

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-sixth Session  
February 11, 2011**

The Senate Committee on Judiciary was called to order by Chair Valerie Wiener at 8:03 a.m. on Friday, February 11, 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

**GUEST LEGISLATORS PRESENT:**

Senator Mark A. Manendo, Clark County Senatorial District No. 7

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Policy Analyst  
Bradley A. Wilkinson, Counsel  
Kathleen Swain, Committee Secretary

**OTHERS PRESENT:**

William O. Voy, District Judge, Department A, Eighth Judicial District  
Ben Graham, Administrative Office of the Courts  
Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender's Office

Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada

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

Harold Cook, Ph.D., Administrator, Division of Health and Developmental Services, Department of Health and Human Services

Christy Craig, Clark County Public Defender's Office

Jeanette K. Belz, M.B.A., Nevada Psychiatric Association

Lawrence P. Matheis, Executive Director, Nevada State Medical Association

George William Treat Flint, Chapel of the Bells

Margaret G. Flint, Chapel of the Bells; Reno Wedding Chapel Alliance

Marlene Lockard, Nevada Women's Lobby

Kathy Marino, Arch of Reno Wedding Chapel

Diana Alba, Clark County Clerk

Alan H. Glover, Carson City Clerk-Recorder

Nancy Parent, Chief Deputy Clerk, Washoe County Clerk's Office

CHAIR WIENER:

I will open the hearing on Senate Bill (S.B.) 26.

**SENATE BILL 26**: Revises various provisions relating to judicial administration.  
(BDR 14-323)

WILLIAM O. VOY (District Judge, Department A, Eighth Judicial District):

You have a proposed amendment to S.B. 26 ([Exhibit C](#)). The Nevada Supreme Court determined the standard for indigency in Administrative Docket (ADKT) No. 411 filed on January 4, 2008. The Court said a person is indigent if he earns less than 200 percent of the federal poverty guideline. I use that standard to guide appointment of counsel and reimbursement for attorney's fees from those who choose a public defender to represent their child. I ask that you codify the Nevada Supreme Court's standard for determining indigency.

When children commit crimes—property crimes for example—they often owe restitution. Many people are so indigent they cannot pay their restitution. Young children cannot find jobs to help pay restitution. We do not have work programs where a child can work to pay off their restitution. If we have extra money, we put it into a checking account, and for those who cannot pay their restitution, we are able to reimburse victims.

Sometimes, I have juveniles working full time and finishing school. They owe community service hours, but it is hard to complete those hours because of their busy schedule. In lieu of completing their community service, they sometimes contribute to this fund for the benefit of victims. I am seeking the Legislature's permission to accept this when appropriate.

In addition, I am attempting to find members of the community willing to pay a child's restitution after the child has completed his community service. The child would complete the community service, and the community member would then pay the restitution for the community service. If a child owes community service and no restitution, a community member could contribute to the fund. This bill would allow us to do that when appropriate.

Attorney's fees, fines or other financial obligations I have ordered disappear when a child turns 21 years of age. I no longer have jurisdiction to enforce it, and the obligation ceases to exist. This bill would allow the court to enter a civil judgment against the obligor which could be enforced like any other civil judgment. The civil judgment could be enforced in favor of the county, the State or the victim if it is restitution. My intent was to turn these collection efforts over to a collection agency. The collection agency would have a financial benefit for monies collected.

Children are often on probation longer than necessary because of their outstanding fees, fines and restitution. This bill would allow us to convert those to civil judgments when appropriate.

For example, I recently had an 18-year-old who owed \$2,200 in restitution. He wanted to go into the military but could not do so until his restitution was paid. If I had been able to reduce his restitution to a civil judgment, he could have gone into the military, and we could have attached his wages. He still owes the money and is making payments of \$25 per month.

There are people who owe restitution on a juvenile matter. They become adults, commit an offense and end up in the adult system. They are sentenced on the adult crime. I do not terminate their probation condition because they may eventually pay that restitution for the sake of the victims. However, if they go to prison for a couple years, the chances of getting that restitution are slim. We have attempted to attach that financial restitution order to the terms and conditions of their adult criminal sentence. Defense counsel objects to that

because it would add another term and condition to their adult criminal case. If we were allowed to do this, the financial obligations of a juvenile could be included in the adult case as a term of the sentence. We must maintain dual jurisdiction because the restitution order is outstanding. This bill will allow the restitution order to be included in the adult criminal sentencing and enforced in that matter. The restitution order would then continue beyond the age of 21. This is what S.B. 26 is intended to accomplish.

CHAIR WIENER:

We have an amendment to replace the bill, [Exhibit C](#). Who worked with you to draft the amendment?

