MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-Seventh Session
April 22, 2013

The Senate Committee on Judiciary was called to order by Chair Tick Segerblom at 9:09 a.m. on Monday, April 22, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Tick Segerblom, Chair
Senator Aaron D. Ford
Senator Justin C. Jones
Senator Greg Brower
Senator Scott Hammond
Senator Mark Hutchison

COMMITTEE MEMBERS ABSENT:

Senator Ruben J. Kihuen, Vice Chair (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Elliot T. Anderson, Assembly District No. 15
Assemblywoman Olivia Diaz, Assembly District No. 11
Assemblyman Jason Frierson, Assembly District No. 8

STAFF MEMBERS PRESENT:

Mindy Martini, Policy Analyst
Nick Anthony, Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

Jon Sasser, Washoe Legal Services; Legal Aid Center of Southern Nevada

Candace Barr, Legal Aid Center of Southern Nevada
Melinda Wishart, Washoe Legal Services
John T. Jones, Jr., Nevada District Attorneys Association
Steve Yeager, Clark County Public Defender's Office
Linda Marie Bell, District Judge, Department 7, Eighth Judicial District
Jennifer Rains, Deputy Public Defender, Washoe County Public Defender's Office
Ben Graham, Administrative Office of the Courts, Nevada Supreme Court
John McCormick, Rural Courts Coordinator, Court Services Supervisor; Administrative Office of the Courts, Nevada Supreme Court
Cristina Sanchez
Renee Ocougne de Gascon
Laura Martin, Progressive Leadership Alliance of Nevada
Astrid Silva, Nevada Immigrant Coalition
Vanessa Spinazola, American Civil Liberties Union of Nevada

Chair Segerblom:
I will open the hearing of the Senate Committee on Judiciary with Assembly Bill (A.B.) 82.

ASSEMBLY BILL 82 (1st Reprint): Revises provisions governing evidence in certain court proceedings. (BDR 11-78)

Assemblyman Jason Frierson (Assembly District No. 8):
This bill is intended to fill a gap in Nevada's rape shield law, *Nevada Revised Statute* (NRS) 50.090. This statute has been in place since 1975 and addresses criminal proceedings in prosecution. It largely mirrors the federal rape shield law, but federal law specifically mentions criminal and civil. Nevada's rape shield law only mentions criminal.

Chair Segerblom:
What is the rape shield law?

Assemblyman Frierson:
Rape shield means questioning the sexual history of a victim is off limits in legal proceedings. That victim's past is not relevant. Prior to this statute, victims of sexual assault were sometimes called promiscuous as a defense to the sexual assault allegation. Mirroring federal law, Nevada enacted the rape shield law in 1975 to prevent this. I have submitted my written testimony (Exhibit C).

The original bill applied to both child welfare dependency proceedings and juvenile delinquency proceedings. However, the introduction of the bill made clear that juvenile delinquency proceedings already adopt the adult criminal rules and thus apply the rape shield under NRS 62D. However, NRS 432B did not.

Essentially, NRS 432B is where the issues start with an allegation of child abuse and neglect. The parent is given an opportunity to engage in a case plan. If the parent refuses or fails to follow that case plan, a termination proceeding will follow. This bill applies to both dependency proceedings and termination proceedings to make sure those minors who are subject to child abuse and neglect allegations receive the same protections as adults. We have worked hard on this bill to come up with something that is both practical and fair.

Chair Segerblom:
I know that family court is civil, but will this cover other civil matters?

Assemblyman Frierson:
This bill is expressly designed to affect both dependency and termination proceedings. The number of stakeholders that would be included, if we tried to apply it across the board, would be too broad. I have not heard that this is an issue anywhere other than in the dependency setting.

Senator Brower:
Can you give us an example of a case to which this would apply?

Assemblyman Frierson:
The typical proceedings are confidential, so let me recreate one. Imagine a mother of a 12-year-old girl and the mother's boyfriend living in a home with that child. If allegations surface that the boyfriend has sexually molested the daughter, a county's child protective services will be called. That agency will then make a decision to remove either the child or the boyfriend from the home. Either way, the goal is to keep the child safe. One complicating factor is that, oftentimes, the mother does not know which person to believe.

