

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

**Seventy-Sixth Session  
March 28, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 9:07 a.m. on Monday, March 28, 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:**

Assemblyman Harvey J. Munford, Clark County Assembly District No. 6  
Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District  
No. 1

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Michael McDonald, Constable, Laughlin Township, and representing  
Alpha Omega Strategies, Las Vegas  
Frank Slaughter, Private Citizen, Las Vegas  
Robert Correales, Assistant Professor of Law, William S. Boyd  
School of Law, University of Nevada, Las Vegas  
Jaime Martinez, representing the boxing community, Las Vegas  
Keith Kizer, Executive Director, Nevada Athletic Commission  
John Bonaventura, Constable, Las Vegas Township  
Mark Jackson, District Attorney, Douglas County  
Bruce Arkell, representing Nevada Senior Advocates  
Diana Roberts, Administrator, Arbors Memory Care, Sparks  
Karen Perry, Administrator, The Lodge, Carson City  
Steve Kilgore, Deputy Director, Constable's Office, Henderson Township  
Gary Rogers, Constable, Goodsprings Township

**Chairman Horne:**

[Roll was called.] Good morning, ladies and gentlemen. First, we will do some bill draft introductions. The first is BDR 56-815 (later introduced as Assembly Bill 465), which enacts provisions relating to consumer legal funding. Bill Draft Request 41-1122 (later introduced as Assembly Bill 459) concerns gaming enterprise districts. Bill draft request 16-1123 (later introduced as Assembly Bill 461) revises provisions concerning the duties of the Board of State Prison Commissioners. Bill draft request 15-1124 (later introduced as Assembly Bill 462) relates to acts of terrorism. Bill draft request 14-1125 (later introduced as Assembly Bill 460) revises provisions related to the death penalty. Bill draft request 43-1128 (later introduced as Assembly Bill 463) relates to vehicle theft. Bill draft request C-1129 (later introduced as Assembly Joint Resolution 7) establishes an intermediate appellate court.

Bill draft request S-944 (later introduced as Assembly Bill 464) is a ratification bill. I will entertain a motion.

ASSEMBLYMAN SEGERBLOM MOVED TO INTRODUCE  
BDR 56-815, BDR 41-1122, BDR 16-1123, BDR 15-1124,  
BDR 14-1125, BDR 43-1128, BDR C-1129, AND BDR S-944.

ASSEMBLYMAN BROOKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Those will be introduced on the floor this morning.

We have three bills on the agenda this morning. We will open the hearing on Assembly Bill 178.

Assembly Bill 178: Establishes an account for retired boxers and other  
contestants who engaged in unarmed combat for remuneration.  
(BDR 41-55)

Mr. Munford.

**Assemblyman Harvey J. Munford, Clark County Assembly District No. 6:**

Thank you, Chairman Horne. It is good to see you all today. I am here to introduce A.B. 178 to the Assembly Committee on Judiciary.

This legislation sets up a fund to help down-and-out boxers and mixed martial arts (MMA) fighters to pay medical expenses for career-related injuries. Under Nevada law, "unarmed combat" means "boxing or any form of competition in which a blow is usually struck which may reasonably be expected to inflict injury." A "contestant" is "any person who engages in unarmed combat for remuneration."

Currently, *Nevada Revised Statutes* (NRS) 467.108 imposes fees on each ticket sold for admission to a live professional contest of unarmed combat held in the state. The promoter of the contest must pay these fees to the Nevada Athletic Commission. The amount of the fees varies, dependent upon the dollar amount of the gross receipts of ticket sales. The regular fee is \$1 per ticket if gross receipts for the event total \$500,000 or more. The alternate fee is 50 cents per ticket if gross receipts total less than \$500,000. The money generated by these funds is earmarked for grants to organizations that promote amateur contests or exhibitions of unarmed combat.

I agree with the idea of supporting amateur contests and exhibitions, but it is only fair to set aside a percentage of the gate for the benefit of retired unarmed combatants who were injured during their careers and need help in obtaining medical care.

I introduce A.B. 178 to meet this need. In summary, A.B. 178 increases the regular fee imposed by NRS 467.108 from \$1 to \$2. It increases the alternate fee from 50 cents to \$1. It requires additional revenue to be used to assist with the payment of medical expenses for injuries sustained during the career of a retired contestant. It requires the Nevada Athletic Commission to adopt regulations specifying how applications for medical payments are to be submitted and what qualifications a retired combatant must meet in order to apply for and receive the payments.

I feel this bill is important because boxers and contestants in sports like kickboxing and full contact karate are highly vulnerable to head injuries such as skull fractures, facial fractures, brain lesions, nerve damage, bleeding and clotting within the brain, dementia, and symptoms of Parkinson's disease. There can be damage to other parts of the body, such as dental problems, broken ribs, internal bleeding, and damage to internal organs. The eyes can become damaged, too. Injuries can lead to blindness, retinal detachment, and retinal hemorrhaging. The American Association of Neurological Surgeons estimates that 90 percent of boxers will sustain a brain injury. Contestants in other sports such as kickboxing and full contact karate are also vulnerable to brain injuries. Promoters are only required by Nevada law to provide \$50,000 of health coverage for licensed contestants. However, some of the health effects of unarmed combat may not show up until a contestant has retired.

I would like to share with you the impetus for me introducing this bill. During the interim, I received a phone call from Michael Dokes. Maybe some of you know his name or remember him fighting during his career. Ironically, Mr. Dokes and I are from the same hometown of Akron, Ohio. I did not know Michael personally, but I knew his family. When he went to the hospital for treatment he was told that the assemblyman for the hospital's district, Harvey Munford, was from his hometown. They suggested he call me. He did so, and we later had a meeting. He told me his entire story. It was very shocking and very moving to me. I felt that I should take some steps to do something.

Many of you sports fans know that the National Football League (NFL) has an insurance program to take care of medical problems for retired players. The National Basketball Association (NBA) also has a similar program for retired

players to have some type of treatment plan available. Even in hockey, they have some kind of plan available to its former participants.

Nevada makes millions of dollars from professional boxing and unarmed combat. It makes sense to create a fund to help these contestants after they have retired. We need to look out for their welfare after their careers have ended, and I urge you to support A.B. 178.

Back in the 1970s and 1980s, during the heyday of boxing, Nevada was considered to be the boxing capital of the world. Those were the days of Muhammad Ali, "Sugar" Ray Leonard, Marvin Hagler, Larry Holmes, and others. Nevada benefitted a great deal from these fights, and I think it is time for us to maybe give something back and show our appreciation. If you want to go way back in history, one of the greatest fights in the history of this country was held in nearby Reno. It was a fight between Jack Johnson and Jim Jeffries. People still talk about that fight, which was held in 1910.

I think it is about time to show our appreciation for what we have been able to gain and profit from the sport. Maybe this will lead to something where we can stimulate some thinking not only in Nevada. Maybe we can expand this to other states, and maybe even around the entire world, because boxing matches are held everywhere. Even the current welterweight champion, Manny Pacquiao, has made contact with some of my supporters, who have been very much on board with this. I have received many emails. I brought this folder with me because these are all the emails I have received in support of this bill.

[Assemblyman Munford held up a stack of papers.]

I urge your support in the passage of this bill. Are there any questions?

**Chairman Horne:**  
Mr. Segerblom.

**Assemblyman Segerblom:**

I want to commend Assemblyman Munford for doing this. It is fantastic. I will also point out that the other benefit is to the public at large, because these fighters go to University Medical Center (UMC) when they are injured. Some of them have been in comas for months. Their medical expenses are incredible. Something like this would help our county hospital and divert the cost from the taxpayers to the people who attend these fights.

**Assemblyman Munford:**

Thank you, Assemblyman Segerblom.

**Chairman Horne:**

Assemblyman Munford, this will all come from ticket sales. The money to pay for this comes from those who patronize the fights. Is that correct?

**Assemblyman Munford:**

That is correct. I was asked before this meeting began if there would be a fiscal impact on the state. I do not expect there would be, because this money will come strictly from the ticket sales.

