

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

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

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:30 a.m. on Monday, March 28, 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:

Michelle Van Geel, Policy Analyst
Bradley A. Wilkinson, Counsel
Kathleen Swain, Committee Secretary

OTHERS PRESENT:

Janine Hansen, Nevada Eagle Forum
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada
Brett Kandt, Special Deputy Attorney General, Office of the Attorney General
Orrin Johnson, Washoe County Public Defender's Office
Connie S. Bisbee, Chair, State Board of Parole Commissioners
Harold Cook, Ph.D., Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services

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Elizabeth Neighbors, Ph.D., Agency Director, Lake's Crossing Center, Division of
Mental Health and Developmental Services, Department of Health and
Human Services

CHAIR WIENER:
We have Bill Draft Request (BDR) C-1013.

BILL DRAFT REQUEST C-1013: Proposes to amend the Nevada Constitution to
create an intermediate appellate court. (Later introduced as [Senate Joint
Resolution 14](#).)

SENATOR COPENING MOVED TO INTRODUCE BDR C-1013.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:
We have BDR 41-1102.

BILL DRAFT REQUEST 41-1102: Revises provisions concerning information that
a gaming applicant or licensee must provide. (Later introduced as [Senate
Bill 404](#).)

SENATOR COPENING MOVED TO INTRODUCE BDR 41-1102.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:
We have BDR 10-1126.

BILL DRAFT REQUEST 10-1126: Revises provisions relating to the information which must be provided by a unit's owner in a resale transaction. (Later introduced as [Senate Bill 403](#).)

SENATOR COPENING MOVED TO INTRODUCE BDR 10-1126.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:
We have BDR 9-1090.

BILL DRAFT REQUEST 9-1090: Revises provisions relating to real property. (Later introduced as [Senate Bill 402](#).)

SENATOR COPENING MOVED TO INTRODUCE BDR 9-1090.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:
We have BDR 7-528.

BILL DRAFT REQUEST 7-528: Revises provisions governing business entities. (Later introduced as [Senate Bill 405](#).)

SENATOR GUSTAVSON MOVED TO INTRODUCE BDR 7-528.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

I will open the hearing on Senate Bill (S.B.) 282.

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

SENATOR DON GUSTAVSON (Washoe County Senatorial District No. 2):

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

CHAIR WIENER:

Please give us examples of where it would be legitimate to post a social security number.

SENATOR GUSTAVSON:

Doctors' offices and insurance companies have people's social security numbers. If someone were to intentionally take someone's social security number or address and use it vindictively, that would be covered in this bill.

BRADLEY A. WILKINSON (Counsel):

This provision is typically included in most state laws on this subject. I am not aware of any specific circumstance where that might be the case. An example might be the assessor's office or some other governmental office where things are required to be posted in some fashion.

CHAIR WIENER:

Somehow the social security number would show up in that posting?

SENATOR GUSTAVSON:

Most of that has been redacted, but not all of it. In Virginia, someone posted records with the social security numbers of 20 state officials to pressure them. People are vindictive, and that should be a crime.

SENATOR COPENING:

You state in section 1, subsection 4 of the bill, "As used in this section, 'person' includes a government, governmental agency or political subdivision of a government." You mentioned vindictiveness. Would the government agency be held responsible if an employee did something vindictive with another person's social security number?

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SENATOR GUSTAVSON:

Statutes in other states break down a person and governmental agency. In our statutes, a "person" includes a government agency or political subdivision.

SENATOR COPENING:

You mentioned vindictiveness. Regarding the intent of the bill, are we talking about an employee of a government agency publicly posting another person's social security number?

SENATOR GUSTAVSON:

Yes, that would be an example.

SENATOR COPENING:

I am not sure whether the law protects the agency if an employee were to do that. I would be concerned someone could sue a government entity. In this case, it is a misdemeanor.

CHAIR WIENER:

Is there a civil cause of action? Could the individual responsible for the posting be sued civilly, not the agency?