BEN GRAHAM (Administrative Office of the Courts):

Frances Doherty, District Judge, Department 12, Second Judicial District, said this is good legislation as amended. Andrew J. Puccinelli, District Judge, Department 2, Fourth Judicial District, is President of the Nevada District Judges Association. He asked me to represent that there is universal support for this legislation.

The Clark County District Attorney's Office was concerned this legislation would burden them because of the collection process. The Advisory Commission on the Administration of Justice is attempting to draft legislation that could play into the collection process.

CHAIR WIENER:

Would the money be collected by a collection agency rather than a public entity?

MR. GRAHAM:

If a county can set up a collection process, the obligation would remain with them. If not, it might be turned over to another group. Counties have not been able to do that consistently. We have had discussions with the Office of the State Controller to coordinate a statewide system of collection.

CHAIR WIENER:

Would the group you are talking about be a governmental entity, not a private collection agency?

MR. GRAHAM:

Yes. I am not sure if they utilize vendors.

CHAIR WIENER:

We were not talking about a private collection agency?

MR. GRAHAM:

No.

DISTRICT JUDGE VOY:

That was the point. We do not try to collect while I still have jurisdiction over the child. However, when it appears the obligation will no longer exist, we would be able to continue that obligation in the form of a civil judgment. I have discussed this with county representatives and the Clark County District Attorney's Office. Collection agencies do not want to enter into a contract to collect these obligations because they are court orders, not civil judgments.

CHAIR WIENER:

Is conversion to civil judgment your intention?

DISTRICT JUDGE VOY:

Yes. That would make it attractive for collection agencies, and the obligation would survive beyond 21 years of age.

MR. GRAHAM:

It is not unusual for a state agency to take bids from various vendors when it has an obligation to collect. It is more likely we can find a favorable rate to collect financial obligations if we have civil judgments. To have the taxpayer stop subsidizing those who owe restitution is an effort.

CHAIR WIENER:

Resolving the matter for victims is also an effort.

MR. GRAHAM:

Yes.

DISTRICT JUDGE VOY:

When I send a juvenile to a State institution, I order parental reimbursement to help defray the cost to the State. Youth on parole have financial obligations

under collection by private collection agencies. The agencies are not successful in collecting much because the obligations are not civil judgments. It is difficult to chase the debtors.

MR. GRAHAM:

The intent is in the original bill. The amendments removed some objections from the bill.

CHAIR WIENER:

On page 7 of the bill, lines 14 and 15 say, "... may not enter a civil judgment against a person who is a child unless the person has attained the age of 18 years." Can a child up to the age of 21 years be under your jurisdiction?

DISTRICT JUDGE VOY:

Yes.

CHAIR WIENER:

Where does 18 years of age come in?

DISTRICT JUDGE VOY:

A judgment cannot be entered against a person under the age of 18.

CHAIR WIENER:

Your jurisdiction goes to the age of 21?

DISTRICT JUDGE VOY:

Correct. I would like to have the security of civil judgments so we can follow obligors to their employers and collect that way.

CHAIR WIENER:

On page 8 of the bill, lines 23 to 25 refer to driver's licenses. Please explain.

DISTRICT JUDGE VOY:

That is a typographical error. That was never meant to be plural.

BRADLEY A. WILKINSON (Counsel):

That language in the bill draft is duplicated in NRS in many different sections. I do not know why it refers to multiple licenses.

CHAIR WIENER:

Please check on that. On page 8 of the bill, lines 34 and 35 say, "... such a suspension must not be considered for the purpose of rating or underwriting." Does that mean this could not be used to raise rates for the general population?

DISTRICT JUDGE VOY:

If your driver's license is suspended for driving under the influence (DUI), you have to pay additional insurance rates. This language came from the statute regarding adults.

CHAIR WIENER:

Please explain the process appearing on page 8 of the bill, lines 43 through 45, and page 9, lines 1 through 4. Please explain, it is page 8, subsection 8, but carrying into page 9, it would be line 43 on page 8 through line 14 on page 9, where it says, "except as otherwise provided in this subsection, if the juvenile court has entered a civil judgment pursuant ... ." And then satisfying the judgment "may be punished for contempt ... if the juvenile court enters ... a civil judgment ... transfers to another court ... ." Help us understand that part. Please explain that process.

DISTRICT JUDGE VOY:

Was that subsection 8, [Exhibit C](#), page 8? The amendment says, "... If the juvenile court enters a civil judgment pursuant to subsection 1." The remainder of paragraph (a) is deleted. Paragraph (b) says, "Pursuant to this title." Subparagraph (1) says, "Transfers jurisdiction over the child pursuant to NRS 62B.330 or NRS 62B.335," [Exhibit C](#), page 8. This refers to direct-file cases. For example, if a 16-year-old has a felony in the juvenile system and commits a gun offense, he is direct-filed in the adult system. This is referencing those statutes.

