

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

**Seventy-Sixth Session
February 24, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 8:07 a.m. on Thursday, February 24, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, 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/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman William C. Horne, 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 Mark Sherwood

COMMITTEE MEMBERS ABSENT:

Assemblyman James Ohrenschall, Vice Chairman (excused)
Assemblywoman Olivia Diaz (excused)
Assemblyman Tick Segerblom (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Nancy Davis, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

Robin Sweet, Interim Director, Administrative Office of the Courts
Verise V. Campbell, Deputy Director, Foreclosure Mediation Program,
Administrative Office of the Courts
Michael L. Douglas, Chief Justice, Supreme Court of Nevada
Ben Graham, Graham Solutions, LLC
John McCormick, Rural Courts Coordinator, Administrative Office of the
Courts
Susan Meuschke, Executive Director, Nevada Network Against Domestic
Violence
Lynn Berry, Assistant to the Chief, Capitol Police Division, Department of
Public Safety
Ronald P. Dreher, Government Affairs Director, Peace Officers Research
Association
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs'
Association

[Chairman Horne was absent. Assemblyman Frierson assumed the chair]

Acting Chairman Frierson:

[Roll was called.] I would like to remind everyone that we have a new computer program called Nevada Electronic Legislative Information System (NELIS). Many of our documents are on NELIS, and we are viewing them online. We will begin with a presentation on the implementation of the Foreclosure Mediation Program.

Robin Sweet, Interim Director, Administrative Office of the Courts:

Thank you for providing us the opportunity to share with you the progress we have made with the Foreclosure Mediation Program during the last 18 months. The idea for the Foreclosure Mediation Program became an Assembly bill a little more than two years ago. After working its way through the Assembly and Senate, and with only three amendments, on May 23, 2009, the bill received final legislative approval. It was then submitted to the Governor. On May 29, 2009, the bill was approved by the Governor and became effective 32 days later. The new law specifically provided for the Supreme Court to

adopt the rules for the Program, including designated entities such as the Administrative Office of the Courts (AOC) to serve as the mediation administrator. Almost every AOC staff member pitched in to help get the Program started. One of the first things we did was advertise for someone to focus the effort. Verise Campbell was hired on July 1, 2009, and has been working hard to make this Program successful. I would like to turn this over to Verise to give you more information on our Foreclosure Mediation Program.

**Verise V. Campbell, Deputy Director, Foreclosure Mediation Program,
Administrative Office of the Courts:**

Thank you for the opportunity to speak before you today. The first year of our program has been very productive. I am pleased to inform you that our state is now known throughout the country as a leading foreclosure mediation program state. I will start and end my presentation on the same note, with our highest honor. We were invited by Vice President Joe Biden to the White House to attend his Middle Class Task Force to discuss the best practices of the State of Nevada Foreclosure Mediation Program. We have also been contacted by other states who are interested in using our Program as a model foreclosure mediation program. When we started our Program, there were approximately 12 to 13 states that had foreclosure mediation program initiatives. Currently there are 26 states that have or are looking at formulating a foreclosure mediation program. It is a great honor to sit before you and tell you about the Program that you drafted the legislation for.

I will now begin with our presentation ([Exhibit C](#)). The first slide is a snapshot of what the Notice of Default looks like for our state. This is the reason why our Program was created. In July, there were approximately 5,200 notices of default filed in the State of Nevada. In August, that just about doubled. What we learned from the lending institutions is that they were waiting to see whether the Foreclosure Mediation Program would get off the ground. With the undergirding of the AOC, we were able to get this Program up and running within three months.

[Read from written testimony.]

We recently compiled our first year's statistical data, and we were surprised, based on the success rate of other states. We actually came out ahead of some programs that have been in operation for a number of years. Nevada has the largest foreclosure rate, but we also have a very high unemployment rate. We see that as having an effect on homeowners being able to keep their home. The number of homeowners who vacate their homes has gone up slightly.

As we started the Program, we realized that homeowners were coming into mediation very unaware of the foreclosure process. As a way to better facilitate the process for the Program, the Supreme Court earmarked \$300,000 for grants so that we could educate the public.

[Continued to read from written testimony.]