MR. WILKINSON:

Yes.

SENATOR COPENING:

I am concerned about subsection 4 because it says "person" includes a government agency. Section 1, subsection 1 of the bill says, "A person shall not intentionally post" Subsection 2 says if a person intentionally posts a social security number, he is guilty of a misdemeanor, and he could be sued. I am concerned whether that means the entire agency can be sued or the employee who did the wrongful act can be sued.

MR. WILKINSON:

"Person" in the preliminary chapter 0.039 of the *Nevada Revised Statutes* (NRS) is defined not to include a government, governmental agency or political subdivision. By including this definition, or by saying in the definition that governmental agencies are included, it is intended to bring those within the scope of this bill. As Senator Gustavson stated, laws in most other states do make governmental agencies subject to the same requirements as a private

person. The governmental agency could be sued for a breach and could theoretically be guilty of a misdemeanor. Typically, a person is charged with that rather than the entity.

SENATOR BREEDEN:

Many companies and agencies use just the last four digits of the social security number. Even though that is a partial social security number, would that apply to this measure?

MR. WILKINSON:

We considered that in drafting this bill. I interpret this to be the entire social security number, not any specific number of digits. We looked at one state where you cannot post or display more than four digits of the social security number. Most laws refer just to the social security number, which would include all the digits.

SENATOR BREEDEN:

Is that your intent, the full social security number?

SENATOR GUSTAVSON:

Yes.

JANINE HANSEN (Nevada Eagle Forum):

We support this bill. We are concerned about the use and abuse of social security numbers. This bill is another layer of protection. It is getting harder to protect your social security number as a universal identifier. This bill would provide a penalty if someone uses or abuses another's social security number.

REBECCA GASCA (Legislative and Policy Director, American Civil Liberties Union of Nevada):

When social security numbers were first created in 1936, the federal government assured the public the use of social security numbers would be limited to social security programs, such as calculating retirement benefits. Now, social security numbers are a de facto universal identifier. You are expected to deliver your social security number to credit agencies and various forms of government, in addition to filing taxes and the calculation of social security benefits. The wide use of social security numbers has made them more susceptible to theft and misuse and abuse. As we see the rise in identity theft, they are often related to the improper use of social security numbers.

The Government Accountability Office of the United States government is the investigative arm of Congress. They have found the potential for identity theft posed by social security numbers has been high for the last ten years. They estimated that 85 percent of the largest and most populated counties surveyed make records that may contain social security numbers available in bulk sales or online. Most often those social security numbers appear in state and local court files and local property ownership records.

While the American Civil Liberties Union of Nevada (ACLU) does not take a position on the creation of misdemeanor or civil recourse, it is in the State's best public interest to ensure the local and state governments are using reasonable approaches to redact those records to ensure those identifiers are not made available.

CHAIR WIENER:

This is included in statute as a personal identifier subject to the identity theft laws we have done. This bill attaches a cause of action and a criminal penalty of misdemeanor. I will close the hearing on S.B. 282.

SENATOR MCGINNESS MOVED TO DO PASS S.B. 282.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

We will begin the work session and address Assembly Bill (A.B.) 11.

ASSEMBLY BILL 11: Revises provisions relating to the Department of Corrections. (BDR 14-452)

MICHELLE VAN GEEL (Policy Analyst):

Assembly Bill 11 was heard in Committee on March 23. We have a work session document on this bill ([Exhibit D](#)).

There were no amendments offered on the bill.

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SENATOR BREEDEN MOVED TO DO PASS A. B. 11.

SENATOR GUSTAVSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:
We will address A.B. 66.

ASSEMBLY BILL 66: Revises certain provisions concerning the restoration of a person's right to bear arms. (BDR 14-465)

MS. VAN GEEL:
Assembly Bill 66 was heard in Committee on March 23. We have a work session document on this bill ([Exhibit E](#)).

There were no amendments on the bill.

