

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session
February 15, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:03 a.m. on Tuesday, February 15, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Valerie Wiener, Chair
Senator Allison Copening, Vice Chair
Senator Shirley A. Breeden
Senator Ruben J. Kihuen
Senator Mike McGinness
Senator Don Gustavson
Senator Michael Roberson

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Policy Analyst
Bradley A. Wilkinson, Counsel
Judith Anker-Nissen, Committee Secretary

OTHERS PRESENT:

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General
Heather D. Procter, Deputy Attorney General, Office of the Attorney General
Jonathan Friedrich
Connie McMullen, Chair, Senior Services Strategic Plan Accountability Committee
Norman McCullough
Lora E. Myles, Carson and Rural Elder Law Program
Stanley S. Brokl, National Certified Guardian, Adult Guardian and Management Services LLC
Caleb S. Cage, Executive Director, Office of Veterans' Services

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Sally Ramm, Elder Rights Attorney, Aging and Disability Services Division,
Department of Health and Human Services
Ernie Nielsen, Washoe County Senior Law Project
Ginny Casazza
Reba June Burton, Nevada Silver Haired Legislative Forum
Bill Uffelman, President and CEO, Nevada Bankers Association
Graham Galloway, Nevada Justice Association
Mary Shope, Coordinator, Nevada Silver Haired Legislative Forum

CHAIR WIENER:

I will open the hearing on Senate Bill (S.B.) 55.

[SENATE BILL 55](#): Revises provisions governing crimes against older persons.
(BDR 18-204)

BRETT KANDT (Special Deputy Attorney General, Office of the Attorney General):
Senate Bill 55 expands the authority of the Office of the Attorney General to seek civil penalties against criminals who prey on elderly victims. Heather Procter will present the specifics of the legislation.

HEATHER D. PROCTER (Deputy Attorney General, Office of the Attorney General):
I will read from my testimony ([Exhibit C](#)). Senate Bill 55 addresses this issue by expanding the authority of the Attorney General's Office to seek civil penalties under *Nevada Revised Statutes* (NRS) 228.280 from any offender who receives an enhanced sentence under NRS 193.167. This expansion will promote justice by imposing a civil penalty for a broad scope of criminal conduct targeting elderly victims, increase the funds available for the compensation of victims of these crimes, and increase the limited resources available to the Attorney General's Office for the investigation and prosecution of these crimes.

CHAIR WIENER:

Please explain the strikeout from "found guilty" in section 1, subsection 1, line 3 to "convicted" for the purposes of this civil penalty.

MR. KANDT:

I will defer to Legislative Counsel Bureau (LCB) counsel, because it is a drafting issue.

BRADLEY A. WILKINSON (Counsel):

There is no substantive difference between those terms. "Is convicted" is the term preferred because it may relate to whether there is a jury or court finding of guilt versus entry of plea.

JONATHAN FRIEDRICH:

I will read from my written testimony ([Exhibit D](#)).

I am in favor and support S.B. 55, but would like to see language in the statute to cover additional abuses. The statute includes the word "exploitation," but I could not find it defined in *Nevada Revised Statute* (NRS) 228.

Southern Nevada has a large number of homeowners over the age of 60. There are several large homeowners' associations (HOAs) between Sun City Anthem and Sun City Summerlin. Those two communities have 25,000 people over the age of 55, with some in their 80s and 90s.

In last Saturday's *Las Vegas Review-Journal*, Donna Erwin, a spokesperson for the Community Associations Institute (CAI), stated 30 percent of the people living in these associations are not satisfied. Many of the bills before the Legislature deal with a goal of transparency, and I applaud that.

As a nonpaid, registered lobbyist in the State and a homeowners' advocate, I am here to cite examples of exploitation. Norm McCullough, sitting to my right, was falsely accused of assaulting a CAI manager. It was a retaliatory action, and a police report was not filed. He was hauled into a kangaroo court—a hearing by the HOA. Mr. McCullough was fined, required to pay attorney John Leach to sit and hear the case, and, although he was paying his monthly fees, he was banned from the use of the HOA facilities.