Within weeks, a hearing to determine where the child should be placed will transpire. A preliminary hearing ensues with the goal of gathering information to decide what is in the best interest of the child. When calling witnesses, we call parents, but sometimes they do not want to participate because there is a parallel proceeding.

Often, all we have is the child's word or anyone the child may have talked to about the abuse. There are measures allowing the child to refuse to testify in front of the molester. These are often troubled children, and without these protections, others can be called in to testify—classmates, siblings or neighbors.

Sometimes the alleged offender will testify that the victim has made the allegations before. All that is admissible. However, if you want to allege the child is promiscuous simply to attack the victim's credibility, this bill would prevent that. The bill and the rape shield law allow for exploration of that subject once it has been broached. For example, if the child says he or she has never had sex before and there is evidence to the contrary, then the door is open, the subject has been broached.

Senator Brower:
One point of law is important here. The counsel for the accused may try to get testimony into evidence about the child's sexual activity. However, with child victims, there can be no consent. It seems to be all the more reason to enact this bill.

Assemblyman Frierson:
That is right. There is no consent, and very often the defense in a criminal context is that the subject consented.

Senator Brower:
I agree. If any potential issue of consent is irrelevant, then why should it be admissible?

Assemblyman Frierson:
Absolutely, and there are clearly concerns about intimidating witnesses and creating an atmosphere where a witness would be afraid to tell his or her story. We want to avoid that so we can protect these children.

Senator Hutchison:
Does the "open the door" exception in Nevada statute mirror the federal rape shield language?

Assemblyman Frierson:
It is similar. Some states have adopted the federal law verbatim, so they address criminal and civil. Nevada does not. We have a different situation

because we often have several attorneys involved in a single sexual abuse allegation case. For that reason, we wanted to make the law open.

Senator Hammond:
To clarify, once the language opens the door about the child's sexual encounters, then you can talk about that. Is it in the bill?

Assemblyman Frierson:
It is there. That is the standard of existing rape shield law. Section 1.5, page 2 of the bill, states "unless the attorney for the child has first presented evidence or the child has testified concerning such conduct ... ." That is what we consider opening the door.

Jon Sasser (Washoe Legal Services; Legal Aid Center of Southern Nevada):
Both of the nonprofit law firms I represent today provide counsel for children in abuse and neglect cases. We support this bill.

Candace Barr (Legal Aid Center of Southern Nevada):
I am a children's attorney and support this bill. It is important because it complies with criminal actions and will protect victims of sexual abuse. The experience of sexual abuse often produces feelings of fear and shame. Victims blame themselves.

Avoidance of the memory and the reminders of the abuse are common methods of achieving temporary relief for the victim. That avoidance can manifest itself in active avoidance of situations and people, general numbing and restriction of emotions. Active behaviors like self-harm, substance abuse, risky behavior or acting out sexually can also evolve from this kind of abuse.

Abuse victims are revictimized by having to face their accusers and testify. It is difficult enough for victims over 14 years of age to have to testify against their perpetrators in court. Instructions for witnesses in NRS 50.580 only allow children under 14 to testify by alternative methods, not face-to-face. Allowing the perpetrator to bring up past sexual conduct further shames the victim. This bill conforms to adult hearings and the rape shield law and protects victims.

Melinda Wishart (Washoe Legal Services):
I am a child advocacy attorney with Washoe Legal Services. We support this bill. The seven attorneys in my office represent approximately 500 children in

foster care. Our clients have been abused and neglected by the very people responsible for protecting their best interests.

In dependency cases involving sexual abuse, the perpetrator is all too often a parent or close relative. This makes testifying by these children all the more traumatic. This legislation will help limit some of the trauma these child victims face.

One of our clients was sexually abused by her father. Her mother refused to believe the daughter's story. Instead, the family wanted to produce evidence of the daughter's seduction of her father to prove she was at fault.

I have a case right now where a child was sexually abused for 3 years by her stepfather. The mother does not believe the child's innocence in the situation and instead wants to bring evidence of her daughter's past sexual behavior.