We are very thankful to the Legislature for creating Assembly Bill No. 149 of the 75th Session. This bill was very innovative. It is getting recognition throughout the country. I want to assure you that the Foreclosure Mediation Program has worked diligently to meet the intent of the Legislature by focusing on mediation and alternatives to foreclosure. With the support of the Supreme Court, the Program is operational and was conducting mediation within six weeks. I will be happy to answer any questions.

Acting Chairman Frierson:

Thank you. Your handout mentions the Home Affordable Modification Program (HAMP) and the Home Affordable Foreclosure Alternatives Program (HAFA). Will you briefly describe what they are?

Verise Campbell:

The HAMP program was created almost two years ago. It is a government incentive program to help homeowners who are not in a position to pay their mortgage. Money was set aside as an incentive to banks to come up with loan modifications for homeowners. There are several glitches with HAMP because lending institutions operate differently, but they are working through that. The HAFA program is also a government incentive that is designed for homeowners who want to relinquish their home through a short sale. This program gives incentives for both the lender and the homeowner to do a short sale.

Acting Chairman Frierson:

I have been looking at foreclosure mediation for several months and each time I learn more. I appreciate the work you have done to put together a quality program.

Assemblyman Hammond:

I have been studying this for several months also, and I recently attended a foreclosure summit in Las Vegas. Are we having difficulties with any particular lenders at this time? If so, who are they?

Verise Campbell:

We have round tables with our largest lenders. For example, Bank of America is a huge conglomerate. We have weekly conversations with their in-house

trustees. There were challenges in the beginning, but I believe the lending institutions are trying to work with the Program. As it was expressed to me, we are one of numerous states they have to work with. In the beginning, there were some lenders that were nonresponsive, but I think they are trying to work through the process of the Program, and we make them part of the process. When we consider rule changes we ask for input and have regular round tables.

Assemblyman Hammond:

What would you suggest this Committee can do to assist in getting more participation from the lenders? Weekly meetings and the inclusion of them is one solution.

Assemblyman Brooks:

Thank you for the presentation. You have done an outstanding job with the Foreclosure Mediation Program. After discussing this Program with several of my constituents, because foreclosures are a major problem in my district, I think there is a consensus that the mediators are very professional. I believe that is a reflection of your work in this particular Program that has been established.

I understand you did an evaluation of the community and then held public forums. Are these forums advertised in the newspaper? Many of the comments that you share seem to be right on point. How many people have we really touched to get the full realm of constructive criticism regarding the Program?

Verise Campbell:

Our mediators hand out survey cards, and most recently we started an online survey process. We also have public hearings before rule changes are put into effect. The Supreme Court deliberates the changes and then they open it up to a public hearing. Our public hearings are very well attended. In Las Vegas they are so well attended that we have to have a cut-off because we have a full courtroom. We also have round tables and hold forums for the lenders and for the homeowners, which include the Department of Housing and Urban Development (HUD) counseling agencies. If there are any other suggestions as to how we can better include the community, we would like to hear it, and make it as widespread as possible.

Assemblyman Brooks:

Many homeowners that I have spoken with have expressed concerns regarding the lenders' failure to fully participate. They feel that the lender is there only because they have to be. Many times the lender is not at the table, but an attorney for the lender is. These homeowners almost feel compelled to take whatever agreement is on the table. They do not really feel that there is a

compromise. Based on your own public feedback, lenders are not attending mediations. Is it not established in law that they are supposed to attend mediations? What else can we do as a Committee to help you bring these lenders to the table?

Verise Campbell:

Normally a lender's representative will appear in person, or they may attend the mediation via the telephone. That is the discretion of the mediator. If we have a particular lender who consistently does not show up or does not have necessary paperwork, the mediator will require the lender or their representative to appear in person. There are some lenders who do not have someone there with authority, but more often they do not provide all of the required documentation. I am not sure what the Committee can do, but I can tell you what the Program does. If the lender does not show up in accordance with the statute and the rules, or does not bring the required documentation, they will not go forward with the foreclosure proceedings. They will not receive a certificate at the time of mediation.

Assemblyman Brooks:

Again, what can we do to assist you with that?

