

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Third Session
March 28, 2005**

The Committee on Judiciary was called to order at 9:10 a.m., on Monday, March 28, 2005. Chairman Bernie Anderson presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Bernie Anderson, Chairman
Mr. William Horne, Vice Chairman
Ms. Francis Allen
Mrs. Sharron Angle
Ms. Barbara Buckley
Mr. John C. Carpenter
Mr. Marcus Conklin
Ms. Susan Gerhardt
Mr. Brooks Holcomb
Mr. Garn Mabey
Mr. Mark Manendo
Mr. Harry Mortenson
Mr. John Ocegüera
Ms. Genie Ohrenschall

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Richard Perkins, Assembly District No. 23, Clark County
(part)
Assemblywoman Bonnie Parnell, Assembly District No. 40, Carson City
and portions of Washoe County

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
René Yeckley, Committee Counsel
Judy Maddock, Committee Manager

OTHERS PRESENT:

John Cahill, Nevada Concealed Carry Permit Instructor
Ted Farace, President, Volunteer Homeland Reserve Unit; and President,
Nevada Police Coalition
John Wagner, representing The Burke Consortium of Carson City; and the
Nevada Republican Assembly
Ron Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada (PORAN); and President, International Peace
Officers Association
Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs'
Association
Stan Olsen, Executive Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department; and representing the
Nevada Sheriffs' and Chiefs' Association
Ron Cuzze, President, State Peace Officers Council
Steve Dawson, Squad Leader, Volunteer Homeland Reserve Unit
Beau Sterling, Private Citizen
Chuck Arkell, President, Nevada Sportsman Coalition
Richard Brengman, Private Citizen
Gary Wolff, Business Agent, Teamsters Union Local No. 14, Las Vegas,
Nevada
Mark Jongsma, Sheriff's Deputy, Carson City Sheriff's Office, Nevada
Fred Haas, Police Officer, Las Vegas Metropolitan Police Department;
representing the Nevada Sheriffs' and Chiefs' Association
Carol Sala, Administrator, Aging Services Division, Nevada Department of
Human Resources
Susan Rhodes, Social Work Supervisor, Senior Citizens Protective
Services (SPCS) Unit, Clark County Social Service, Nevada
Marietta Bobba, Director, Washoe County Senior Services, Nevada

Chairman Anderson:

[Meeting called to order. Roll called.] We have some bill draft requests for introduction. The first is BDR 40-112, requested by the Attorney General's Office.

- BDR 40-112—Makes various changes relating to criminal law (ASSEMBLY BILL 465).

ASSEMBLYMAN CARPENTER MOVED FOR COMMITTEE INTRODUCTION OF BDR 40-112.

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Chairman Anderson, continued.] The next BDR was requested by the Supreme Court of Nevada. It is an act relating to the judiciary, requiring the Supreme Court to adopt rules and procedures for jury trial in Justice Courts.

- BDR 3-518—Revises the provisions governing jury trials in Justices' Courts (ASSEMBLY BILL 466).

ASSEMBLYMAN CARPENTER MOVED FOR COMMITTEE INTRODUCTION OF BDR 3-518.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

The next bill draft is again from the Supreme Court.

- BDR 2-519—Revises the provisions governing the filing of civil actions by certain indigent persons (ASSEMBLY BILL 467).

ASSEMBLYMAN CARPENTER MOVED FOR COMMITTEE INTRODUCTION OF BDR 2-519.

ASSEMBLYMAN HORNED SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 2-523—Makes various changes regarding the requirements for the arbitration, mediation or shortening of the trial of certain civil cases (ASSEMBLY BILL 468).

ASSEMBLYMAN OCEGUERA MOVED FOR COMMITTEE INTRODUCTION OF BDR 2-523.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 14-909—Makes various changes concerning forfeiture of bail (ASSEMBLY BILL 469).

ASSEMBLYMAN MANENDO MOVED FOR COMMITTEE INTRODUCTION OF BDR 14-909.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Chairman Anderson, continued.] Bill Draft Request 14-1024 was requested by the Committee.

- BDR 14-1024—Revises provisions governing certain crimes relating to prostitution (Assembly Bill 470).

ASSEMBLYMAN OCEGUERA MOVED FOR COMMITTEE INTRODUCTION OF BDR 14-1024.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 41-1302—Provides for regulation of mobile gaming (ASSEMBLY BILL 471).

ASSEMBLYWOMAN OHRENSCHALL MOVED FOR COMMITTEE INTRODUCTION OF BDR 41-1302.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 5-1369—Makes various changes concerning community notification and registration of certain juvenile sex offenders (ASSEMBLY BILL 472).

ASSEMBLYMAN CONKLIN MOVED FOR COMMITTEE INTRODUCTION OF BDR 5-1369.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 11-1373—Makes various changes concerning payment of obligation of child support (ASSEMBLY BILL 473).

ASSEMBLYWOMAN OHRENSCHALL MOVED FOR COMMITTEE INTRODUCTION OF BDR 11-1373.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

- BDR 3-1374—Makes various changes concerning crimes committed against and civil liability of sports officials (ASSEMBLY BILL 474).

ASSEMBLYMAN HORNE MOVED FOR COMMITTEE INTRODUCTION OF BDR 3-1374.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Chairman Anderson, continued.] Committee, please turn your attention to A.B. 232.