Chair Segerblom:
Are you allowed to ask child victims if they have ever engaged in sex before?

Ms. Wishart:
This law would stipulate that the only people who could open that door are the district attorney (DA) or the child's counsel.

John T. Jones, Jr. (Nevada District Attorneys Association):
We strongly support this bill. Child dependency proceedings are analogous to criminal proceedings and juvenile delinquency proceedings in that the child has no say in the flow of the case. It is the decision of the DA or the child welfare agency whether to bring the case forward. From there, the child has little control over the proceedings. Civil cases are different, because many times it is the children bringing forth the civil case on their own behalf.

Senator Ford:
Under what circumstances have courts ever found it appropriate for someone other than the prosecutor or the victim to raise these issues?

Mr. Jones:
In the criminal setting, there are guidelines to when prior sexual behavior can be brought up. You file a motion outlining for the court why you think this evidence is necessary. The court will make the decision prior to trial.

Senator Ford:
Would this statute prohibit that form of motion and use of information?

Mr. Jones:
My argument would be that defense attorneys could still file motions and outline why they needed to use that testimony, not just to show the promiscuity of the victim, but for something else, such as credibility.

Senator Ford:
Could we make the language sufficient to ensure that in those limited circumstances these opportunities still exist?

Assemblyman Frierson:
In NRS 50.090, there is already a provision for rape shield protection. If it were allowed in a criminal matter, logic and due process would provide for an opportunity to have that issue reviewed by a court for relevancy. The language we have in the bill was taken from NRS 50.090. It would provide adequate protection.

Chair Segerblom:
Seeing no one else wanting to testify in support or opposition to this bill, I will close the hearing on A.B. 82 and open the hearing on A.B. 84.

ASSEMBLY BILL 84 (1st Reprint): Requires certain district courts to establish an appropriate program for the treatment of certain offenders who are veterans or members of the military. (BDR 14-124)

Assemblyman Elliot T. Anderson (Assembly District No. 15):
This bill is intended to finely tune NRS 176A.280, which established the veterans court in 2009. By redefining "reasonable apprehension of bodily harm" and what is considered violent behavior, A.B. 84 will clarify some of the issues this specialty court has encountered since its inception. I have submitted my written testimony (Exhibit D).

Senator Brower:
Why did you delete section 1?

Assemblyman Anderson:
I would remove section 1 up to section 1.5, which would remain.

Senator Brower:
What would the impact of that removal do?

Assemblyman Anderson:
I do not feel that section is necessary anymore, so this would keep the current NRS language, which makes it permissive.

Senator Brower:
The main point of this bill is the new language in section 1.5, subsection 2, line 3 through line 8 on page 3. Is that correct?

Assemblyman Anderson:
Yes. The main thing I am trying to achieve here, and the only thing needed through legislation, is to establish the new standard for threatened use of violence or of violence.

Senator Hutchison:
I am a fan of the veterans court. In section 1.5, subsection 2, I understand what you are saying about making sure these are really violent crimes or threatened violent crimes. It says that when a court is determining whether a defendant is involved in the use or the threatened use of force, what should be taken into consideration is whether the defendant "intended to place another person in reasonable apprehension of bodily harm." Unless the victim is unconscious, when would you have a situation where a person would use violence, or threaten to use violence, and not intend to put a person in reasonable apprehension of bodily harm?

Assemblyman Anderson:
This is a criminal assault standard, which is how it should be interpreted. You can scare someone and still not hit the person. For example, if I swing a sword at someone but miss, that is a violent crime even though I did not hit anyone. That is still an apprehension, and it is certainly violence, it just happens that I missed.

We have had some problems on how different courts interpret violence or threatened violence. We wanted to give some clarity from a policy perspective to say what is considered violent. This was a compromise worked out between the public defender's offices and the district attorneys.

Senator Hutchison:
Unless a victim is unconscious, any use or threat of violence would always result in the conclusion that the perpetrator intended to put another person in areasonable apprehension of bodily harm.

