

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session  
March 3, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:07 a.m. on Thursday, March 3, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

George Flint, Reno Wedding Chapel Alliance  
Alan Glover, Former Senator, Carson City Clerk-Recorder  
Nancy Parent, Chief Deputy County Clerk, Washoe County  
Lora E. Myles, Carson and Rural Elder Law Program  
Sylvia Healy, Citizens for Patient Dignity  
Rajka Campagiorni, Citizens for Patient Dignity  
Grace Virzi, Seniors for Dignity  
Herbert Randall, Ed.D., Nevada Silver Haired Legislative Forum  
Rita Kindley, Citizens for Patient Dignity

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CHAIR WIENER:

I will open the work session on Senate Bill (S.B.) 28.

**SENATE BILL 28**: Revises certain provisions relating to the psychological or psychiatric examinations used in determining the competence of a defendant. (BDR 14-449)

LINDA J. EISSMANN (Policy Analyst):

We have a work session document for S.B. 28 ([Exhibit C](#)). At the hearing on this bill on February 11, the Nevada Psychiatric Association offered an amendment, which is on page 2 of [Exhibit C](#). This amendment would eliminate one of the two evaluations on the treatment team rather than the independent evaluation. This would mean there would still be two evaluations, one by the treatment team and one independent. The amendment also suggests the two resulting evaluations be conducted by one psychiatrist and one psychologist.

Staff indicated a technical amendment would be necessary to include gross misdemeanors as well as misdemeanors in section 1, subsection 1, paragraph (c) of the bill. That provision refers to cases in which the defendant is to be examined by a psychiatric social worker.

Page 3 of [Exhibit C](#) is information provided by Tierra Jones, Clark County Public Defender's Office, regarding the number of cases in the Clark County Competency Court in which the third doctor was required to break a tie.

The remainder of [Exhibit C](#) is information from Dr. Elizabeth Neighbors, Director, Lake's Crossing Center, Division of Mental Health and Developmental Services, Department of Health and Human Services. This is in response to the Nevada Psychiatric Association's proposed amendment.

We received two further items after the work session document was created yesterday. The first is a letter from Jackie Glass, District Judge, Department 5, Eighth Judicial District Court, expressing concern about different evaluation standards for different categories of felonies ([Exhibit D](#)). This could potentially result in due process violations for the defendants. District Judge Glass was also concerned that multiple prior convictions could enhance a defendant's charge to habitual criminal status. We also received a proposed amendment to the bill from Denise Selleck-Davis, Nevada Osteopathic Medical Association, to

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expand the definition of "provider of health care" in the bill to include osteopathic physicians ([Exhibit E](#)).

SENATOR GUSTAVSON:

I was comfortable with the bill as it was. With these other amendments, I would like more time to discuss their effect on the bill.

CHAIR WIENER:

I will close the work session on S.B. 28 and open the work session on S.B. 29.

[SENATE BILL 29](#): Revises provisions relating to credits earned by an offender which reduce the offender's term of imprisonment. (BDR 16-450)

MS. EISSMANN:

We have a work session document on S.B. 29 ([Exhibit F](#)). There was no opposition to this bill in the hearing on February 16. An amendment subsequently proposed by Thom Gover, Chief Deputy Attorney General, is on page 2 of [Exhibit F](#).

BRADLEY A. WILKINSON (Counsel):

We have a technical amendment to the bill. Section 10 of S.B. 29 includes an internal reference to section 2 of the bill, and that reference should not be there.

The amendment proposed by Mr. Gover amends section 10 to revise it from a deduction of 60 days to a deduction of "up to" 60 days. That is problematic. Section 10, by its terms, applies retroactively to offenses committed before the effective date of the bill. The proposed amendment would therefore change the calculation of sentence credits. As the bill is currently structured, it does not apply retroactively because it is an unconstitutional ex post facto violation to retroactively change the calculation of credits. The credits that are awarded going forward for programs of vocational education and training or other programs are addressed in section 3 of the bill. Those credits are prospective, whereas the credits in the amendment are retroactive.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 29 WITH THE TECHNICAL AMENDMENT ONLY.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I will open the work session on S.B. 86.