Assembly Bill 232: Revises provisions concerning concealed weapons and firearms. (BDR 15-301)

Assemblyman Richard Perkins, Assembly District No. 23, Clark County (part):

I am here today to present A.B. 232. As a Deputy Police Chief for the city of Henderson, I understand the threats facing not only the public, but our police officers as well. Given current world circumstances concerning terrorism and threats against the people of the United States, I believe that stronger measures need to be taken here in Nevada to protect our citizens. One of the steps we can take is to pass A.B. 232.

The purpose of this bill is to provide for the better protection of Nevadans across the state by allowing current and former law enforcement officers to carry concealed weapons in compliance with the Law Enforcement Officers Safety Act of 2004. The United States Congress has recognized the need for this important legislation, and it is time for Nevada to recognize this need as well. Numerous other states have already adopted legislation to comply with the new federal act. I believe Nevada should do the same. The officers applying for the special permit will still have to go through all the licensing requirements in accordance with state law, in addition to acquiring a special federal permit recognizing their competence. This special permit will allow the officers to not only carry concealed weapons in Nevada, but in other states.

Along with the active police officers in the state, retired officers play an important role in keeping Nevada safe. I must ask, "Who is more qualified to carry a weapon than a former police officer?" When Nevada made a conscious decision to provide for a more in-depth concealed carry law, we did so with a couple of principles in mind: We wanted to make sure that those the state endorsed were not pursuing a life of crime; and we wanted to be sure that those who carried concealed weapons had the training and experience to properly use the weapon if it was needed.

Aside from the training issue, when in the presence of an active law enforcement officer who is fulfilling his or her duty, the former officer understands the situation. We talk the same language; we understand each other. Despite the laws in our state preventing certain people from acquiring guns, those with the intent of committing crimes and harming other individuals still manage to get their hands on firearms. A former police officer is more likely to make a sound decision in a situation like that. As legislators, I believe public safety to be our number one concern. It is up to us to ensure that the people of our state are protected and the police are given the means to protect them. It is my goal to make Nevada the safest state in the country, and through this legislation I believe we will be taking one step closer to that goal.

Aside from addressing the federal act, there are a couple of other important things in A.B. 232. A portion of the bill ends up codifying a fairly recent

Attorney General's opinion on what a concealed weapon actually is. There seems to be some misunderstanding throughout the state and misapplication of the current statute. Looking at page 5, line 16, "upon his person" means actually on the person or in a container carried by the person. Relating to that portion, there are a couple of concerns that have been brought to my attention. There are a number of ways to define "containers." It is not my intention for somebody who is carrying a scabbard with a hunting rifle in it, or the like, to be carrying a container. The container thus conceals the weapon. If it's an obvious container that's made for a weapon, that is not what we're trying to do. There are, however, a number of containers made for weapons that are oftentimes used by law enforcement, but can be used by others as well. For example, a few years ago the fad was to carry a fanny pack that actually has a holster build into it. You wouldn't recognize it as being different from any other fanny pack. In my estimation, that would be "concealed," even though it's made for that particular implement. I have some language from Arizona statutes I could provide for the Committee, if it's your desire to further and better define the "on the person" issue as it relates to containers.

[Assemblyman Perkins, continued.] Lastly, let me offer another suggestion as it relates to this bill, and I apologize for these suggested amendments on the very first hearing of the bill. I suggest the deadlines be extended for those who already have concealed weapons permits if they are deployed in our Armed Forces and not able to actually be back to reapply as the expiration date occurs. Just extend that deadline until they can get back and provide their application.

Assemblyman Mortenson:

We are talking here about a concealed weapons law for law enforcement officers and former law enforcement officers, but civilians also can take a test and carry weapons. Are there two different categories?

Assemblyman Perkins:

Assembly Bill 232 actually creates a second category. The second category is active or retired law enforcement officers. In essence what that portion of the bill does is bring Nevada into compliance with the federal act that was passed last year. In Nevada right now, if you have a Nevada Concealed Weapons Permit, it is only good in Nevada. You can't use that concealed weapons permit in Arizona or other states. Once you meet the requirements of the federal act, you can go interstate. It has a reciprocity clause for retired and active law enforcement.

Assemblyman Mortenson:

Does that also apply to a civilian who has a concealed permit?

Assemblyman Perkins:

This bill does not provide for that.

Vice Chairman Horne:

This calls for a certification that these officers would have to get, and the sheriff's department would have to provide for this permit. What I don't read in the bill is a Brady check. My concern is officers who are retired, but not retired honorably or who, after retiring, have a domestic violence conviction.

Assemblyman Perkins:

The bill doesn't specifically have the language that requires that. It is my understanding, however, that, in the course of the application, those who issue these types of permits go through that entire process. A background check is done. We hire our police officers from the human race. If they retired ten years ago from someplace back east, nothing tells us what they've done between now and then. We want to make sure that they are upstanding citizens in that intervening period as well. My belief is that the current law would provide for that sort of check you're describing.

We have an extraordinary group of retired law enforcement officers in southern Nevada. In Henderson we use them as a Citizen Corps, a Volunteer Homeland Reserve Unit, in case they are needed for any type of disaster. Speaking with many of them this subject came up, and it goes along with the federal act that was passed last year.

Vice Chairman Horne:

I'm for the bill. Just because you are or were a cop doesn't necessarily mean you were a good guy. We want to extend this as a courtesy, in my opinion.

Assemblyman Perkins:

Your point is well taken. To alleviate your concern, there are others who will testify and talk to you specifically about the mechanics of how an application process is done.

Vice Chairman Horne:

There is another, very similar bill; A.B. 258, Mr. Conklin's bill. It has very similar language "upon a person," which is in your bill, A.B. 232. How would you like to proceed?

