the elderly when that situation arises. I understand now that these crimes are still reported, and that they are still

investigated, and I am sure there are probably penalties that are associated with them. What are we going to get from mandating that these reports be passed along and information collected, and what are these committees going to be doing that right now are not already being handled?

**Connie McMullen:**

Mr. Hammond, in the past, they have been mandated. They are required to report, but they do not. We do not know how many cases of elder abuse, neglect, and exploitation exist in this state. It would be helpful if we did, because there is a lot of federal funding, such as the Elder Justice Act, which we could use as leverage to report what is going on in our state, but they do not report. There is no way for us to know. It has been indicated in former Assemblywoman McClain's testimony that a lot of elder abuse cases are never reported simply because of what happens in the process. That data is absolutely necessary.

**Chairman Horne:**

Mr. Hansen.

**Assemblyman Hansen:**

You mentioned in your testimony that these issues never get resolved. Have any of these MDTs and their data gathering activities actually resulted in a decrease in crime? Do the police in the field want this sort of thing, or is this kind of a "feel-good" thing? It has been going on for a long time. What is the ultimate purpose for the passage of this legislation?

**Connie McMullen:**

There has never been an MDT, to the best of my knowledge, in this state, except for the one that was created 2 1/2 years ago in Washoe County. I cannot imagine anybody in law enforcement not wanting to pursue these crimes, and I believe that they took the initiative to do so. I believe this bill initially came out of the Office of the Attorney General. It has been on the record, we are just moving to expand it a little so that they can move forward.

**Assemblyman Hansen:**

I notice there are some officers here. I assume they are on board with this. Are they going to testify at all on this?

**Chairman Horne:**

Mr. Hansen, we do have Frank Adams of the Nevada Sheriffs' and Chiefs' Association signed in to speak in support. We also have Tim Kuzanek of the Washoe County Sheriff's Office and Chuck Callaway of the Las Vegas Metropolitan Police Department. Mr. Callaway.



**Chuck Callaway, Director, Intergovernmental Services, Las Vegas Metropolitan Police Department:**

First of all, we do support the spirit behind A.B. 126 and anything that can help decrease abuse and neglect of our elderly. It is my understanding that there will be an amendment suggested shortly by the Office of the Attorney General that addresses the mandatory aspect of this bill, which requires law enforcement to participate. We would support that amendment. We do not necessarily agree with the "shall" language, as opposed to the "may" language. It is the policy of the Las Vegas Metropolitan Police Department that we investigate every case of elderly abuse that is reported to our agency. We have a Crimes Against Youth and Family Bureau with detectives specifically assigned to those cases. I think some of the confusion may be regarding cases that are never reported to our agency either because of fear by the victim or a lack of the victim to be able to make a report. However, cases that are reported to us are thoroughly investigated. We do not have any problem participating in a multi-jurisdictional task team. We think it is beneficial. We participate in the one that is designed for domestic violence investigations. However, we are concerned with the mandate for us to participate.

**Chairman Horne:**

Thank you. Mr. Kuzanek.

**Tim Kuzanek, Captain, Washoe County Sheriff's Office:**

It is very easy for me to support the concept behind this particular bill, because the Washoe County Sheriff's Office has been very involved with the MDT that we established in Washoe County a couple of years ago. I have the resources, officers in this case, that are participating in that. They really have helped our patrol officers in many ways to manage what occurs on the street with vulnerable persons and with elderly cases. We have had very significant successes over time, and hopefully it will continue.

Conceptually, we support the premise of this bill. However, we have the same concerns as our colleagues from the Las Vegas Metropolitan Police Department has, which is changing "may" to "shall." Minus the fiscal implications of what may occur in the future, we are certainly supportive, and we plan to continue to participate in an MDT. I will do everything I can to maintain a vulnerable persons unit within the Washoe County Sheriff's Office. However, given fiscal problems that may exist in the future, the difference between "may" and "shall" can potentially create problems for us. That is where we stand on the bill. Thank you.