[SENATE BILL 86](#): Revises provisions governing eminent domain. (BDR 3-132)

MS. EISSMANN:

We have a work session document for S.B. 86 ([Exhibit G](#)). No amendments were proposed.

SENATOR ROBERSON MOVED TO DO PASS S.B. 86.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I will open the work session on S.B. 88.

[SENATE BILL 88](#): Enacts the Uniform Real Property Transfer on Death Act. (BDR 10-59)

MS. EISSMANN:

We have a work session document for S.B. 88 ([Exhibit H](#)). A significant amendment offered on this bill in its initial hearing on February 16 was discussed by the Committee at that time. Pages 2 through 10 of [Exhibit H](#) provide a side-by-side comparison of the original language of the bill and the language proposed by that amendment.

Representatives of the banking industry testified at that hearing there might need to be an additional amendment for title companies and bankers. Subsequently, we received a minor amendment via e-mail from ex-Senator Terry Care to change the time period in section 22, subsection 3 of the bill from 18 months to 12 months. The Committee asked Senator Care to

verify with the Uniform Law Commission that this was satisfactory to them, and he has done so.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 88 WITH BOTH AMENDMENTS.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I will open the work session on S.B. 89.

[SENATE BILL 89](#): Revises provisions governing audits and reviews of financial statements of common-interest communities. (BDR 10-595)

MS. EISSMANN:

Our next work session document is for S.B. 89 ([Exhibit I](#)). At the bill's initial hearing on February 17, there was a concern by Gary Lien, CPA, regarding the word "review." He proposed a subsequent amendment, which is on page 2 of [Exhibit I](#). We also have proposed Amendment 5721 from Senator Wiener.

CHAIR WIENER:

My amendment was based on conversation with Mr. Wilkinson, so I will ask him to explain it. My intent was to satisfy the needs presented in Mr. Lien's amendment while making sure it was clear to the reader.

MR. WILKINSON:

Amendment 5721 puts Mr. Lien's amendment into proper form. His amendment as proposed would exempt associations with a budget less than \$45,000 per year from the requirements of that section. Amendment 5721 puts the same idea into the proper format for statute.

CHAIR WIENER:

The problem with Mr. Lien's amendment as worded is that it mandates not doing something. That is confusing, which is why I asked for the amendment to be redrafted.

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SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 89 WITH PROPOSED AMENDMENT 5721 FROM SENATOR WIENER.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:  
I will open the work session on S.B. 101.

[SENATE BILL 101](#): Revises certain provisions relating to the issuance of marriage licenses and the solemnization of marriage. (BDR 11-635)

CHAIR WIENER:  
Because this is a bill with many disparate sections, we will break it down and consider each general provision separately.

MS. EISSMANN:  
We now have a work session document for S.B. 101 ([Exhibit J](#)). The five major provisions of the bill to be considered would change what would be accepted as identification (ID) to obtain a marriage license; allow an applicant to have an attendant in the marriage license bureau; specify what may be printed on the reverse of a noncertified copy of a marriage form; allow a retired minister to continue to perform marriages in other counties if he or she moves; and increase the fee to solemnize a marriage.

CHAIR WIENER:  
With regard to the change in acceptable ID, [Exhibit J](#) has listed the current requirements and the requirements that would be required by S.B. 101. The main difference is that the bill would require the county clerk to accept a birth certificate and any two documents that contain the applicant's name and address as valid ID.

SENATOR COPENING:  
As I recall, county clerks spoke in opposition at the first hearing of S.B. 101 on February 11. Were they opposed to all of the bill or just some sections?

MS. EISSMANN:

According to my notes, the only part the county clerks did not oppose was the fee increase. I do not recall that they said much about what is printed on the reverse of the marriage form, and they were uncertain as to why the provision about retired ministers was necessary. They testified that they frequently allow friends and family to come with applicants into the marriage bureau. They stated they need the ability to manage who comes and goes in their bureaus.

SENATOR COPENING:

My notes say there were only 36 denials among the 9,800 licenses issued. Is that accurate?