Assemblyman Perkins:

I leave that to the pleasure of the Committee. I welcome Mr. Conklin's participation on the bill. The one difference is in codifying the

Attorney General's opinion. If Mr. Conklin wants to join me in the passage of A.B. 232, I would be very pleased to have him.

Vice Chairman Horne:

It would save a lot of Committee time.

Assemblyman Conklin:

I'm in support of the additional language that's in A.B. 232. From a gun owner's standpoint, it clarifies what you can and can't do. Being a gun owner, I like to know exactly where the lines are drawn. I am in support of A.B. 232 as it's written.

Assemblyman Perkins:

There are a number of others who would like to testify on the bill. For the record, I would like to thank John Cahill, Ted Farace, and the National Rifle Association for their work with me on the bill. I'd also like to thank the various law enforcement and sportsmen groups throughout the state that have lent their support.

John Cahill, Nevada Concealed Carry Permit Instructor:

I support the bill. I want to bring to the Committee's attention that the Nevada Sheriffs' and Chiefs' Association took a swipe at compliance with H.R. 218 and put the qualification of retired officers in the hands of Nevada's approved concealed carry permit instructors. Those qualifications and that process did meet all the standards that have been mentioned such as background checks and that kind of thing.

I do encourage the Committee and the Legislature in passing A.B. 232 to do two things: for our retired officers, keep the process simple; and keep the fees at the very lowest possible rate so our retired officers are not required to pay a large amount of money for going through the process. The federal law requires qualification every year, so the fees for all of that should be kept as low as possible. I also appreciate the language and clarification of concealed carry in this bill and I speak in support of it.

Vice Chairman Horne:

After we hear from Mr. Farace, we'll hear from those law enforcement officers in support of A.B. 232 and A.B. 258.

Ted Farace, President, Volunteer Homeland Reserve Unit; and President, Nevada Police Coalition:

The federal government took into consideration allowing retired law enforcement officers to carry across state lines. I think this piece of legislation

will go a long way to assure the safety of people in a community. [It should be reassuring] knowing that former law enforcement officers go through training based on the requirements under the Law Enforcement Officers Safety Act and are carrying a weapon. It gives the community a little sense of security knowing there are other people watching over them, as well as the police.

[Ted Farace, continued.] I am President of the Volunteer Homeland Reserve Unit, a group founded about three years ago, comprised of 165 former law enforcement officers from 60 different police agencies, who live in the state of Nevada. Our intent is to support the police departments in a time of crisis. We're also a resource for the Department of Public Safety under Emergency Management. We have a Memorandum of Understanding with those folks and, if we're needed, we'll be deployed anywhere in the state to assist. Being able to carry a weapon in the course of that would be an excellent idea. It would add extra security in a time of crisis, especially if it were a homeland security issue. I am also President of the Nevada Police Coalition, a group of 11 police organizations that meet quarterly. It's a high level group of individuals that discusses common interests. Most of the organizations in this group are retired police associations. We do have a number of state retirees involved as well. I am also the coordinator for the Citizen Corps in the city of Henderson that Speaker Perkins mentioned. We're very actively involved in the community. Knowing that there are qualified individuals with police backgrounds, who have been background checked and have passed all the qualifications, supporting them, will be a tremendous resource to those officers in the street.

To us, the former law enforcement officers, this is a very important piece of legislation. I really believe, reading the statute that's proposed, [passage of A.B. 232] would set a trend for other states to look at and mirror the same type of legislation in their jurisdictions.

I want to mention one other thing the Committee might want to consider. Mr. Cahill talked about the fees. The way A.B. 232 is drafted now, fees are left up to the sheriff to determine. There are many law enforcement officers who are retired and on fixed incomes who want to participate and help the community. If the fees become exorbitant, they will not qualify for this because of the cost. I am following Mr. Cahill's lead and asking you to put some controls on the amount of fees that might be required. Maybe there should be an initial fee, but not an annual fee. The way this law reads, you must certify every year. That is different than carrying a CCW [Carry Concealed Weapon] card today. The CCW requirements today are for five years; so you pay one fee for five years. Under A.B. 232, you're required to qualify every year, recertify, and go back for a new card, or have a stamp affixed to your present card showing that you have certified that year, to be in compliance with the Law Enforcement

Officers Safety Act. We don't want to see this sky rocket and become a major expense for retired police officers. Any consideration along those lines would be very helpful. We have a number of volunteers here today in support of this bill, to save time they will not come up and speak.

Vice Chairman Horne:

Addressing your suggestion for amendments, A.B. 232 will be going to a work session. Can you tell me what the current fee is for a five-year CCW?

Ted Farace:

In order to get a CCW you must take an eight-hour class of instruction, which runs approximately \$100. In addition, there is the cost for fingerprinting and the cost for the background check by the Las Vegas Metropolitan Police Department. A ballpark total would be about \$175 to obtain a CCW today.

Vice Chairman Horne:

Mr. Wagner, I have you down in support of both A.B. 232 and A.B. 258.

John Wagner, representing The Burke Consortium of Carson City; and the Nevada Republican Assembly:

We enthusiastically support this bill. Anything that helps the good guys against the bad guys is a good bill.

Ron Dreher, representing the Peace Officers Research Association of Nevada (PORAN); and President, International Peace Officers Association:

There are probably over 100,000 retired law enforcement officers in the United States. This bill enhances the Law Enforcement Officers Safety Act of 2004. A couple of weeks ago I participated in a qualification shoot for retirees in Nevada. We had over 30 retirees in Washoe County shoot at the range and qualify under this Act and procedure. The cost for shooting was \$17 per person. The only comments we heard from any retirees were the cost of doing the background checks. As the bill states, the sheriff may or may not charge. For the Committee's information, in Washoe County the charge is a one-time fee of \$35.

