MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Third Session
April 15, 2005

The Committee on Judiciary was called to order at 8:14 a.m., on Friday, April 15, 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. Mark Manendo
Mr. Harry Mortenson
Mr. John Oceguera
Ms. Genie Ohrenschall

COMMITTEE MEMBERS ABSENT:

Mr. Garn Mabey (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Giunchigliani, Assembly District No. 9, Clark County (part)

STAFF MEMBERS PRESENT:

Allison Combs, Committee Policy Analyst
Risa Lang, Committee Counsel
Jane Oliver, Committee Attaché

OTHERS PRESENT:

Ron Titus, Court Administrator, Administrative Office of the Court, Supreme Court of Nevada
Jan Gilbert, Coordinator, Progressive Leadership Alliance of Nevada
Madelyn Shipman, Legislative Advocate, representing Nevada District Attorneys Association
Susan Hallahan, Chief Deputy District Attorney, Washoe County Family Support Division, Nevada
Kim Surratt, Legislative Representative, Nevada Trial Lawyers Association

Chairman Anderson:
[Called the meeting to order and roll called.] Let's turn to the work session document (Exhibit B).

Assembly Bill 466: Revises provisions governing jury trials in justices' courts. (BDR 3-518)

Assembly Bill 468: Makes various changes to provisions regarding arbitration and other alternative methods of resolving disputes in certain civil actions. (BDR 2-523)

Allison Combs, Committee Policy Analyst:
[Presented the work session document Exhibit B.] The first two bills are combined on page 2.

These two bills came up in the work session on Wednesday. As mentioned at that time, A.B. 466 impacts the justice courts and repeals some current language requiring the court to establish a mandatory short-trial program. It reinstates the language to correct some technical issues from 2003, and lowers the maximum number of jurors in trials in justice court from 8 to 6.

Assembly Bill 468 impacts the district courts and increases the threshold amount for submitting a case to nonbinding arbitration from $40,000 to

$50,000. It removes the requirement that a civil action submitted to a short trial be binding.

[Allison Combs, continued.] There were overlapping provisions in these two bills. The sponsors of the bills have worked out an amendment to combine the bills taking care of the overlapping sections.

The issue that came up at the work session on Wednesday was the mandatory short trial in district court. There is an attached mock-up from the proponents of the two bills on page 9 (Exhibit B). Lines 18 through 21 contain the language in question that would allow the Supreme Court to adopt rules requiring cases to go to the short-trial program. Since the time of the work session, the proponents of the measures have indicated that language can be deleted. Some related language would also come out on page 7 (Exhibit B), at lines 29 through 30.

The third issue that was raised involves the short trials in justice court. Located on page 11, lines 19 through 37, are the cases or actions that would be excluded from short trials in justice court. Assemblyman Carpenter felt there wasn't a need to exclude those cases from the short trials.

Chairman Anderson:
Mr. Carpenter, I believe we've worked out some of the issues if we remove the references on page 9 (Exhibit B), "The Supreme Court may adopt rules which provide ... ," and the corresponding parts in the bill. That would have been in a new Section 4 of the bill. However, there remain the questions that you raised on page 11 (Exhibit B) about the need for that particular process. Do you want to continue that discussion?

Assemblyman Carpenter:
It may be limiting it too much to make an arbitrary figure of $10,000, and anything over that couldn't be tried in short procedure. We could take that out and let the Supreme Court write the rules and have more discussion on what should be in a short trial. Some other dollar figure might work better.

Chairman Anderson:
The dollar figure is relatively low because you could give somebody a regular trial if they wanted it. If it was less than $10,000, you don't feel they would get a regular trial unless they demanded it?

Ron Titus, Court Administrator, Administrative Office of the Court, Supreme Court of Nevada:
This language is already in the statute. It was brought over from another statute and put in here. The $10,000, of course, is the jurisdictional limit in the justice court, so that's why the $10,000 is there. If it's more than $10,000 it would be in the district court. If there is some concern about the second part, it can be stricken because the actions for the possession of lands and tenements are already excluded. The $10,000 is there because of the jurisdictional limit in the court.