CHAIR WIENER:

My notes say in Clark County, it was about 91,000 licenses with some 500 denials, some for ID. In Washoe County, it was about 9,100 licenses with 36 denials, about half of which were for ID.

SENATOR BREEDEN:

I have a concern about the requirement that any two documents with the applicant's name and address be accepted as valid ID. These documents are not specifically defined. I suggest we stay with the current language for this section.

SENATOR GUSTAVSON:

I agree. The integrity of the marriage license needs to be protected. We must know the persons involved are who they say they are.

CHAIR WIENER:

The second provision to consider allows the applicant to have an attendant in the marriage license bureau.

SENATOR COPENING:

I would be in favor of allowing an attendant to accompany the applicant.

SENATOR GUSTAVSON:

I agree.

SENATOR ROBERSON:

My concern is the testimony of the county clerks that they had experienced disruption by persons accompanying applicants. I would suggest we leave this matter at the discretion of the county clerks, aside from family members. It seemed clear from the testimony that there have been a lot of problems with attendants who work in the wedding chapels.

SENATOR COPENING:

I agree. It was my understanding county clerks currently have the right to escort a disruptive person out of the bureau. If this provision would change that, I would not be in favor. It needs to be at the discretion of the county clerk. As I recall, those who testified about this at the first hearing were concerned that they had been asked to leave when there was neither disruption nor overcrowding.

CHAIR WIENER:

In that instance, it was at the request of the applicant. Mr. Wilkinson, if we include the provision that an attendant must be allowed, does that take away the ability of the county clerk to ask people to leave?

MR. WILKINSON:

There needs to be a distinction between the reasons someone might be asked to leave. Those who cause a disruption or disturb the peace in some manner could be required to leave regardless of whether they are attendants or applicants. That is distinct from situations in which people are asked to leave because the office is busy or there is no room. If attendants were entitled to be present, the clerk could not remove an attendant under such circumstances. If the bill were passed as now written, county clerks could exclude people committing a crime like disturbing the peace, but they could not exclude them because the office was busy or it would be more manageable with fewer people. If there was a desire to distinguish between family members and others, we would need to include language identifying who that would cover.

SENATOR MCGINNESS:

I have some concerns about that. I suggest we let the county clerks run their own offices, and they can decide who needs to leave.

SENATOR COPENING:

I agree.



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CHAIR WIENER:

The next provision has to do with text printed on the reverse of the marriage form.

SENATOR ROBERSON:

I would be open to changing the current practice as specified in the bill. It did not make a lot of sense to me that the back of the marriage form would say it was only a souvenir.

SENATOR COPENING:

Could you explain once more what this provision does?

CHAIR WIENER:

We are talking about the marriage certificate given to applicants at the counter. Because it is not a legal document and has the word "souvenir" printed on the back, there was some sense that the word might minimize the sentimental value of the document. Section 2, subsection 2, paragraph (b) of S.B. 101 specifies the language to be printed on the back of the marriage form stating that it is not a certified copy and explaining how to get a certified copy.

SENATOR COPENING MOVED TO RETAIN THE LANGUAGE IN SECTION 2 OF S.B. 101 REGARDING THE LANGUAGE TO BE PRINTED ON THE REVERSE OF THE MARRIAGE FORM.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

The next section to be considered is the provision in section 3, subsection 8 regarding retired ministers.

SENATOR COPENING:

I would be in favor of keeping this section in place.

SENATOR BREEDEN:

Are retired ministers not allowed to move to another county and continue their practice? Do they lose the ability to perform marriages when they retire?

MR. WILKINSON:

Section 3, subsection 8 of S.B. 101 refers to people who are still licensed but who have changed their county of residence. As shown in subsection 7 of the bill, when someone moves from the county in which the license is issued or leaves the church, the certificate expires immediately.

CHAIR WIENER:

Is the license not good statewide?

MR. WILKINSON:

Yes, it is. This refers to an active minister who moves to a different county. It does not affect a minister who travels around the State to perform marriages. The situation covered by section 3, subsection 8 of the bill is that of a retired minister with a current and valid certificate to perform marriages who moves to a different county. The bill stipulates that the certificate will remain valid, but the retired minister must provide his or her new address to the county clerk in the new county.