The bill mainly speaks on behalf of those people that are outside the state of Nevada, not so much those people within the state. Currently under NRS 202, honorably retired officers throughout the state are already qualified to carry. This bill is mainly for those people from other states who come into our state. That is the purpose, to get accountability. PORAN and all our retirees support both of the bills.

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association:

I am prepared to speak to the details of A.B. 232. This brings Nevada into compliance with the federal law allowing current and retired peace officers to carry weapons in the state and across state lines. This bill was passed at the federal level in July 2004. Being passed out now are some handouts I included, among them copies of H.R. 218, which is *United States Code* (U.S.C.) , Title 18, Section 926C as it was passed, as well as the procedures that the Nevada Sheriffs' and Chiefs' have developed to try to address this federal law. We did it along the lines of the process we used for the CCW. I would be happy to walk you through A.B. 232 and its details.

Assembly Bill 232 authorizes certain law enforcement officers and retired officers to carry concealed weapons under certain circumstances. Section 1 on page 2, lines 1 through 18, amends NRS Chapter 202:

- It allows retired law enforcement officers who reside in the state to apply through the sheriff of their county for certification pursuant to 18 U.S.C. 926C(d). So it is the sheriff who will issue the certification, as it is currently under the CCW.
- It requires the sheriff to provide certification to a retired law enforcement officer who submits the forms and meets the standards of training and qualification under 18 U.S.C. 926.
- It allows the sheriff to charge a nonrefundable fee to recover the expenses of the certification.
- It has "qualified retired law enforcement officer" as defined in 18 U.S.C. 926.

That's rather extensive. There is a litany of things that makes a person a qualified retired law enforcement officer.

- Section 2, page 2, line 21, amends NRS 202.253, which is the dangerous weapons and firearms section. It deals with including the language in Section 1 of this bill into that particular statute. In subsection 2, page 2, line 35, it adds "upon the person" as meaning actually on the person or in a container carried by the person. This is the language Speaker Perkins spoke to, defining more narrowly how a person can carry a weapon concealed.
- Section 3 of A.B. 232, page 3, lines 3 and 4, amends the bill to add this language to NRS 202.350, which is the carrying concealed weapon permit language.
- Page 4, lines 16 and 17 is clean up language with regards to machine guns, silencers, and permits.
- Subsection 7, page 4, lines 20 through 23 refers to not misconstruing the section to prohibit qualified retired law enforcement officers from carrying a concealed weapon if he is authorized to do so pursuant to

18 U.S.C. § 926B or 926C, and that includes both a current officer and a retired officer.

- Subsection 8, page 4, lines 40 through 43 refers to the definitions in 18 U.S.C. 926 of a “qualified law enforcement officer” and that’s a litany. It means a current peace officer in the state of Nevada who has the powers of arrest.
- Subsection 8(j), page 5, lines 16 and 17, it defines “upon his person” again and talks about the container carried by a person.
- Section 4, page 5, line 20 enters the language in Section 1 to this bill and that’s the concealed firearms statute.

Chairman Anderson:

Those references are to make it all fit?

Frank Adams:

Right. Section 5 requires that funds collected by the sheriff be deposited in the county treasury. There are fees that the sheriff may charge for doing that background check. Section 6 extends the immunity for civil action while conducting training or the background investigation, and covers language in Section 1 of this bill.

Chairman Anderson:

That’s not a new level of immunity. It just extends the level of immunity to this particular new area concerning retired law enforcement officers.

Frank Adams:

That’s correct. It applies that immunity to carrying a concealed weapon for law enforcement. Section 7 allows the Department to adopt regulations.

The Nevada Sheriffs’ and Chiefs’ Association took a look at A.B. 232 and took a look at the process we are now using for CCW. In the handout I provided to you ([Exhibit B](#)), there is the package we provide to the retiree, a package of the process we go through.

Assemblyman Horne:

On page 2, lines 30 through 32, it speaks of firearms being capable of concealment and it says it includes all firearms having a barrel less than 12 inches in length. The first thing that came to mind for me is that there are illegal weapons. I think the language should read “all legal firearms.” A sawed-off shotgun with a pistol grip is about that long [demonstrated a length] but as far as I know, it’s an illegal weapon. This doesn’t address that, it just says all firearms.

Frank Adams:

This is existing language and we didn't take a look at that. I believe it would be a bill drafting issue.

Chairman Anderson:

I believe we may be dealing with that issue in another bill that deals in part with unusual firearms. We'll make sure there's some resolution to that issue.

Mr. Adams, I'm a little concerned about what constitutes a container. I heard anecdotally that Speaker Perkins was not concerned about a holster that might be concealed by a coat as opposed to a scabbard carried by a horse. Why will what we're doing here, using this particular part of the statute, not become an issue for non-law enforcement officers, non-law enforcement personnel, or former law enforcement personnel who hold a concealed carry permit?

Frank Adams:

Thinking back on my prior experience as a law enforcement officer, there were many times, as the Speaker mentioned, I used a fanny pack specifically designed to carry a weapon. As an investigator, many times my weapon was in my briefcase. I would think that would be considered a container the person would be carrying with him. That's the type of thing that is not unusual for a person. Even a CCW permit carrier would think nothing of placing that weapon in a briefcase or satchel they had with them. If it's in a container or satchel, that would now be considered "on their person."