CHAIR WIENER:

I have a comment about allowing a monetary contribution in lieu of community service. See section 10, subsection 2, paragraph (b) of the bill. This issue was in a bill before us some time ago. We were concerned about an ability for a juvenile to buy his way out and not be held accountable. There are situations where a person commits an act in Nevada but lives in another state. It may not be feasible to come to Nevada to do community service. In those circumstances, this bill would hold them accountable financially. That might be part of the consideration in this bill.

DISTRICT JUDGE VOY:

Originally, the concern was that a parent could buy the child's community service. In the amendment, we said the community service is imposed upon the child only and paid by the child, [Exhibit C](#), page 12. I would not allow a child to have his parents buy him out of his community service.

CHAIR WIENER:

That was a stand-alone bill.

SENATOR GUSTAVSON:

If a juvenile's driver's license is suspended and he needs that driver's license to go to work to help pay the restitution, does the judge have discretion to allow that?

DISTRICT JUDGE VOY:

Yes. The language is "may."

ORRIN J. H. JOHNSON (Deputy Public Defender, Washoe County Public Defender's Office):

I have not had time to review the amendments, but they appear to have alleviated many of our concerns. The standards for indigency set forth in Nevada Supreme Court ADKT 411 are appropriate because it is the role of the judiciary to set those rules for the courts. It is also more flexible that way. If the rules are appropriate for Clark or Washoe County but not for rural counties, the Nevada Supreme Court can issue a new order sooner than the Legislature can reconvene and amend the statutes.

The Public Defender's Office supports the idea that people pay their fines and restitution. Once my clients have paid for their supervision or restitution, they feel better about themselves and are more likely to be productive members of society. A lot of that money reimburses us for our services. We support the aggressive pursuit of these payments, and we support civil judgments. We can garnish wages from a civil judgment. Many of my clients have wanted to join the military but could not do so because of their outstanding obligations. I would rather garnish their wages from the military than have them wait several years until they can pay their obligations.

SENATOR GUSTAVSON:

What is the federal poverty standard?



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MR. JOHNSON:

I do not have that information. I can research it for you.

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

It is hard to escape the cycle in the criminal justice system. Without a car, it is almost impossible to maintain employment, let alone pay civil penalties. The American Civil Liberties Union of Nevada is neutral on this bill.

CHAIR WIENER:

I will close the hearing on S.B. 26 and open the hearing on 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)

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

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

This streamlining would help us meet the needs of the State with the resources we have.

CHAIR WIENER:

Why were the particular felonies listed on page 2 of the bill?

DR. NEIGHBORS:

Those felonies are identified in another statute as egregious, allowing people who are incompetent to be committed. We used that as a measure of which ones we chose.

CHAIR WIENER:

Is this the standard practice?

DR. NEIGHBORS:

In that regard, yes.

CHAIR WIENER:

You testified this proposal reduces the required number of assessments to one for less serious felonies. The statute provides that an additional evaluation may be requested by the defendant. Later you testified a third evaluation is redundant with felonies and gross misdemeanors. Could the defendant request a third evaluation?

DR. NEIGHBORS:

Yes, after the restoration.

CHAIR WIENER:

The Nevada Psychiatric Association favors a nontreating professional performing the third evaluation. Please comment on that.

DR. NEIGHBORS:

It could be a psychiatrist or psychologist. They are concerned about the person being involved on the treatment team. Under our internal process, the team primarily evaluates and treats. If a client needs intensive psychotherapy, that is not done by a person on the treatment team. Third evaluations are done by someone from a team not involved with that person's team.

CHAIR WIENER:

How much will this save you?

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

We have not added a fiscal note regarding the amount this would save. Lake's Crossing Center is court-mandated to provide services within one week of referral. If we fall behind that, we are subject to a lawsuit. The facility has been able to do that. It has been difficult. In 2006, we increased the capacity to 76 beds. In the Twenty-sixth Special Session, we reduced the capacity to 70 beds because of lack of funding. We are proposing to reduce the capacity to 66 beds. In a sense, that is the fiscal note.

CHRISTY CRAIG (Clark County Public Defender's Office):

I am opposed to the changes contemplated by S.B. 28. On page 3 beginning at line 7, the bill contemplates eliminating the third independent evaluation completed at Lake's Crossing.

Before 2001, the Sanity Commission—an independent body of doctors in the Reno area—would come to Lake's Crossing, provide evaluations and determine whether a defendant was competent and ready to proceed back to his court of origin. In 2001, the Legislature eliminated the Sanity Commission and allowed Lake's Crossing to do those evaluations internally. Eliminating the independent evaluator was a concern. As a result, the Legislature required a third evaluator who was independent of the treatment team. I oppose eliminating the language on page 3, lines 13 through 16 of the bill. It is important for fresh eyes to evaluate a person at Lake's Crossing. There are often disagreements between the doctors. We have an upcoming competency hearing where two doctors at Lake's Crossing think the defendant is competent, and one doctor does not. Eliminating the independent third evaluation would be a mistake.