**Chairman Horne:**

Thank you. Are there any questions? I see none. Is there anyone else here wishing to speak in favor of A.B. 126? Mr. Adams.

**Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

Thank you, Mr. Chairman. We, too, speak in favor of this bill with concerns regarding the language of "shall." My two colleagues spoke eloquently about the issues in the larger counties. I will take a minute to remind you that what may work in the larger counties will not always work in smaller, rural areas. The Carlin Police Department is a three-man police department. Pershing County has a 12-man sheriff's office. Those counties realize the importance of vulnerable people and elderly crime. We take it very seriously, but sometimes our resources are very limited. We do the best job that we can. We would just hope that we would not be held to a standard with which we could not comply.

**Chairman Horne:**

Thank you, Mr. Adams. Are there any questions for Mr. Adams? I see none. Is there anyone else? Is there anyone in Clark County?

We will move to the opposition to A.B. 126. Mr. Kandt.

**Brett Kandt, Special Deputy Attorney General, Office of the Attorney General:**

I will provide a brief background regarding the development of the unit in our office that was created for the prosecution of crimes against the elderly. That unit was created in the 74th Session of the Nevada Legislature under Assembly Bill No. 226 of the 74th Session, which was a part of a larger bill designed to improve the reporting, investigation, and prosecution of crimes against seniors in our state. The Legislature recognized that elder abuse is a growing problem in our state and that it is significantly underreported. Why is it underreported? Well, it goes largely undetected due to the nature of the crime. Many of the victims may be isolated, and nobody knows that they are being victimized. That is part of the problem that we face in identifying the instances and then moving forward with investigation and prosecution. [Mr. Kandt read from a prepared statement ([Exhibit I](#)).] [Proposed Amendments to A.B. 126 are introduced ([Exhibit J](#)).]

I note that there are at least two other counties that currently have MDTs in place, which our office does not sponsor. They are Carson City and Churchill County. There may be others.

[Mr. Kandt continued to read from a prepared statement ([Exhibit I](#)).]

We are essentially proposing two things with our amendment. First, we ask that you leave in place our existing statutory discretion to form MDTs when it makes sense. We welcome the expansion of that existing authority to include vulnerable persons and to make it clear that we can authorize the participation of any agency of local government that needs to be involved. We respectfully request that our authority should remain permissive, and not mandatory.

We proposed a second amendment to the bill, which would actually create authority at the county level to create MDTs. The county level is really where the agencies involved are doing the groundwork and could benefit most from utilizing an MDT model, if it makes sense for them. In the amendment that I submitted, it indicated that this authority would be put in Chapter 228, which is the Attorney General chapter. That may not be appropriate, and I certainly leave it to legislative counsel to determine in what chapter it should be placed. We propose that the authority the Attorney General has to create MDTs be given to the counties as well. That affords the counties the flexibility to determine whether an MDT model makes sense and whether it makes sense to involve the Attorney General in the organization of an MDT. Most importantly, it extends the statutory confidentiality of the sharing of the information among the participants in an MDT to a countywide MDT.

**Chairman Horne:**

Thank you, Mr. Kandt. Before I open up to questions, Sam Bateman, representing the Nevada District Attorneys Association, will speak in opposition. I will then open up for questions. After that, we will hear from Rebecca Gasca of the ACLU. Mr. Bateman.

**Sam Bateman, representing the Nevada District Attorneys Association:**

I think that Mr. Kandt covered pretty much everything that we would be providing, and we agree with his understanding of what the current statute allows for and what results the changes would create. I want to add that a number of the proponents of the bill talked about local control, which is really what this is about. I think that we would support the bill with Mr. Kandt's changes. We really only are opposed to the bill in regards to the changing of the "may" to "shall."