**Chairman Horne:**

Well, we do have a fiscal note for something like \$200,000 from the Athletic Commission. I do not know if anyone has heard from the Athletic Commission. We will have some questions for them. Mr. Frierson.

**Assemblyman Frierson:**

Thank you, Mr. Chairman. I agree with Mr. Segerblom about this being an issue. I have received contact over the years from participants of athletic events with inadequate insurance who have to go to UMC. Have you discussed this with promoters and received any feedback on whether or not this will increase the number of major events? I ask that because there are states like Texas that built a big stadium, that were trying to take some events from Nevada. Is there any indication that increasing the protection for boxers would actually bring more events here or prevent us from losing events?

**Assemblyman Munford:**

That is a very good point to bring up. I have not received any direct contact from any of the promoters locally, but I have received some indirect information from them. They were not enthusiastic about it, but they saw there was some merit in it. This is a combination of many things. There is a little bit of humanity here, too. You see the former heavyweight champion Muhammad Ali and the condition he is in right now. That is something that has to touch you and affect you in some way.

In response to your other point about the stadium, and being able to attract big-time boxing events, the owner of the Dallas Cowboys is trying to bring some events to Texas. There is a lot of discussion about constructing a new stadium in southern Nevada. I think if it comes to fruition, it would definitely have an impact on scheduling and help to change the boxing situation in the south. Since the Pacquiao fight, we have not had a big-name event there. I can recall that at one time we used to have a big-grossing fight probably every

three or four months. Now it seems we are fortunate to get one a year. We would like to bring it back to where we get four a month. That would really help to spike our economy. Assemblyman, I appreciate your question. That is a good point.

**Chairman Horne:**  
Mr. Brooks.

**Assemblyman Brooks:**

Mr. Munford, I want to thank you for bringing this bill. It is probably long overdue. Will this also include Ultimate Fighting Championship (UFC) fighters and "Tough Enough" amateur fights?

**Assemblyman Munford:**

Yes, it includes all hand-to-hand combat. That would include the UFC. It would also include karate matches. I do not think we have extended it to wrestling. Is wrestling what it seems to be on television? I have never sat ringside at a wrestling match. I think sometimes there is a little bit of staging and scripting going on. I do not know it would qualify. There is a lot of entertainment there.

**Assemblyman Brooks:**

Thank you, Mr. Assemblyman.

**Chairman Horne:**  
Mr. Hammond.

**Assemblyman Hammond:**

Thank you, Mr. Chairman. Good morning Mr. Munford. I understand that Mr. Segerblom has introduced an amendment ([Exhibit C](#)) to your bill that would amend section 1. When I first read your bill, it sounded like it was essentially setting up a superfund to take care of the needs of some of the boxers who run into a very difficult time. But, according to this amendment, receipts coming in from each event would go to providing catastrophic insurance. Are you okay with the amendment, and is the intent there not to necessarily set up another fund, but basically to cover all those participants? Is this because right now, unlike the NFL or NBA, the combat organizations are not providing it for their participants?

**Chairman Horne:**

The amendment on the Nevada Electronic Legislative Information System (NELIS) is Mr. Segerblom's amendment. Is that correct?

**Assemblyman Hammond:**

That is correct.

**Assemblyman Munford:**

Yes, I am supportive of the amendment.

**Assemblyman Hammond:**

It does not create a fund; it simply helps to insure with catastrophic insurance.

**Assemblyman Munford:**

Yes.

**Assemblyman Hammond:**

Do those organizations not provide any insurance whatsoever for their fighters?

**Assemblyman Munford:**

That is correct.

**Chairman Horne:**

Ms. Dondero Loop.

**Assemblywoman Dondero Loop:**

Thank you, Mr. Chairman. Is there a reason the promoters or the boxers themselves have not developed some kind of insurance program over the years?

**Assemblyman Munford:**

That is a good question. I have been a boxing fan for a long time. I think a lot of the promoters were more interested in making money. All they care about is a profit, or what they can take home. I remember as a kid that the poor guy, through boxing, came up from out of the ghetto, so to speak. At one time, most of the boxers were either Italian or black. There was Rocky Marciano, Rocky Graziano, and other recognizable names. Many of them were blacks. I think many times they were exploited and taken advantage of. The promoters never took into account the welfare and well-being of the fighters. Many boxers, black and white, have ended up penniless when their careers were over. The promoters never looked out for them. They just walked away from the problem.

I do not want to make any accusations, but if you go back through the years, there might have been some connection to boxing by some people who only thought of themselves. The boxers are almost like meat. You just use them and get whatever you can out of them. Muhammad Ali is still able to express himself pretty well, and George Foreman is doing quite well. You would think



they would have thought, in a very compassionate and sensitive way, "What about some of my fellow boxers that have participated in this sport? Should we not look out for them by starting some kind of program to help them?" I am surprised none of those successful boxers have come forward. It is strange.

**Assemblywoman Dondero Loop:**

You are absolutely right. They have not thought of themselves as a group. That is my concern.

**Assemblyman Munford:**

It is somewhat shameful. It seems they lack insight, sensitivity, and empathy. They all benefitted well from this sport. They should want to give something back.

**Chairman Horne:**

Mr. McArthur.

**Assemblyman McArthur:**

Thank you, Mr. Chairman. I assume this bill would help Nevada residents. Is there any time frame for how long you have to be a resident of the state? I am curious about all these boxers saying that they are going to get their medical issues taken care of. They will start moving into the state just to get their medical expenses paid.

**Assemblyman Munford:**

You bring up a pretty good point. When it comes to who is qualified and eligible to receive these benefits, I think the Nevada Athletic Commission, if this bill were to pass, would set up certain criteria for those who would be eligible. I guess you would have to participate in a certain number of fights, or something of that nature. In the NFL and the NBA, you have to be in the league for so many years before you become eligible for the benefits they offer. Any old boxer who has had only a couple fights here and there would not be able to sign on.

**Assemblyman McArthur:**

Thank you.

**Chairman Horne:**

I might have misunderstood, Mr. Munford. I understood that this requires, particularly with the amendment, the purchase of insurance for those fighters who are in a contest in Nevada. Let us say you have one fighter from California and another from Texas who come to Nevada for a big fight, and one of them suffers a catastrophic injury, such as a brain hemorrhage. That insurance would

cover that fighter's medical needs to a certain extent. They would not have to necessarily be residents of Nevada. It covers those who take part in a contest in our state, regardless of their residency status.

**Assemblyman Munford:**

Yes, that is correct.

**Chairman Horne:**

I see Mr. McDonald with you. There are also people in Las Vegas. Do you have testimony, Mr. McDonald?

**Michael McDonald, Constable, Laughlin Township, and representing Alpha Omega Strategies, Las Vegas:**

I have been around boxing since I was five years old. We are also trying to promote Johnny Tocco's boxing gym. Johnny Tocco was a famed trainer who trained many world champions. If you walk through the old gyms, you will see who Mr. Munford is trying to help out. They are people who have suffered catastrophic injuries to the cranium that render them helpless as far as their mindsets.

Joe Louis is a prime example. He was one of the greatest heavyweight champions. He brought class back into boxing. He was the all-American boxer. Near his end days, the promoters took advantage of him. He was at Caesar's Palace towards the end. It was a great opportunity to meet the man, but to see a man of his caliber in his condition . . . . It would have been nice to have something like this which would have helped. I think it is looking forward.

Many of the amateur boxers coming out of local gyms such as Barry's Boxing Center and Johnny Tocco's gym are the up-and-coming. They are our future. This bill would be paving the way for us to look out for our youngsters. It gets them off the street. We have worked heavily to get them out of the gangs. We work heavily to get them into a structured environment that allows this type to take effect into their upbringing. A lot of them are coming from single-parent families, and some have no homes. They are off the streets. This would act as a structure that would benefit them.

**Chairman Horne:**

Thank you, Mr. McDonald. Mr. Ohrenschall has a question.