Chairman Anderson:
Mr. Carpenter, you're suggesting that (a) and (b) be stricken from Section 5, subsection 3 on page 11 of the work session document (Exhibit B). That would mean anybody could have a full trial.

Assemblyman Carpenter:
If the limit in justice court is $10,000—I thought we raised that dollar figure but maybe we didn't—then maybe it has to stay there.

Chairman Anderson:
I was under the impression that we changed that figure, too. I thought we were looking for $20,000.

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 468 AS OUTLINED IN THE WORK SESSION DOCUMENT (EXHIBIT B) AND DESCRIBED AS FOLLOWS:
>
> - THE OVERLAP BETWEEN A.B. 466 AND A.B. 468.
> - DELETE PROVISIONS FROM A.B. 468 AUTHORIZING THE SUPREME COURT TO ADOPT RULES MANDATING A SHORT TRIAL IN CERTAIN CIRCUMSTANCES [PAGE 9 OF EXHIBIT B LINES 18 THROUGH 21.]
> - DELETE A RELATED PROVISION [PAGE 7 OF EXHIBIT B ON LINES 29 AND 30].
>
> ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Mr. Mortenson and Mr. Mabey were not present for the vote.)

Chairman Anderson:
Let's turn our attention to Assembly Bill 550.

Assembly Bill 550: Makes various changes concerning offenses involving use of intoxicating liquor and controlled substances. (BDR 43-832)

Allison Combs:
Assembly Bill 550 deals with DUI [driving under the influence] offenses. In determining whether one offense of driving under the influence of intoxicating liquor or a controlled substance occurs within 7 years of another offense, the time between the offenses during which the offender is imprisoned, serving a term in residential confinement, in a treatment facility, or on parole or probation is excluded from the 7-year calculation.

The bill also requires the court to order a person convicted of DUI to install an ignition interlock device for a certain period of time based upon other factors.

It expands the categories of persons who may perform blood tests in conjunction with a crime to include a phlebotomist or a person with certain qualifications.

The bill limits the criminal proceedings in which affidavits and declarations of health care professionals may be admitted to a grand jury hearing or preliminary hearing.

There was testimony that the ignition interlock device would provide greater protection against individuals who may be driving under the influence. The other provisions were necessary to clarify who is qualified to withdraw blood, to respond to the United States Supreme Court and a Nevada Court decision impacting the use of affidavits and declarations.

There are proposed amendments on page 14 (Exhibit B). The first one deals with the persons who are qualified to test for blood. These were proposed by the Nevada District Attorneys Association. Amendment 1(a) would exclude arresting officers from the list of persons qualified to test blood. Under 1(b), the word "replace" should be "amend the language to add in a person who has complied with the training requirements set forth in NRS [Nevada Revised Statutes] 652.127." This statute sets forth the requirements to qualify for certification as an assistant in a laboratory.

A copy of the amendment proposed by Ben Graham and Kristin Erickson, on behalf of the Nevada District Attorneys Association, is on page 15 (Exhibit B), which includes a mock-up of the bill [page 17] showing where the proposal is to include this change.

[Allison Combs, continued.] The second proposed conceptual amendment on page 14 (Exhibit B) deals with the ignition interlock device. It replaces the provisions of the bill regarding the mandatory imposition of the ignition interlock device and requires the court to order a person convicted of a first, second, or subsequent DUI offense—who is found to have a concentration of alcohol of 0.18 or more in his blood or breath—to install the device, and the period of time must not be less than 12 months. It also authorizes the judge to order such devices in all other cases.

The second part is to provide judicial discretion to waive the mandatory installation of the ignition interlock device on a first or second offense of DUI in cases involving economic hardship. For example, a person may have a demonstrable need to drive their car to work.