An association refused to rebuild a fire-damaged unit owned by Iris Hokanson at the Paradise Spa after the HOA received an insurance payment of \$1 million. Ms. Hokanson was forced to pay for a rental unit and her HOA monthly fees.

A 78-year-old lady by the name of Lillian Bossart, who lived in Southern Highlands, was working out of town and fined for having dead grass on her property. Ms. Bossart was fined in excess of \$6,000 by her master association and subassociation.

Sun City Anthem, which has 7,144 residents, violated the Internal Revenue Service (IRS) Internal Revenue Code and was fined \$1,345,000. Who is going to pay that fine if the IRS findings are upheld? The homeowners pay; these are elderly people, and this is a form of exploitation.

Nevada Revised Statute 116.31036, subsection 3 gives members of a board immunity at the expense of the people they hurt. It is a get-out-of-jail card. Senate Bill 55 needs to be expanded to cover the situations I have outlined today. This Legislature needs to send a loud and clear message to board members—you cannot harm older people and walk away without consequences.

CHAIR WIENER:

Mr. Wilkinson, do we have a definition in statute for exploitation?

MR. WILKINSON:

Yes. Exploitation is defined in NRS 200.5092, subsection 2. The definition applies to the crimes referenced in S.B. 55.

SENATOR COPENING:

Mr. Friedrich, S.B. 55 refers to abuse against senior citizens. Do you believe the above exploitations happened because the individuals were senior citizens?

MR. FRIEDRICH:

I will answer that two ways. A demonstration last Monday in front of the Grant Sawyer Building in Las Vegas had coverage and 125 people in attendance. We have termed these situations as “bully boards,” and they are not directed exclusively at elder people. These people are not in a financial position to help fight these exploitations.

People are thoroughly disgusted with the State Ombudsman’s Office. It is a bureaucracy which does not follow the mandate first created by the Legislature, and people are coming to me ...

SENATOR COPENING:

Mr. Friedrich, one of your examples was Sun City Anthem. You stated the board was abusive to members, but the board consists of senior citizens. I was confused, but you answered my question.

CONNIE McMULLEN (Chair, Senior Services Strategic Plan Accountability Committee):

I support S.B. 55. The penalties must be enhanced. A caregiver, who was a guardian, was convicted in Washoe County of crimes against the elderly but received probation. Elder abuse is a terrible thing. I am in favor of the expansion of the Office of the Attorney General's Account for the Investigation and Prosecution of Crimes Against Older Persons Unit to collect for these crimes.

NORMAN MCCULLOUGH:

I live in a 55 years and older community, Sun City Anthem in Henderson. I am one of many victims of abuse by my board of directors. Some of the laws enacted with the good intentions of Legislators are tilted unfairly against homeowners. I will read from my testimony ([Exhibit E](#)).

CHAIR WIENER:

I will close S.B. 55.

SENATOR ROBERSON MOVED TO DO PASS S.B. 55.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR WIENER:

I will open the hearing on S.B. 127.

SENATE BILL 127: Revises provisions concerning guardianships for certain veterans and their dependents. (BDR 13-160)

SENATOR SHIRLEY A. BREEDEN (Clark County Senatorial District No. 5):

During the interim, I had the honor of serving as Vice Chair for the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs. The Committee met four times during the interim. We discussed a variety of topics, met with State and local agencies, business and community groups, nonprofit organizations, professional organizations, and the public.

Senate Bill 127 is one of ten measures proposed and recommended to move forward by the interim Committee. This measure was requested by the Committee after it received testimony from many veterans and seniors and the Office of Veterans' Services.

We are here today to give you a comprehensive detail of the recommendation. One of the individuals joining me today is Lora Myles. Ms. Myles has served as the attorney for the Carson and Rural Elder Law Program for the past 15 years. Ms. Myles is an expert on the issue of guardianship and works with public guardians throughout rural Nevada.