I have talked to a few people about this bill. This is one of the few times where I have heard that the Clark County District Attorney's Office is being accused of prosecuting too little, rather than too much. I have not spoken with Ms. McClain. I do not know what problems exist right now in Clark County, if there are any. I think possibly we are "putting the cart before the horse" in some respects. We are assuming that there is a major problem with the prosecutors across the state who are prosecuting these cases. Is it possible

that a problem exists? Sure. I am not aware of that problem. I would be happy going forward from a prosecutor's standpoint to talk with anybody who has concerns, especially in Clark County, with how we do business at the Office of the District Attorney, how we are treating these cases, and whether there are ways we can improve. We certainly would be interested in the possibility of the MDT at a local level, but I just want to put on the record that we would support the bill with the changes that Mr. Kandt and the Office of the Attorney General have recommended.

**Chairman Horne:**

Thank you, Mr. Bateman. Are there any questions for Mr. Bateman? I see none. Ms. Gasca.

**Rebecca Gasca, Director, Legislative and Policy Division, American Civil Liberties Union of Nevada (ACLU):**

The ACLU has no problem with the collection of information or data relating to crimes against older persons, crimes against juveniles, or crimes against anyone. In fact, we found that there is a real dearth of information relating to situations like this and about the people we incarcerate statewide. We think that by better characterizing the situations related to the laws we are creating, your body, as a whole, could be more responsive to the needs of the state, prosecutors, and defense attorneys. However, we have a problem when the statistics rendered are less meaningful.

In multiple areas throughout the *Nevada Revised Statutes* (NRS), there are instances in which bodies of the government are not required to collect the information. Therefore, the statistics that are provided, as you heard, are underreported. Not mandating that an agency report just further exacerbates the lack of good, usable information. We hope you take that into consideration. Certainly, the ACLU is not oblivious to the financial woes of the state. We understand that by better managing and reporting information, it would include a fiscal note. We do want to mention that not requiring that information to be consistently reported is just undermining the efforts of the state to better respond to the needs of the state.

Further, this bill, as drafted in section 1, subsections 1 and 3, defines a vulnerable person. It does not state it right there, but that is actually a definition referred to later in the draft in NRS 200.5092, section 7. From our perspective, the existing definition is overbroad, although the objective standard of how one would qualify as a person with a mental limitation is in current law. For example, section 15, subsection 4, paragraph (b) of the bill defines the meaning of "a person with a mental disability" and how, in existing statutes, that determination is made by a psychiatrist, or sometimes two psychiatrists.

There is no such objective standard for a physical disability or for the person who suffers from a condition of physical or mental incapacitation because of developmental disability, organic brain damage, or mental illness. Therefore, anybody dealing with these cases is forced to rely on a subjective standard based on personal opinion, rather than state law. This will naturally differ from agency to agency and prosecutor to prosecutor, and will further exacerbate the underreporting of the statistics.

I want to note on this Presidents' Day, one could imagine how the definition of a person with a physical disability that limits their normal activities could apply to somebody like Franklin Delano Roosevelt. He obviously suffered from some physical incapacitations, but most likely would not have been the type of person this state would be concerned about in this law. Obviously, there is a need to determine objectively what the standards are and set those out.

There are references in sections 16-19 which define "vulnerable persons" in other sections of law. *Nevada Revised Statutes* 174.175 is missing from here. This was an amended version of the NRS from Senate Bill No. 45 of the 75th Session, which dealt essentially with excusing vulnerable and older people from having to appear as witnesses in court. I note that because I think that needs to be changed if this section 7 is going to be included, which would therefore move the definition down to section 8. I also want to note that Senate Bill No. 45 of the 75th Session dealt with older and vulnerable people, yet that bill and this body saw fit to define an "older person" as being older than 70 years old. There is a lack of consistency within state laws regarding what is defined as an older person.

The ACLU finds it important for the Legislature to move forward with collecting meaningful, de-identified, statistical information so that this body can be more responsive to the needs of its citizens. Without objective standards and without guaranteeing that the information is being protected, as I stated in the hearing on A.B. 125, we think that it is not prudent for the state to move forward with changes such as this.