CHAIR WIENER:

Are you saying that if I were licensed to perform marriages in Nevada and I left Clark County, I could not perform a marriage in Washoe?

MR. WILKINSON:

Current law is focused on the person relocating residence, with the license being tied to the county in which it was originally issued.

CHAIR WIENER:

It is not about the ability to marry people; it is about having a current location for each licensee.

MR. WILKINSON:

I believe so.

SENATOR GUSTAVSON:

As I read subsection 7, if a minister leaves his denomination and moves to another county, his license will expire.

CHAIR WIENER:

That makes sense to me.

SENATOR GUSTAVSON:

I would think that when a minister moves a long way, such as from Clark County to Washoe County, he is no longer affiliated with his original church.

CHAIR WIENER:

My recollection of the testimony at the initial hearing is that this provision was about a minister who came to Clark County to perform a marriage, rather than a minister who moved from one county to the next. Mr. Flint, could you clarify?

GEORGE FLINT (Reno Wedding Chapel Alliance):

Section 3, subsection 8 of the bill refers only to retired ministers. The law allows a minister who has been licensed in any county in Nevada to perform marriages anywhere in the State. We have run into a few cases where retired ministers who have changed counties have been told by county clerks that they must reapply for the certificate because the clerks do not know them. This bill states that a retired minister can move physically from one county to another, and the retirement permit would still be in effect. It does not refer to the minister who leaves his church or gives up the ministry.

SENATOR ROBERSON:

My recollection is that the county clerks testified that this provision is not necessary. I do not feel comfortable passing new legislation when none of us are certain about the need for it or the clarity of the language.

SENATOR COPENING:

I am comfortable with that. We might consider issuing a letter to the county clerks on behalf of the Committee asking them to find out whether it is allowed in their counties. If it is allowed, they should then communicate that fact to their staff so everyone knows it is permitted.

SENATOR BREEDEN:

The last sentence in subsection 8 states, "The minister ... must provide his or her new address to the county clerk in the county to which the minister ... has moved." Does this not resolve the problem?

ALAN GLOVER (Former Senator, Carson City Clerk-Recorder):

We can live with that. When a couple comes to us for a marriage license, we check a list of certified ministers to make sure the person they have chosen to perform the ceremony is licensed. It will simplify the process if we have those retired ministers who have moved to our counties on our existing list.

NANCY PARENT (Chief Deputy County Clerk, Washoe County):

We do not have a problem with this bill. Our only concern is that the records are in each county. Perhaps the letter that advises the clerk in the new county should trigger the clerk in the old county to transfer the file. Otherwise, the new county will not know the minister's church affiliation or anything else about the person. I do not think these retired ministers should reapply for a license. We can work something out.

CHAIR WIENER:

Are we talking about the letter Senator Copeny suggested be sent by the Committee, or are you talking about notification from the retired minister who moves to a new county?

MS. PARENT:

The latter, in which the retired minister notifies the county clerk in the county he or she moves to. It is important for the new county clerk to get the information from the old county so our records are complete. That is something the county clerks could work out, if we are given the flexibility to come up with a system that works statewide.

CHAIR WIENER:

Are you asking us to amend this section to require the retired minister to send a letter of notification to the new county?

MR. WILKINSON:

That is currently required in the bill.

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SENATOR COPENING:

In that case, I do not think a letter from the Committee is necessary. It sounds like the county clerks will work out the transfer of the files by regulation.

SENATOR COPENING MOVED TO RETAIN THE LANGUAGE IN SECTION 3 OF S.B. 101 REGARDING RETIRED MINISTERS WHO CHANGE COUNTY OF RESIDENCE.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

The last section raises the fee for solemnizing a marriage from \$45 to \$70.

SENATOR ROBERSON:

I would be opposed to the fee increase.

SENATOR GUSTAVSON:

I am opposed to the fee increase too.

SENATOR COPENING:

What was the reason for the increase in the fee?

