

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

**Seventy-Sixth Session
April 20, 2011**

The Committee on Judiciary was called to order by Chair William C. Horne at 8:07 a.m. on Wednesday, April 20, 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/. 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 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 Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

Assemblyman William C. Horne, Chairman (excused)
Assemblyman Kelly Kite (excused)

GUEST LEGISLATORS PRESENT:

Senator Mike McGinness, Central Nevada Senatorial District
Senator David R. Parks, Clark County Senatorial District No. 7
Senator Don Gustavson, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

David Huff, Judge, Third Judicial District
Arthur Mallory, District Attorney, Churchill County District
Attorney's Office
Bjorn Selinder, representing the Board of Churchill County Commissioners
Alan Glover, Carson City Recorder
Jay Logue, Chief, Capitol Police Division, Department of Public Safety
James J. Jackson, representing Consumer Data Industry Association
Ronald P. Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada, Inc.

[Chairman Horne was absent. Vice Chairman Ohrenschall assumed the Chair.]

Vice Chairman Ohrenschall:

[Roll was called.] Today we have four bills before us. I will open the hearing on Senate Bill 94 (1st Reprint). We are honored to have Senator McGinness here to present S.B. 94 (R1).

Senate Bill 94 (1st Reprint): Provides for the realignment of certain judicial districts. (BDR 1-758)

Senator Mike McGinness, Central Nevada Senatorial District:

This bill increases from nine to ten the number of judicial districts in the state. It carves out Churchill County from the Third Judicial District, making Churchill County the Tenth Judicial District. The bill also decreases from three to two the number of judges in the Third Judicial District, providing the Tenth Judicial District with one judge. There is no requirement for additional judges; we are carving one judicial seat out and moving a judge over. We

realized we did not make the notation as to where the district judges would go when they start their service, so we submitted an amendment to the Senate.

Vice Chairman Ohrenschall:

Thank you. Are there any questions? [There were none.]

David Huff, Judge, Third Judicial District:

The purpose of this bill is to take the three judges off the road who are currently travelling between the two counties, giving them more time in court. I have provided you with some statistical information ([Exhibit C](#)). I would like to highlight some points. Essentially, the Third Judicial District is the third largest in the state, after the Second and the Eighth, which are Washoe County and Clark County. The three judges are assigned cases in two counties, Lyon and Churchill. The county seats are Yerington and Fallon, which are 60 miles apart. I have estimated, conservatively, that each of us travels one day per week between the two counties. The travel alone takes two hours. If you total that up, it is 312 hours total for the three judges and 18,000 miles.

This bill would leave a judge permanently in Churchill County, which is me. I would not be travelling, nor would the two judges who are currently in Lyon County. There is no cost to the state. There are no new positions added. There is a savings to the state, which I estimated at \$12,000.

The courthouse in Yerington is very old. It has chambers for only two judges. The courthouse in Churchill County is newer. We have a chambers for one judge and a much smaller chambers for another judge. Lyon County is in the process of constructing a new courthouse. This would eliminate the need for additional chambers.

The chart in your handout shows comparable districts to the Third Judicial District. Note that the population of Lyon County is more than two of the districts that are a single county. Lyon County should have two judges, similar to Elko and Douglas Counties. The only district that is similar to the Third Judicial District is the First Judicial District, Carson City. The First Judicial District includes both Carson City and Virginia City, although the majority of the population is in Carson City.

Vice Chairman Ohrenschall:

Thank you. Are there any questions? [There were none.]

Arthur Mallory, District Attorney, Churchill County District Attorney's Office:

In addition to the savings of travel money and courtroom space, this bill also makes access to justice more readily available to all of our populations. We

have discussed this at public County Commission budget hearings. We would end up with a judge five days a week in Churchill County, which we do not have now. There would be two judges, five days a week, in Lyon County, which it does not have now. We would not have to worry about scheduling judges here and there. This would greatly simplify all of our proceedings, both criminal and civil.