Assembly Bill (A.B.) No. 9 of the 75th Session authorized what became known as the A.B. 9 Committee to review, study and comment on issues relating to senior citizens, veterans and adults with special needs, including but not limited to some of the following: abuse, neglect, isolation and exploitation, public outreach and advocacy, programs for the provision of services, and methods to enhance programs to ensure that services are provided in the most appropriate setting.

We also discussed laws relating to the appointment of a guardian, including the improvement of investigations relating to guardianships and systems for monitoring guardianships and the improvement of facilities for long-term care in Nevada.

The Committee goals were to emphasize overarching goals to end the abuse, exploitation, isolation and neglect of our senior citizens, veterans and adults with special needs. I have experienced this with elderly family members who were not in my direct care. I am passionate about this issue.

Ex-Assemblywoman Kathy McLain, Chair of the Interim Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs, became ill and is unable to attend today. I will read her testimony into the record ([Exhibit F](#)).

LORA E. MYLES (Carson and Rural Elder Law Program):

We worked extensively with the A.B. 9 Committee and other members of the guardianship community on S.B. 127 and S.B. 128 with specific attention to S.B. 127, trying to merge and avoid the conflicts between NRS 159 and NRS 160. Our "Proposed Amendments to SB 127" ([Exhibit G](#)) add section 3 to NRS 159 and amend NRS 160.120 and NRS 160.040. A guardian of a veteran

can have a maximum of five wards. We are changing that number to be in line with the federal statutes of 20 wards. A guardian of a veteran can then have 20 other veteran wards.

SENATE BILL 128: Revises provisions governing guardianships. (BDR 13-156)

With me today is Stan Brokl. Mr. Brokl has guardianships for most of the veterans in the Carson City area and many veterans in the Reno area.

STANLEY S. BROKL (National Certified Guardian, Adult Guardian and Management Services LLC):

I concur with the proposed changes to chapter 160 of the NRS but would like to point out they do not cover all the abuses I have observed to wards' estates.

In several guardianships, the court appoints a guardian ad litem or an attorney for the ward along with other court-directed entities which charge against the ward's estate. These charges far exceed the proposed 4 percent limit the guardian is allowed for the year. Unless limits are placed on what the ward's estate can be charged from these outside entities, the 4 percent limit on the guardian is meaningless. The extraordinary expenses elimination is a good concept, but should also cover the judge-appointed entities mentioned above.

As an example of what these outside entities can do to a ward's estate, there is a veteran in a full-care nursing facility at the Veterans Administration Sierra Nevada Health Care System (VASNHCS) in Reno. The previous guardian hired a paid companion at \$19 per hour for three hours a day, five days a week. The judge then appointed a personal attorney for the ward at a cost of \$300 per hour. The schizophrenic ward was incompetent for more than 20 years; until the diagnosis, made by a student psychologist at the VASNHCS, he had limited ability to direct how his funds were spent. The guardian had full authority to act in the best interests of the ward. Because of this diagnosis, the attorney for the ward has all guardian powers.

How do you control local judges, attorneys and other entities when the guardian is ignored? You need to put limits on how much external entities can charge a veteran or a ward under any guardianship.

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CHAIR WIENER:

Senator Breeden, was there testimony about other outside entities, and was it debated or deliberated by the Committee?

SENATOR BREEDEN:

Yes, but I will ask Ms. Myles to expand on the subject.

MS. MYLES:

In S.B. 128, we have provisions limiting expenses and costs charged by attorneys and guardian ad litem.

CHAIR WIENER:

You split that into the other bill?

MS. MYLES:

Yes.

CHAIR WIENER:

Does that also incorporate outside entities referenced in this testimony?

MS. MYLES:

The outside entities Mr. Brokl is referring to are the attorneys and guardians ad litem.

CHAIR WIENER:

There are no others we do not know about?

MS. MYLES:

No.