SENATOR COPENING MOVED TO DO PASS A.B. 66.

SENATOR MCGINNESS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:
We will address S.B. 66.

SENATE BILL 66: Revises provisions relating to multidisciplinary teams to review the deaths of victims of crimes that constitute domestic violence. (BDR 18-268)

MS. VAN GEEL:
This bill was heard in Committee on March 14. We have a work session document on S.B. 66 ([Exhibit F](#)).

Two amendments were brought for the bill. During the hearing, Constance Brooks representing Clark County offered an amendment concerning confidentiality under the federal Child Abuse Prevention and Treatment Act of 1974, [Exhibit F](#), pages 3 and 4.

The second amendment came in after the hearing. It was proposed by the Division of Child and Family Services of the Department of Health and Human Services, [Exhibit F](#), page 5. It would clarify the authority for child death review teams to work with domestic violence fatality review teams. The Attorney General's Office supports the amendment.

An amendment was proposed by Christine Schwamberger, [Exhibit F](#), page 2. That amendment is not included.

CHAIR WIENER:

I see a letter from Mr. Kandt, [Exhibit F](#), page 5. Is this letter in addition to the amendments proposed by Ms. Brooks and the Division of Child and Family Services?

BRETT KANDT (Special Deputy Attorney General, Office of the Attorney General):
No. That amendment was requested by the Division of Child and Family Services, which directed the concern to my office. We drafted some possible language. That language is referenced in my e-mail, [Exhibit F](#), page 5.

SENATOR MCGINNESS:

It says there is no effect on local government or the State. The bill says the Attorney General's Office "may," so it is discretionary. It seems like it expands the authority of the multidisciplinary team to obtain relevant information and meet with others. It expands the list of entities authorized to receive data or information from certain reports. The amendment says, "... may, if appropriate, meet and share information with a multidisciplinary team ..." [Exhibit F](#), page 5. Ms. Brooks' amendment includes a civil penalty. Looking beyond the Committee, are we reaching out and affecting other people who may not be here to testify on this bill?

MR. KANDT:

We reached out to everyone we believed was a stakeholder in this process. The Attorney General conducted a statewide domestic violence fatality review summit in December 2010. Representatives of the stakeholders across the

State participated and provided feedback. We received some input from nationally recognized subject-matter experts. As a result of that process, we decided to move forward with this proposal. We made every effort to ensure everyone who would be affected was on board.

CHAIR WIENER:

This bill brings everything together and gets the bigger picture. Is that the intent?

MR. KANDT:

Yes. This is a collaborative process, and the Attorney General felt a statewide platform could serve two roles. One, to the extent local communities and government agencies lacked resources, our office could work with them to help provide those resources. Two, to improve our standing regarding domestic violence fatality, we must approach it from a more global perspective, a statewide perspective, regarding what is being done and what could be done better.

CHAIR WIENER:

Part of the measure deals with reports and investigations involving the abuse and neglect of children. We did not always put domestic violence and children as being victims together. This bill will take the effect on children into consideration.

MR. KANDT:

Yes. They are interrelated. If there is violence in a home, the violence affects children as well as adults. This process recognizes that. It is crucial that any group of professionals reviewing a domestic violence fatality be able to work with any group of professionals reviewing a child death that resulted in the same household.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 66 WITH THE AMENDMENTS FROM CLARK COUNTY AND THE
STATE AS DRAFTED BY THE OFFICE OF THE ATTORNEY GENERAL.

SENATOR ROBERSON SECONDED THE MOTION.

CHAIR WIENER:

During the hearing, Christine Schwamberger talked about including violence to animals. She testified violence to animals is indicative of other violent things happening in the home and is a precursor. I want to congratulate and thank the Office of the Attorney General for working with her to create another forum where she can work with your office on this issue.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

We will address S.B. 183.