There was a proposal from Laurel Stadler of Mothers Against Drunk Driving that if the court orders the installation of the device, they require the installation be in place before the driver's license can be reinstated, after the license has been revoked under other existing statutes for DUI crimes.

Chairman Anderson:
The ignition interlock device question is a bigger issue nationally. New Mexico requires all DUI offenders to have ignition interlock devices. They have strict rules on the impoundment of a vehicle where a DUI offender is driving illegally, regardless of whose vehicle it is. The owner of the vehicle doesn't have access to the vehicle. This is a very stringent requirement.

We're not cutting new ground here, but we're making a dramatic statement. With the proposed amendments, we've left a modicum of discretion for economic hardship where there's a demonstrable need. The $2 a day is high for individuals at the lower end of the economic spectrum; they need their car to get to work. On the other hand, we want to send the message "You will not be driving on our roads if you're drinking."

I'm concerned about the availability of the equipment to do this. However, I think we're going to find that it works.

Assemblyman Carpenter:
I like your amendment because 0.18 gets the bad guys. Would judicial discretion apply if they had a blood alcohol concentration (BAC) of 0.18?

Chairman Anderson:
At 0.18 it becomes mandatory. The judge would be able to do it even at 0.18, if they could prove economic hardship. If there is bus transportation available,

even though they had an economic hardship, it doesn't cost any more to take public transit in the major metropolitan area than it does to drive your vehicle. It would probably be less if you take into consideration the insurance cost because of the DUI. The answer is yes, the judge would have that discretion.

Assemblyman Carpenter:
The only situation the judge would be looking at is the hardship of paying the $2 to have the device installed.

Chairman Anderson:
And the vehicle.

Assemblyman Carpenter:
Yes, but he could still drive the car if he's got the device on it. If he's not drunk, the car will start and he can go to work. It seems to me that 0.18 is when they're drunk, and we should make them have that device when they have a blood alcohol concentration of 0.18.

Chairman Anderson:
The device is not going to measure 0.18; the 0.18 was for their initial arrest and it may have been a one-time event. You have an economic hardship and you're going to walk the straight and narrow. In any subsequent event, the judge is going to say, "It didn't work for you. We gave you an opportunity and now we've arrested you again." I thought there was an opportunity here for the judge to give somebody a break if they had an economic hardship. If you don't want it, we don't have to have it. I felt that $3 a day for a low-wage earner was a heavy burden. Given the length of time you have to be doing this, you're talking about $1,000 a year.

Assemblyman Carpenter:
On the second offense it would be mandatory with discretion.

Chairman Anderson:
We can make it that way if you like. The economic hardship issue is where we're trying to give the judges some leeway.

Assemblyman Conklin:
I understand the economic hardship, but for somebody who's driving at 0.18, I'd want to know how much they're spending a month on alcohol. I would be willing to bet that the money they spend on this device is probably money that might come out of their alcohol budget. They're going to spend it one way or another.

Chairman Anderson:
The states that put this in place have a fund for those people who have a demonstrable economic need. We haven't put together a fund like that. You have to rely upon the discretion of the judge at some point in this process. I don't often give judges discretion, but there are some issues where the judge, in his discretion, can say, "We can't do it here."

We can limit it so the judge cannot do it if a person has had a second 0.18 DUI. We should give the judge at least one opportunity to say "there is an economic hardship."

> ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 550 WITH THE AMENDMENTS IN THE WORK SESSION DOCUMENT PAGE 14 (EXHIBIT B).
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Mr. Mortenson and Mr. Mabey were not present for the vote.)

Assembly Bill 382: Makes various changes concerning genetic marker testing of certain convicted persons. (BDR 14-923)

Allison Combs:
Assembly Bill 382 made various changes concerning genetic marker testing. It would require that all defendants convicted of a felony submit to a biological specimen for genetic marker testing. It also requires children adjudicated delinquent for committing a felony offense to submit to similar testing. It appropriates $2 million over the biennium for genetic marker testing.