Verise Campbell:

Let me think about it. We focus on running the Program, but I am sure between my staff and me we will have some ideas.

Acting Chairman Frierson:

Lenders can send someone who is authorized to act on their behalf. Also, I believe there are measures in the Program to assess whether or not both sides are acting in good faith.

Verise Campbell:

The mediator must check the appropriate box on his statement, whether or not each party participated and whether or not each brought their proper documentation. Also, I would like to address the point regarding homeowners feeling compelled to accept an agreement. That is where the training of the homeowner comes in. If they were educated more, they would know that an agreement is a negotiation. They can choose to accept it or not.

Assemblyman Hammond:

In regards to the lenders' failure to provide paperwork, I believe this is a very big issue. From the homeowners I have spoken with, they are concerned because when they go to mediation, the lender cannot prove who holds the note. They cannot provide a trail of who actually owns the note. Is the State of Nevada

taking issue with this and cracking down on lenders who cannot show a paper trail of a note being sold?

Verise Campbell:

The lenders must provide the original deed of trust and a certified copy of the note. If the mediator finds that the chain of custody is not there, or has been broken, they note that on the mediator's statement. The lender will not be allowed to go forward with the foreclosure. Our authority is to not allow that foreclosure to go forward by not issuing a certificate.

Assemblyman Hammond:

How many of those are you encountering, percentagewise, where you are not going forward because you do not have the note?

Verise Campbell:

In our first fiscal year, 28 percent of our cases did not go forward due to the lender either not appearing or not providing all required documents. In our first quarter of fiscal year 2011, that figure has dropped to 20 percent.

Assemblyman Sherwood:

If people are staying in their homes because there was not a chain of custody, how long can they stay? Do they stay until documentation is produced?

Verise Campbell:

If the homeowner actually stays in the home because the lender did not provide proper documentation or they did not have someone there with authority, the lender then files a petition for judicial review, which will go before a district court judge, who will determine what happens next. In the majority of the cases, the district court judge is remanding them to the mediation table. The lender will then have the opportunity to participate in the proper manner. They can also refile the Notice of Default and start the process over.

Acting Chairman Frierson:

So a motivator for the lenders to come in good faith and provide the documents is that otherwise the foreclosure process is delayed. Is that how it is intended to work?

Verise Campbell:

Actually, when we first started the Program, we were within the foreclosure timeline. It was 90 days from the start of the notice of default. After the program was up and running, it was the lenders who asked us to extend the timeline to 135 days because they could not get the documentation within the 90 days.

Assemblyman Brooks:

Good faith is in the law, it is what was intended in the proposed bill that came into law. I beg to differ with the percentage of lenders who are not operating in good faith. I have at least three individuals who have contacted me saying they went to mediation, on more than one occasion, where the mediation was extended because the lender had no documentation. Due to the lack of paperwork, the mediation could not come to a conclusion. After they continued the mediation process, the bank still did not have the proper documentation. Then the bank proceeds to ask the homeowner for additional information. The homeowner felt they were being run in circles. There is really no authority for the mediator other than to insist that the bank act in good faith and bring the documentation.

In one case, they resolved the situation and they moved forward. That is the case where the homeowner felt compelled to take the agreement. Not because they were not educated in regards to being able to accept a deal in the art of negotiation, but because they did not want to lose their home, they had been run in circles, and this was the final mediation day.

I need to know what this Committee can do to put more teeth in this bill to ensure the banks' cooperation? We all know the banks are getting paid, whether the homeowner keeps his home or not. How do we enforce our legislation to make them act in good faith and establish some ramifications in this existing law? Do we need to have people monitor these types of activities? Do we need to have financial repercussions if lenders show up without paperwork, some kind of penalty or fee? I understand that not allowing them to foreclose is important, but at some point something has to be done. What can we do to provide more teeth in this legislation?

Verise Campbell:

I will address your question from the standpoint of the Program. One thing I heard you say is that the mediation was continued when the lender did not have their paperwork. The mediator has the authority to end the mediation. They could check the box which would have put the lender in the position to have to either file a petition for judiciary review, or start the process over. It should not have been extended out. As this Program evolved, one of the things we saw through our mediator training was that with such a wide array of professionals, we had to address certain issues. I would almost bet that mediation was one that was assigned early on. We do not encourage continuances. I would love to come to your district and talk to your constituents personally. We do want to get the word out, and we want our mediators acting consistently. We do not want homeowners going through continuance after continuance.