**Assemblyman Ohrenschall:**

Thank you, Mr. Chairman. Assemblyman Munford, thank you for sponsoring this bill. Mr. McDonald, if this bill passes, will it affect the take-home pay of boxers? Would this amount to less take-home pay?

**Assemblyman Munford:**

Boxing is a business, too. Whenever there is an added expense in creating a product, I feel the promoters might increase the price of tickets so as not to lose any of their expected profits. I do not think that would really deter people from attending matches. There might be some fans who would say there is merit to the program, and they might not mind paying the extra \$2 or \$3 to benefit participants of the sport that has given them enjoyment and entertainment for many years.

**Assemblyman Ohrenschall:**

Thank you, Assemblyman Munford. Thank you, Mr. Chairman.

**Chairman Horne:**

Ms. Diaz.

**Assemblywoman Diaz:**

Assemblyman Munford, I am still not quite clear who will be entitled to receive the medical benefits or compensation for injuries. Under section 1, subsection 4(d), it says, "The qualifications for applying for and receiving payments to assist with medical expenses for injuries sustained during the career of a retired contestant." The person does not need to be retired from boxing. Is that correct?

**Assemblyman Munford:**

During the course of a fight, if someone is injured, there is insurance and some coverage set aside for the two participants if someone were to sustain an injury of a serious nature. In boxing, sometimes death results from a match. There are expenses to cover those, but primarily, we are looking at something down the road once they have retired.

There is a lot of talk about football and the helmets. Head injuries are more apt to incur when one reaches a certain age. We want to give some protection for when that happens. As a contest is taking place, there is some coverage and protection for them.

**Assemblywoman Diaz:**

So, during the match, there is already existing coverage for them, and this would only apply to retired boxers.

**Assemblyman Munford:**

I think the promoter does something in that regard.

**Assemblywoman Diaz:**

Thank you.

**Chairman Horne:**

If there are no further questions, we will move to Las Vegas. We have a couple people there. Frank Slaughter and Robert Correales are signed in to testify in favor of the bill. Also, we have Jaime Martinez. We will start with Mr. Slaughter.

**Frank Slaughter, Private Citizen, Las Vegas:**

I would like to thank the Legislature for inviting Professor Correales and Jamie Martinez from the University of Nevada, Las Vegas (UNLV) Boyd School of Law to testify today. I would also like to take a moment to thank trauma surgeon Michael Casey and his staff at UMC for the miraculous work they perform each and every day.

The case of Z ("Zeta") Gorres was a critical one. He was rushed to UMC after collapsing in the ring. It was literally a race to save his life. The medical insurance he had was insufficient and would not cover the cost of much of his needed surgery, not to mention the month he spent in intensive care and the following month in intermediate care. Had he had catastrophic injury insurance, the insurance would have picked up the tab. As it was, the cost was passed on to the taxpayers.

In these cases of fighters that come to UMC and other hospitals, we have to be proactive and get in front of this. Mr. Munford talked about amateurs and professionals. Amateur contestants do not get paid, but their injuries can be just as severe, and the cost no less expensive, if they end up at UMC.

Mr. Gorres surely benefitted from our county hospital. We thank God for his recovery. We are humbly thankful for the hands of the gifted surgeons and caretakers. Many fighters are confident in knowing that if they get hurt in Nevada, UMC is there to help them. However, this care comes at a cost. I will take your questions.

**Chairman Horne:**

Are there any questions? I see none. We will move to Professor Correales.

**Robert Correales, Assistant Professor of Law, William S. Boyd School of Law,  
University of Nevada, Las Vegas:**

Good morning, Mr. Chairman, and thank you for your attention on this very important matter. Mr. Munford, thank you for taking up this issue.

I am here to speak in support of the bill and in support of the conceptual amendment submitted by Assemblyman Segerblom. Minimum insurance standards were set in Nevada for boxers in 1993. All boxers must have insurance coverage for catastrophic injuries incurred during a fight. There have not been any changes since then. In the meantime, medical costs have experienced a 10 percent rate of inflation every year. Indeed, it is the most susceptible sector of the economy to inflation in this country.

In my study of this issue, I have identified at least ten cases in the last ten years in Las Vegas where a boxer has experienced a catastrophic injury. This has not been an exhaustive research effort. These are the most notorious cases. Those people have been treated at UMC.

It is important to note that most boxers fight for small purses, which have to be shared with managers and other members of the teams. That leaves very little after a fight to cover the cost of a catastrophic injury. One example you might be familiar with is the case of Z Gorres, who was injured during a fight in which he was the victor. Mr. Gorres was paid \$10,000 for that fight, which he had to share with members of his team. Mr. Gorres' medical bills amounted to well over \$500,000, only \$50,000 of which was covered by medical insurance. The rest of the bill was written off as a loss.

Boxing and mixed martial arts (MMA) are extremely valuable to the economies of Las Vegas and the state. A study by Applied Analysis of Las Vegas determined that the UFC generated about \$86 million in revenue from 60 events between February 2008 and January 2009. The only other event more successful at generating revenue for Las Vegas was the National Association for Stock Car Auto Racing. The study by Applied Analysis demonstrates not only the popularity of the sport, but also the fact that operators are making much money in many cases from the sport of unarmed combat.

The low level of required insurance at this point essentially means that hospitals such as UMC are subsidizing the business of combat sports at potentially great cost to the taxpayers.

Nevada, specifically Las Vegas, bills itself as the "fight capital of the world." The Nevada Athletic Commission is hailed as the model regulatory body for combat sports. This is a step, I believe, whose time has come. It is time to raise the minimum level of coverage, which may also prompt a national movement that will benefit not just boxers, but also protect the public. Thank you.

**Chairman Horne:**

Thank you, Professor. I see no questions. We will go to Ms. Martinez.

**Jaime Martinez, representing the boxing community, Las Vegas:**

Thank you for the opportunity to speak today. I was a part of the research and writing team, along with Professor Correales and Mr. Slaughter. I am here representing the boxing community. I am a graduate of UNLV Boyd School of Law.

My part in this research and writing team was one of public relations. I sent the feelers out and talked to people in the community. I had the opportunity over the course of the last year to speak to members of Golden Boy Promotions, Guilty Promotions, Crown Boxing, Let's Get It On, and Zuffa Entertainment. I was able to speak to Randy Couture, Gray Maynard, and Jay Huron of MMA. I talked to boxer Floyd Mayweather, Jr. at his gym. I also talked to Oscar De La Hoya. The resounding message from those folks is one of absolute support. When I approached them to present the idea, they were somewhat surprised, in that they did not know that it had not been changed since 1993.

I was able to talk to promoters and boxers in New York, California, Texas, New Jersey, and others. The overall message was one of support. We are talking about a \$1 or \$2 increase per ticket. As a fan of boxing, that is not going to keep me from buying a ticket. The question was posed, "Why are the promoters not taking care of these boxers themselves, and why are the boxers not taking care of themselves?" That is a great question. The truth of the matter is that we are taking care of it already. It is legislation like this that will put the onus back on the promoter. If we send the message as a state to say we support our competitors, and we support those who support our economy, then I think we put the onus back on the promoters. I agree that there should be something set out for these people. There is a lot of money being made. The USA Boxing Organization, which every amateur boxer is required to join in order to compete, has a \$1 million catastrophic insurance policy for every competitor. So, if a 13-year old kid goes in and gets hit in the head and ends up injured, there is \$1 million of medical coverage available because he is an amateur.

Unfortunately, these guys starting out on the bottom are fighting for \$600 or \$800 purses that they have to split four ways. That does not leave much for an insurance policy. We are talking about setting up a system which covers a cost that we are already paying. In terms of benefitting Nevada and its residents, I think it is going to benefit them more, because costs are not going to be written off, and the county hospital would not have to bear the burden of the costs completely alone, as they are already doing. I offer my support as a

member of the boxing community and the legal community, and I hope that we can put this bill forward and send a message nationally that we support our athletes. Thank you.

