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**SENATE COMMITTEE ON JUDICIARY**



**WORK SESSION DOCUMENT**

**MAY 15, 2003**

2003 SENATE COMMITTEE ON JUDICIARY  
 WORK SESSION DOCUMENT  
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Bill No.	Description/Sponsor	Exempt (Y/N)	Committee Action	Opposition	Proposed Amendments	Comments/Concern
A.B. 14	<p>The bill specifies the order in which parties present their arguments at the penalty hearing in cases in which the death penalty is sought. Under the bill, the district attorney opens the argument, followed by the defendant or his counsel. The district attorney may then argue in rebuttal, and the defendant or his counsel then concludes the argument in surrebuttal.</p> <p>The measure also adds suffering from a mental illness as a new mitigating circumstance to be considered in cases involving the death penalty. (BDR 14-198) (A.C.R. 3 Study)</p>	No	<p>NACT 04/24/03</p> <p>NACT 05/08/03</p> <p>NACT 05/13/03</p>	<p>Ron Corneli, Families of Murder Victims, opposed the measure.</p> <p>Clark Peterson, CCDA, opposes changing the order of argument, but does not oppose identifying mitigating factors or adding the mental illness mitigating circumstance.</p>	<p>Chairman Amodei proposed an amendment to add specific mitigating circumstances which may be considered in death penalty cases where the defendant is a juvenile (TAB A).</p> <p>At the May 13, 2003, work session, Senator Washington proposed to require the court to instruct the jury that relatives of a victim are prohibited from specifically recommending the death penalty (TAB B).</p> <p>It should also be noted, that the amendment (on the state bearing the burden of proof) previously proposed by Mr. Pescetta at the May 13, 2003, work session, did not meet the proponent's intent and has subsequently been withdrawn.</p> <p>See amendment proposed by Chairman Amodei, to amend A.B. 14 to allow mitigating circumstances in cases where the defendant is a juvenile (see TAB A).</p>	<p>Concerns were raised on what the law is in other states pertaining to order of arguments. Also concerns were raised on the definition of mental illness.</p>
A.B. 118	<p>This measure changes the minimum age to receive a sentence of death from under 16 years of age at the time the crime is committed to under 18 years of age. (BDR 14-856) (Glunchigltiani)</p>	No	<p>NACT 04/25/03</p> <p>NACT 05/08/03</p> <p>NACT 05/13/03</p>	<p>Clark Peterson, CCDA, opposed the measure in its entirety (raising the age to 18 and applying the change retroactively).</p> <p>David Mowen, Families of Murder Victims, and John Wagner, NV Republican Assembly, also opposed the measure.</p>	<p>Some level of concern was raised by the Committee as to the laws in other jurisdictions.</p>	

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Bill No.	Description/Sponsor	Exempt* (Y/N)	Committee Action	Opposition to the original bill.	Proposed Amendments	Comments/Concerns
A.B. 166	<p>The measure provides that an agreement to transfer the right to receive payments under a structured settlement is only valid and enforceable if it is approved by a district court. The party seeking to acquire the right to the payments must petition the court for approval, and the court must approve the transfer if it determines that the transfer is in the payee's best interest. Further, the bill requires that the payee has been advised in writing to seek independent advice and has received or knowingly waived such advice.</p> <p>Further, Assembly Bill 166 sets forth related procedures concerning the notice that must be provided to certain parties and individuals prior to a hearing on the petition, the required disclosures that must be provided to the court with the proposed agreement, and applicable definitions. (BDR 3-231) (Brown)</p>	No	<p>NACT 04/29/03</p> <p>NACT 05/08/03</p> <p>NACT 05/13/03</p>	<p>No opposition to the original bill.</p> <p>John Sande, Pfizer, opposed the amendment offered by Senator Titus.</p>	<p>Amendment by Alfredo Alonso and Matt Sharp clarifying transfer language (TAB C).</p> <p>Senator Care suggested an oral amendment, adding language that a transfer in violation of the law (without court approval) would be void. Matt Sharp, NTLA, agreed with the proposal.</p> <p>Senator Titus submitted an amendment to address secret settlements in cases related to serious public hazards (TAB D). Ray Bacon, Nevada Manufacturers' Association, submitted an amendment to be considered with Senator Titus' proposal (attached as TAB E).</p> <p>At the May 13, 2003, work session, Senator Titus stated that she was working with Mr. Bacon on amendatory language.</p>	No additional concerns were raised.