CALEB S. CAGE (Executive Director, Office of Veterans' Services):

In 2006, my office had 44 wards or guardianship cases. In 2007, the findings of an executive audit determined we neither had the resources nor the ability to properly serve the 700-plus veterans in Nevada who needed our services.

We have since eliminated our program and are in the process of dissolving ownership of the final guardianship account. In my six months on the job, this has been an ongoing effort. We are on the final court orders to disburse the belongings of the ward to family members. The problems that exist within the

guardianship law and addressed by S.B. 127 have been discussed, and we concur.

With respect to this law and the necessity to fix S.B. 127, approximately 700,000 veterans in the United States have fiduciary guardianship provided by the Veterans Administration (VA). This issue is going to continue to grow, especially as we address our greater number of veterans per capita in the State. As an illustrative point, from 2005 to 2009, the number of Army soldiers forced to leave service with medical discharges because of mental disorders or posttraumatic stress disorder (PTSD) has increased by 64 percent.

This guardianship program was established originally for veterans from World War II who had experienced shell shock or PTSD. The number of soldiers returning from deployments in Iraq, Afghanistan and theaters supporting those operations have more PTSD than in recent peacetime. This issue needs to be reconciled sooner rather than later, and S.B. 127 accomplishes this.

CHAIR WIENER:

Your proposed amendment in [Exhibit G](#) makes a substantial increase in the number of wards. Ms. Myles, did you consider expanding the caseload from 5 to 20 wards for S.B. 128?

MS. MYLES:

Yes. We are trying to get Nevada in line with federal rules.

CHAIR WIENER:

That is part of the amendment, but it is not part of the bill brought from the Committee?

MS. MYLES:

Items presented to the Committee did not make it through LCB. We are not sure why.

CHAIR WIENER:

Was the intention of the Committee to increase wards from 5 to 20?

MS. MYLES:

It was mentioned during the Committee hearings.

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CHAIR WIENER:
Was it something passed by the Committee?

Ms. MYLES:
I do not know.

SENATOR BREEDEN:
I do not recollect that we actually put the full 20 count in. It was discussed, but we did not ...

CHAIR WIENER:
It is not included in the measure passed by the Committee?

SENATOR BREEDEN:
No.

SENATOR MCGINNESS:
If somebody has 20 wards, who is overseeing this person?

Ms. MYLES:
A guardian is fully accountable to the courts. In the case of a guardianship for a veteran, the guardian is accountable to the VA and is required to provide accountings on a regular basis.

SENATOR MCGINNESS:
What is a regular basis?

Ms. MYLES:
Under NRS 159, they are required to provide an annual accounting.

SENATOR MCGINNESS:
And does the VA also require an annual accounting?

Ms. MYLES:
Yes.

CHAIR WIENER:
Mr. Cage, because of the level of need, care and oversight for the increase of PTSD in wards, should the ward number stay at 5 instead of increasing to 20?

MR. CAGE:

We support the amendment to increase the number to 20 wards. The VA determines the allowable number for the federal level in a subjective way. We would support a similar approach at the State level. Not being a guardian or in the business of guardianships, I can only speak anecdotally regarding the level of care between the generations. There is a generational health difference between a World War II veteran and an Iraq or Afghanistan veteran that makes up the difference.

SENATOR ROBERSON:

Is the number of 20 wards typical in other states? Can one person adequately care for 20 wards?

MS. MYLES:

The National Guardianship Association Standards of Practice advocate a guardian should not have more than 30 wards. In the rural areas, a public guardian can average two hours per month for the ward by going to conferences, checking on the status of their clothing and medications, and taking them to the doctor.

Some guardians in Nevada have as many as 48 wards. That may seem excessive, but 20 wards is not an unreasonable amount depending on the care the ward requires. The VA reviews the wards' cases, and if a guardian is not providing appropriate care, the number of wards will be cut and the guardian is asked to transfer cases to another guardian.

CHAIR WIENER:

For clarity, the suggestion is to align with federal standards of 20 veterans, but the guardian could have a substantially larger caseload?