Regarding the change contemplated on page 2 of the bill, beginning at line 2, between January and November 2010, we completed approximately 270 competency evaluations in Clark County. Twenty-six percent of the time the two doctors who did the evaluations disagreed. We were required to do a third evaluation to break the tie. Those disagreements are not unusual.

I do not understand the difference between serious felonies and not-so-serious felonies. All felonies are serious. They all require and contemplate serious consequences for the defendant. The U.S. Constitution, laws and caselaw regarding competency do not allow for a split between serious and not-serious felonies.

If someone is charged with a crime and there is a question of competency, the person needs to be evaluated. The evaluations need to be accurate. There should be at least two evaluations because doctors disagree. If we allow just one evaluation, people could be sent to Lake's Crossing because they have been found incompetent when that may not be accurate. It goes the other way as well. We end up seeing a loop between Lake's Crossing, the jail and back again. The more accurate and complete our evaluations are, the better we are at getting a person through the criminal system as quickly and efficiently as possible. We recognize the problems and pressures Lake's Crossing is under. They are constitutionally required to do this. We cannot prosecute someone unless we all agree they are competent and able to proceed.

JEANETTE K. BELZ, M.B.A. (Nevada Psychiatric Association):

Dr. Lesley R. Dickson, legislative representative for the Nevada Psychiatric Association, is unavailable this morning. He sent a letter opposing section 2 of the bill eliminating the third evaluation of competency ([Exhibit E](#)). We are concerned because the only evaluation would be done by members of the treatment team. That is not in the best interest of the patient and not in keeping with the standards of the American Academy of Psychiatry and the law, which advise against clinicians having multiple roles. If this bill were to move forward, we might suggest eliminating one of the evaluations done by the members of the treatment team rather than the one done by the nontreating professional.

LAWRENCE P. MATHEIS (Executive Director, Nevada State Medical Association):

We agree with the position of the Nevada Psychiatric Association. The independence of the psychiatrist or psychologist is important. If there is a disagreement between doctors, you want an evaluation by a professional who is not as close as someone on a treatment team.

CHAIR WIENER:

Any letters or documents provided to the Committee are public record and will be included with Internet exhibits.

MR. JOHNSON:

Our primary objection to this bill is due process. Whether one is competent to go through the proceeding is a core due process issue. It is important to note that "competent" is different than "not mentally ill." Many people who are competent have mental health issues. Many people may be competent at one point but are not competent later. We often see two professionals with different conclusions about someone's competency.

It would be unfortunate to miss someone who is incompetent and to proceed through the process. We would not want to punish someone when they cannot appreciate the process, and we would not want to negotiate with them if they are not competent.

*Maxwell v. Roe*, 606 F.3d 561 (2010) came from the United States Court of Appeals for the Ninth Circuit and includes a discussion of due process concerns with competency in general, which applies to felonies. All felonies are serious. In that case, the defendant exhibited significant outbursts in the courtroom. The case was reversed on due process grounds. This case may be retried, and a lot

of expense is associated with that. If there is only one evaluation at the beginning, it would open doors to appeal a lot of these cases. We might believe there is substantial reason to disagree with a single evaluation. There could be an issue of whether someone had a fair trial. Two evaluations confirming someone is competent or incompetent would solve many of these problems at the beginning and eliminate potential appeals.

CHAIR WIENER:

I will close the hearing on S.B. 28 and open the hearing 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)

SENATOR MARK A. MANENDO (Clark County Senatorial District No. 7):

There are some concerns involving the wedding industry. In this economy, we hear about budget situations and that we should become more business-friendly and encourage the entrepreneurial spirit. We need to work with our clients, business community, our constituents. This bill will help streamline the wedding industry, and we would be more customer- and consumer-friendly to that industry.

GEORGE WILLIAM TREAT FLINT (Chapel of the Bells):

In 1968, Nevada was the only state that did not require a blood test or waiting period for a marriage license. I worked with the Chambers of Commerce, the Nevada Department of Transportation, and the Reno-Sparks Convention and Visitors Authority on a study showing the wedding industry was almost 16 percent of the tourist economy. At that time, 30 percent of all California weddings took place in Nevada.

Our industry is viable in southern Nevada. However, our industry is suffering in northern Nevada. In 1978, Clark County had 55,000 weddings and Carson City and Reno had 50,000 weddings. A few years ago, southern Nevada had 120,000 weddings, and last year, 90,000. The wedding industry in northern Nevada has declined since 1978. Last year, fewer licenses were sold in northern Nevada than in 1937. There are five remaining chapels in Reno.