SENATE BILL 183: Restricts the authority of associations of certain planned communities to regulate the storage and placement of containers for the collection of recyclable material. (BDR 10-610)

MS. VAN GEEL:

This bill was heard in Committee on March 15. We have a work session document ([Exhibit G](#)).

Robert Robey provided an amendment, [Exhibit G](#), page 2.

CHAIR WIENER:

I will make a comment for your consideration. I am not trying to influence either way. I heard concern from more than one witness about whether the Commission for Common-Interest Communities and Condominium Hotels should determine specifications for screening. They said the homeowners' associations (HOA) should make those decisions.

SENATOR ROBERSON:

I have concerns about this bill. I have heard concerns from many constituents. We are dealing with a lot of HOA issues. This seems to arguably put another burden on HOAs and homeowners. We should work on recycling efforts. There is some merit to the bill because it appears to result in a higher percentage of people recycling. This bill primarily benefits Republic Services. Republic Services has a monopoly on this business in southern Nevada. Many constituents have asked me why Republic Services only picks up refuse once a week rather than

twice a week. I am not prepared to say we should not consider passing this bill, or some form of this bill. I still have concerns. I am not prepared to vote yes on this bill.

SENATOR COPENING:

I have reservations. I want to encourage recycling. I have not been able to review my notes to hear what the HOAs say about it. I am against having the regulations adopted and created by the Commission because of all the specifications—color, size, material. Every community association is different. Those responsibilities should be left to the association to develop what is best for that particular community. Regarding Mr. Robey's amendment striking the language permitting the association to adopt these rules, that belongs with the association.

CHAIR WIENER:

We have work to do on this bill. Senate Bill 183 will be addressed in our work session on April 7. We will address S.B. 187.

[SENATE BILL 187](#): Revises provisions governing parole. (BDR 16-640)

MS. VAN GEEL:

This bill was heard in Committee on February 28. We have a work session document on S.B. 187 ([Exhibit H](#)).

Orrin Johnson proposed an amendment, [Exhibit H](#), pages 2 through 6. Staff received a letter from Dr. Elizabeth Neighbors, Director of Lake's Crossing Center concerning the proposed amendment, [Exhibit H](#), page 7.

ORRIN JOHNSON (Washoe County Public Defender's Office):

This amendment is the result of collaboration from a lot of people. Connie S. Bisbee drove it to make sure we could get something acceptable to everyone.

Even though there are some concerns, it is important to note that Dr. Neighbors noted the amendment is acceptable. There are four sections of the amendment. Because the ACLU is concerned about specific reference to the Adam Walsh Act, in the specific sections in NRS 179D, we referenced the entire chapter. That allows the flexibility. The ACLU is still somewhat concerned.

Secondly, we wanted to ensure the evaluation process is mandatory so a psychological panel cannot decline to evaluate a person so he would not get a chance for parole. The amendment makes it clear it is mandatory. While a prisoner cannot demand endless psychological evaluations, if another is appropriate, the panel can request it.

We changed the language of the cause of action because our previous changes made it moot. We ensured the language protects the State from lawsuits based on the decisions of the board, so a prisoner cannot sue the State because he did not like the decision of the psychological panel.

The amendment makes the psychological panels subject to the Open Meeting Law. This adds transparency to the process.

CONNIE S. BISBEE (Chair, State Board of Parole Commissioners):

We support the amendment. It is important S.B. 187 passes because the Board of Parole Commissioners cannot have access to information that would help determine whether a sex offender is a risk to reoffend sexually. This bill brings the process back to what it was before. Originally, we had access to this information. If we do not have the information about an inmate's sex offenses, he will be denied parole. The opposite is also true. If an inmate is not required to have a psychological evaluation, he might be paroled when he is a risk to continue that type of behavior. We encourage you to pass S.B. 187 with the amendment so the Parole Board can have a level of comfort in making those critical decisions regarding sex offenders.

SENATOR MCGINNESS:

There is an effect on the State. I do not see a fiscal note.