Assemblyman Anderson:
We had situations that were obviously not violent and were not getting into the veterans court. That is what this bill is trying to address.

Senator Hammond:
You mentioned striking section 1 because the court was already established. How was it funded?

Assemblyman Anderson:
District Judge Linda Bell of the Seventh Judicial District has been working hard to make the court function with existing resources. The big difference between Washoe County and Clark County is the ability to hire staff to coordinate the court's caseloads. Right now, Clark County is managing it with what funds it has. If we could get a coordinator, as I am proposing, it would allow more resources to bring in more people and save money.

Senator Ford:
Your appropriation is not in this bill?

Assemblyman Anderson:
Correct. It is in a different bill. I am pushing hard to make this court as beneficial to our justice system and the veterans as possible.

Steve Yeager (Clark County Public Defender's Office):
We support this bill. To answer Senator Hutchison's question about patterns that may seem violent but are not, I have a few examples. One is a situation where a veteran goes in to a store to steal something. In running out, he runs into someone accidentally. This is violence, but it is unintended.

Also, with veterans we sometimes see individuals suffering from posttraumatic stress disorder (PTSD). This can result in behavior that seems like the person is not in his or her right mind. Someone might perceive that aberrant behavior as a threat, but that is not what the veteran is intending.

Another example would be a situation where a veteran is carrying a firearm but not threatening someone with it. If people in the vicinity see the firearm and say they were fearful, that is not necessarily violent behavior. The language in the bill gives the court the ability to look at situations like these and determine the intent Did the veteran intend to do violence? Of course, there would be situations where violence was intended, but the marginal cases would be more easily decided with these definitions.

Senator Brower:
From a defense lawyer's perspective, can you describe how this situation plays out? You get a new client charged with a violent offense. You interview him and discover he is a veteran. What then goes into your decision-making process to get him into veterans court? What legal tools does the judge use to decide to send your client to veterans court?

Mr. Yeager:
The first thing I will ask is if the client is a veteran. I will try to discern if their crime is related to that military service. I might reach out to the DA and see if we can come to an agreement up front. If the DA does not agree, I can try to get the case into veterans court and argue to the district court judge why the person should be there. I typically try to get a veteran into that court because it does a good job. It is also being paid for by a U.S. Department of Veterans Affairs (VA) source, so it does not cost Clark County.

Senator Brower:
Is there a service connection criterion that needs to be met under statute for you to get your client into veterans court?

Mr. Yeager:
Basically, the transfer to veterans court is appropriate if the individual appears to suffer from a mental illness, alcohol or drug abuse, or PTSD—any of which appear to be related to military service. There has to be some connection between the crime and the military service.

Senator Brower:
Is it up to the district court judge to make that call?

Mr. Yeager:
Correct.

Mr. Jones:
We support this bill. Steve Wolfson, the Clark County DA, is very supportive of the program too.

Linda Marie Bell (District Judge, Department 7, Eighth Judicial District):
I am in charge of the veterans treatment court in Clark County. In 2009, after the first veterans court bill passed, we started a veterans treatment program as a subset of our drug court. We established a standalone veterans treatment court in September 2012 with a broader range of services.

This court enabled us to address some issues we could not address in drug court. For example, I now have a few individuals in my veterans court who do not have substance abuse issues, but suffer from PTSD. We are committed to this program even though we are doing it with no funding. My court administrator for the specialty courts assists us, which pulls him away from other important tasks. Veterans services through the VA limit the services we could provide in program development and otherwise. We support this bill.

Jennifer Rains (Deputy Public Defender, Washoe County Public Defender's Office):
In the Second Judicial District, we have served 148 people in our veterans court since its inception in 2009, and our numbers continue to grow. We accept transfers from Carson City and some of the rural communities because of the availability of resources in Washoe County.

We have many specialty courts in the Second Judicial District. What is unusual about veterans court is that it has a higher success rate than other courts. For example, we have seen defendants struggling with compliance transferred from adult drug court to the veterans court. After being transferred, these individuals find success. Something about being in this community seems to aid success. Some treatment providers compare it to being in a military unit, something most veterans are familiar with. Veterans court looks different from other courts because veterans typically stand at attention and seem to appreciate the structure.