We are here today because we are no longer able to discuss issues with the Washoe County Clerk.

MARGARET G. FLINT (Chapel of the Bells; Reno Wedding Chapel Alliance):

I have provided you with a handout ([Exhibit F](#)). In the 2007 Session, the county clerks and the Department of Motor Vehicles (DMV) came to the Legislature requesting strict identification requirements to obtain a marriage license. The Assembly removed that restrictive language. The Senate Committee on Government Affairs put the language back in and recommended we work with the county clerks to reach a consensus. As part of that consensus, we agreed a certified copy of a birth certificate would be an acceptable form of identification with a secondary identification containing the name. The word "photograph" was removed, [Exhibit F](#), page 5. That legislation was passed and was to be effective in January 2008. The Washoe County Clerk implemented that legislation six months before its effective date. We were concerned because photo identification continued to be required and is still required.

We returned in 2009 with the same issue. The language on page 2, lines 36 and 37 of the bill is ambiguous. It refers to a form of identification you would have to show to acquire identification. It could be for vehicle registration or a temporary driver's license that does not have a photograph on it. Temporary driver's licenses have "not to be used for identification purposes" on them. So, the Washoe County clerks are still requesting photo identification.

An opinion from the Legislative Counsel Bureau concludes an applicant for a marriage license is not required to furnish a photo identification, [Exhibit F](#), pages 7 through 11. However, the County clerks still require a photo identification.

Most people have photo identification. Those who do not may have credit cards, vehicle registration, insurance identification or a certified copy of a birth certificate. They may have six pieces of identification showing who they are and be denied a marriage license. On page 2 of the bill, lines 25 through 28 and lines 38 and 39 prevent county clerks from denying a marriage license to a couple who shows this type of identification. We would like to work with these people to accommodate our tourists. You cannot go to DMV with a marriage license and obtain a photo identification, [Exhibit F](#), page 18.

In 2006, the Office of the Washoe County Clerk said wedding chapels could not escort clients into the Marriage License Bureau, [Exhibit F](#), page 24. At times, some wedding chapels have been unhappy because their client was denied a marriage license that should have been issued pursuant to statute. They

expressed their displeasure. Two incident reports have been written about me. On one occasion, I went to the courthouse with the copy of the bill and statute to try to remedy the situation where the statute was not followed. On the second occasion, I sent a couple to the Marriage License Bureau. I did not go inside with them, but stayed in an area where I could observe. They called security on me.

Some of our clients have a language barrier, and we could help with that. There are occasions when we need to get in touch with our staff to find out what is taking so long. Our staff is not able to get that information for us. We are not allowed to observe whether the law is being followed.

The marriage certificate a couple is given is not considered a certified copy, [Exhibit F](#), page 26. However, this certificate was designed as an official document. A marriage license has three parts. The actual license remains in our files. It contains the couple's personal information and gives us permission to perform the ceremony. We file a copy with the Washoe County Recorder's Office within ten days. The third copy is given to the couple. The back of the certificate explains how to obtain certified copies, [Exhibit F](#), page 27. Certified copies are required by the U.S. Social Security Administration and DMV for name changes. They are needed for various other reasons, such as immigration.

Approximately six months ago, we began seeing a red stamp on the back of the certificates, which says, "Souvenir Only. Not valid for proof of marriage," [Exhibit F](#), page 27. This is an official document. This has created issues because couples go home thinking they could have bought this in a convenience store. Souvenir is not proper language. In Clark County, the certificate says, "This is for keepsake purposes and not an official record," [Exhibit F](#), page 28. On page 5 of the bill, lines 17 through 20, we request nothing be written on the back of the certificate.

If a retired minister is licensed in one county and moves to another, he must reapply in the new county of residence. Section 3, subsection 8 of the bill allows retired ministers to register a change of address only in their new county of residence.

Section 4 of the bill would raise the fee to the commissioner of civil marriages from \$45 to \$70. If the Governor does not want to sign a bill with a fee increase, we would amend that out.

The Visitor Profile Study compiled by the Reno-Sparks Convention and Visitors Authority shows that weddings and anniversaries make up 11 percent of the activity participation while in Reno, [Exhibit F](#), page 30. Weddings bring revenue to Nevada.

SENATOR KIHUEN:

Is a photo identification required to obtain a marriage license?

MS. FLINT:

That is correct.

SENATOR KIHUEN:

Have the county clerks denied marriage licenses for not having a photo identification?

MS. FLINT:

That is correct.

SENATOR KIHUEN:

Is it a significant problem when people are denied a marriage license because they do not have the proper identification?