MS. BISBEE:

Nobody has indicated a fiscal note on this. For example, nothing changed in the staff at the Department of Corrections when it stopped doing this. It did not decrease the staff. I assume Lake's Crossing did not reduce staff when it decreased the hearings either.

CHAIR WIENER:

We received a letter dated March 25 from Dr. Elizabeth Neighbors regarding fiscal concerns, [Exhibit H](#), page 7.

MS. GASCA:

We worked together to come to the resolution presented to you. We have concerns regarding the reference to the entire chapter 179D of NRS rather than specifically NRS 179D.095, which defines sex offenders. For purposes of this bill, we are afraid the overarching application of NRS 179D could be problematic. *Nevada Revised Statutes* 179D.095 is under permanent injunction because of ongoing litigation. We caution the State in moving forward. These laws are complicated, and movement regarding permanently enjoined statutes could prolong the complications relating to the sections as a whole. We understand why this is important. As a result of our ongoing negotiations with the Board and other involved stakeholders, we understand why they are interested in moving forward.

CHAIR WIENER:

Mr. Johnson, please explain why it expands to the entire chapter 179D of NRS.

MR. JOHNSON:

If a person committed an offense under chapter 179D of NRS, the bill allows the Board to get a psychological evaluation for parole. If the person has one of these additional crimes, the psychological panels could say the offender should get an evaluation as well because there is another red flag. This is part of the extra information Ms. Bisbee was talking about that is appropriate to determine whether someone should be paroled.

Our disagreement with the ACLU in this case is that a portion of that chapter of NRS, or the whole thing, was enjoined. There is a bill to take the noncontroversial parts of that chapter and enact it back into law. At some point, the United States Court of Appeals for the Ninth Circuit will decide those issues. At some point, the chapter will come back in some form or another. Whatever that is, this law will be in conformance with it. By referencing back to the chapter, we do not have to create confusion with this section of the law. The Board will be able to get extra evaluations if it thinks they are necessary, even though they are not required.

CHAIR WIENER:

This is the Adam Walsh challenge?

MR. JOHNSON:

Yes.

CHAIR WIENER:
Is chapter 179D of NRS pre-Adam Walsh?

MR. JOHNSON:
Yes.

CHAIR WIENER:
This would take us back to where we were before?

MS. BISBEE:
Section 1, subsection 8 of the bill lists the particular sex crimes that are mandatory regarding the psychological panel. Those are Nevada crimes, and that is Nevada language. Chapter 179 of NRS includes the sex offender who has committed prior sex crimes or has committed those sex crimes in another state where it was called something else. For example, incest is called one thing in Nevada and something else in California. If we are not allowed to request psychological panels for those under chapter 179 of NRS—if it does not fit exactly into the Nevada language under section 1, subsection 8—we cannot require a psychological panel. We are concerned about those other sex offenders under chapter 179 of NRS. It does not mean that anyone ever convicted under chapter 179 of NRS, either in Nevada or another state, would be required to have a psychological panel. It would allow the Board to look at the charges and request a psychological panel. Before the changes in 2007, we were seeing those people under that statute, and it had nothing to do with the additional matters brought up under the Adam Walsh Act.

MR. WILKINSON:
I want to clarify the issue of the definition of "sex offender." It is a technical drafting issue regarding what we are referring to. I understand the statute at issue is enjoined by the district court's order. However, we are merely referring to it in terms of the content of that statute. We could incorporate the offenses listed in the previous version of the statute before the changes brought about by the Adam Walsh Act revisions. That would resolve any issue of referring to an enjoined statute. We could easily accomplish this.

CHAIR WIENER:
Regarding the NRS 179D reference, how does specifically listing that affect that reference?

MR. WILKINSON:

Mr. Johnson and his group were referring to the entire chapter. The only definition in the chapter as it exists is the NRS 179D.095. The other one was repealed, so we cannot refer to the repealed statute, which is the trouble. We could incorporate the elements of that previous statute that was repealed. It is a technical drafting issue. This issue is not involved in the federal litigation, except to the extent it refers to a statute involved in the injunction.