There was testimony in favor of the bill noting that Nevada is in a minority of states that don't require the testing for all felonies. There was an amendment presented by the Nevada Sheriffs' and Chiefs' Association, along with Nevada Attorneys for Criminal Justice, listed on page 19 of the work session document (Exhibit B). On pages 20 through 25, there is a mock-up that was submitted during the hearing. Requiring testing for Category D felonies involving the use, or threatened use of force or violence, would be all that was left in the bill. Those would be added to the list for testing that's currently required.

The appropriations section of the bill would be revised to lower the amount going to Las Vegas Metropolitan Police Department Forensic Laboratory by

$50,000 each year of the biennium, and raising the amount going to Washoe County Sheriff's Office Crime Laboratory Forensic Science Division by $50,000.

Chairman Anderson:
These are extensive amendments to the bill. I think we had a very clear hearing. In the work session document (Exhibit B) you'll see a list of the crimes that will be affected on pages 26 through 31.

Assemblyman Carpenter:
I'm going to vote for the motion, but I do not like the amendments. Genetic marker testing enables us to solve crimes. In some places, school children are doing this testing, so that if something happens the crime can be solved.

Chairman Anderson:
I don't disagree with you. The Department of Corrections indicated that it would be simpler for them to mark everybody who is a felon in order to build our database. I'm also aware of the Sixth Amendment rights of the *United States Constitution* relative to people who do not want to voluntarily give this up. This is a small step in the right direction.

> ASSEMBLYWOMAN ANGLE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 382 WITH THE AMENDMENTS OUTLINED IN THE WORK SESSION DOCUMENT (EXHIBIT B).
> - TESTING REQUIRED FOR CERTAIN CATEGORY D FELONIES.
> - APPROPRIATIONS
> - EFFECTIVE DATE
>
> ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Ms. Buckley, Mr. Mabey, and Mr. Mortenson were not present for the vote.)

Assembly Bill 365: Increases amount of homestead exemption. (BDR 10-1026)

Allison Combs:
Assembly Bill 365 is on page 32 of the work session document (Exhibit B). It's a proposal to increase the amount of the homestead exemption from $200,000 to $400,000.

There was testimony in favor of the bill from the sponsor of the measure, representatives of the Nevada Association of Realtors, and the Washoe County

Senior Law Project. Concerns were raised by the Nevada Bankers Association with regard to the general increase of the amount, and trying to target what an increase might be.

[Allison Combs, continued.] Subsequent to the hearing, there was an amendment proposed to clarify the effect on the homestead exemption of certain financial actions involving the home, such as refinancing or taking out a second mortgage. I'll defer to the Legal Division to explain the proposed language on page 33 of the work session document (Exhibit B).

Risa Lang, Committee Counsel:
Chairman Anderson, this was prepared at your request to address the problem that's been raised concerning mortgage companies. When you refinance, you have to sign something which disavows your homestead so you won't have to do that. It amends NRS 115.010, subsection 3 (a), to clarify that in addition to mortgages, which are not subject to the homestead exemption, it also includes a second or subsequent mortgage, a mortgage obtained through refinancing, line of credit taken against a property, home equity loan, and any other type of loan that's taken out against your house or your property.

Chairman Anderson:
This is a major issue to mortgage lending institutions in southern Nevada. They contend that a homestead exemption has to be redone every time you do an economic instrument that would put your mortgage in jeopardy. This clarifies what the current extent of the law is, or at least as we had all understood it to be.

Ms. Ohrenschall, is this an acceptable amendment?

Assemblywoman Ohrenschall:
Yes it is, Mr. Chairman.

Chairman Anderson:
Are there any other amendments that you feel are necessary to the bill?

Assemblywoman Ohrenschall:
No, I think it's a good bill with this amendment.