This bill would also allow us to provide better service to the citizens by having judges available more hours of the day, and business being done more promptly. I would urge this Committee to act in favor of this legislation.

Vice Chairman Ohrenschall:

Judge Huff mentioned that Churchill County had newer facilities. Is it any safer?

Arthur Mallory:

We have a metal detector and a sheriff's deputy on duty any time court is in session. We are taking further steps to increase our security, making our courthouse as safe as it can be.

Vice Chairman Ohrenschall:

Are there any questions? [There were none.]

Bjorn Selinder, representing the Board of Churchill County Commissioners:

This proposal has been vetted before the public in Churchill County, having been reviewed as a budgetary matter by the Board of Churchill County Commissioners. The Commissioners are in full support of this proposed legislation. We urge your favorable consideration of this bill.

[Written letter provided but not mentioned by Brad T. Goetsch, County Manager, Churchill County ([Exhibit D](#)).]

Vice Chairman Ohrenschall:

Are there any questions? [There were none.] Is there anyone else who wishes to speak in favor of S.B. 94 (R1)? Is there anyone neutral? Anyone opposed? [There were no responses.] The Committee cannot vote without the Chairman, so I will close the hearing on S.B. 94 (R1). I will now open the hearing on Senate Bill 186 (1st Reprint).

**Senate Bill 186 (1st Reprint): Revises provisions relating to records.
(BDR 2-185)**

Senator Mike McGinness, Central Nevada Senatorial District:

This is a bill that was brought to me by the county recorders. Mr. Glover is here to review the bill.

Alan Glover, Carson City Recorder:

We would like to thank Senator McGinness for having this bill drafted. Basically, this bill is designed to help consumers. This bill will help to ensure the information for the right person and the right piece of property is on all necessary documents to record a lien. It will now be necessary to put the last four digits of the driver's license number on the affidavit. We amended the bill in the Senate because originally we had the full driver's license number. If we do that it must be redacted completely, making it useless. Using the last four digits will help tie the person to his documents. The assessor parcel number must also be on the paperwork.

Page 5 of the bill deals with estate administrators. We had a woman with a small estate here in Carson City. The only asset in the estate was a piece of property in Lyon County. Her daughter was named as the administrator of the estate. The piece of property had been foreclosed on, but we did not know it. This bill requires the administrator or executor of an estate or the guardian of a person and the person's estate, to record letters of administration or letters of guardianship with the county recorder. That puts the banks on notice of whom they are to notify. In our case, the lienholder did the right thing and sent the notices to the only person he knew, and she had been dead for a number of years. We never got any of that information. The lienholder foreclosed on the property. Thus, there were no assets in the estate. In dealing with manufactured homes, the serial number must also be on the affidavit. This should help to identify people when you are liening property and ensure you get the right person and the right piece of property.

Vice Chairman Ohrenschall:

Are there any privacy concerns with this bill?

Alan Glover:

No. Under present law, the state uses driver's license numbers when it liens property. With the last four digits, the person's privacy is protected, yet allows a title company to do a search. The title industry is in support of this bill also.

Assemblyman Frierson:

Are the last four digits of a driver's license number readily accessible?

Alan Glover:

That is what we have used in all other areas since we got into the redaction of social security numbers. The issue is if you have two John Smiths, and you file a lien, you need a way to determine which John Smith is the one you are looking for.

Vice Chairman Ohrenschall:

Any other questions? [There were none.] Is there anyone else here wishing to testify in favor of this bill? Anyone neutral? Anyone opposed? [There were no responses.] I will close the hearing on S.B. 186 (R1). I will open the hearing on Senate Bill 45.

Senate Bill 45: Revises provisions conferring the powers of a peace officer upon certain personnel of the Department of Public Safety. (BDR 23-463)

Jay Logue, Chief, Capitol Police Division, Department of Public Safety:

When other state divisions were not under the Department of Public Safety (DPS), the sworn officers of those divisions were categorized at different Peace Officers' Standards and Training (POST) category levels. These divisions included sworn officers individually defined as peace officers under various sections of Chapter 289 of *Nevada Revised Statutes* (NRS). Through the legislative process, the DPS has absorbed and incorporated these law enforcement divisions.