MS. MYLES:

Yes, that is correct.

MR. BROKL:

I have 24 veterans directly under custodianships with the VA and 8 guardianships. The VA in Salt Lake City, Utah, oversees all guardians and custodians in seven Western states. There is no upper limit on the number of custodianships; it is based on whether the custodian or guardian can function properly with each one. Many of the individuals under custodianships are

individual fiduciary accounts. Such individuals can live on their own but have no concept of how to work in society or pay their bills. A portion of time is spent ensuring their financial affairs are met. Individuals under guardianships are more incompetent and are either in a rest home or a group home.

CHAIR WIENER:

Mr. Brokl, statute indicates a guardian can have five wards, but you have eight. Did you receive a waiver?

MR. BROKL:

The judge said because my fees are considerably less than what statute warrants, they allowed it and were fully aware ...

CHAIR WIENER:

Through the court?

MR. BROKL:

Yes.

SENATOR ROBERSON:

It does not sound like there is much oversight of the number of wards a guardian can have.

MR. BROKL:

A VA field examiner visits each guardian once a year and observes all aspects of the operation, including the yearly accountings.

SENATOR MCGINNESS:

What are the qualifications for this type of business?

MR. BROKL:

I am a certified, registered guardian with the National Guardianship Association and a retired electronics engineer. I became the guardian of a son, who is disabled from serving in the Air Force, and learned the business by doing the service over the years.

SENATOR MCGINNESS:

There are no qualifications?

MR. BROKL:

No. However, I have a degree in business administration and an engineering background with additional degrees in mathematics.

CHAIR WIENER:

I will close the hearing on S.B. 127 and open S.B. 128.

SENATOR BREEDEN:

Please refer to my written testimony ([Exhibit H](#)).

SALLY RAMM (Elder Rights Attorney, Aging and Disability Services Division, Department of Health and Human Services):

I represent a group of people who have been working since 2009 on S.B. 128.

Every session, guardianship legislation comes before the Legislature and is often contentious. Right after the 2009 Session where many guardianship legislation issues were discussed and argued, we brought together a group of interested people to talk about the guardianship bill for this Session.

In the group, we had the public guardians from Washoe, Clark and Lyon Counties, private guardians including members of the Nevada Guardianship Association, people from the judiciary, and the attorneys in the senior law projects in Clark and Washoe Counties. We had many meetings and much discussion before the bill was completed in order to present it to the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs by June 2010. This was presented to the Committee and accepted.

Our goal is to improve Nevada's guardianship statutes, specifically in S.B. 128. We want the potential wards to know their rights and have the ability to exercise them. We are clarifying the duties of guardians and making sure every guardian knows the legal requirements of being a guardian. We proposed one systemic change, which is a description of a guardian ad litem and the guardian's role in the guardianship process.

The "Proposed Amendments to SB 128" ([Exhibit I](#)) reflect the group's editing of language received from LCB.

MS. MYLES:

In 2003, the Legislature passed the first major overhaul of NRS 159 since the 1970s. In 2003, we updated and corrected NRS 159 as issues surfaced in the guardianship practice and to keep changes in the guardianship arena nationwide. In 2005, we updated NRS 253 regarding public guardians. We now have public guardians in every county in Nevada. In 2009, we became the twelfth state in the Nation to adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. Senate Bill 128 is one more step in the ongoing effort to keep Nevada in the forefront of guardianship legislation. The "Proposed Amendments to SB 128," [Exhibit I](#), were submitted to LCB.

Section 2 is aimed at family or pro per guardianships where guardians represent themselves without benefit of attorneys. Nevada has an increasing number of these guardians, most of whom have no understanding of how to be a guardian or what the guardianship statutes require. Washoe County and Clark County have created guardianship training programs. We are enforcing or implementing those programs throughout the State.

Section 3 addresses the problem where banks are requiring that guardians provide confidential medical evaluations to prove the guardianship is necessary. The bank needs a copy of the court order for guardianship. It is up to the court to determine whether the guardianship is necessary, not the bank.