Assemblyman Brooks:

Can you explain what you mean by check the box?

Verise Campbell:

The mediator's statement is included in your handout. It starts on page 23. This is the mediator's tool that is used during mediation. The first page is the sign-in sheet which captures the information of everyone in attendance, via telephone or in person. The second page starts the mediator's statement. The boxes that are checked are on the left-hand side of that page. This captures how the parties participated in the Program. If the lender did not provide all the proper documentation, that box is checked. If the homeowner did not provide his documentation, that box is checked. I do know that a very common complaint is that lenders lose paperwork, even when our mediators act as facilitators to provide the paperwork.

Acting Chairman Frierson:

Sanctions are an option in the program, if the court determines that there is a lack of good faith that would warrant it, correct?

Verise Campbell:

The mediator's statement is the tool used to make recommendations for a petition for judiciary review. The mediator's statement is what the judge will rely upon. However, specific sanctions have not been outlined on the judicial side.

Assemblyman Hansen:

Do the banks actually have insurance that covers their losses when they have to foreclose on a home?

Verise Campbell:

Yes, banks do have insurance.

Assemblyman Hansen:

So there is an incentive for the banks to kick people out of their homes?

Verise Campbell:

I do not know enough about the lending side to understand the entire system. We call it the black hole because there is a lot that the public does not know about how the lending side works.

Assemblyman Hammond:

My district has two to three zip codes that are the hardest hit in foreclosures. In looking at the judicial review process, how many cases actually go to judicial review?

Verise Campbell:

Our last count was over 400 cases that were going to petition for judicial review, and I have been advised that we now have cases that are on appeal to the Supreme Court.

Assemblyman Hammond:

Of those cases, are they mostly banks that are petitioning for judicial review, or the homeowners?

Verise Campbell:

I do not know the breakdown, but it is both the homeowners and lenders.

Assemblyman Hammond:

This is a very difficult, lengthy, and emotional process. Many homeowners give up when it proves to be too difficult, and just walk away from their homes. I am also very concerned about lenders not having the proper documentation and would love to work with you on that.

Assemblyman Brooks:

Once again, I have many people in my district that are depending on me regarding this issue. There are more than 35 to 40 percent foreclosures within my district. Every other home is being foreclosed. I would like to ask that you provide this Committee with documentation on how many of the judiciary reviews are actually on behalf of the homeowner and how many are on behalf of the bank. I believe that many of the constituents of my colleagues are in the same boat, where they still feel helpless after this process. Even though the intent of the law was to help, there are things going on that we may not be aware of. Homeowners feel they are David going up against Goliath.

Michael L. Douglas, Chief Justice, Supreme Court of Nevada:

What you are specifically asking for is outside the parameter of foreclosure mediation. Petitions for judicial review go directly to the district court, and I am not sure the information technology divisions in various district courts across the state can provide the information you are asking for in terms of the petitions for judicial review. Clark County and Washoe County may be able to give us a list, and we can ascertain who the claimant and defendants are and who is requesting the review.

As the Supreme Court, we heard our first petition for judicial review in foreclosure mediation two weeks ago, and it is under submission at this time. We have four or five that are due to be argued on calendar here in Carson City the first week in March. Some of the issues are what good faith is, being argued by both lenders on one side and homeowners on the other. As we discussed, the devil is in the details and even though verbiage was put in the enacting legislation, sometimes the words were not as clear as one thought they would be. Both sides are appealing to the court to make a determination as to what good faith might mean.

Mr. Hammond talked about the lack of paperwork. That is something that is an issue across the country, and we are surprised that we have not seen more direct litigation as to the aspect of paperwork because of the bundling and various things you have heard about. We are not seeing it in the court right now because we are a non-judicial foreclosure state. We have been surprised that the bar has not actively litigated that. Sometimes it is money, other times it is having people bring their cases to our legal service providers who are willing to go forth and act on those particular issues.