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Bill No.	Description/Sponsor	Exempt* (Y/N)	Committee Action	Opposition	Proposed Amendments	Comments/Concern
A.B. 250	<p>The measure sets forth legislative findings and declarations concerning terrorist events and the intent of the Legislature. Assembly Bill 250 defines an act of terrorism as the use or attempted use of sabotage, coercion or violence intended to cause great bodily harm or death to more than one person by certain means or to cause substantial destruction, contamination or impairment of buildings, infrastructure, communications, transportation, utilities, services, natural resources, or the environment. The measure clarifies that "coercion" does not include an act of civil disobedience.</p> <p>The bill provides that any person who commits a felony with the intent to commit, cause, aid, further or conceal an act of terrorism must be punished by a prison term equal to, and in addition to, the term for the underlying crime. If such a felony results in death or substantial bodily harm, the felony is deemed to be a category A felony.</p> <p>Assembly Bill 250 also provides that first-degree murder includes murder committed through terrorism. The bill further specifies that knowingly or intentionally committing or concealing an act of terrorism; assisting another person to commit an act of terrorism; or providing material support to commit an act of terrorism or to aid a terrorist is a category A felony. Assembly Bill 250 also authorizes forfeiture of personal property used as an instrumentality in crimes involving acts of terrorism.</p> <p>Assembly Bill 250 expands existing prohibitions concerning the development and possession of biological agents and other toxins. Finally, the bill requires resort hotels to adopt and maintain emergency response plans. (BDR 15-49) (Perkins)</p>	No	<p>NACT 04/30/03</p> <p>NACT 05/08/03</p> <p>NACT 05/13/03</p>	No opposition.	<p>At the request of Chairman Amodei, Legal Counsel drafted a combined amendment section-by-section mock-up addressing the following proposed amendments (TAB F):</p> <ul style="list-style-type: none"> <li>Senator Care suggested an amendment to further define a weapon of mass destruction to include intended "by its user."</li> <li>Lucille Lusk presented an amendment to define weapons of mass destruction as a device designed to create a great risk of death or substantial bodily harm to "large numbers of people."</li> <li>Paul Grace also submitted an amendment on the definition of weapons of mass destruction to make it more closely resemble federal regulations under FEMA.</li> <li>Richard Siegel offered an amendment on the definition of building/arson, and stated that the ACLU adamantly opposes the death penalty. Lastly, he proposed amending Section 22 on the "distressing or frightening" of persons.</li> </ul> <p>At the May 13, 2003, work session, Chairman Amodei indicated that the bill may be processed with the addition of Senator Raggio's name to the measure.</p> <p>Also at the May 13, 2003, work session, Senator Nolan proposed an amendment to amend the contents of S.B. 41 (an act authorizing security personnel of resort hotels to receive limited personal information from the Department of Motor Vehicles, and records of criminal history from agencies of criminal justice and local law enforcement agencies) into A.B. 250.</p> <p>Chairman Amodei also invited any additional amendments to be submitted to staff. In response, Karen Coyne, City of Las Vegas, submitted an amendment requiring continuing education requirements for medical professionals to undergo training for incidents of weapons of mass destruction (TAB G).</p>	<p>Senator Titus questioned why the emergency response plans only apply to resort hotels, and suggested that maybe the plans should apply to any place where large crowds may gather.</p> <p>Senator Care expressed some concerns on the definition of material support.</p> <p>Additionally, at the work session, Chairman Amodei directed staff to review Senator Rawson's bill (S.B. 82) and to research any other measures pertaining to emergency response plans.</p> <p>In response, it appears that S.B. 82 specifically pertains to the quarantining of persons after an attack; however, A.B. 441 requires each political subdivision to establish a local emergency management organization and to adopt and maintain a plan to respond to acts of terrorism or related emergencies. (Please see overview on terrorism bills TAB H.)</p>

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Bill No.	Description/Sponsor	Exempt* (Y/N)	Committee Action	Opposition	Proposed Amendments	Comments/Concern
A.B. 274	<p>The measure requires that a tenant who is 60 years of age or older with a periodic tenancy must be allowed to remain in the tenancy for an additional 30 days after receiving a notice of eviction. The bill requires the tenant to submit a written request for the extension and provide proof of his age. Tenants with a physical or mental disability may also request such an extension. The notice of the eviction must include a statement advising the tenant of the option to request this extension.</p> <p>If the landlord fails to allow the tenant the extension, the tenant may petition the court for an order to continue in possession of the tenancy for an additional 30 days. The court must grant the petition if the tenant submits proof of his age or disability to show he is entitled to the extension. The court may also grant other relief, as it deems necessary. (BDR 3-1128) (Goldwater)</p>	No	<p>NACT 05/02/03</p> <p>NACT 05/08/03</p> <p>Amend &amp; Do Pass Lost 05/13/03</p>	<p>Cherise Ehrhart, S. NW Multihousing; David Howard, N. NV Apartment Assoc; and landlords Valerie Hand, Donna Harris, Roberta Ross, Ruth Wheeler, opposed the measure.</p>	<p>At the May 8, 2003, work session, Senator Care suggested an oral amendment to allow a periodic tenant to petition the court for a 30-day extension, which the court may grant; however, in any event the tenant shall receive a 5-day extension. At the request of Senator Care, those amendments have been drafted by Counsel (TAB I).</p>	<p>Senator Care expressed concern on multi-tenant situations.</p> <p>Senator Washington was concerned on the court "shall grant" language in the bill.</p> <p>David Howard opposed the entire bill, and specifically the mental and physical disability language.</p>