We added section 4; however, it was discussed before the A.B. 9 Committee, and the members elected to remove it. We asked to present it as an amendment before the Legislature and they agreed. Any documents in a court case, unless sealed by the judge, are considered public records. Anyone can request to see a file and obtain copies, which includes inventories. In cases involving elder abuse and financial exploitation of a senior where the senior is under a guardianship, the judge should have the authority to seal records to prevent anyone, including nosy neighbors and explosive parties, from obtaining copies of inventories and other documents from the court record. At this time, the court has the authority to seal minor records and guardianships of minors but not guardianships of adults.

Sections 5, 6 and 12 were spurred by recent cases where guardians have been arrested for exploitation of their wards. In 2010, the U.S. General Accountability Office (GAO) conducted an investigation of guardianship licensing, including lack of licensing in Nevada. I have provided you with

pertinent sections of the GAO report ([Exhibit J](#)). The GAO found no background checks being conducted on guardians and, in particular, private professional guardians or those guardians in the business of guardianships for the purpose of making money. The private professionals are in the business of guardianships for the purpose of helping seniors, but they are dependent upon those wards for their income.

Nevada's public guardians are county employees and undergo full background checks as required by each county. As detailed in section 12, we are not requiring family guardians to undergo fingerprinting but are asking guardians to provide documentation to the court of any crime convictions; filings protection receipts under the Guardianship Acts; and license suspensions for nonpayment of child support or other reasons. This is important. We request any private professional undergo a background investigation.

We are not asking family guardians or pro per guardians undergo background investigation. It would be a hardship on the courts, considering that more than 75 percent of State guardianships are family or pro per. We will readdress that in future legislation.

Section 7 relates to guardian ad litem; guardians ad litem are not guardians. They neither have authority to request care for the ward nor to handle the ward's finances. A guardian ad litem is a person appointed by the court to investigate the ward's situation and make recommendations to the court on the ward's best interests.

Nevada Revised Statute 159 allows attorney representation of the ward in guardianship cases. But if the ward is unable to request the appointment, then the court should appoint a guardian ad litem. The difference between a guardian ad litem and an attorney is that an attorney advocates for what the ward wants even if it is not in their best interest. A guardian ad litem advocates in the best interests of the ward. To give you an example, I was appointed as guardian ad litem rather than an attorney because the ward—whose drug-addicted daughter had married her off to the drug dealer so as not to pay a drug debt—kept saying, "but I want my daughter to be my guardian, I want my daughter to be my guardian." She did not have the capacity to understand that her daughter was exploiting and abusing her. A guardian ad litem was appointed who advocated what was in the best interests for the ward, not what the ward desired.

In section 7, we have detailed how a guardian ad litem should be appointed and who can serve as a guardian ad litem. We are still working on one issue in section 7, subsection 4 because of the difference between a guardian ad litem appointed for a minor and one appointed for an adult. We may present an additional amendment to the Committee.

Sections 7 and 8 address the issue of payment of fees mentioned in testimony on S.B. 127. If a guardian ad litem or attorney is appointed for the ward, we request the court consider the assets, known disposable income and any foreseeable expenses before awarding attorney or guardian ad litem fees.

The proposed changes to section 10 allow a party who is not a physician to inform the ward of the right to an attorney. You will see a change between what LCB drafted, what was presented to the A.B. 9 Committee and what we support. Section 10, subsection 4 states the Aging and Disability Services Division develops a form to determine competency of the ward. In the amendment, each judicial district can develop its own forms rather than have a form dictated in statutes or dictated by the State agency. Each district court has adopted or is in the process of adopting forms to meet these requirements.

Section 11 addresses a problem created by A.B. No. 46 of the 75th Session. The intent of the bill was to bring Nevada into compliance with federal law regarding ownership and purchase of firearms. However, the drafters of A.B. No. 46 were unfamiliar with the type of individuals under a guardianship. Several judges felt the provisions were burdensome on guardians and the courts. Over 95 percent of the individuals under guardianship are elderly or minors. Under a guardianship, the ward does not have access to funds to purchase firearms. The proposed language in section 11 was discussed with judges in the First, Second and Eighth Judicial Districts; they felt the language is more reasonable and still met the requirements of federal law.