CHAIR WIENER:

As I recall, it has been a long time since the fee was raised. Does anyone know the last time the fee was raised?

SENATOR GLOVER:

We withdraw the request to include the fee increase in S.B. 101.

CHAIR WIENER:

To summarize, the Committee has agreed to keep sections 2 and 3 of S.B. 101 and delete the rest.

SENATOR GUSTAVSON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 101 BY DELETING SECTIONS 1 AND 4.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I will open the work session on S.B. 126.

**SENATE BILL 126**: Revises certain provisions relating to permits to carry concealed firearms. (BDR 15-335)

MS. EISSMANN:

We refer to the work session document for S.B. 126 ([Exhibit K](#)). There was no opposition to the bill at its initial hearing on February 16. An amendment was proposed at that meeting, and we received an e-mail from Gabriel Raviv detailing that amendment, which is pages 2 and 3 on [Exhibit K](#). Mr. Raviv also included two attachments, which are on pages 4 through 21 of [Exhibit K](#). His concern is the language making ownership a requirement for carrying a concealed firearm, and he suggests the phrases "owned by the person" and "which is owned or thereafter obtained by the person to whom the permit is issued" in section 1, subsection 2 be deleted. He cites examples of permit holders who might legitimately carry a weapon they do not own—for example, a person might carry a gun actually owned by a spouse or a parent.

SENATOR ROBERSON:

I support the original bill. I would also support the bill with Mr. Raviv's amendment.

MR. WILKINSON:

As I understand it, the idea of the amendment is to remove the concept of ownership of the firearm from the bill, thus allowing people to carry firearms owned by someone else.

SENATOR GUSTAVSON:

I am fine with the bill as is without the amendment.

SENATOR GUSTAVSON MOVED TO DO PASS S.B. 126.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I will open the work session on S.B. 127.

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

MS. EISSMANN:

We now have a work session document for S.B. 127 ([Exhibit L](#)). As you may recall, this bill was proposed by the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs, of which Senator Breeden is the vice chair. An amendment proposed by Lora Myles is on page 2 of [Exhibit L](#). This amendment would increase from 5 to 20 the number of veteran wards for which a guardian may accept appointment. It would also allow the Department of Veterans Affairs to grant an exception allowing a guardian to accept appointment for a greater number of wards.

SENATOR BREEDEN:

The chair of the Legislative Committee, ex-Assemblywoman Kathy McClain, is okay with Ms. Myles' amendment. However, the discussion of the Legislative Committee during the interim was that 20 wards was a lot. It takes more time to handle the affairs of some wards, however. As the bill stands, it will be at the guardians' discretion as to how many they can handle. Ms. McClain was not totally opposed to raising the number to 20 as long as the guardian can handle that number.

CHAIR WIENER:

The current number of wards is 5, and 20 is proposed. We can pick another number if it would be more appropriate.

SENATOR COPENING:

I would throw out the number ten.

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SENATOR BREEDEN:

I would be in favor of allowing up to ten wards.

SENATOR BREEDEN MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 127 WITH THE AMENDMENT PROPOSED BY MS. MYLES  
CHANGING THE MAXIMUM NUMBER OF WARDS TO TEN.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I will open the work session on S.B. 128.

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

MS. EISSMANN:

Our last work session document is for S.B. 128 ([Exhibit M](#)). This bill also comes to us from the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs. A significant amendment proposed by Ms. Myles is on pages 7 through 18 of [Exhibit M](#). We have provided a side-by-side comparison of the bill and the proposed amendment on pages 2 through 6 of [Exhibit M](#). Ms. Myles also provided a subsequent amendment to strike section 4 of her amendment, which would have allowed the court to seal guardianship records. This was a provision the Legislative Committee specifically did not approve.

CHAIR WIENER:

Sections 5 and 6 of the amendment deal with bankruptcy. The Legislative Committee voted specifically not to include bankruptcy in the criteria for serving as a guardian. Senator Breedon, could you elaborate?

SENATOR BREEDEN:

All parties involved recently got together and agreed on the amendment.