**Chairman Horne:**

Thank you, Ms. Martinez. Ms. Diaz has a question.

**Assemblywoman Diaz:**

Thank you, Mr. Chairman. What is the average hospital bill that these boxers see, especially those to whom this bill pertains?

**Robert Correales:**

We have information about the case of Mr. Gorres. This is about catastrophic insurance coverage. His bills amounted to over \$500,000. We have identified several more cases where the injuries to the boxers were similar to those of Mr. Gorres. Because of privacy laws, we cannot access that information. Mr. Gorres, I believe, signed the release and gave it to Coach Slaughter and the newspaper so that this issue could be discussed openly.

**Assemblywoman Diaz:**

Thank you so much.

**Chairman Horne:**

Mr. Frierson.

**Robert Correales:**

Mr. Chairman, the bill is also supported by *Ring Magazine* and Mr. Teddy Atlas, who is a Hall of Fame trainer and announcer.

**Chairman Horne:**

Mr. Frierson.

**Assemblyman Frierson:**

Thank you, Mr. Chairman. Ms. Martinez, I have spoken to you over the years about this issue, and I know you have been involved for some time. Could you tell me how frequently, in your experience, boxers go to UMC following a boxing match, and if you know any of the rules regarding whether they have to go? Also, do you know what the coverage is in other states that have as many boxing matches as we do, if there are any?

**Jaime Martinez:**

Every competitor after a major fight goes to UMC. I understand it is a requirement. If a contestant gets knocked down or knocked out, he is definitely

going in for a computerized axial tomography (CAT) scan. Usually, every fighter that we have had in a fight goes to the hospital afterward to get checked for head injuries or cuts. The majority of fighters are going to the hospital after the fight. I do not have any specific numbers. We were working in conjunction with UMC and met with a Health Insurance Portability and Accountability Act (HIPAA) stonewall when we tried to get information. The information is available. We can get it if that is what it ends up boiling down to.

I broke my arm recently, and the cost is at \$26,000, and I am an uninsured person. My nine-hour trip to the emergency room included a CAT scan, a magnetic resonance imaging scan, and an X-ray. The cost was \$13,000 for one day. Perhaps that will put it into perspective. We all know how high medical costs are.

**Assemblyman Frierson:**

Is anyone aware of the insurance limitations and requirements in other states such as New Jersey?

**Robert Correales:**

Yes, we have looked at California, Texas, New York, New Jersey, and other states that also bill themselves as boxing capitals of the world. Our minimum insurance requirements are consistent with those of other states. We also looked at Canada, which has a very generous minimum insurance requirement. I think it is \$1 million. The opportunity for us today is to take the lead in this area. If you compare us to the other states I mentioned, we are probably the most prolific producer of fights in the country. I am not sure whether that is true, but I think it is a good guess. The opportunity for leadership is here today.

**Frank Slaughter:**

I have received much support from Senator Lito Lapid of the Republic of the Philippines. He is chairman of the Senate Committee on Games, Amusement and Sports in his country. He called me and stated that he supports this bill. Also pledging his support is Ezra Suruma of Uganda. He is the Senior Advisor to President Yoweri Museveni. He called to say he likes the idea behind this bill, because a lot of fighters from Uganda come to our country to fight, and they want to know that they are protected.

Also, Lito Lapid is proposing a bill in the Philippines as a result of what we are doing here. It has never been done before for catastrophic injury insurance in the Philippines. We are the fight capital of the world. Nobody else is. They can say it, but we are it. We lead in the safety in the sport. We have the finest commission in the world, hands down, when it comes to what the



Nevada Athletic Commission does with the integrity of the sport. Also, we want to have the finest laws to protect our fighters.

I want to once again thank the Nevada Legislature for allowing me to express my commitment to our state, and to our community as a citizen. I want to continue to be proactive in doing my part to be sure that our taxpayers are protected while we grow revenues. The boxers, in effect, are paying for their own insurance. The bill would do all things that are affirmed. We are the boxing capital of the world.

**Chairman Horne:**

Mr. Daly, keep in mind we have been at this for about an hour.

**Assemblyman Daly:**

I want to make sure we are talking about the same thing. I looked at the existing law, NRS 467.125, in conjunction with the amendment of my colleague from southern Nevada. The way that reads is the insurance only covers a fighter for an injury that happens in the contest, whereas your bill deals with retired persons. You said there is going to potentially be a process set up by regulation for a person to apply. In other words, they will have had to at least fought in Nevada, and then there would be some type of qualifications to get the insurance. Are those two things going to mesh together? I am not sure they will. The language is not there yet to see how that will work.

**Assemblyman Munford:**

Are you directing your question to me, Assemblyman Daly?

**Assemblyman Daly:**

It is for whoever can answer it.

**Assemblyman Munford:**

I would say the amendment and bill are connected together. Is that what you are asking?

**Chairman Horne:**

We will get some clarification from Mr. Anthony.

**Nick Anthony, Committee Counsel:**

Thank you, Mr. Chairman. Yes, I believe if we could clarify from the proposed amendment. It appears the proposed amendment is to increase insurance coverage. Currently, that is required to be provided by the promoter at \$50,000. This bill would set up new monies to increase that amount to \$200,000. The question then becomes whether you still want some of that

money, or is that in lieu of the fund that was originally set up under the bill that would provide funding for retired boxers. They are two different issues. You could have both, or it could be an "either/or."

**Assemblyman Munford:**

I would like to have them both. I would prefer to include in the bill the amendment, which proposes the increase from \$50,000 to \$200,000.

**Chairman Horne:**

Mr. McDonald, you said you have one final, short comment.

**Michael McDonald:**

Thank you, Mr. Chairman. To make it relative, many of us have pets. When you go to Petco to buy your pet or food, customers are always asked if they would like to donate. As Ms. Martinez said, those going to the boxing matches will not fret over the extra cost of a ticket, especially when it is done through the promotions.

**Chairman Horne:**

Thank you, Mr. McDonald. I see no more questions. There is no one else present in favor of the bill. We will move to the opposition. We have one person in Las Vegas in opposition and wishing to speak. That is Mr. Keith Kizer.

**Keith Kizer, Executive Director, Nevada Athletic Commission:**

I was unaware of the amendment to the bill, so I am flying somewhat blind on the comprehensive coverage, but I have talked with Mr. Slaughter and Ms. Martinez about it over time. On that portion—both on comprehensive coverage for fighters and a pension plan for fighters—the Commission would be in favor of that if there is a way to do that. Unfortunately, on this bill we have to testify against it, as well as the amendment as stated. I do not have all the details on it.

Let me start with the comprehensive insurance and the proposal to raise the \$50,000 to \$200,000. As the Professor and Mr. Slaughter mentioned, Nevada is seen as the model commission in the world, and because of that, we get a lot of fights here. We get big and small fights. We see them all as very important. The \$50,000 insurance coverage that we have is the highest in the land. In fact, it is five times the recommended coverage set forth by the Association of Boxing Commissions. To my knowledge, in the last 25 years, fighters have stepped in the ring or the octagon approximately 20,000 times to fight professionally in Nevada. In 99.9 percent of that time, \$50,000 was more than they needed, and not less than they needed.

The professor mentioned a half-million dollar figure concerning Mr. Gorres. Actually, the UMC Chief Financial Officer came to a Commission meeting and publicly stated that the actual cost to the hospital was less than half of the reported \$500,000. Nonetheless, I think everybody would agree that more coverage is better. If we could all have \$10 million of life insurance at no cost to ourselves, I think we would all take that. There are very few insurance companies writing insurance for boxing and MMA in the country. There is less than a handful. We checked with them and asked what the increase would be in the charge by the promoter if the coverage was increased from \$50,000 to \$100,000. Each one of those companies said they do not and will not offer \$100,000 of coverage. If you raise it to \$100,000 or \$200,000, I will have 365 days a year off, because we will not have any fights in Nevada. There is just no way that a promoter could comply with such an amendment.