Assemblyman Brooks:

Thank you Chief Justice Douglas. Can we determine in the documentation we have which cases go to judicial review?

Verise Campbell:

No, that information goes through the district court.

Assemblyman Brooks:

Is there a possibility that we could add that information as we move forward? Can we document those cases that go on to judicial review and be more efficient in following the outcome of these foreclosures?

Verise Campbell:

We are entertaining the idea of communicating electronically so we can pull that information regarding petitions for judicial review. We are working on how to better coordinate with the district courts to get those numbers.

[Chairman Horne now assumed meeting.]

Chairman Horne:

Thank you very much for your presentation, I appreciate you taking the time. We will now move to Assembly Bill 121.

Assembly Bill 121: Revises certain provisions relating to the security of court facilities. (BDR 1-653)

Ben Graham, Graham Solutions, LLC:

I am appearing here as a government advisor to the Judiciary and to discuss A.B. 121. I want to emphasize that this bill applies only to the Supreme Court of the State of Nevada and no other courts. There were concerns about section 1, subsection 2, regarding an audit or a review of various courts throughout the system to be conducted at the Chief Justice's direction. We have asked that be amended out ([Exhibit D](#)). In 2009, the security issues were mentioned when the fee bills were discussed in creating the new judges in Clark County and Washoe County. There were funds provided for security measures in all of the courts, and some of the funds in that fee increase were utilized to increase security awareness in the other jurisdictions. It is my understanding there are some people here who like this provision. We understand that and would ask that any particular concerns about security in other court rooms be called to our attention and we will try to correct your concerns.

It is interesting, in these times, that this legislation is asking to allow the Supreme Court to take care of themselves. In the past, security needs may not have been as great. The location of the Supreme Court was on the third floor in the Capitol building, and in only one place. What has happened over the years is the availability to the public to witness Supreme Court arguments. Participation in the Supreme Court process has been extended with travel throughout the state. We would like to call attention to and express appreciation of the current security in place with the Capitol Police. They have been very good at what they have been authorized to do. Page 2 of the proposed amendment to the bill deals with a security officer who is appointed to or employed by the Supreme Court having peace officer status. There has been some discussion with the law enforcement community, and there may need to be a little work on this particular language and what is intended here. We are not stating that if the Supreme Court hires a security officer, he automatically becomes a peace officer. If the Supreme Court, under this language, were to hire someone, they would need to be classified as a peace officer. We are going to work on this with the law enforcement community to ensure it covers what needs to be done to serve the needs of their community and ours.

The Capitol Police and the Buildings and Grounds Division looked at the original language and feared that if section 5, subsection 3, were enacted as written, it would open up a vast area for police officer coverage that was never intended. Buildings and Grounds asked that we work with the Capitol Police in narrowing this legislation down to cover security for the Supreme Court. As you can see,

we are not asking for any police officers. This is enabling legislation to allow us to work on a plan for security in the future. If we need funds to do this, that is another go-around from a fiscal standpoint.

I have with me John McCormick, who has been with the Supreme Court for a number of years. For lack of a more formal term, he goes on a road show with the justices to Pahrump, Elko, and other jurisdictions, and he actually witnesses the situations we have run into. I am asking for flexibility for the court, if it becomes necessary, the ability to hire security to be with them in other regions of the state and other buildings that are part of the Supreme Court complex. Under the current statute, the Capitol Police could not even respond to a call two blocks away. Again, we thought about expanding that ability, but Buildings and Grounds thought that would expand it more than they could tolerate.

Chairman Horne:

My only concern in the legislation is in regards to the security guards you hire. I would want to ensure these persons are Peace Officer Standards and Training (POST) certified.

Ben Graham:

We might have someone in the library, who I am not sure would need to be a peace officer, but if they are with the justices, we would want them to be qualified and meet the statutory requirements.

Assemblyman McArthur:

Adequate training is my concern also. It appears as though the court can hire independent contractors. Will they receive the same type of POST training?

Ben Graham:

If they are to act as security for the Justices, they would, under the legislative intent, have the training mandated by peace officer status.