**Chairman Horne:**

Thank you, Ms. Gasca. I do not see any questions. I have a question for Mr. Kandt. In existing law, there are provisions for your department to recoup expenses for prosecuting these cases both criminally and civilly. What do you say to that?

**Brett Kandt:**

You are correct. Under current law, the Attorney General's Unit for Prosecution of Crimes Against the Elderly can seek, upon conviction, a civil penalty to be

assessed. The revenue generated through those civil penalties is divided in equal amounts between the Victims of Crime Compensation Fund and the Unit for Prosecution of Crimes Against the Elderly to fund the unit's operations. To some extent, the fiscal note that we placed on the bill could be defrayed by civil penalties and the revenue that the civil penalties would generate. I do not believe that we took that into account in formulating the fiscal note, which simply attempted to establish the cost of two additional attorneys to prosecute cases, three additional investigators, one staff person, and some other administrative overhead.

**Chairman Horne:**

Thank you, sir. I have no other questions. Ms. Gasca?

**Rebecca Gasca:**

Thank you, Mr. Chairman. I neglected to mention for the record that the Nevada Attorneys for Criminal Justice also share many of the concerns that the ACLU has.

**Chairman Horne:**

Thank you, Ms. Gasca. Also, our lawyer for the Committee stated that the bill missed the internal reference to NRS 174.175. It is in section 10 of the bill. Are there any other questions? Are there any other persons here in opposition to A.B. 126? Are there any in Las Vegas? Does anyone here or in Las Vegas wish to testify in a neutral position for A.B. 126? Seeing none, I will close the hearing on A.B. 126.

Mr. Stewart, thank you very much for bringing these bills to the Committee. I am sure Ms. McClain is appreciative of your efforts, and we will bring them back to the Committee for consideration. I will now ask anyone present for public comment. Is there any public comment in Las Vegas? Is there any other business to come before the Committee?

We have two Committee bill introductions. The first, BDR 19-550, makes provisions governing the destruction and storage of court records, revises requirements for saving images of court records before the records may be destroyed, and authorizes the State Library and Archives Administrator to receive the court records of the Supreme Court or the district court into the State Archives under certain circumstances.

**BDR 19-550**—Revises provisions governing the destruction and storage of court records. (Later introduced as [Assembly Bill 195](#).)

I will entertain a motion for introduction.

ASSEMBLYMAN OHRENSCHALL MOVED TO INTRODUCE  
BDR 19-550.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN DIAZ WAS ABSENT  
FOR THE VOTE.)

**Chairman Horne:**

The second bill introduction is BDR 18-557.

**BDR 18-557**—Revises provisions governing the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (Later introduced as [Assembly Bill 196](#).)

ASSEMBLYMAN OHRENSCHALL MOVED TO INTRODUCE  
BDR 18-557.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN DIAZ WAS ABSENT  
FOR THE VOTE.)

**Chairman Horne:**

Is there any other business to come before the Committee? Seeing none, we are adjourned [at 10:29 a.m.].

RESPECTFULLY SUBMITTED:

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Jeffrey Eck  
Committee Secretary

APPROVED BY:

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Assemblyman William C. Horne, Chairman

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



**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** February 21, 2011

**Time of Meeting:** 9:04 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 125	C	Assemblyman Lynn Stewart	Prepared statement
A.B. 125	D	Rebecca Gasca	Prepared statement
A.B. 126	E	Assemblyman Lynn Stewart	Prepared statement
A.B. 126	F	Kathy McClain	Prepared statement
A.B. 126	G	Barbara Kubichka	Prepared statement
A.B. 126	H	Connie McMullen	Prepared statement
A.B. 126	I	Brett Kandt	Prepared statement
A.B. 126	J	Brett Kandt	Proposed Amendment to A.B. 126