Section 13, proposed by the Clark County Guardianship Commissioner's Office, addresses the issue of family guardians and pro per guardians. We ask written information be given to all family guardians to read and acknowledge their duties as guardians.

CHAIR WIENER:

This is an amendment, [Exhibit I](#), to replace the bill which came from the Committee?

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MS. MYLES:

Yes. I used the LCB format to make it easier ...

CHAIR WIENER:

For the record, this is an amendment offered to replace the bill recommended by the Committee.

MS. MYLES:

Yes.

MS. RAMM:

The amendment addresses the issues presented and recommended by the Committee. We changed the language in the original bill to the intent of the legislation.

MS. MYLES:

In the bill we presented to the A.B. 9 Committee, several provisions were altered going through LCB. We have changed those provisions back to what was originally presented and approved by the A.B. 9 Committee.

SENATOR BREEDEN:

Have you spoken with Chair McLain regarding these changes?

MS. MYLES:

No, we have not.

MS. RAMM:

I exchanged e-mails with Ms. McLain not long ago, because she was aware of what the Committee was doing. Her comment to me was, "I will leave the details to you." I do not believe we have sent her the bill and the amendments.

SENATOR BREEDEN:

I offer for the record the written testimony of ex-Assemblywoman Kathy McLain, Chair of the interim Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs ([Exhibit K](#)).

CHAIR WIENER:

That testimony is entitled, "SB 128-Revise Provisions Relating to Appointed Legal Guardianships."

ERNIE NIELSEN (Washoe County Senior Law Project):

We represent seniors in guardianship cases and support S.B. 128. We are one of two organizations funded by the Nevada Aging and Disability Services Division to provide representation for wards. We receive funding through the Independent Living Grants Program. We fear the funding will not be available much longer and are taking steps toward bolstering the ability for wards to acquire attorneys and guardians ad litem for representation. People lose their civil rights in guardianship cases. It is important that the ward obtain appropriate representation.

CHAIR WIENER:

Are you making your testimony on the bill as presented to the Committee?

MR. NIELSEN:

I am testifying in support of S.B. 128 plus the amendments in [Exhibit I](#) as it came from the Committee. We support the intent behind S.B. 128. There is consistency between S.B. 128 and amendments in [Exhibit I](#).

GINNY CASAZZA:

I am a Nevada citizen testifying as a stakeholder in guardianship services. I have worked in a variety of positions in guardianship cases for over 15 years. I participated during the interim stakeholder meetings described by Ms. Ramm. There was much debate and discussion in these meetings. I am in support of S.B. 128 as it originally came from LCB. Because I have not seen Ms. Myles amendments in [Exhibit I](#), I cannot support S.B. 128 if it were amended. Senate Bill 128 strives to move toward guardianship reform. We need to bring focus and dedication to the use of *Standards of Practice for Guardians* and *Model Code of Ethics for Guardians* as adopted by the National Guardianship Association. Those standards address how many cases a guardian should handle, standards and ethics, conflicts of interest, fees, and issues that arise.

REBA JUNE BURTON (Nevada Silver Haired Legislative Forum):

I am a member of the Nevada Silver Haired Legislative Forum and support S.B. 128.

MS. MCMULLEN:

Ex-Assemblywoman McLain asked me to attend this hearing. I sat through most of the hearings of the A.B. 9 Committee, and S.B. 128 reflects the intent of what was discussed. The Washoe County Public Guardian's Office has certain

standards. An employee who met those standards, was licensed, and went into private practice bilked four seniors, leaving them penniless.

CHAIR WIENER:

You are supporting S.B. 128 as sent from the A.B. 9 Committee?

MS. McMULLEN:

Yes.