The current law lists these specific divisions as category II peace officers, when in fact they are category I peace officers. Senate Bill 45 would update the current law under Chapter 289 of NRS to reflect the true status of all the sworn officers under the DPS as having powers of category I peace officer status. This bill will also eliminate duplicate and outdated references that resulted from earlier legislative changes and remove individual entity designations from the DPS in order to more accurately reflect the intended integrity composition of the DPS.

Vice Chairman Ohrenschall:

Would you explain the difference between category I and category II peace officers?

Jay Logue:

There are three different categories listed under POST, category I being the highest. The different levels indicate the amount of training received. Under statute, category I officers receive a minimum of 480 hours of training, category II officers receive a minimum of 200 hours of training, and category III officers receive a minimum of 180 hours of training.

Vice Chairman Ohrenschall:

So the difference is training. It has nothing to do with types of jobs you can have or types of weapons you can use?

Jay Logue:

Nevada Revised Statutes 289.470 specifies which divisions are required to have what levels of training for their specific positions. Under that law, there are 24 different listings of the various divisional peace officers within the state that we are currently trying to move under the DPS. In 2003, state personnel and the Legislature approved the DPS concept model providing that all the divisions that are currently under the DPS would move up and be required to have category I peace officer status. In essence, all the officers are trained to those standards, and they receive the minimum 24 hours of annual refresher training.

Vice Chairman Ohrenschall:

If this bill passes, will it change the way the Capitol Police does business, or is it to clarify they are category I?

Jay Logue:

It is clarifying what our responsibilities are since we were moved under the DPS. This authorization does not expand our jurisdiction. Our jurisdiction is defined as the responsibility for the safety and security of buildings and grounds under direction of the Chief of Buildings and Grounds. So it would not expand our jurisdiction.

Assemblyman Frierson:

Historically, why was the Capitol Police a category II instead of category I?

Jay Logue:

It is a growing process. Capitol police positions started out as janitorial, then went to security and then evolved to the status of full law enforcement, with duties on the capitol grounds and at the Grant Sawyer Building in Las Vegas. For us to properly do our job, we need to have that status.

Assemblyman Frierson:

What are you allowed to clearly do if this bill passes that you could not do before?

Jay Logue:

This is a level of training. We currently have full police powers.

Vice Chairman Ohrenschall:

Any other questions? [There were none.]

Senator David R. Parks, Clark County Senatorial District No. 7:

Senate Bill 45 is a bill that I inherited as Chair of the Senate Committee on Legislative Operations and Elections. It is a bill that our Committee had hearings on and processed. Last session I had a bill that was a cleanup bill that dealt with the whole issue of POST-certified officers throughout the state. We moved them all into the "1300 series," which was a new series for those who have peace officer status. One of the things we found was that we needed to include the Capitol Police and make them consistent with the other peace officers throughout the State. When I talk about peace officers, I am also including those people who work as game wardens and have peace officer status. Game wardens do a wide variety of activities from investigations to protecting our wildlife. Our Committee heard the bill, and we are strongly in support of making these changes so that the entire system is uniform.

Vice Chairman Ohrenschall:

Are there any questions? [There were none.] Anyone else wishing to speak in favor of this bill? Anyone neutral? Anyone opposed? [There were no responses.] I will close the hearing on S.B. 45. I will open the hearing on Senate Bill 282.