Some of the veterans come in with a deep sense of shame and guilt. We do not see this as much in the civilian population. Many of these veterans never go back to jail. Some have been placed on what we call regular probation and struggle with compliance issues, but when they are sent to veterans court as

part of their probation, those individuals have experienced a higher rate of success.

One individual who had never completed a regular parole term was placed in veterans court as a special condition of his parole. After completing that parole term, he left the justice system and is now fully parenting his children, working and contributing to his community.

Some of our Vietnam veterans who had the bottom fall out of their lives are benefitting from this program to get out of homeless shelters, go to school, get a job, parent their children and move on with their lives. We even have some graduates of the program staying in touch and mentoring new arrivals.

Senator Hammond:
How do you fund your veterans courts? District Judge Bell said there is no funding in Clark County for these courts. How many vets are there in Las Vegas?

Assemblyman Anderson:
Washoe County gets funding through an Administrative Office of the Courts (AOC) grant. We definitely want to get a coordinator in place for Clark County, where the court is working without funding.

Ms. Rains:
Our office supplies my services. The coordinator is an employee of the court, shared with some of our other specialty courts.

Senator Hammond:
Is the AOC funding a block grant, or is it based on the number of veterans in the area?

District Judge Bell:
Each State program applies to a specialty court funding committee. The funding has been flat, and we are looking at cuts in 2015. Therefore, the AOC has made a decision not to fund any new specialty court programs, which is why we have had no funding, since our program is considered a new program.

I am neutral on this bill regarding how the statute defines who comes into the program. That is a policy decision better left in your hands.

Assemblyman Anderson:
This bill is designed to get more veterans into the program. Establishing a standard for what is violence and what is threatened use of violence will help get more people into this effective program.

Senator Ford:
Seeing no more testimony on this bill, I will close the hearing on A.B. 84 and open the hearing on A.B. 365.

ASSEMBLY BILL 365 (1st Reprint): Revises certain provisions relating to court interpreters. (BDR 1-483)

Assemblywoman Olivia Diaz (Assembly District No. 11):
This bill came about after Assemblywoman Lucy Flores and I attended a town hall meeting in Las Vegas. We had certified court interpreters helping us facilitate the communication at that meeting. After the event, these interpreters talked to us about their concern that there is a deficiency in language access for individuals whose first language is not English. The concern was that these persons would be deprived of a clear understanding of the technicalities and legal language during court proceedings.

Section 1 of the bill establishes a procedure for alternate court interpreters and describes an individual with language barriers to comply more closely with federal regulations.

Section 2 establishes a procedure with alternate court interpreters.

Section 3 updates NRS 47.020 with language consistent to the bill.

Section 4 requires a certified court interpreter to be provided in various judicial proceedings.

Section 5 clarifies who pays the claims for the interpreters.

Section 6 ensures that juveniles receive the same access to court interpreters as adults.

Section 10 creates a study for language access. We recognize this area needs more study and insights. We want to serve the rural courts as well as the urban

courts and know this issue cannot be best served by a one-size-fits-all solution. This is a small but firm step in the right direction of providing equal access to our State courts for all Nevadans.

Ben Graham (Administrative Office of the Courts, Nevada Supreme Court):
Representatives of the AOC met with Assemblywoman Diaz and Assemblywoman Flores last fall. That meeting spawned this legislation, which falls short of the input from the court interpreters who were at the meeting. However, it does move the process forward. In the next Session, we may exceed what was sought by these certified court interpreters.

Access to language is much broader than what we started with, especially in regard to criminal and juvenile proceedings. Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race in programs receiving federal assistance, and this includes language barriers. Some states have had to sign consent decrees dealing with English-language barrier access. There are language access issues involving not only criminal and civil proceedings in our courts, but possibly administrative bodies and other regulatory agencies.

This bill will help establish criteria and guidelines. It will also facilitate a study to investigate what other states are doing, what is mandated and what steps Nevada can take to address this concern.