BILL UFFELMAN (President and CEO, Nevada Bankers Association):

Section 3 is the same in both the proposed amendments, [Exhibit I](#), and in the bill draft. Assembly Bill No. 87 of the 74th Session refers to a financial institution's obligation to report when they observe elder abuse directly related to the competency of the accountholder. Because financial institutions have an obligation to report suspected elder abuse, they need to know why there is a potential for the abuse. Whether it is a question of mental competency or a function of old age, you now have an order which says this person is taking over. If there is a history, the bank should be aware of the situation and report it; the bank may be assuming liability. I do not know how to add to that except to say for the purpose of an investigation under A.B. No. 87 of the 74th Session.

SENATOR MCGINNESS:

Ms. McMullen, you cited the case regarding four seniors being bilked out of their savings. Was there a lack of oversight or in-between oversight?

MS. McMULLEN:

The guardian had to account to the judge. The guardian could not produce records to the court to show how she had spent the money.

GRAHAM GALLOWAY (Nevada Justice Association):

We are opposed to S.B. 128 as presented because it has unintended but adverse effects on guardians ad litem on behalf of minors. In talking to Ms. Myles, the proposed changes are to protect adult wards. Unfortunately, the guardian ad litem statutes also apply to minors, and that is our concern. The application of the language creates an administrative and financial burden for situations involving guardians ad litem for minors.

Many members of our organization represent minors for injuries sustained in a car accident, myself included. In most of those cases, the parents can represent the minor; they bring the lawsuit. But in certain situations, the parent cannot because the parent is not around. Take the classic example with the parent as the driver of the vehicle who caused the accident; then the parent cannot be appointed the guardian ad litem. A family member is appointed.

Section 4 of the original bill and section 7 of the amendment create an administrative burden if a family member is not allowed to be appointed guardian ad litem. If the parent cannot represent the individual minor, a family member such as a grandparent, uncle, aunt, older brother or older sister is appointed to represent the individual child in the lawsuit.

Our opposition is not to the proposed changes as they apply to adults. We oppose how it applies in an unintended way to minors. We have spoken to Ms. Myles, and she is willing to sit down with us and work out the details. We are optimistic that changes can be made, but it has to be changed for the minors situation.

CHAIR WIENER:

Senator Breeden, would you be willing to work with the parties on additional language?

SENATOR BREEDEN:

Yes.

CHAIR WIENER:

Please be in contact with Senator Breeden to work on this language.

MR. GALLOWAY.

Thank you.

MARY SHOPE (Coordinator, Nevada Silver Haired Legislative Forum):

I have been asked by Herbert E. Randall, Ed. D., President, Nevada Silver Haired Legislative Forum, to represent the Committee in support of the original S.B. 128. Dr. Randall is in Washington, D.C., on official business with the National Silver Haired Congress. The Forum, as part of its summary to the Legislature as well as the Governor, supports guardianship reform.

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CHAIR WIENER:

I will close the hearing on S.B. 128. This meeting is adjourned at 9:29 a.m.

RESPECTFULLY SUBMITTED:

Judith Anker-Nissen,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____

EXHIBITS			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 55	C	Heather Procter	Testimony supporting S.B. 55
S.B. 55	D	Jonathan Friedrich	"S.B. 55 Comments and Additions"
S.B. 55	E	Norman McCullough	Testimony supporting S.B. 55
S.B. 127	F	Senator Shirley A. Breeden	"S.B. 127-Revise Provisions Relating to Guardianships for Veterans"
S.B. 127	G	Lora E. Myles	"Proposed Amendment to <u>SB 127</u> "
S.B. 128	H	Senator Shirley A. Breeden	Testimony supporting S.B. 127
S.B. 128	I	Lora E. Myles	"Proposed Amendment to <u>SB128</u> "
S.B. 128	J	Lora E. Myles	GAO Report on Guardianships
S.B. 128	K	Senator Shirley A. Breeden	"SB128-Revise Provisions Relating to Appointed Legal Guardianships"