CHAIR WIENER:

By specifically drafting with the specificity of crimes rather than the way you proposed it, does that address your concerns?

MR. JOHNSON:

Yes. We have no problem with that. We thought it would be easier and more flexible so that it references back however it is changed and whenever it changed. If the Committee is more comfortable doing that, we have no problem.

MS. GASCA:

I want to make sure I understand so I relay the correct message to our legal department. Mr. Wilkinson's suggestions would be to reference specific offenses as enumerated before the State moved forward with anything related to the Adam Walsh Act.

CHAIR WIENER:

That is an affirmative nod from counsel.

MS. GASCA:

That would be fair for the State to move forward with that. I would encourage the Committee to consider moving with that and getting rid of entirely everything related to the Adam Walsh Act that is on the books. It would nullify the ongoing litigation if the State went back to the way things used to be in its entirety.

HAROLD COOK, PH.D. (Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services):

Regarding this bill, we have not determined a fiscal impact. We anticipate there would be additional assessments. Since Lake's Crossing Center provides a staff for the panel, we anticipate that staff would provide additional work. Our

position is we can probably manage that within our existing resources. Some other things may be slowed down, but we will do what we can.

ELIZABETH NEIGHBORS, PH.D. (Agency Director, Lake's Crossing Center, Division of Mental Health and Developmental Services, Department of Health and Human Services):

I concur with Dr. Cook. Our primary concern is the clinical staff time we have available for the increase in evaluations likely to occur and the time out of the facility our psychologists will be spending. We have a lot of competing demands with our other types of evaluations we do for the courts. It is likely it will provide less time for that person to help us meet those demands.

SENATOR MCGINNESS:

In your letter, you said it may increase the caseload by 30 percent to 50 percent, so there is a potential for slowing your process and an increase in the current length of stay. Have you determined a fiscal note on that?

DR. NEIGHBORS:

That is hard to estimate. A psychologist's rate is approximately \$50 an hour. It would be an increase of time. That would consume approximately \$20,000 of staff time. That would impact our ability to move people through the facility because that is dependent upon when the evaluations are completed and submitted to the court. We have to wait for transport orders. For those evaluations to be completed, they have to be to the court; we need psychologists and psychiatrists to do that. If we have diminished capacity to complete the evaluations for people who are there for competency, they will stay longer in the facility. Our census has increased over the last two years. We have managed to accommodate that by shortening the length of stay because we cannot increase our beds. If we do not have the staff available to do the evaluations, it will take longer, perhaps another ten days or two weeks, to finish those. People would stack up in jail waiting to get in.

SENATOR BREEDEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 187 WITH THE COLLABORATIVE AMENDMENT AND THE ADDITIONAL LANGUAGE PROVIDED BY COUNSEL TO DELINEATE THE SPECIFIC CRIMES.

SENATOR COPENING SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:
We will address S.B. 222.

SENATE BILL 222: Revises provisions concerning the lease or rental of a unit in a common-interest community. (BDR 10-294)

MS. VAN GEEL:
This bill was heard by the Committee on March 16. We have a work session document on S.B. 222 ([Exhibit I](#)).

Jonathan Friedrich presented an amendment, [Exhibit I](#), page 1. Following the hearing, Senator Copening provided the attached amendment, [Exhibit I](#), page 2.

CHAIR WIENER:
What effect does Mr. Friedrich's amendment adding the words "of the tenant" have on the measure?

MR. WILKINSON:
That is a technical drafting issue, and it is unnecessary. There is no need to clarify that. There is not any other tenant, so that is not a good change.

CHAIR WIENER:
That is already clear in the language of the bill?

MR. WILKINSON:
Yes, it is.

CHAIR WIENER:
The other one is a policy decision.