Stan Olsen, Executive Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department; and representing Nevada Sheriffs' and Chiefs' Association:

Just one point of clarification: We also stand in support of A.B. 232. When H.R. 218 was passed, we approached Assemblyman Conklin and asked him to carry this bill for Sheriff Young and the Metropolitan Police Department to clarify state law. The point of clarification I'd like to make is a gentleman earlier said costs were about \$175. The Metropolitan Police Department does not take any of the fees from training; those go to the private instructors. On a regular CCW, there is also an initial FBI [Federal Bureau of Investigation] check. That cost is passed on to law enforcement and then passed on to the CCW person. That is about \$45 in addition to the \$35 that the Metropolitan Police Department and the other sheriffs' agencies in the state collect.

Frank Adams:

There was some question about cost in earlier testimony. It is the intention of the Nevada Sheriffs' and Chiefs' that the officer would go through what we call a Triple I check [Interstate Identification Index], not a fingerprint check, but a

Triple I [Interstate Identification Index] check for a name check through the Criminal History file. It is a minimal check and very similar to what you do when you get a Brady Bill weapons check. It would be done through NCIC [National Crime Information Center], Triple I, and NCJIS [Nevada Criminal Justice Information Services].

Ron Cuzze, President, State Peace Officers Council:

We have two minor concerns. Mr. Ron Dreher said A.B. 232 concerns officers from outside the state coming into Nevada. That is not quite true. As a retired law enforcement officer in Nevada, and retired from Nevada, I don't want to have to go through this process unless I want to travel outside the state. Yes, we are going to be certifying a lot of retired officers from outside Nevada who have moved here and want to travel. We also are going to certify retired Nevada officers who are going to travel to other states. There are two fees involved in this process. The Committee needs to understand that on an annual basis, retired law enforcement officers, whether from outside the state or not, who want to get this and travel, have to qualify with their weapon. We want you to understand that there are two different fees and we want to keep them as low as possible.

Our second concern is the qualification standards. We want to make sure they do not vary considerably from one county to the next. We know there must be a standard, but we would like to see a statewide standard versus 17 different standards.

Chairman Anderson:

I thought we had a state-wide standard so the sheriffs had a general guideline to follow.

Frank Adams:

You're correct. In our handout it explains that we have adopted the POST [Peace Officers Standards and Training] standard for qualification and it's a 70 percent pass rate on either a 6-shot or higher capacity weapon, or a 5-shot or higher capacity weapon.

Chairman Anderson:

And each of the sheriffs would be expected to meet those standards in their individual counties?

Frank Adams:

Yes. All the sheriffs have signed on to this process and are adopting this process as the procedure for doing this qualification.

Ron Cuzze:

I spoke to Dick Clark at POST and he advised me that each department would maintain proficiency for their active duty officers. I am not really sure what their definition of proficiency is for retired officers. I will take Frank Adams and Stan Olsen's word that it will be fair and equitable throughout the state.

Chairman Anderson:

It would be our concern that we would be unable to process A.B. 232 unless we felt there was going to be an equitable standard applied. I am not a big believer in reciprocity with other states given their relatively open concealed carry laws. Nevada for some time has had a fairly high standard in terms of training and making sure the person is aware of their particular firearm if they are going to carry concealed. If you are going to carry concealed, we want to make sure it's the same standard for our citizens. I'm not willing to back away from that. I want to make sure that the officers who come to Nevada are going to meet the same standard. Are they going to meet our standard here, Mr. Adams?

Frank Adams:

The procedure we have adopted requires all retired law enforcement officers who want to apply to go through a standard qualification by a certified law enforcement firearms instructor. The individual must pass with a score of at least 70 percent, and every sheriff will have the same shooting standard. These retired law enforcement officers have to qualify annually.

Ron Cuzze:

That was my only other concern. Because we have to qualify every year, we need to keep the cost as low as possible.

Chairman Anderson:

I hope the dollar amount question, which is probably controlled at the sheriff and county level, can be solved.

Steve Dawson, Squad Leader, Volunteer Homeland Reserve Unit:

Me too.

Beau Sterling, Private Citizen:

I am neutral on the issue because I am here just to speak on a narrow part of A.B. 232, the language "on a person" and, in particular, the "container" language. I am an attorney, gun owner, and volunteer hunter safety instructor with the Division of Wildlife. I am not a concealed carry permit holder and I am not a law enforcement officer. My concern is just how that language might affect the rest of us. It has always been my understanding that carrying a gun

in a gun case for example, was a proper way to carry a gun. Under this new language, it might be misconstrued to make that a concealed weapon. Also, when you're carrying a firearm in luggage, for example on an airplane, you need to disclose it, but I don't think the container is labeled. That might be considered a concealed weapon.

I have already written my comments and provided them to the Committee ([Exhibit C](#)) and Speaker Perkins has touched upon this issue. I would like to see some more language added to that particular "upon a person" language so as to clearly draw the line between what is permitted and what is not.

Chairman Anderson:

We have the fax you sent us and will ask our Legal advisors to look at it.

Beau Sterling:

I did want to point out one thing. Weapons such as shotguns and rifles are not subject to the concealed weapon permitting process so they will always fall under whatever we come up with for what a container is.

Chuck Arkell, President, Nevada Sportsman Coalition:

We are in favor of A.B. 232. As sportsmen, we transport firearms to the field and to the range. We believe this language does add some clarification.

Richard Brengman, Private Citizen:

I am a concealed carry permit holder and have been since the law was first passed. Currently, a CCW will cost a person about \$200 to obtain. That is the cost of the class, which is typically around \$80, various sheriffs' fees, and the cost of ammunition. The various people testifying on A.B. 232 have testified that they will have to qualify yearly. I should point out that ammunition can cost anywhere from \$8 to \$35 per box per qualification for commonly used calibers. If you subject applicants to a fingerprint check, fingerprints take approximately three months to process.