Regarding the pension plan, the NFL, the NBA and Major League Baseball (MLB) all have private pension plans. None are imposed or mandated by the government upon those leagues or players. It is also tough to compare those plans to boxing and MMA for other reasons. I will give you three examples.

One is decentralization. A fighter may fight three times in Nevada this year and never fight in Nevada again. But, he may fight in New Jersey next year, Poland the next year, and Alabama and Tennessee the next year. Other fighters may fight all their fights in Nevada. Some may just fight once in Nevada. So, you have a situation. I believe Assemblymen McArthur and Diaz questioned who is covered by this. With the way it is written, I am not sure how we could say, "You only fought here once in Nevada, and you got beat up pretty bad, but we are not going to let you get any coverage." There may be another person who fought here ten times and won all their fights pretty easily and who is covered. You would really want to cover everybody. On a rough estimate, you would probably have to add about \$100 fee per ticket to make this bill work correctly and to be fair to everybody. I do not think that could work.

The second thing is salary variance. In Major League Baseball, the highest paid player makes \$25 million a year, I believe. That is Alex Rodriguez. The lowest paid player on the New York Yankees probably makes about \$400,000 to \$500,000 a year. That is a pretty big variance, but in boxing, it is even greater. Last year, Manny Pacquiao made about \$25 million dollars, but there are fighters who made less than \$1,000. That is an even greater salary variance. It makes it difficult to try to put some sort of one-size-fits-all pension plan into play, unlike, say in baseball, where the poorest guy on the team makes much more money than most Americans.

The third issue is the irregular schedule. Even if a fighter fights all of his fights in one state, he may fight once this year, three times next year, once the year after that, and not at all the following year. If you want to know where Peyton Manning is playing next year, it is easy to find out. Barring injury, you can look at a Colts schedule and see where he is going to be every Sunday or Monday between the months of September and January. You do not have that in boxing and MMA, so that makes it very difficult.

The taxes or gate fees imposed upon promoters was raised by 50 percent a few months ago. Since that gate fee increase, we have had no mega events in Nevada. We had about six in a similar time period prior to that gate fee increase. Now you are asking for a 100 percent increase in those fees on ticket sales. Related to that, it may affect the purse. The promoter is going to have to pay, let us say, an extra four figures from ticket sales to cover the money, which is less money he has to pay the fighters in their purse amounts. We have already seen some of that with respect to the 50 percent tax increase that happened on the gate fees in the special session. It seems like fighters make a little less money than they did two years ago.

The development of a pension plan is a great idea. Perhaps it is something that should be done nationwide. I believe when the Muhammad Ali Boxing Reform Act was passed in 2000, the U.S. Senate and House of Representatives looked at a way at trying to establish a national pension plan. It realized that a state-by-state pension plan just does not make sense, and they could not find a way to do it at the federal level. We hope there is still some way to do that. Maybe we could show some support or try to find some ways to get that to our federal representatives. It is a good idea in theory. The same thing goes for a comprehensive plan. It is a good idea. I would love to have a comprehensive coverage on fighters. I just do not know who is going to underwrite that policy. Thank you.

**Chairman Horne:**

Thank you, Mr. Kizer. Did you express those concerns to Mr. Munford, the sponsor of the bill?

**Keith Kizer:**

I have not, but I believe members of the Commission did talk to Assemblyman Munford.

**Chairman Horne:**

I believe Mr. Munford's testimony earlier this morning was that the Commission was not jumping up and down about it, but they were not opposed. Is that correct?

**Assemblyman Munford:**

Yes, that is correct.

**Chairman Horne:**

So, this all sounds like new opposition to Mr. Munford's bill.

**Keith Kizer:**

Mr. Chairman, I believe he was talking about the promoters in his testimony.

**Assemblyman Munford:**

I had an opportunity last Wednesday or Thursday to speak with John Daly, the former president of the Nevada Boxing Commission. I ran this by him, and, as the Chairman of the Boxing Commission testified today, Mr. Daly was enthusiastic about it. As you said, in theory, it is a great idea, but he said the logistics of putting it together and getting it to work might be difficult. This is sort of opening up a door. It is something we can discuss at the table. Maybe we can put it together. You mentioned something about fighters and boxing matches in other states. I think that this might be something that could cause other states to take some interest and concern and maybe get involved.

Someone mentioned *Ring Magazine*. I know in boxing there are many different divisions. I cannot name them all, but there are maybe three or four different divisions. I think we could sit down and work this out, and put our heads together and come up with a plan, an idea on how to develop some type of pension program for boxers. I am sure when they started it in the other sports it was not something that took off right away, nor was everyone enthusiastic and on board with it. I think it took time for them to also develop it. I think this is something that is going to take a little time, but bringing it to the table and creating the interest is good. We have to start somewhere, and this is the first step we are taking. Thank you.

**Chairman Horne:**

Thank you, Mr. Munford. If you want to have discussions with the Nevada State Athletic Commission, get together and do that. I thank everybody for coming to this hearing. Is there anyone else here to testify in opposition of A.B. 178? If not, we will move to the neutral position. I see no one. We will close the hearing on A.B. 178, and we will open the hearing on Assembly Bill 264.

**Assembly Bill 264**: Revises provisions relating to constables. (BDR 20-1097)

Who is presenting A.B. 264?

**John Bonaventura, Constable, Las Vegas Township:**

Mr. Chairman and members of the Committee, I understand Mrs. Kirkpatrick was going to introduce the bill. Someone was going to call her out of her committee meeting, but I do not see her here. So, if you like, we can wait a moment for her, or I can . . .

**Chairman Horne:**

Let me close the hearing on A.B. 264, and we will jump to Assembly Bill 305.

**Assembly Bill 305**: Increases the penalty for certain crimes committed against older or vulnerable persons. (BDR 15-1048)

Mr. Kite is here and ready to go. We will open the hearing on A.B. 305. We will let Mrs. Kirkpatrick know her bill will be last up. Good morning, Mr. Kite.

**Assemblyman Kelly Kite, Assembly District No. 39:**

Good morning, Mr. Chairman, members of the Committee. I am here to provide information on A.B. 305.

Under existing law, if one commits a crime against the elderly or a vulnerable person, the penalty is a gross misdemeanor. I am carrying this bill on behalf of constituents and a young man. I have with me Mark Jackson, the District Attorney for Douglas County. I will let him give you the particulars on that case. Basically, what we have right now is, if you commit a crime against a vulnerable or elderly person, you will get a "slap on the hand" and be told not to do that again. If you do it again, you will be guilty of a class B felony. This bill takes away the hand slapping and makes the first offense a class B felony. You will not be given the opportunity to go back and commit the crime again. As a gross misdemeanor, a caregiver or another person could commit these crimes, either mentally or physically, against the elderly or the vulnerable. He can come back and do it again. But, if we make it a class B felony, his ability to be licensed later on and the ability to do this again would be taken away. Are there any questions?

**Chairman Horne:**

Thank you, Mr. Kite. We have a question from Mr. Segerblom.

**Assemblyman Segerblom:**

What do you define as "elderly?"

**Assemblyman Kite:**

We use the same definition that is in statute, over 60 years of age.

**Assemblyman Segerblom:**

Does the person have to know or intend to attack them because they are elderly, or does it apply to everyone who attacks anyone over 60?

**Assemblyman Kite:**

No. It does not have to prove prior intent, because they are over 60. If you are over 60 or under 18, you are vulnerable.

**Chairman Horne:**

Mr. Kite, we are talking about abuses of older or vulnerable persons. We are not talking just about the elderly. We are talking about neglect and things like that. We are not talking about specific crimes, for instance robbery, that would fall in this status. It is a different statute.

**Assemblyman Kite:**

That is correct. We are not changing the bill in intent or in form. We are only changing the penalty for performing that crime.

**Chairman Horne:**

You have removed "gross misdemeanor," which carries a penalty of up to a year in prison. I think Mr. Frierson can back me up on this. Most people found guilty of gross misdemeanors are put on probation for a year, at least they are in Clark County, but you completely eliminate that and jump to a category B, which is the second highest of our categories. Do you have any wiggle room in other categories of felonies, particularly since you said that in these cases you will not have to prove intent that the offender knew that the victim was over 60 or vulnerable?