Senator Hammond:
Sounds like this is only for criminal cases. Is it for civil cases too?

John McCormick (Rural Courts Coordinator, Court Services Supervisor; Administrative Office of the Courts, Nevada Supreme Court):
This bill deals with criminal offenses, but a right to interpreters is established in caselaw for civil cases also.

Senator Hammond:
Who pays for the service? Section 5 refers to payment; what if there is a civil matter and witnesses who do not speak English? Would the government have to pay for that?

Mr. McCormick:
In that example, the court has the ability to order the parties to pay for those services.

Senator Jones:
I have used certified court interpreters in my practice with Cantonese, Japanese, German and other languages. There are so many languages spoken in the State, but not many certified court interpreters to cover all the languages. If you have a requirement that in a criminal case an interpreter must be provided, how do you deal with this problem?

Mr. McCormick:
This bill attempts to address that by setting up criteria for appointing alternate court interpreters. In those criteria, it will state a preference for certified court interpreters. The bill acknowledges that we do not have certified interpreters for every language, especially in rural jurisdictions.

Instead, what we do is go through a telephonic interpreter program, LanguageLine Solutions. We also have a category of interpreters called "registered." That category does not require a certification test. However, those interpreters pass an oral evaluation for fluency in their languages.

Senator Jones:
Can you explain the intent of section 5, subsection 4?

Mr. McCormick:
It is to clarify that if an interpreter is not accurately interpreting, he or she can and should be replaced at the discretion of the court.

Senator Hutchison:
Section 5, subsection 4 will be hard to apply. Usually the person appointing the interpreter does not speak the language, so how do you decide the standard?

Say I am a judge in a case and appoint someone to interpret Japanese for someone in the proceedings. If someone comes to me and says there is not effective communication, do I have to bring in a second interpreter? From a practical standpoint, how will you deal with something like that?

Assemblywoman Diaz:
That part of the bill is important because caseloads get bogged down or cases do not move forward, and it can sometimes be because information is not being accurately translated. We want the judges to be cognizant of the possibility that interpreters are not always perfect.

Senator Hutchison:
If an interpreter is not effective or accurate, it seems like you would fire that person. If an interpreter is certified, I assumed that meant he or she was good at interpreting.

Assemblywoman Diaz:
Certified court interpreters are certainly the best option, but in the diverse or rarer languages, we do not have the ability to certify someone. In that case, we use registered people instead. In cases where we cannot find someone who is registered, we use alternates. The LanguageLine Solutions option that Mr. McCormick referred to is another tool available, but some languages are hard for us to interpret easily or well.

Senator Hutchison:
As a lawyer, if I do not have a certified court interpreter, I will not go forward. If I do, there will be constant questions about whether someone testified accurately depending on if he or she understood the questions because of the language interpretation. As a result, cross-examinations can be ineffective.

Mr. Graham:
These proceedings are taken down by a court reporter and digitally recorded. People in the courtroom will understand what is being said. Under this provision, a camera hearing would be reviewed, and if there was less than satisfactory translation, the interpreter could be replaced. This will not happen often.

Senator Brower:
I recall a situation several years ago in court where I was examining a witness through an interpreter. The opposing counsel knew a little Spanish and did not like the way the evidence was proceeding. He started accusing the interpreter of getting the translation all wrong, which created a problem in that court.

What is an alternate court interpreter?

Mr. McCormick:
An alternate court interpreter is someone appointed to interpret a proceeding if there is no certified or registered interpreter available. This bill firms up the hierarchy. Section 1, subsection 5 requires the court administrator to establish an order of preference—certified, then registered, then alternate.

Senator Hammond:
When you are talking about replacing an interpreter, I can think of instances within the Spanish language where you have different variations between someone from Cuba or Mexico or other Spanish-speaking countries or regions. I could envision a situation where even though there is a certified interpreter, you might want to change to someone more conversant in a different nuance.

Assemblywoman Diaz:
You are right—not all Spanish is created equal. For example, within one republic of Mexico, there are different dialects. What is even more important is the educational background of the speaker. Certified court interpreters generally do a good job of technically translating the standard Spanish, but for those without a legal background or knowledge of all the different nuances in a person's language, it can be very difficult to translate accurately. In those cases, the certified interpreter could be replaced.