Assemblyman Sherwood:

I see constables and their deputies who carry weapons and make arrests. Would this be in Pahrump, and the like, where they are the first choice to facilitate the need?

John McCormick, Rural Courts Coordinator, Administrative Office of the Courts:

I have accompanied the Court and have done logistics on a number of road shows including Ely, Spring Creek, Elko, Winnemucca, and Pahrump. Generally what I have done is work with local law enforcement to get that security need covered. For example, in Fallon we had a school police officer at the high

school. That is generally our first preference. The problem we have is local law enforcement is strapped and sometimes it becomes prohibitive for them to provide security. We do not want to start infringing on their ability to do their main function out in the community.

Assemblyman Daly:

I would like a clearer understanding of subsection 2. When you determine that you need additional security, do you already have full-time staff for this, or is it intended that when you need additional security for a short duration, you will hire contractors? If you determine the need for additional full-time security, would you use the regular forces?

John McCormick:

As far as hiring contractors, our intent is to supplement existing security forces. The only situation in which we could foresee a long-term requirement would be if, in accordance with the National Center for State Courts, we were to try to do one screened entrance point to the Supreme Court. You would not want the only officer to be running the screening, and you may be able to get a contractor who has sufficient training to do the screening for the one access point.

Assemblyman Daly:

I want to ensure that is the intent. I would not like to see us start contracting out positions that could be better done with full-time employees.

Justice Michael Douglas:

We came forward with this because, despite popular belief, the Supreme Court does not have any security. That is a misnomer. While I am in other jurisdictions, I find they do have a security force for their supreme court; we do not. We have Capitol Police only when we are at the Supreme Court. If we leave the Capitol Complex, we have no security. We have had to have special dispensation for the Supreme Court offices in Las Vegas with Capitol Police, and we now contract with the U.S. Marshals Service in Clark County for our security. Unlike the Legislative Police or the Highway Patrol, which provides security for the Governor, when we are off premises, we have no security. We meet and mix with the constituents of the Court, and the citizens of Nevada. We are, in a sense, "naked" in public. In Carson City, we have an annex office two blocks from the Capitol Complex. We were told since it is a leased facility to the court, it is not deemed a part of this complex. The Capitol Police do not provide service there. When we visit Reed High School in Reno, or Ely High School, et cetera, to take arguments out to the public so they can see what their court does, we are not entitled to security unless we bring it with us.

As Mr. McCormick indicated, we first work with local law enforcement to provide security at no cost because we are quite conscious of our fiscal responsibility to keep things in check. Here in Carson City things have changed. Our library is a place where people of challenged means gather sometimes. They are not responsive to our library staff when they are asked to leave. We have one officer in our building, and, if he has to leave the monitor where he monitors the entire building, our front rotunda has no security. When we have court, we are assigned two Capitol Police officers, one to operate a magnetometer and one to handle general security in the rest of the building. We are, in essence, security challenged, but we are mindful of the state's financial issues, and so we are asking for this legislation.

Mr. McCormick is modest in terms of his position. Some years ago under then-Chief Justice Robert E. Rose, Mr. McCormick recommended we do a review of court security throughout the state. The U.S. Marshals Service was involved for no fee. Some of our local law enforcement assisted in Clark County and Washoe County to review the courts in rural and urban areas, and they gave us some information which led to a bill that carved out a request for security. As an aside, please understand that in some of our local communities, we have programs that provide the equipment necessary to wand people coming in and out of the buildings, or even provide magnetometers. Based upon the age of the facility, if it is a multi-use facility, or the courtrooms are upstairs, people enter in the lower level, unsecured. We can give them a wand to check people for weapons, but they do not have the money to fund the position to handle the wand. They are still having a law clerk, a legally educated college person with no peace officer status by statute, be the bailiff in some communities. In criminal court we have law enforcement. In civil and family court, which is probably the most violent, quite often, there is no security. We are putting the public at risk as we go forward trying to do the people's business.

Assemblyman Brooks:

I agree that our Supreme Court justices do need security, especially off-site. In light of some of the recent activities where we have lost a federal judge, it is important we take this measure very seriously. I think it is a shame that we have no security in these facilities and we need to do better to ensure the safety of our elected officials.