I am very much in support of this bill. The only thing I find disconcerting about it is that it does tend to create a distinction between the common citizen and retired law enforcement. I thought the Preamble to our *United States Constitution* said we were all created equal, and should remain so.

Chairman Anderson:

You realize that former police officers were entitled to carry weapons before we put in the concealed carry statute in Nevada.

Richard Brengman:

Yes, I am, but I am also a long-standing proponent of making concealed carry much easier than it currently is.

Chairman Anderson:

Would you drop the training aspect?

Richard Brengman:

I am not going to be satisfied until Nevada has open reciprocity with other states.

Chairman Anderson:

Mr. Adams, we need to take a look at one of the differences between these two bills, A.B. 232 and A.B. 258. Assembly Bill 232 has an effective date of October 1, 2005; A.B. 258 has an effective date upon passage and approval. Is it going to take the sheriffs' departments some length of time to gear up for this new thing or can it be upon passage and approval?

Frank Adams:

We're ready to go. Some of the agencies have already started implementing this as an adjunct to H.R. 218. The package you have ([Exhibit D](#)) is the package I'm prepared to send out to each of the sheriffs so they'll have all the information. Upon approval, we are ready to go.

Chairman Anderson:

Mr. Wolff, did you need to get on the record?

Gary Wolff, Business Agent, Teamsters Union Local No. 14, Las Vegas, Nevada:

Me too.

Chairman Anderson:

There is a letter Committee Members should have received from the NRA [National Rifle Association] ([Exhibit E](#)). I also have received two emails in support of A.B. 232 that I would like to make part of the record ([Exhibit F](#) and [Exhibit G](#)). Let me quickly open Mr. Conklin's bill A.B. 258.

Assembly Bill 258: Authorizes certain law enforcement officers and retired law enforcement officers to carry certain concealed firearms and weapons in certain circumstances. (BDR 15-1139)

Mr. Conklin, is there additional testimony you feel is necessary on your bill?

Assemblyman Conklin:

No, I brought this bill on behalf of the Nevada Sheriffs' and Chiefs' Association. If they are happy with A.B. 232 or A.B. 258, I am very pleased.

Chairman Anderson:

Let me close the hearing on A.B. 258 and suggest to the Committee that we fold the two bills together into a single piece of legislation. We would be adding Mr. Conklin and company to the bill draft and try to clarify from the bill drafters on concealed carry to see if we can do something in that area. Are there any other suggestions for amendments to those bills, in addition to those areas and the effective date being upon passage and approval?

We have a BDR requested by the Committee. It is a result of the Master Settlement Agreement and a bonding requirement. It is a redraft of a bill from last session.

- BDR 2-1375—Makes various changes concerning certain civil actions involving manufacturers of tobacco products (ASSEMBLY BILL 486).

ASSEMBLYMAN HORNE MOVED FOR COMMITTEE INTRODUCTION OF BDR 2-1375.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

THE MOTION PASSED. (Assemblywoman Ohrenschall abstained from the vote.)

The next BDR involves gaming establishments, governing the approval of nonrestricted gaming licenses for establishments that are not resort hotels. This relates to Washoe County and neighborhood gaming districts.

- BDR 41-1376—Makes various changes concerning gaming (ASSEMBLY BILL 485).

ASSEMBLYWOMAN OHRENSCHALL MOVED FOR COMMITTEE INTRODUCTION OF BDR 41-1376.

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

[Chairman Anderson, continued.] We will now turn our attention to A.B. 267.

Assembly Bill 267: Prohibits abuse, neglect, exploitation or isolation of vulnerable person. (BDR 15-1244)

Assemblywoman Bonnie Parnell, Assembly District No. 40, portions of Washoe County and Carson City:

Assembly Bill 267 is the result of a conversation I had with Carson City Sheriff's Deputy, Mark Jongsma. I had a call from him concerning a situation we were having in Carson City. Assembly Bill 267 adds "vulnerable person" to existing statute regarding abuse, neglect, exploitation, or isolation to persons 60 years of age or older. The gist of this bill can be found in the new definition of who a vulnerable person is. That is in Section 3, subsection 7.

Mark Jongsma, Sheriff's Deputy, Carson City Sheriff's Office, Nevada:

I contacted Ms. Parnell regarding an investigation I had conducted. A woman I was familiar with for some time presented at the Sheriff's Office regarding the possible theft of her wheelchair. It's an electric wheelchair worth several thousand dollars.

This woman had a history of being domestically battered; her husband was an abuser of alcohol as well as of her prescription medications. We had several ongoing investigations regarding those matters and were seeking to prosecute him on those charges. She had presented at the Office because in December she had learned her husband had taken her electric wheelchair and pawned it so that he could get money for gambling and alcohol. Unfortunately, the way our laws work, when you have a spouse, you share all property in common so we could not prosecute him as to the theft, nor could we recover the wheelchair as part of a crime. However, all the elements of the crime of elderly abuse were there and, had we been able to use the elderly abuse statute, we would have been able to recover the wheelchair under those provisions. Because this woman was under the age of 60, that was the only element of the law that was missed.

She is physically disabled; she suffers from degenerative disc disease, which slowly, and over time, gets to the point where you simply cannot walk anymore. She had come to a point in her life where she could no longer push a manual wheelchair, so doctors at Carson Tahoe Hospital, seeing her in need and also her indigent circumstances, provided a wheelchair to her at no cost. That is the wheelchair we are speaking of.