CHAIR WIENER:

There may be some constitutional issues with section 11 of the amendment, which has to do with ownership of a firearm by a proposed ward.



MR. WILKINSON:

The provision regarding a ward's ability to own or purchase a firearm was brought forward by the Office of the Attorney General to comply with federal law on the same issue. The proposed amendment changes the standard used from "clear and convincing evidence" that the proposed ward has a mental defect to "preponderance of the evidence" that the ward presents a risk to self or others. This provision gave us concern because it may well go too far in the ability of a proposed ward to own and possess a firearm. Current law follows federal law in this regard.

SENATOR MCGINNESS:

Why does the bill only require background checks if the proposed guardian is not an attorney?

SENATOR ROBERSON:

I would imagine this is because attorneys are in a highly regulated industry. You have to pass a background check when you pass the bar. I am not saying there should be a different standard for attorneys, but that might have been the rationale for the provision.

CHAIR WIENER:

Senator Breeden, do you recall any discussion about this issue?

SENATOR BREEDEN:

I do not remember all the discussion. Ms. Myles, do you recall?

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

That is section 12 in the amendment, section 7 in the original bill. Attorneys do undergo full background investigations. This section says anyone who is not an attorney would have to go through a similar background investigation.

SENATOR MCGINNESS:

I recall a lawsuit in Churchill County in which it was discovered that one of the attorneys, who had been practicing law for 20 years, had never been admitted to the bar in Nevada.

MS. MYLES:

This does happen sometimes. However, the State Bar of Nevada is cracking down on attorneys and those who are registered. Unfortunately, some get under

the radar. There are few attorneys acting as professional guardians. Most attorneys feel if they are acting as guardians, that is a conflict of interest under the ethics rules.

SENATOR BREEDEN:

Perhaps we could add language that if the person is not a practicing attorney, he or she would have to complete the fingerprints and background check.

MS. MYLES:

We would have no objection if you wish to remove the exemption for attorneys from the background check. It is standard to exempt attorneys.

With regard to section 11, in 2003 we revised NRS 159, removing all language about mental defects, since it deals with those who are incompetent, and "incompetent" and "mental defect" have different definitions. Judges have been interpreting NRS 159.113 to mean that every single guardianship must be reported to the Central Repository for Nevada Records of Criminal History. We met with judges in the First Judicial District, and they feel this is unacceptable. That is why they offered this change.

CHAIR WIENER:

I will move S.B. 128 to another work session. It looks like we still have a lot of issues to resolve. When we start talking about constitutional issues, I for one would like more time to consider the matter. Ms. Myles, please come back at that time to give us a brief explanation as to why you included this in your amendment.

I will now open the floor for public comment.

SYLVIA HEALY (Citizens for Patient Dignity):

We support the amendment on S.B. 128. However, the guardianship should not be granted until the results of the background check come back. There have been cases in nursing homes where they hire people before they receive the results of the background check, and a lot of damage can be done in the meantime. Also, we think all guardians should submit to a background investigation. It should also be noted that just because someone passes a background investigation, that does not mean that person will be a perfect, ethical guardian.

There needs to be a way for problems to be reported 24 hours a day so that action can be taken immediately. My suggestion is to bring in a third party when the State takes over as guardian of a senior who has no friends or family. We heard recently from a retired nurse over 90 years old who was being kept in isolation, a virtual prisoner. We have not been able to locate her since she first contacted us, even after hiring a private detective to find her, and we pray she is still alive. We must better protect these vulnerable people.

Issues like this have caused us to lose faith in a system that is failing our vulnerable seniors on a daily basis. They have become the victims, and the bad guys are winning. We need to reinspect the people in charge of these offices and bring in more competent, caring, intelligent, compassionate people who care about seniors, their quality of life and the way they die. We want protection for our seniors, not intimidation. These are antiquated attitudes, and we need more safeguards to be put in place. Navigating the guardianship process is very stressful for family members.

RAJKA CAMPAGIORNI (Citizens for Patient Dignity):

I am a victim of a public guardian. My mother was put in guardianship without due process of law. A petition was brought before the court based on lies and allegations. We were taken advantage of because of my accent and because my mother did not speak English.