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Bill No.	Description/Sponsor	Exempt* (Y/N)	Committee Action	Opposition	Proposed Amendments	Comments/Concern
A.B. 320	<p>Assembly Bill 320 revises various statutes relating to medical malpractice, insurance, and health care coverage. The bill prohibits health insurers, health maintenance organizations and similar groups from charging fees for including providers on panels. The bill also requires disclosure of payment schedules under contracts, upon request, and prohibits certain contractual provisions between insurers and providers that authorize changes in material terms of the contract.</p> <p>Assembly Bill 320 further requires continuing coverage for patients in certain circumstances when a provider's contract is terminated, and requires revocation of an insurer's license for failure to pay at least 95 percent of approved claims on time. The bill also prohibits the insurance Commissioner from approving changes in rates for medical malpractice insurance based upon losses resulting from imprudent investments; fraudulent conduct; decisions to insure practitioners with multiple, substantiated cases of medical malpractice; or vexatiously or unreasonably refusing to settle cases. In addition, Assembly Bill 320 imposes liability on an insurer for damages awarded in certain cases when the defendant's liability was reasonably clear, but the insurer rejected certain settlement offers. Finally, Assembly Bill 320 requires insurers with more than 40 percent of the market to provide 120 days notice and a written plan to minimize the impact of its departure before withdrawing from Nevada's market. (BDR 57-868) (Judiciary)</p>	Yes	<p>NACT 05/07/03</p> <p>NACT 05/13/03</p>	<p>Robert Ostrovsky, Nevadans for Affordable Health Care, asked for additional time to review the proposed amendments.</p> <p>Neutral -- Alice Molasky-Arman, Insurance Commissioner.</p> <p>Jim Wadhams, NV Mutual Insurance Co., expressed concerns and wanted to review the amendments. He believed the original language of the bill was troublesome.</p> <p>Lynn Fulstone, Physicians Insurance Company of Wisconsin, needed time to review the amendments and felt the bad faith provisions were troublesome.</p>	<p>Since the May 13, 2003, work session, Assemblywoman Buckley has proposed a revised consensus amendment to address (attached as TAB J):</p> <ul style="list-style-type: none"> <li>▪ Revocation of license;</li> <li>▪ Intervention in rate filing process;</li> <li>▪ Disapproval of certain rate proposals based on imprudent investment, criminal activity, unreasonable or vexatious refusal to settle, and losses due to practitioners with multiple judgments;</li> <li>▪ Continuity of coverage;</li> <li>▪ Revisions to credentialing forms;</li> <li>▪ Prohibition on canceling, refusing to renew, or increasing a premium where there was an opportunity to settle;</li> <li>▪ Required disclosure of certain underwriting decisions;</li> <li>▪ Notice of withdrawal from market in Nevada;</li> <li>▪ Medicaid exemptions;</li> <li>▪ Application of unfair trade practice laws to managed care;</li> <li>▪ Settlement conferences;</li> <li>▪ Imposition of liability on insurer for damages; and</li> <li>▪ Prohibition against panel fees or other fees for hospitals.</li> </ul> <p>The amendment attempts to address the concerns of Mr. Wadhams on unfair trade practices, and Ms. Pine's and Ms. Keith's concerns on panel fees for hospitals.</p>	<p>Senator Care raised concerns on Section 5 "breach of professional duty" and whether the language on page 8 requires the Attorney General to report.</p>