[Mark Jongsma, continued.] The wheelchair was probably worth \$2,250; the pawn transaction was \$250. Members of my sheriff's department and I repurchased the wheelchair and released the pawn shop of any liability in the investigation.

The elderly abuse statute covered people with mental handicaps and people over the age of 60; however, I think we all agree that someone with a physical disability such as this is every bit as vulnerable as anybody else covered by the statute. I ask you to support A.B. 267 so we can include people with physical disabilities underneath this statute.

Assemblywoman Ohrenschall:

What is the name of the disease this person suffers from?

Mark Jongsma:

She is suffering from degenerative disc disease.

Assemblyman Manendo:

Would this bill dealing with vulnerable persons include someone with a visual impairment or somebody who is blind?

Allison Combs, Committee Policy Analyst:

We can double check to be sure, but the vulnerable person definition indicates a physical impairment and a record of that impairment that limits one or more major life activities. It would be a question of whether blindness falls under that definition or not.

Chairman Anderson:

The Chair is of the opinion that it does.

Assemblyman Manendo:

If the sponsors of the bill don't mind, that might be something to give protections to people with visual impairment or who are blind.

Assemblywoman Ohrenschall:

I was going to ask if the Chair would be willing to accept a motion at this time; however, it might be premature.

Chairman Anderson:

Some concerns have been raised by several agencies about the long-term impact of A.B. 267. We may want to take that into consideration before we make a rush to judgment.

Assemblywoman Angle:

How might this impact the Division for Aging Services?

Assemblywoman Parnell:

Since we're looking at a population under 60 years of age, I would think the affect would be minimal on the Division for Aging.

Assemblyman Carpenter:

I don't have any problem with the bill. However, looking at page 4, line 42, where it says, "...or is otherwise regarded as having the impairment," that seems kind of vague to me; and the rest of it seems to talk about where there's a medical record [of the impairment]. I'm just wondering whether that language really needs to be in there or what it is supposed to do to strengthen the bill, if in fact it does.

Assemblywoman Parnell:

I agree with Assemblyman Carpenter. I, as the bill's sponsor, would not be upset if we deleted that language, "...or as otherwise regarded...;" nor do I think our Sheriff's Deputy would be. It seems to me to be awfully vague and I think that might cause some concern.

Chairman Anderson:

Might it include somebody who didn't have a record that was readily available, such as a visitor to our community?

Mark Jongsma:

Yes, it might impact somebody whose records were not readily available. If we took that line out it, wouldn't change our ability to act under the law. It would come down to a point in time where the person was going to be prosecuted. At that point in time they would still need to provide that documentation, which should be able to be recovered, even from another state, while the person's being prosecuted in court. As far as probable cause, seeing the person with a physical impairment, obviously blindness or a person who is in a wheelchair, would be enough for us to act on the reasonable suspicion. Whether or not the person was convicted would come down to being able to provide a record and document of the handicap.

Assemblywoman Parnell:

Last session the Alzheimer's Association had a small concern over how A.B. 126 of the 72nd Legislative Session, which addressed this issue, passed. We're now finding situations where we have individuals under 60 years of age who might be in the early stages of Alzheimer's or dementia. They would not

have fit into this language as it was passed in 2003, but now would also be included in this definition, if A.B. 267 were to pass.

Fred Haas, Police Officer, Las Vegas Metropolitan Police Department; and representing the Nevada Sheriffs' and Chiefs' Association:

We want to reiterate that we are in support of this bill, the language change. I think it will help us prosecute some people who are preying on the more vulnerable people in our society.

Ron Dreher, Government Affairs Director, Peace Officers Research Association of Nevada and President, International Peace Officers Association:

Thank you for supporting this bill. It is much needed. It does enhance a provision that has been found to have some areas that need to be expanded on and we definitely support it.

Chairman Anderson:

Let's now listen to those who have indicated a desire to speak on the other side of the issue, or are neutral on A.B. 267.

Carol Sala, Administrator, Aging Services Division, Nevada Department of Human Resources:

We are here to express our concerns with A.B. 267. The mission of the Division for Aging Services is to develop, coordinate, and deliver a comprehensive support system in order for Nevada's senior citizens to lead independent, meaningful, and dignified lives. The Division for Aging Services serves primarily Nevadans aged 60 years and older. According to the 2000 United States Census figures for Nevada, this translates to approximately 31 percent of the vulnerable population, who are the seniors.

Our Elder Protective Services Program fills the requirements of Nevada's laws prohibiting elder abuse, neglect, exploitation, and isolation of persons over 60. Assembly Bill 267 adds "vulnerable persons" to these laws and defines vulnerable persons as a person who has a physical or mental impairment and a medical or psychological record of the impairment, or is otherwise regarded as having the impairment. No age parameters are mentioned in the bill. This would effectively make the Division for Aging Services responsible for fulfilling the requirements of the abuse laws of all ages of persons. Instead of serving 31 percent of the vulnerable population, the Division would be responsible for 100 percent of the vulnerable population. This would require our Elder Protective Services Unit to triple in size to handle the protection of all vulnerable persons. In order to support this new function, the Division for Aging Services would have to grow by at least 50 percent, including new offices in rural counties.

[Carol Sala, continued.] We are concerned about the people who are under age 60, and who need protection. Other state agencies such as Mental Health and Child and Family Services protect some segments of the population. County agencies are also charged with the responsibility of helping the vulnerable people within their counties. The Division for Aging Services helps senior citizens, a very vulnerable population. We feel it would be best if we continued to concentrate on this rapidly growing population and leave the protection of vulnerable people to the agencies that concentrate on the other age groups.