**Assemblyman Kite:**

Mr. Chairman, with your permission, I would like to introduce Mr. Mark Jackson. He is the Douglas County District Attorney. He can answer the legal question for you much better than I can.

**Chairman Horne:**

Mr. Jackson.

**Mark Jackson, District Attorney, Douglas County:**

Thank you, Chairman Horne and members of the Committee. Mr. Chairman, may I answer that question after I offer some testimony to the Committee?

**Chairman Horne:**

Yes.

**Mark Jackson:**

I have testified before the Committee in the past. As you may recall, I am the elected District Attorney in Douglas County. I recently started my second term. I am in my 21st year in practicing law in the State of Nevada, and all 21 years have been involved in the criminal justice system. I have been a prosecutor for the last 11 years. Prior to that, I served ten years as a partner in a law firm, where I practiced criminal defense work. I have been in most of the courts across the state, and I had thought up until about December 2010 that I had been involved in just about every type of crime, or representing individuals or prosecuting cases ranging from death penalty first-degree murders to kidnappings, sexual assaults, and crimes against children and the elderly. I had never seen a crime against a vulnerable person.

A case came across my desk in December 2010 involving a 21-year old male victim, who had developed a viral infection right after he was born. As a result of that, he developed cerebral palsy, spastic quadriplegia, and osteoporosis. He has been confined to wheelchairs for his entire life. He has the mental capacity of a three- or four-year-old. He has no movement whatsoever of his body, except for some involuntary movements. He is crippled from the cerebral palsy to the extent where his hands are pulled up into his chest, and he cannot move them.

His mother and father have been taking care of him for his entire 21 years. They have never taken a vacation. They have never had time alone. They have never had a date. They have just been providing care. The State of Nevada brought out a program dealing with respite caretakers, which are contract individuals who would fit the definition under section 1, subsection 2 that defines "any person who has assumed responsibility legally, voluntarily, or pursuant to a contract, to care for an older person or a vulnerable person."

Pursuant to this contract, a respite caretaker provided care for this 21-year-old for about four hours in mid-December 2010. When the parents checked on their son, they found that he had injuries from his knees to his head. He had bruising on the inside of his thighs and on his torso, back, and arms. He had a swollen right eye, an abrasion across his nose, and he had a tooth knocked out on his lower right side. He had multiple injuries from multiple hits and infliction of pain, which fits the definition of abuse by statute.

Because I had prosecuted numerous crimes involving abuse of children, which is a category B felony, I assumed at the time that I was going to charge this case



as a category B felony, mainly because this vulnerable person defined by statute is much like a child. The only difference is he is older than 18, and he is less than 60.

The maximum punishment, if convicted, is a gross misdemeanor. There are some potential opponents that would argue that there is already an enhancement statute under *Nevada Revised Statutes* (NRS) 193.167, which provides for an enhancement penalty, or a double penalty, for certain types of crimes committed against elderly or vulnerable people. Those crimes are enumerated in that statute. There are ten. Murder is included, as are rape, sexual assault, and kidnapping. There are two misdemeanors, which are assault and battery. This case could be charged as a battery, which would carry up to six months in the county jail and/or a \$1,000 fine. If it was charged as a battery, which would bring in the enhancement penalty, then it would raise the penalty to basically one year in jail and/or a \$2,000 fine. The gross misdemeanor, as Chairman Horne has mentioned, carries a maximum punishment of up to one year in jail or a \$2,000 fine. Basically, there is not much of a difference under the existing laws, whether charging this as a misdemeanor with the potential enhancements, or charging it as a gross misdemeanor of the abuse of a vulnerable person, which is defined as a "willful and unjustified infliction of pain, injury, or mental anguish."

The issue as to why this would be treated as a category B felony is that a subsequent offense currently under the statute would be treated as a category B felony. This would simply remove that. Instead of giving someone two bites of the apple, this would make it a felony at the very beginning. I am not the sponsor of the bill. I am dealing with the victim and the parents in a different fashion than is Assemblyman Kite. I do not know whether I can speak on behalf of Assemblyman Kite or any of the joint sponsors of the bill.

The Office of the District Attorney of Douglas County does not see a lot of these crimes against vulnerable people. Most of the crimes against the elderly we see involve crimes dealing with cons or swindling—trying to get money from an elderly person—which would fall outside of this particular statute. I submit that the proper charge would be a felony. I would be concerned about an "E" felony, because an E felony would carry with it a mandatory probation, and it is my opinion that an individual who commits this type of a crime against a vulnerable person, such as the victim in Douglas County, is not deserving of probation, but is more deserving of spending an appropriate term in prison. Thank you.

**Chairman Horne:**

Thank you, Mr. Jackson. My only concern is that the story you illustrated for us today is probably on the extreme of the spectrum of abuses to older or vulnerable persons. Under these proposed changes, regardless if you are on one end of the spectrum or the other, you would be treated as a category B felon. It completely takes that away. I envision, for instance, the person who neglects an older person in a nursing home by not changing the bed sheets regularly, and the older person gets bedsores, could be prosecuted with a category B felony under this statute. My concern is there is no wiggle room. You sweep a whole lot of people, and you have taken discretion away from the courts. I would like to see the bill fashioned to where we can address the extreme, terrible example you offered today and the ones at the other end of the spectrum. Mr. Frierson has a question.

**Assemblyman Frierson:**

Thank you, Mr. Chairman. I share the Chairman's concern. I have spoken with Mr. Kite as he contemplated this bill. I appreciate the effort to protect the vulnerable and the frustration of having a limited statute.

It seems the scenario that gave rise to this could be covered under the current law of battery with substantial bodily harm, which is a category C felony. Also, we are going from a gross misdemeanor to a category B felony. It is also a category B felony to kill an elder through abuse. So, we are taking existing law regarding an abuse case and going automatically to the same level of death by elder abuse. I am also wondering if there is some wiggle room and why we could not have charged the caregiver, in that case, with battery with substantial bodily harm.

**Chairman Horne:**

Mr. Kite.

**Assemblyman Kite:**

If you do this a second time, it is a category B felony anyway. We are just taking away the second bite of the apple. Only on your second offense, if you are convicted, is it a class B felony. We have not included anything in the bill that has anything to do with an already necessarily regulated facility or institution. The intent is not to affect them in any way. We are not changing anything on the second offense; we are just taking away the lesser penalty for the first offense.

**Chairman Horne:**

Follow up, Mr. Jackson.

**Mark Jackson:**

Thank you, Chairman Horne. In reference to the substantial bodily injury, it is difficult for a lot of people to contemplate that. It deals with the experience, and there is a certain amount of discretion that is given to prosecutors. Substantial bodily harm is defined under NRS 0.060. I cannot talk to the victim in this particular case, so I cannot get information from him, or even from a doctor. The doctor cannot say whether there is a protracted loss or use of function. Losing a tooth is something that can be fixed. They are not planning on fixing the tooth. I have dealt with cases as a criminal defense attorney, defending individuals at jury trial, with substantial bodily injury-type of offenses. I do not think that losing a tooth is a substantial bodily injury the way that I have read that statute. I know that the Nevada Supreme Court has issued only a few opinions on that subject. I am also aware of some decisions which have not made it to the Supreme Court in some other jurisdictions involving a broken finger or a broken ulna or radius and a tibia. Those were determined not to be substantial bodily injury. So, it falls short of substantial bodily injury but, currently, under the statute, an abuse that results in substantial bodily injury is a category B felony, with which the punishment range, instead of being 1 to 6 years in prison, increases to 2 to 20 years in prison.

**Chairman Horne:**

I have seen injuries far less serious than a broken tooth or a bone fracture charged as substantial bodily injury. Mr. Daly.