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Bill No.	Description/Sponsor	Exempt (Y/N)	Committee Action	Opposition	Proposed Amendments	Comments/Concern
A.B. 337	<p>Assembly Bill 337 makes various changes concerning the rights of ex-felons. The measure immediately restores the right to vote and the right to hold office to persons honorably discharged from probation or parole, pardoned, or released from prison upon expiration of their sentence. The right to serve on a jury is restored to these individuals two years after the date of the honorable discharge, pardon, or release from prison. The right to vote, hold office, or serve on a jury is restored immediately to a person whose records are sealed by a court. Assembly Bill 337 specifies that persons convicted of a felony are not eligible to serve as a sheriff, constable, or Category I, II, or III peace officer, regardless of whether their civil rights have been restored.</p> <p>Further, the bill revises the requirement for a person convicted of a felony to register with law enforcement to specify that only persons convicted of two or more felonies are required to register. Assembly Bill 337 also prohibits law enforcement agencies from requiring a convicted person to carry a registration card. Finally, the bill revises various statutes governing licensure for professions and occupations to specify that only felony convictions relating to that profession or occupation may be considered. (BDR 14-63) (Giunchigliani)</p>	No	<p>NACT 05/06/03</p> <p>NACT 05/13/03</p>	<p>Laurel Stadler, MADD, opposed on behalf of victims.</p>	<p>Following the May 13, 2003, work session, a consensus oral conceptual amendment was agreed upon by the sponsor and interested parties. The amendment proposes:</p> <ul style="list-style-type: none"> <li>▪ Automatic restoration of rights except for category A felonies and repeat offenses. Persons falling in either category would have to petition the sentencing court.</li> <li>▪ Additionally, the amendment provides for automatic restoration of the right to serve on a civil jury but not on a criminal jury. After six years, it becomes automatic and the offender could serve on both types of juries. The amendment also allows a convicted person who has served his sentence to run for public office.</li> <li>▪ Additionally, the amendment amends Section 4 on registration of convicted persons, to modify the language to one category A felony or two other felonies. Lastly, the proposed amendment aims to delete the amendatory language of Sections 21,22, and 23.</li> </ul> <p>Chairman Amodei also suggested an amendment to remove Section 11 of the bill in its entirety to retain the existing law (as to any felony or malfeasance while in office and disqualifying such a person from ever holding office).</p>	<p>Senator Washington expressed concern that ex-felons should only be given one chance to restore their rights, and that repeat offenders should not be able to restore their rights.</p>
A.B. 397	<p>The bill prohibits the imposition of a penalty in eminent domain actions on an individual who rejects an offer of judgment and proceeds to trial, regardless of the outcome of the trial. Prohibited penalties include, without limitation, any monetary damages, attorney's fees, and court costs. (BDR 3-1082) (Horne)</p>	No	<p>NACT 05/02/03</p> <p>NACT 05/08/03</p> <p>NACT 05/13/03</p>	<p>Opposed: John Sande, Mike Alonso, Mike Chapman, John Nodol, Stephanie Parker, Peggy Morates, Ed Kaplan, Lesley Nielson.</p>	<p>Legal Counsel drafted a proposed mock-up (TAB K) to address the following concerns:</p> <ul style="list-style-type: none"> <li>▪ Assemblyman Horne offered an amendment to change the word "person" to "party" on line 4, page 2. The amendment now only references parties throughout.</li> <li>▪ Senator Care offered an amendment to allow a party to rely on an appraisal in good faith. In addition, Senator Care also suggested expanding the time frame from 10 to 30 days within which a person may accept an offer of judgment.</li> <li>▪ Senator Wiener suggested that any appraisal should be prepared by a certified or credentialed appraiser.</li> </ul>	<p>At the work session on May 8, 2003, Senator Washington asked representatives of local governments to provide numbers on the fiscal impact.</p> <p>Kimberly McDonald (City of North Las Vegas), Nicole Lamboley (City of Reno) Karen Coyne (City of Las Vegas) and the City of Henderson all submitted fiscal information (TAB L).</p>

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Bill No.	Description/Sponsor	Exempt* (Y/N)	Committee Action	Opposition	Proposed Amendments	Comments/Concern
A.B. 475	<p>Assembly Bill 475 makes various changes concerning obligations of support for children. The measure requires a parent who has been ordered by a court to provide health insurance for his child to provide written proof to the enforcing authority that he has enrolled his child in a plan of health insurance. If the parent fails to provide such proof, the enforcing authority must mail a notice to the parent's employer or labor organization requiring enrollment in the health insurance plan. The Welfare Division of the Department of Human Resources is required to adopt regulations prescribing the content of the notice and procedures for providing notice that comply with federal law.</p> <p>Assembly Bill 475 also establishes time frames for providing notice of the required enrollment to the administrator of the plan that supplies the applicable health insurance coverage, and for the administrator to provide the response form to the enforcing authority. In addition, the measure requires premiums for the child's coverage to be deducted from the parent's wages and provides the parent with procedures to contest the withholding. Finally, the bill provides that an employer, labor organization, or enforcing authority that complies with a notice to enroll may not be held liable in any civil action. However, an employer or labor organization that refuses to enroll a child in a health insurance plan may be held liable for punitive damages and certain medical expenses. (BDR 3-1246) (Ways and Means)</p>	Yes	NACT 05/13/03	<p>Leland Sullivan, Chief of Child Support Enforcement, testified in support of the bill, and explained that this act would bring Nevada law into compliance with the federally-mandated National Medical Support Notice.</p> <p>There was no opposition.</p>	No amendments were offered.	At the hearing, Chairman Amodei indicated that this measure is exempt and may be held for future amendment.

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