I have been an American citizen for many years. If I had abused my mother in any way, I would be the first to tell the police to put me in jail and never let me out. My daughter eventually became my mother's guardian, but the judge said in order for that to happen, she had to keep me away from my mother. I was not allowed to see my mother for her last six months. That is a hole in my heart that will never heal. I hope she is resting in peace, but I do not think she is, because she wonders where was her daughter who was supposed to protect her.

We have laws that were put in place to protect our most vulnerable seniors, but they are not followed. There needs to be more accountability. No matter who I turned to, everybody closed their doors.

GRACE VIRZI (Seniors for Dignity):

A program called Court Appointed Special Advocates (CASA) provides volunteer advocates for abused and neglected children. We need something like CASA for

seniors as well. There are people who would be happy to volunteer for such a program, and I would be willing to help train them. I am a retired nurse, and I have the knowledge and resources to do so. The CASA program is effective, and we need a program like that for seniors.

HERBERT RANDALL, ED.D. (Nevada Silver Haired Legislative Forum):

As you may know, the Nevada Legislature created the Silver Haired Forum in 1997 to identify and make recommendations on issues of importance to aging persons. Guardianship reform is our third recommendation in the summary report to the Legislative Committee and the Governor dated November 2010. The Forum has heard many concerns about guardianships. Although many issues are still being identified and studied and some may be worked through, anything that strengthens guardianships for the benefit of the wards but still protects individual rights is good public policy. For the most part, S.B. 127 and S.B. 128 fit that definition.

We applaud your decision in S.B. 128 to take the number of wards down to 10 rather than 20. However, the limit should be based on the person's ability to handle that many wards.

RITA KINDLEY (Citizens for Patient Dignity):

I have had firsthand experience with guardianships. As seniors, we try to protect ourselves and our loved ones. I do not have a tale to tell like Ms. Campagiorni, but I have seen it happen to others. Why do we allow people to go behind others' backs and take things away from them for no reason at all? Often, families do not know about such a petition until it is too late to fight it. I have seen families devastated and bankrupted by this. This is deplorable. Those seeking guardianships should at least be required to meet face to face with the proposed wards and their families to give them a fighting chance to explain the situation. There has to be better communication between patient, family and caretakers.

I hope you will consider what we have said today and find it in your hearts to add an amendment that can stop this.

CHAIR WIENER:

I will close the work session on S.B. 128.

I have a bill draft request (BDR) for introduction.

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**BILL DRAFT REQUEST 41-991**: Revises provisions governing the regulation of gaming. (Later introduced as [Senate Bill 218](#).)

SENATOR GUSTAVSON MOVED TO INTRODUCE BDR 41-991.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

Is there any further business to come before the Committee? Hearing none, I will adjourn the meeting at 9:45 a.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,  
Committee Secretary

APPROVED BY:

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Senator Valerie Wiener, Chair

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

| <u>EXHIBITS</u> |         |                  |  |
|-----------------|---------|------------------|--|
| Bill            | Exhibit | Witness / Agency | Description                                    |
|                 | A       |                  | Agenda   |
|                 | B       |                  | Attendance Roster                              |
| S.B. 28         | C       | Linda Eissmann   | Work session document                          |
| S.B. 28         | D       | Linda Eissmann   | Letter from District Judge Jackie Glass        |
| S.B. 28         | E       | Linda Eissmann   | Amendment to S.B. 28 from Denise Selleck-Davis |
| S.B. 29         | F       | Linda Eissmann   | Work session document                          |
| S.B. 86         | G       | Linda Eissmann   | Work session document                          |
| S.B. 88         | H       | Linda Eissmann   | Work session document                          |
| S.B. 89         | I       | Linda Eissmann   | Work session document                          |
| S.B. 101        | J       | Linda Eissmann   | Work session document                          |
| S.B. 126        | K       | Linda Eissmann   | Work session document                          |
| S.B. 127        | L       | Linda Eissmann   | Work session document                          |
| S.B. 128        | M       | Linda Eissmann   | Work session document                          |