SENATOR COPENING:
My amendment was to address something overlooked in the initial drafting. That was to clarify if there was a minor change concerning a current tenant, on an annual basis the management company cannot charge that \$50 fee. However, if the old tenant leaves and the new tenant comes in, the company can charge the

\$50 fee. Regarding Mr. Friedrich prohibiting the charge of any fee to register a tenant, some members of my working group agreed with that when we originally drafted the bill. I put in the \$50 fee and I also included the Commission being able to set a different fee because, during my research, a company charging this fee advised me of the administrative responsibilities associated with that. The company put up a program where people could come in to register and send an extra packet of the governing documents to the renter as well as the owner. There are some administrative costs involved with this. I would like to pass the bill with my amendment. I would encourage the Commission, and possibly I would initiate an agenda item, to hold a hearing for the management companies that charge the tenant registration fee so they may justify that \$50. If it is not justified, the Commission could change the fee to what it deems proper.

CHAIR WIENER:

Would you entertain lowering the amount from \$50 and still following up with that? We have had substantial debate on fees. It seems each bill brings new fees, and this gets to be a heavy financial load. The fee of \$50 seems excessive. If you are going to have the Commission do its work anyway, would you entertain a lower starting fee?

SENATOR COPENING:

Yes. Some members thought it should be nothing because their associations do not charge for that. Someone suggested \$20. The \$50 fee was less than the \$140 fee the associations originally charged.

SENATOR BREEDEN:

They should not charge a fee to have a tenant.

SENATOR KIHUEN:

I concur with Senator Breeden. Every one of these bills increases the fees. I would support this bill if there was no fee.

SENATOR COPENING:

I would support the change. The outcome may be the per door fee may or may not increase. The associations may find a way to absorb this in their regular management fees. I would go along with the feelings of this Committee if it wants to eliminate the fee and put it back into the Commission's hands to

possibly create a fee if the argument of the management companies is strong enough.

SENATOR BREEDEN:

If we put it in the Commission's hands and they opt to rule in favor of the HOA and put in a fee, we do not know what that fee would be. I do not approve of that. I would not vote for that either.

SENATOR COPENING:

Three of the Commissioners served on my working group. Nobody liked the fee. I am fine if you want to take it out.

CHAIR WIENER:

We are going to zero on the fee so the associations may not charge a fee, and we would omit the Commission to adopt the regulations on the fee we are not charging. What remains is No. 1, [Exhibit I](#), "... must obtain the information in accordance with the governing documents." Numbers 2 and 3 are left?

MR. WILKINSON:

It looks like the change would be page 2, line 32 of the bill where it would say, "May not charge a fee to the unit's owner for the registration or submission of information." That would end that, so the association or its agent would have to conduct its activities in accordance with the governing documents and cannot require the unit's owner or tenant to provide information, which it does not require to be provided to the association or its agent. Basically, it is cutting off section 1, subsection 4, paragraph (c) where it starts talking about fees.

SENATOR BREEDEN MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 222, ADOPTING THE RECOMMENDATION TO REMOVE SECTION 1,
SUBSECTION 4, PARAGRAPH (C).

CHAIR WIENER:

We would have it up until it says, "May not charge a fee to the unit's owner for the registration or submission of information" Then, delete everything thereafter. Is that your motion?

SENATOR BREEDEN:

Yes, as long as the Commission is not going to adopt what is being deleted.

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SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR WIENER:

The hearing is open for public comment. There being nothing further to come before the Committee, we are adjourned at 9:42 a.m.

RESPECTFULLY SUBMITTED:

Kathleen Swain,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 282	C	Senator Don Gustavson	Introductory remarks
A.B. 11	D	Michelle Van Geel	Work Session Document
A.B. 66	E	Michelle Van Geel	Work Session Document
S.B. 66	F	Michelle Van Geel	Work Session Document
S.B. 183	G	Michelle Van Geel	Work Session Document
S.B. 187	H	Michelle Van Geel	Work Session Document
S.B. 222	I	Michelle Van Geel	Work Session Document