MR. FLINT:

Every wedding represents approximately \$2,000 entering into the tourist economy. Most weddings have an average of ten guests who stay at least two days. There is no way to put an exact dollar amount on it. In one instance, a group of 40 people came for a wedding. They had reservations at a hotel for three days. Everything was in order, except there was a question on the photo identification. The bride was young and had many other forms of identification, including a school card with no photograph. She was refused a marriage license. The group cancelled their hotel reservations and left town. In that one case, the economy for Reno lost \$50,000 to \$60,000. Multiplied many times, that represents a substantial amount.

SENATOR KIHUEN:

We should do everything possible to make sure, particularly with tourists, we are as flexible as possible. We want to make sure tourists get the best treatment possible to entice them to return to Nevada.



SENATOR COPENING:

You stated you have been prohibited from coming into the Marriage License Bureau. If a couple applying for a marriage license has a language barrier, can they take a friend with them? What is the definition of attendant? Are marriage industry personnel the only ones prohibited from going into the Marriage License Bureau, or is everyone except the couple prohibited from going in?

MS. FLINT:

It is hard to say because I am not there every day. It is my understanding a parent cannot go in to take pictures. Video recordings are not allowed. There have been some concessions regarding language barriers. The clerks say it is a privacy issue.

SENATOR COPENING:

Does the word "attendant" have a definition?

MR. FLINT:

The word "attendant" was created by the Legislative Counsel Bureau. We may have people with physical infirmities, and we try to be as accommodating as possible with our clients. It is never our intention to get in the way of the process. From our perspective, the term "attendant" means the driver of the limousine who picked them up and took them to the courthouse.

We recently had a couple, and the groom was from Iraq. The couple went to the Washoe County Courthouse, and the groom was asked how to spell his mother's maiden name in English. He replied he did not know. The marriage license was denied.

SENATOR COPENING:

I am trying to figure out why you or the marriage license industry personnel are not allowed inside the County Clerk's Office. Are they concerned the industry is soliciting outside trying to encourage people to get married? Do most of the customers go to you first, and you bring them to the Marriage License Bureau?

MR. FLINT:

Approximately half of the couples go to wedding chapels first and are then brought to the Marriage License Bureau.

SENATOR COPENING:

Why is the industry prevented from going inside the Marriage License Bureau?

MR. FLINT:

We have discussed this with legal counsel. It is a public building. I respect the County clerks' feeling some information they receive is confidential. You will hear they are concerned about identity theft. We have the same information in our file. We protect that information like the County does.

The restriction is strange. For a while, we could not go beyond the security. Another time we could not go beyond the first set of double doors. At one point, we could not go to the brochure rack to replenish our brochures without being accompanied by security. There was even a case where we could not use the restroom in the courthouse because it was close to the door into the Marriage License Bureau.

MARLENE LOCKARD (Nevada Women's Lobby):

We support S.B. 101. Twenty-five dollars of each marriage license fee goes to support domestic violence programs. This is a revenue stream that helps those domestic violence programs and other entities and nonprofit organizations suffering because of the economy. Any measure that would increase revenue for the city, state, county and nonprofits is a win.

KATHY MARINO (Arch of Reno Wedding Chapel):

I support S.B. 101. A marriage license does not create an identity. In order to change your name or create an identity, you have many more documents. It is only a permit to get married. It is not the clerk's job to worry about identity theft or fake identifications.

SENATOR COPENING:

Have you had the same experience as the Flints as far as access into the County Clerk's Office?

MS. MARINO:

It seems to be more security. We have been told that no one can go past the double doors into the room on weekends. There is also a desk adjacent to where the marriage licenses are issued, and there are lines of people. We are not talking about standing at the counter with the couple unless they request it. There are other people in there. It seems to be a problem on and off.

SENATOR GUSTAVSON:

Did I hear you correctly when you said a marriage license is not needed for identification?

MS. MARINO:

Correct. The marriage license does not establish an identity by itself.

SENATOR BREEDEN:

Does our Committee counsel have a better word than "attendant" that we can use?

BRADLEY A. WILKINSON (Counsel):

The term "attendant" is used in NRS in several sections, usually in the context of when a witness is testifying. That witness has a right to have an attendant present. Attendant is a person who is there to assist the testifier to provide moral support or just to be there for the person. In selecting a term to use in this statute, we wanted to choose a term that would be someone selected by the person appearing at the Marriage License Bureau to provide moral support. That person could be anyone selected by the applicant—personnel of the wedding chapel, friend or relative.