Assembly Bill 267 is expensive, it creates duplication of services, and it will blur the lines of which agency is responsible for helping vulnerable people. [This will make accessing] the proper services more difficult for the people who need them. It also dilutes our efforts to serve the seniors of Nevada. The responsibility for fulfilling the requirements of the statute falls to the Division for Aging Services. We ask the Committee to take this into consideration.

Chairman Anderson:

I looked for a fiscal note, has one been prepared?

Carol Sala:

A fiscal note has been prepared. I'm not sure where it is.

Chairman Anderson:

Do you have one with you?

Carol Sala:

I do have the first version. I did look at the second version and that was \$4.7 million over the biennium.

Assemblyman Carpenter:

My question would be to Legal, whether this bill really does what the witnesses said. My reading of it is that if they're over 60 years of age and vulnerable, the Division for Aging Services would take care of them, but otherwise it would be up to other agencies. I would like to get clarification.

Chairman Anderson:

We'll see if we can straighten out the language so that law enforcement can still do what they would like to do and make sure that Aging Services doesn't have the responsibility for doing things other than for those folks over 60 years of age.

Susan Rhodes, Social Work Supervisor, Senior Citizens Protective Services (SCPS) Unit, Clark County Social Service, Nevada:

I am here on behalf of my agency to speak in opposition to A.B. 267. Clark County Social Service began providing senior protective services to Clark County residents aged 60 years and older in November 1977 with a staff that consisted of one full-time social worker. At that time, Clark County was the only entity in the state of Nevada which provided protective services to senior citizens. According to the Nevada State Demographer, Clark County had a population of 390,000, or 57.35 percent of the residents of the state. Today, over 27 years later, the staff consists of 6 full-time social workers, 1 clerical support person, and a social work supervisor, and the population of the county we serve has grown to slightly over 1.7 million, or 71.15 percent of the total state population.

In the beginning year or two, referrals to the SCPS averaged between 70 and 100 annually and frequently required little more than information and referral to other community resources. Today, the Unit receives over 115 new referrals each month, with an average of 100 of those requiring actual case initiation and action within statutory requirements of 72 hours. Gone too are the days of information and referral only. An average case remains open with its assigned social worker between 90 and 120 days, with some cases involving complex issues of abuse and exploitation remaining open for even longer periods of time, occasionally even in excess of one year. The National Adult Protective Service Administrators Association recommends a social worker-to-caseload ratio of 1 to 25 as an appropriate professional standard for this field. In our Unit, the current ratio is 1 to 46.8, or almost twice the recommended average. In the face of the rapidly growing population in Clark County and the increasing demands on our services, we are struggling to even maintain that level while at the same time meet our statutory requirements.

Assembly Bill 267 poses adding the term "vulnerable person" to the existing statutes. Given the language of A.B. 267 there's no way to accurately assess the potential impact to Clark County Social Service. Our current arrangement with the State Division for Aging Services is that all referrals of abuse, neglect, exploitation, and isolation for seniors in Clark County who are not Medicaid recipients, will be handled by our Unit. We ask that you carefully consider all the implications.

Marietta Bobba, Director, Washoe County Senior Services, Nevada:

I'm here to ask the Committee to look again at some of the wording of this legislation in terms of potential for duplication of existing services by other departments that the legislation implies will be done in the future by the Division for Aging Services. As currently written, it does dilute the mission of the

Division for Aging Services by broadly expanding the scope of services to all ages.

[Marietta Bobba, continued.] I want to compliment the Committee for already looking at reconsideration of the phrasing "...otherwise regarded as having the impairment," and being open to deleting that remark from A.B. 267. I also want to commend the Committee for defining "vulnerable person" as a physical or mental impairment that substantially limits major life activities, rather than just physical or mental impairment. There is a huge difference between the two of those and the enormous amount of population that this would have to serve without that qualification, substantially limiting major life activities, would make it very, very difficult for the state to administer this legislation.

Assemblywoman Gerhardt:

I didn't think this was adding any services. I just thought A.B. 267 was adding sanctions for criminal activity.

Marietta Bobba:

It's my understanding that, for the under-60 population, "vulnerable" person is not always a mandated service to the extent that this legislation provides it.

Assemblywoman Gerhardt:

Maybe I could get clarification.

Chairman Anderson:

That's what we're waiting for. We want to make sure it is very clear what we're trying to do here.

Assemblywoman Parnell:

Just a clarification: In no way was this bill intended to add any services to anyone. It was looked at as a criminal statute and a way to affect those who are preying on our vulnerable citizens.

Chairman Anderson:

We are adjourned [at 11:03 a.m.].

RESPECTFULLY SUBMITTED:

Judy Maddock
Committee Attaché

Terry Horgan
Transcribing Attaché

APPROVED BY:

Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 28, 2005

Time of Meeting: 9:10 a.m.

Bill	Exhibit	Witness / Agency	Description
N/A	A		Agenda
A.B. 232	B	Frank Adams/Nevada Sheriffs' and Chiefs' Association	Retiree informational package
A.B. 232	C	Beau Sterling	Proposed new language
A.B. 232	D	Frank Adams/Nevada Sheriffs' and Chiefs' Association	Sheriffs' informational package
A.B. 232	E	National Rifle Association	Letter in support
A.B. 232	F	John J. Cahill, Private Citizen	Email in support
A.B. 232	G	Debra Lockwood, Private Citizen	Email in support