**Assemblyman Daly:**

Thank you, Mr. Chairman. I agree with the Chairman and my colleague from southern Nevada. We are casting too wide a net. It is kind of like child abuse, where one is accused, and they come take the kids away, and then the accused has to prove himself innocent, rather than being proved guilty. This is the same situation. This bill casts the net at somebody who does not change the bed sheets. If somebody thinks they are being abused, it becomes a category B felony.

On page 3 of the bill, it shows that existing law provides for a category B felony if the crime involves substantial bodily injury or mental illness. It exists right there. It has the two- to six-year penalty. If you have a concern over substantial bodily harm, add a definition for neglect and abuse. I did not see in the bill or in the law a reference to that, at least in this context. I think you are casting too wide a net, and you already have the tools in the law. That is the way I see it.

[Assemblyman Frierson assumed the Chair.]

**Acting Chairman Frierson:**

Mr. Jackson.

**Mark Jackson:**

The Legislature has long recognized that truly, in the most general sense, there are three types of vulnerable people in the State of Nevada. There is children, or those under the age of 18; there is the elderly, who are over the age of 60; and there is a special category, which is someone defined by statute who has "one or more physical or mental limitations that restrict the ability of the person to perform normal activities of daily living." Under current status of the law, if the same type of abuse that was afflicted on this 21-year-old was inflicted on a child, it is a category B felony with a punishment of one to six years in prison. I think what this Committee needs to consider at this point is whether there are fact patterns such as the one I presented that occurred in Douglas County, and whether that is the type of offense that should be treated as a misdemeanor.

With all due respect to my colleagues in Clark County, they really should not be prosecuting those types of cases as substantial bodily injury. I do not believe that they fit the definition. So, should this be prosecuted as a misdemeanor or a gross misdemeanor, or should this be treated the same as a crime against a child, where someone really is, for all intents and purposes, a child?

**Acting Chairman Frierson:**

Thank you, Mr. Jackson. I will certainly pass on that sentiment to my colleagues in Las Vegas. I have another question. Would this statute include persons, for example, caregivers, who are alleged by family members or by the individual to have committed some type of abuse? I am referring to, for example, people who fall out of bed, according to the caregiver; or bedsores, where the subjects have not had their bedding changed. Would that type of conduct also fall under this statute and be subjected to the increased penalties?

**Mark Jackson:**

Section 1 of the bill shows the striking language, with respect to the abuse of a vulnerable person, but the neglect portion, which is under section 2, starting on line 14, would allow for those either neglecting, permitting, or allowing a person to be placed in a situation where they suffer that type of abuse. It would also be a category B felony. My answer is yes.

**Acting Chairman Frierson:**

Thank you, Mr. Jackson. Are there any further questions for either Assemblyman Kite or Mr. Jackson? Mr. Kite, do you have anyone else that you intended on testifying in support of your bill?

**Assemblyman Kite:**

No. That is it.

**Acting Chairman Frierson:**

Is there anybody else here in support of A.B. 305?

**Bruce Arkell, representing Nevada Senior Advocates:**

We at Nevada Senior Advocates support this bill. The argument about the second bite of the apple is silly to us. One of the other broader issues, it seems to me, is this bill will level the penalties from birth to death, which makes sense to me. I deal a lot with elder abuse issues. If you are 59 and three-quarters, you do not get any coverage, but if you are under 18, you can get all kinds of help. It is that middle group that we are now beginning to recognize and you are beginning to address. It occurs to me that the penalties need to be the same across the board. They should not "float." We have all seen cases of elder abuse where people "skate" and walk out of town. Nobody collects anything. The abuser is not punished, and they walk away. Part of that is due to the fact that they are not charged with class B felonies. Thank you.

**Acting Chairman Frierson:**

Do I have any questions for Mr. Arkell? I see none. Is there anyone else here in support of A.B. 305? Is there anyone in Las Vegas? Is there anyone here in opposition to A.B. 305?

**Diana Roberts, Administrator, Arbors Memory Care, Sparks:**

The Arbors Memory Care is a 62-bed, licensed Alzheimer's-type of building. I am sorry about the incident Mr. Jackson described, and I understand the concern, but since the assisted living industry falls within the guidelines of "dependent care," which is the same as that for a vulnerable person, we would like to oppose this. I agree with the intent of the bill to account for crimes of abuse and neglect, but I disagree with the one-size-fits-all approach, as this bill purports to achieve. There are logical reasons for a graduated process for defining fines and penalties.

[Ms. Roberts read from a prepared statement ([Exhibit D](#)).]

While I applaud the intent and the purpose behind this bill, it employs a heavy-handed, one-size-fits-all approach, which goes against the established precedent. I support the concept behind the bill, but not in its current form. Thank you.

[Assemblyman Horne reassumed the Chair.]

**Chairman Horne:**

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

**Karen Perry, Administrator, The Lodge, Carson City:**

Good morning. I am the administrator for a 92-bed licensed community here in Carson City called The Lodge. I am also a strong advocate for the elderly and vulnerable persons. I have worked in the assisted living industry for 30 years. I have seen the "good, bad, and the ugly." We have rescued many seniors and vulnerable persons who previously had been abused and who have turned to assisted living for a protective environment.

I want to share with you the opposite extreme of the horrifying case of the 21-year-old we heard earlier. This is where I see the law could impact the other side of the coin, and I would like to read to you the story I encountered as a licensed administrator for one of our elderly folks.

[Ms. Perry read from a prepared statement ([Exhibit E](#)).]

Thank you for your time.

**Chairman Horne:**

Thank you very much. I appreciate your testimony. Are there any questions? I see none. Is there anyone else in opposition to A.B. 305? Is there anyone in Las Vegas? I see none. Is anyone in the neutral position? In Las Vegas? Seeing none, I will close the hearing on A.B. 305, and bring it back to Committee.

We will go back to Assemblywoman Kirkpatrick's bill. I will reopen the hearing on Assembly Bill 264.

**Assemblywoman Marilyn Kirkpatrick, Clark County Assembly District No. 1:**

I am here today regarding A.B. 264. Constable Bonaventura is my constituent. I worked with Mr. Kilgore last session. I have been working with both of them to bring forth a Constables cleanup bill. I am aware that there is an amendment ([Exhibit F](#)) on section 2, subsection 2(e), which I am okay with. If it is okay with you, Mr. Chairman, I would like to get back to my Committee and let Mr. Kilgore proceed with the presentation of this bill.

**Chairman Horne:**

That will be fine. Thank you, Mrs. Kirkpatrick.

**Assemblywoman Kirkpatrick:**

Thank you, Mr. Chairman.

**Steve Kilgore, Deputy Director, Constable's Office, Henderson Township:**

Thank you, Committee members, for allowing me to testify here again. I will be brief on this. Assembly Bill 264 is a cleanup bill. We are changing some language. There are some antiquated portions of the bill that make references to incumbents from 1979. We went through this bill to try to tune it up and get it ready to do what it is we are hoping it will be able to do.

I will give you an overview of what we are trying to accomplish with this bill. The constables are a unique law enforcement agency. They have the ability to do a lot of different things. They are fully authorized law enforcement officers under *Nevada Revised Statutes* Chapter 289. There are services that we can offer to help with some of the budget crunch that we see going on everywhere.

In my prior law enforcement experience, we used to have to assign certain tasks and responsibilities to young and vigorous police officers and ask them to go out and do things like tag abandoned vehicles and write citations for unregistered vehicles. For some reason, they were never very popular. The aggressive police officers would rather be doing "real" law enforcement and crime fighting, as opposed to certain things that looked less glamorous. We constables, having the same authority as police officers, stand in a place where we can pick up those kinds of activities. We can do those kinds of things that are not glamorous and exciting. The only problem is that we cannot do those things unless we fund our operation. We have to pay the deputies and staff to make those things happen.