Cristina Sanchez:
I am a federally certified court interpreter and a state-certified court interpreter in both Nevada and California. I appreciate this clarifying bill that allows all people legal access to this system. In section 1, subsection 2, paragraph (e), there is reference to the court appointing an alternate interpreter. It is important to set the hierarchy order, so I agree with this.

In section 1, subsection 5, I am concerned about the use of the word "preference." That word should be changed to "hierarchy" to clear up any confusion on whether a court could show preference rather than honor the hierarchy established in statute.

In section 1, subsection 3, after the words "court interpreter," you should add "or an alternate court interpreter." There has to be a form of precertification because there are some languages where no certification is possible. If someone is versed in languages for which there is no certification possible, then the person can go through a qualification process. The AOC has set up standards for qualifying people as interpreters.

Section 2, subsection 2 should add the words "or alternate interpreter" at the end of the sentence. Certified court interpreters go through a process of getting education in legal, medical and technical matters to be able to translate from one language to another in an accurate manner. Alternate interpreters also go

through similar processes and deserve reimbursement. I appreciate this bill, but am testifying as neutral.

Renee Ocougne de Gascon:
I am a certified court interpreter in Spanish and Portuguese languages. This bill is necessary to ensure equal access to the judicial system. Providing clear guidelines will assist the courts in determining who is qualified to provide interpretive services to people with limited fluency in English.

From 2004 to 2013, I was registered in Portuguese because there was no oral exam to become certified in that language. At the end of last year, I became certified in Portuguese when the testing became available. Courts need guidelines for identifying alternate interpreters when certified or registered interpreters are unavailable. It is important for the courts to be able to assess to what degree someone is qualified to be an interpreter. The guidelines in A.B. 365 will help facilitate this challenge. I support this bill.

Laura Martin (Progressive Leadership Alliance of Nevada):
We support this bill. Access to the courts should not depend on one's language skills.

Astrid Silva (Nevada Immigrant Coalition):
We support this bill so people can access the legal services they need in the language they can understand. This bill will be on our racial equality report card.

Vanessa Spinazola (American Civil Liberties Union of Nevada):
We support this because it is a step toward providing full access to the court. I submitted a letter that outlines the constitutional reasons we should have access in criminal proceedings for people with limited English-speaking ability (Exhibit E).

I also submitted an amicus brief for a case we recently litigated in Georgia (Exhibit F) and the Supreme Court of Georgia's decision (Exhibit G). In the bill, section 5, subsection 4 refers to the aforementioned issue of whether a court interpreter is doing a good job. I speak Spanish and have had clients who speak Spanish and others who speak Portuguese. You will know you have a disconnect when family members who are present in court react to what is being said. Some judges speak foreign languages and can help determine if the translation is accurate and well-received. Generally, a lawyer has gone over the

client's story many times, often using different interpreters. When things go wrong in trial with the translation, you generally know.

Assemblywoman Diaz:
We want no language barriers in our State. This bill will help.

Senator Ford:
If there is no more testimony on this bill and public comment, I will close the hearing on A.B. 365 at 10:43 a.m.

RESPECTFULLY SUBMITTED:

_____
Linda Hiller,
Committee Secretary

APPROVED BY:

_____
Senator Tick Segerblom, Chair

DATE: _____

EXHIBITS				
Bill	**Exhibit**		**Witness / Agency**	**Description**
	A	1		Agenda
	B	5		Attendance Roster
A.B. 82	C	2	Assemblyman Jason Frierson	Written Testimony
A.B. 84	D	2	Assemblyman Elliot T. Anderson	Written Testimony
A.B. 365	E	1	Vanessa Spinazola	ACLU Letter
A.B. 365	F	29	Vanessa Spinazola	Amicus Brief of *Ling v. State of Georgia* (2010)
A.B. 365	G	19	Vanessa Spinazola	Supreme Court of Georgia, *Ling v. The State*