DIANA ALBA (Clark County Clerk):

I oppose S.B. 101. I sent this Committee a letter ([Exhibit G](#)). I am concerned this bill weakens the ability to check identification. It takes away the Clerk's discretion in accepting identification. It is rare that someone is turned away for not having proper identification. I am concerned with the language on page 2 of the bill, line 25, where the word "may" is changed to "shall." The statute says the clerk may accept a driver's license, a passport, a birth certificate with some other documentation—a military identification card, a Certificate of Citizenship or any other document—that provides the applicant's name and age. If the applicants appear over the age of 25, they do not have to prove age, just name. The word "may" gives the clerk discretion. We use that discretion. We get people from foreign countries who usually have a passport. We work with them if they can present something that assures us they are who they say they are. If the word is changed to "shall," the clerk will be required to accept any other document that provides the applicant's name.

Regarding documentation that would go with a birth certificate, the law requires a secondary document with a name and photo or a secondary document from

which identification must be verified. We do accept insurance cards, credit cards, school identifications or vehicle registrations with birth certificates.

We are obligated to ensure the people standing in front of us are who they say they are. It affects identification, especially in foreign countries. Other countries, Social Security and DMV do look at this documentation.

This is part of our tourist industry. Couples often bring large groups with them. We like to see couples have a wonderful experience. We want them to know this is a credible process. It is credible because we go by the book. My Office fields calls every week from people living in other jurisdictions asking about the validity of a marriage in Las Vegas. We assure them that when a couple comes here to get married, it is a legal marriage recognized around the world.

We have couples who come with no identification. We must have some assurance they are who they say they are and they are being truthful with us.

The county clerks must have the ability to manage their offices. We allow someone to come in to help translate: family members come in, people in wheelchairs have someone come to help them. When we are busy, we restrict people coming in. For example, in the day surrounding October 10, 2010, we issued 3,060 licenses in 3 days. During that time, we requested that only the couples come in because our lobby was full.

If a marriage license has been lost, we have used the keepsake certificate the couples receive to reconstruct a marriage certificate. This bill would restrict the language on the back of the certificate. Eighty-five percent of the couples married in Las Vegas come from outside the State of Nevada. They try to get copies of their records from a distance, so we provide as much information as possible. Mandating a one-size-fits-all for all the counties is not workable.

Retired ministers are authorized through their religious organization. They apply to their county of residence. If a minister moves from the county, that minister must reapply in the county of residence. Once a minister has the certificate, he or she may perform a ceremony throughout the State. We would need proof the person is retired because a retired person is treated differently than someone who is not retired. I do have a concern about that.

We are neutral on the fee increase. That fee has not changed for a number of years. The increase in this fee would go to the Clark County General Fund, which would be a good thing. We performed approximately 4,000 civil marriages in my office last year. I would not oppose it if those funds go to something like the domestic violence programs.

SENATOR KIHUEN:

Do you accept the consular identification cards? I have heard from constituents they have been denied a marriage license because they only have a matricula consular card. Do you accept that?

MS. ALBA:

Yes. We began accepting consular cards approximately two or three years ago. We recently had training from the U.S. Department of Homeland Security to help identify forged or fraudulent identification because marriage fraud is a billion-dollar industry. People can come from a foreign country, marry a citizen and have access to benefits.

CHAIR WIENER:

How many marriage licenses did you deny last year?

MS. ALBA:

We issued approximately 91,900 licenses. We turned 533 away in 2010. Of those, less than half were identification issues. We deny someone if they are too close of kin. They cannot be a closer relative than second cousins. Some are denied because their divorce is not final. Some are denied because they are minors without proper parental consent. We do not issue licenses if someone is inebriated.

ALAN H. GLOVER (Carson City Clerk-Recorder):

We want to know who people are when we issue licenses. If someone brings in a birth certificate only, we do not know if it is the person's birth certificate. Carson City issues approximately 1,000 marriage licenses per year. We turned someone down recently because the groom had an altered Mexican driver's license.

We had a meeting with the Department of Homeland Security in November and had training on identifications and how to recognize altered and fraudulent documents.

You cannot take just your marriage license and obtain a driver's license. With your identification and with that marriage certificate, you can change your name on your driver's license or Social Security card. It affects military documents. A marriage license is important. We want to make sure we issue a valid license. We need to know the applicants are who they say they are.

The language on the back of the certificate is not consumer-friendly. Every county has different ways to get certified copies of licenses. We want people to know how to get a copy of their marriage license. We want information on the back of the certificate to explain that. We have no issue with the fee increase.

We do not have a problem in Carson City with the word "attendant." On occasion, we have asked family members to please sit down. We have asked people to stand elsewhere if they are disruptive.

NANCY PARENT (Chief Deputy Clerk, Washoe County Clerk's Office):

We oppose S.B. 101. I feel on the defensive because many comments are related to Washoe County. We do everything in our power to assist our customers and let them know what identification is required. We try to help them find it. If they have lost their identification, many times they have someone at home who can send a copy of their driver's license by facsimile transmission.