Part of this bill changes around some wording and gives us the ability to take on some extra duties, through which we would need the approval of the Clark County Commission. If they see something that we can do, and they give us the green light, then we can set that up and begin doing it, saving money for all parties involved. An example would be standby fees. A week does not go by when we do not get someone requesting us to have deputies stand by for a protracted period of time. Those duties could involve doing an inventory or some kind of legal process. It is almost impossible to get a police officer to actually stand by and keep the peace for that long a period of time. If the Constable's Office stands by for a protracted period of time, we cannot pay the deputy, because we are not charging for those kinds of things. This bill sets a mechanism in place where we can approach the County Commission, establish a reasonable fee schedule, enter into those kinds of agreements, and get them codified. We can then do our job and let the cops do their job.

That hits some of the high points. If you have any questions, we stand before you to answer. What we are seeking today is an "amend and do pass" vote, if we can reach that far.

**Chairman Horne:**  
Mr. Frierson.

**Assemblyman Frierson:**

Thank you, Mr. Chairman. Page 4 of the bill concerns me somewhat. I am looking at section 2, subsection 2(b). My reading of existing law is that the constable is entitled to receive 2 percent of the first \$3,500 collected. After \$3,500, it goes from 2 percent to 0.5 percent. This bill would propose to get rid of that cap and raise the amount a constable is able to receive on, essentially, small claims levels. It appears to me, for example, if somebody in small claims court had a \$7,500 claim, this would essentially nearly double what that person would pay out of that \$7,500 to the constable. Am I reading it correctly?

**Steve Kilgore:**

In the early 1990s, the justice court cap and the constables' cap were one in the same. The jurisdictional cap was raised over the year, and I think collectively, as constables, we were asleep at the switch. We never stayed in the same jurisdictional cap as justice court. We are hoping to change that to where we just stay with the justice court cap. As it stands now, if it costs \$5,000 for someone to represent themselves, or \$10,000 if it is an attorney, we are calling that cap the 2 percent. In a real sense, 2 percent of \$10,000 would be \$200, as opposed to how it stands now, which is about \$103.

To answer your question, yes, that is what we are trying to accomplish. It has not been raised since the early 1990s. Part of the rationale behind that is we have to staff all of these things. When we are talking greater numbers, it is one thing to show up and do something for \$1,200 or \$1,400. If you show up and try to enforce a garnishment or a levy for \$8,000 or \$10,000, that is something we do not send one deputy out on. We are going to send a couple of guys out there. By the time we are done processing this, paying the staff, and getting everybody to do their job, we are in it pretty deep as constables.

**Assemblyman Frierson:**

You mentioned that the justice court level went up, and the constables' limit did not. I do not read the bill or existing law as paralleling justice court. That same section provides for any amounts over \$3,500, so it seems to me that they contemplated greater amounts. My concern is we are talking about small claims court and the people who typically cannot afford attorneys. Doubling the amount of money is my concern, when we are dealing with folks among the class of people who are least able to pay, in light of the fact that it already provides for an avenue to raise or collect money, regardless of the justice court limitation amount.



**Steve Kilgore:**

That is correct. Ten thousand dollars would be a true double. Five thousand dollars would be the cap for most persons doing small claims on their own. That would represent an increase of \$78 to \$100. If we show up, and we get all of that money in one lump sum through a bank levy or an attachment or the like, that is a happy day for us, but it is rare. Oftentimes, what happens is it will be in a garnishment format. We will show up and perhaps get \$2,500 or \$3,000 in a garnishment setting, and then the other \$7,000, if we were talking about a \$10,000 garnishment, trickles in monthly. Each time a check comes in, our personnel have to put it into the computer, cut a new check and send it out, and do correspondence. Also, there is staffing and all the additional ancillary fees connected to that. At the present rate, each time we process one of those transactions, it costs about 50 cents. That is our "cut." We will have \$100 come in, and 0.5 percent of that is 50 cents. That is a lot of activity, staffing and clerical things to do for two quarters. We are talking about raising that to where, if it were \$100 that came in, it would be a \$2 processing fee.

**Assemblyman Frierson:**

You made a very good point about how sometimes you have to send more than one officer out. I do not envy the position that constables often find themselves in, but it does not seem to me that the number of officers is automatically a correlation to the amount. I would imagine there are sometimes small amounts where, based on the circumstances, you may send more than one officer out because of some contentious issue. I am still struggling with the amount being the sole reason why you might have to charge more for the exact same function or send more than one officer.

**Chairman Horne:**

Mr. Daly.

**Assemblyman Daly:**

Thank you, Mr. Chairman. In section 2, subsection 2(e), I know that is the subject of an amendment you have in there. My concern is that the current language includes that you could charge a fee for the amount set forth in such an agreement, which I think is open to interpretation. You could charge an amount higher than what is allowed in statute. I think the current language in the amendment leaves the same door open, because now it is going to be set by the county commissioners, who may charge higher fees to go to certain areas. It should be consistent with the fees that are allowed in statute currently for the actual service. If there are additional costs involved, it should be the actual cost to administer that, instead of an open-ended situation where one could sit on the county commission and make money off gouging

other jurisdictions. That is my concern with the language as proposed and as amended.

**Chairman Horne:**

Thank you, Mr. Daly. Mr. Bonaventura, do you have testimony?

**John Bonaventura, Constable, Las Vegas Township:**

To address Mr. Daly's question, that language would not allow any other fees to be raised that are already set in the statutes. Basically, the language in the amendment allows us to charge for services that are already authorized by State statute. There are a few different laws in the statutes that currently address constables and allow them to render services and assistance to different agencies. For example, NRS 446.940 allows the constables to render services. Such service would be for things like issuing citations for violations of smoking laws or swimming pool laws. There is not a lot of staff in the health department to do such services. The language in section 2, subsection 2(e) would not allow us to raise any fees specifically set in NRS Chapter 258.

This fee has been in there for a long time. Over the years, the pay has gone up for our employees. County salaries have gone up. More costs have been incurred. We do not use our own private vehicles like they did in the past. The cost of us to provide these services has maybe doubled from the 1990s. Thank you.

**Chairman Horne:**

Thank you.

**Gary Rogers, Constable, Goodsprings Township:**

Mr. Chairman, thank you for letting me speak. I work in the outlying area, and I represent the eight outlying constables in the Clark County area. I am sure ours would be very similar to the constables in northern Nevada, because we are a very rural community.

The question that Assemblyman Daly had, in our area, we can save the county quite a bit of money because urban offices of constables do not have people in our area. We are 50 to 60 miles from the Las Vegas community, so for them to send somebody to do various things such as code enforcement is quite expensive when we are already out there. I am also here to answer any questions regarding outlying areas, because we are somewhat different from the urban area. We are in full agreement with this bill.

**Chairman Horne:**

Thank you, Mr. Rogers. Are there any questions? I see none. Thank you, gentlemen. Does anyone else in Carson City wish to testify in favor of A.B. 264?

**Michael McDonald, Constable, Laughlin Township, and representing Alpha Omega Strategies, Las Vegas:**

The Honorable Jordan Ross of Laughlin Township is in full support of the testimony presented to you today.

**Chairman Horne:**

Thank you, Mr. McDonald. Is there anyone else? Is there anyone in Las Vegas? We will move to the opposition. Is there anyone here opposed to A.B. 264? Is there anyone in Las Vegas? I see none. Does anyone want to testify neutral in Carson City? How about in Las Vegas? I will close the hearing on A.B. 264. I think there are some things on which we need clarification. There are some concerns of Committee members that will have to be alleviated. We will bring this back to Committee on a work session document.

Is there anything else to be brought before the Committee? Is there any public comment? Seeing none, we are adjourned [at 11:08 a.m.].

[An amendment, ([Exhibit F](#)) was presented to the Committee by Mr. Bonaventura, but it was not discussed in Committee.]

RESPECTFULLY SUBMITTED:

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Jeffrey Eck  
Committee Secretary

APPROVED BY:

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Assemblyman William C. Horne, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** March 28, 2011

**Time of Meeting:** 9:07 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 178	C	Assemblyman Segerblom	Conceptual Amendment
A.B. 305	D	Diana Roberts	Prepared Statement
A.B. 305	E	Karen Perry	Prepared Statement
A.B. 264	F	John Bonaventura	Amendment