Susan Meuschke, Executive Director, Nevada Network Against Domestic Violence:

I am here in support of section 1, subsection 2 of A.B. 121 which requires the Administrative Office of the Courts to "examine the condition of the physical security of all courts of this State, assess any threats that endanger the public,

court facilities or judicial officers and employees and make recommendations to carry out the directions of the Chief Justice to ensure and maintain security for all persons accessing judicial services." I found out yesterday that subsection 2 is being amended out of the bill by the sponsor. I understand the issues involved but do want to testify as to the concerns we have about security in the courts.

I would like to set a scene for you because security in the courtroom is not only to make sure that people do not get shot, but to make sure that people feel safe and protected enough to go to the courthouse at all. During my testimony I want you to imagine how it might feel if your daughter, aunt, sister, or friend was in a courtroom in the hallway right next to her abuser, withstanding the threats, threatening stares and glances and, in some cases, words, and even in other cases, actions. It sometimes takes a great deal of courage to go to court and we believe that court security is an absolute essential.

[Read from written testimony ([Exhibit E](#)).]

Chairman Horne:

Thank you. Any questions? Is anyone else in Carson City here to testify in favor of A.B. 121?

Lynn Berry, Assistant to the Chief, Capitol Police Division, Department of Public Safety:

I am testifying in lieu of Jay Logue, Chief, Capitol Police Division, Department of Public Safety. We would like to testify as being in support of A.B. 121 as amended. The amendments were very important to us as we do not always have the staff to allow us to facilitate accompanying the justices across the state.

Assemblyman Brooks:

Would this proposed legislation allow for security in the halls?

Lynn Berry:

We have security at the Supreme Court building as was described. We have monitors for the building. When court is in session, we provide an additional officer that is in the rotunda and the hall of the Supreme Court.

Assemblyman Brooks:

Will this bill help in being able to provide security to walk through halls and ensure safety?

John McCormick:

The situation that Ms. Meuschke described is a situation that occurs in the local courts, such as the justice courts across the state. The Supreme Court, being an appellate court, would not necessarily encounter an issue with an adverse party and the petitioner requesting the protective order in the same facility. Justice Douglas noted that the Supreme Court does not have the authority to force the local courts to provide any security. It is a function of local government which provides everything for the district courts except for the district judges' salaries, and everything for the justice courts. That becomes an issue on the capacity of the local government to provide the necessary security services at the local level. This bill is only enabling for the Supreme Court's security.

Chairman Horne:

Anyone else to testify in favor of A.B. 121? Anyone opposed to A.B. 121? Anyone neutral?

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association:

I originally signed in as being opposed to this bill, and have changed that since talking with Mr. Graham. He has assured us that we can meet with him and discuss the concerns we have over this bill. Obviously we live in a violent society. Being a retired Reno homicide detective, I can tell you that I share the concerns Chief Justice Douglas shared with you. There is no doubt in my mind that there has to be better police protection with professional peace officers to tackle these concerns. We are neutral on this bill and hope to come to a good compromise as to proper legislation to provide the appropriate police protection that is needed in the Supreme Court.

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

I signed in as neutral on this bill. Our concern had to do with the training of the peace officers and the issue of hired or contracted individuals to fill the positions. I spoke with Mr. Graham and we will work that out. We have concerns with a private security firm having peace officer authority without proper training.

Assemblyman Sherwood:

Would you categorize constables and their deputies as hired contract work, or would they be peace officers?

Frank Adams:

Constables and their deputies are category II peace officers. A constable is an elected officer of the county, therefore, he can choose to have his officers

become peace officers with powers of arrest. Not all constables do that, many of them elect to be civil officers. Some constables do elect to become peace officers with powers of arrest. They are category II peace officers in POST. Those who elect to do that have to have the appropriate training, which is about ten weeks of training.

Chairman Horne:

We will close the hearing on A.B. 121. Is there any other business that needs to come before the Committee? Seeing none, we are adjourned [9:30 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: February 24, 2011

Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Verise Campbell	Presentation of the Foreclosure Mediation Program
A.B. 121	D	John McCormick	Amendment to Bill
A.B. 121	E	Susan Meuschke	Written Testimony