When they come in with only a birth certificate and no photo identification, most people have a government-issued identification, insurance card or some legitimate document with their photo on it that we can use to verify they are who they say they are.

We have spoken with prison wardens and had them send pictures by facsimile transmission so we could verify who is in front of us. We have gone online with students to access their college transcripts and photos. We have taken yearbooks from high school students with their names printed beneath their pictures in addition to their birth certificates. We do everything in our power to issue licenses for everyone we possibly can. Of the 9,800 licenses issued in Washoe County last year, 36 were not issued because of improper identification.

We were advised about fraudulent identifications by the Department of Homeland Security. Most of the clerks in this State have gone to that training.

We take the matricula consular cards. All we ask is for the applicant to prove they are who they say they are. It is our responsibility as government agencies to create a credible responsible document. We do not want something other agencies do not recognize.

I want to address Ms. Flint's comment about the man from Iraq who could not spell his mother's maiden name. He did not know how to spell it in English, and he did not want it to be wrong. He asked if he could come back later when he had the correct information rather than writing "unknown." He did come back, and we issued the marriage license.

It is important that we decipher who the applicants are. We recently got a call from a man who got married in Reno in 1995. His bride was from Italy, and she had no identification. At that time, the clerk accepted affidavits notarized by chapel employees. In his situation, the notary notarized the document without any identification, contrary to notary statutes. We issued that license. He just found out his wife is not who she said she was.

It is a shame what has happened in Washoe County. A wedding chapel owner is the reason we implemented the policy precluding people from coming into the Marriage License Bureau. The owner would come in after hours or on the weekends after the identification policy was implemented and scream and yell at our clerks and disrupt the whole place. We tried to work with them. We do not have a problem with them coming in and interrupting the clerks. If anyone is too disruptive, they are asked to leave. We should have the right to control what happens in the office.

We put the language on the back of the certificate because we get hundreds of phone calls from people who think the blue certificate is the real thing. We wanted to make it clear that is not what they need. We can change that. We do not have to put it in red. We were trying to address a business concern and respond to our customers. It is important that we give our customers information on how to get the certified copy of their marriage certificate. We request that not be part of this bill.

The county clerks need to know who retired ministers are and their church affiliations. We could work out something that makes sense to accommodate retired ministers. The process to apply at the new county clerk could be simple. We do need records of who is doing what and where they are.

We do not oppose the increase in the fee.

The chapel owner indicated they want to be the attendant at our counter to ensure we are not violating the law by referring couples to particular chapels. We are not doing that.

SENATOR BREEDEN:

Has your office refused entry to Ms. Flint or any other chapel owner?

MS. PARENT:

Yes, specifically Ms. Flint.

SENATOR BREEDEN:

Does that mean she can never enter your office?

MS. PARENT:

She is not allowed to go to the marriage counter and stay there. The entire wall of our office is windows. People can see everything that happens. They are not out of sight.

SENATOR BREEDEN:

You indicated in your testimony that someone can come up to the counter unless you are busy and you ask them to stand aside. Would that apply to any chapel owner?

MS. PARENT:

That was for the chapel drivers. Anyone else can come up. People come to the counter all the time, and if they are not interfering with the conduct of business, they are welcome to be with the couple. We do warn the couple they will be giving us personal information and suggest if they do not want people to be there, we would be happy to ask the people to step back.

SENATOR BREEDEN:

If the attendants from the chapels are not interfering with the business, will you allow them into your office?

MS. PARENT:

We would.



MR. WILKINSON:

There was some misunderstanding about what the bill does in section 2 relating to instructions for obtaining a certified copy or certified abstract of the marriage certificate. The bill does not make a change regarding that information. The clerks would still be required to provide that information. The bill, on lines 17 to 19 of page 5, says, "nothing may be printed, stamped or written on the reverse of the form other than the instructions and language described in subsection 2 and a time stamp." The bill would not prohibit the clerks from printing information about how to obtain a marriage license. It would continue to be required.

CHAIR WIENER:

I will close the hearing on S.B. 101. There being nothing further to come before the Committee, we are adjourned at 10:19 a.m.

RESPECTFULLY SUBMITTED:

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Kathleen Swain,  
Committee Secretary

APPROVED BY:

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Senator Valerie Wiener, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** February 11, 2011

**Time of Meeting:** 8:03 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 26	C	William O. Voy	Proposed amendments
S.B. 28	D	Elizabeth Neighbors	Written testimony
S.B. 28	E	Jeanette K. Belz	Letter from Nevada Psychiatric Association
S.B. 101	F	Margaret Flint	Documents relating to S.B. 101
S.B. 101	G	Diana Alba	Letter to Committee