Senate Bill 282: Prohibits the intentional public posting or displaying of the social security number of another person. (BDR 15-792)

James J. Jackson, representing Consumer Data Industry Association:

Senator Gustavson and I worked on this bill. Senate Bill 282 passed unanimously out of the Senate. The Consumer Data Industry Association deals with credit scoring, reporting, credit issuance, and other business transactions. Because of some concerns with the bill, Senator Gustavson and I worked over the last week to write an amendment that has been presented ([Exhibit E](#)). There are a number of provisions we would like to add to the bill so that businesses are protected when dealing with personal identifying information, particularly social security numbers (SSNs). We did not want to adversely affect banking credit and other transactions. We have maintained that someone who willfully and intentionally publicly posts SSNs would be subject to misdemeanor punishment. The idea is to prevent individuals who are doing this in a wanton and willful way with the intent to harm someone, or affect the ability of business to flow. That is included with the amendment.

Vice Chairman Ohrenschall:

Does this amendment replace the text of the original bill completely?

James Jackson:

We kept the original language in the bill. This amendment is in addition to that.

Senator Don Gustavson, Washoe County Senatorial District No. 2:

Thank you for considering S.B. 282 today. As you know, identity theft is one of the fastest growing crimes in the country. People who commit identity theft often do so using a person's SSN, which is why protection of our SSNs is so important.

[Read from prepared testimony ([Exhibit F](#)).]

Vice Chairman Ohrenschall:

Would this apply only if the full SSN is listed? If there is a document that gets posted on the Internet, and it has the last four digits, would this bill be applicable?

Senator Gustavson:

This bill applies only to the full SSN.

Vice Chairman Ohrenschall:

This must be done intentionally?

Senator Gustavson:

Correct.

Assemblyman Sherwood:

What is the penalty for identity theft?

Senator Gustavson:

I am not sure what the penalty is when using the SSN for a crime. This bill is a misdemeanor.

Assemblyman Sherwood:

So it is a misdemeanor unless there is something in statute that is higher than a misdemeanor?

Senator Gustavson:

Currently, there is nothing in statute for intentionally displaying SSNs, but intentionally using an SSN is a different crime.

James Jackson:

I believe that depends on the level of the theft that occurs. My SSN was stolen by a housecleaner. Within seven days, she had racked up \$35,000 in credit charges in my name. By accessing my personal identifying information, she was able to go to a credit card issuer and change the billing address. That was a felony because it was in excess of the felony level.

Vice Chairman Ohrenschall:

Our legal counsel just told me that generally identity theft is a category B felony, and sometimes can rise to a category A felony.

Assemblyman Sherwood:

So the penalty here is mild compared to if you take the next step.

Senator Gustavson:

Right. This is not a crime at this point. The severity of the misuse of this information is what determines the penalties.

Vice Chairman Ohrenschall:

Any other questions? [There were none.]

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

We are in support of S.B. 282 for a number of reasons. As soon as you are born, you get a SSN. The SSNs are public record and have been public record. I have a database as a private investigator, and I can tell you that there are no secrets anymore. In my business, we now truncate SSNs, using just the last four digits. In January, 2011, my identity was stolen; someone charged \$1,800 in a matter of seconds. If you Google your name, you can find your SSN on the Internet. It is that easy. This bill will protect SSNs from this point on. Unfortunately, what is out there now will still be there.

Vice Chairman Ohrenschall:

Are there many successful prosecutions for identity theft?

Ronald Dreher:

It is a very difficult process. I know police departments and courts are inundated with these issues. Because of the type and volume of the crime, it is difficult to prove.

Vice Chairman Ohrenschall:

Any questions? [There were none.] Anyone else in favor of this bill? Anyone neutral? Anyone opposed? [There were no responses.] I will close the hearing on S.B. 282. All these bills will be considered at a later date. This meeting is adjourned [at 8:45 a.m.].

RESPECTFULLY SUBMITTED:

Nancy Davis
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 20, 2011

Time of Meeting: 8:07 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 94 (R1)	C	David Huff	Purpose of Senate Bill 94
S.B. 94 (R1)	D	Brad Goetsch	Written Letter Dated February 17, 2011
S.B. 282	E	James Jackson	Proposed Amendment
S.B. 282	F	Senator Gustavson	Written Testimony