Chairman Anderson:
I think there was another member here who was similarly concerned about the issue. Could we add his name to the bill?

Assemblywoman Ohrenschall:
That would be acceptable and fair.

Assemblyman Horne:
Assemblyman Atkinson had a similar bill. His raised the homestead exemption to $250,000. We pulled his bill back because there were some other changes. For expediency, Ms. Ohrenschall and Mr. Atkinson agreed to blend their two bills.

Chairman Anderson:
Ms. Ohrenschall, Is the $400,000 a realistic number?

Assemblywoman Ohrenschall:
Given the skyrocketing price of land in Nevada, I think it is.

Chairman Anderson:
We'll go with the $400,000 level, and the amendment of the bill regarding subsequent mortgages. We might want to make sure that the declaration of legislative intent is included with this piece. Ms. Lang, is that your suggestion?

Risa Lang:
That would be fine.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 365 AS OUTLINED IN THE WORK SESSION DOCUMENT, PAGE 32 (EXHIBIT B).
>
> - CLARIFY EFFECT ON THE HOMESTEAD EXEMPTION OF CERTAIN FINANCIAL ACTIONS INVOLVING A HOME ON THE HOMESTEAD EXEMPTION.
> - DECLARATION OF LEGISLATIVE INTENT.
> - ADDITION OF ASSEMBLYMEN ATKINSON, HORNE, CONKLIN AND HOGAN'S NAMES AS COSPONSORS OF THE BILL.
>
> ASSEMBLYMAN CONKLIN SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Ms. Buckley, Mr. Mabey, and Mr. Mortenson were not present for the vote.)

Assembly Bill 452: Revises provisions relating to restoration of certain civil rights to certain convicted persons. (BDR 14-1124)

Allison Combs:
Assembly Bill 452 is on page 35 of the work session document (Exhibit B). It revises provisions relating to the restoration of certain civil rights to certain convicted persons.

On page 37 (Exhibit B) is a flow chart that describes the current process. This bill would affect that by restoring the right to vote to persons who are honorably discharged from parole or probation, pardoned or released, or previously convicted of certain crimes specified in existing law.

It also eliminates a category of crimes specified in existing law which would prevent the restoration of civil rights; the category of the offense not originally being labeled a Category B, but being one as of the date of discharge.

The bill would allow an individual who is prevented by existing law from having certain civil rights restored, to petition for the right to have those rights restored in any court of competent jurisdiction.

The bill restores the right to vote for those who are dishonorably discharged from probation or parole and provides the procedures for that, similar to the existing statute, with the graduated restoration of the civil rights.

Finally, the bill requires employment applications that require the disclosure of felony convictions, to include a statement informing the applicant that he's not required to indicate the conviction of the felony if his records have been sealed, which is existing law now.

There was testimony in support of the bill from persons convicted of felonies, which included representatives of Progressive Leadership Alliance of Nevada and the American Civil Liberties Union (ACLU). There was some concern expressed by a representative of Nevada Concerned Citizens whose written testimony is included on page 38 (Exhibit B). There were some general concerns about restoring rights to individuals who have been dishonorably discharged, opining that these individuals have not paid the full debt to society.

The proposed conceptual amendments are outlined on page 36 (Exhibit B). The first one is suggested by Chairman Anderson.

Amendment 1(a) allows persons convicted in Nevada, and dishonorably discharged from probation or parole, to petition a court of competent jurisdiction for the gradual restoration of their civil rights, after they have fulfilled the unmet conditions—including payment of restitution if that was not paid—which led to the dishonorable discharge.

[Allison Combs, continued.] Amendment 1(b) on page 36 (Exhibit B) ensures that persons whose voting rights have been restored in other jurisdictions, if necessary, are able to petition a court of competent jurisdiction in Nevada for restoration of their voting rights here in this state. Amendment 1(c) retains the language in the bill that authorizes a person to seek restoration of civil rights in a court of competent jurisdiction, rather than existing law, which would be the court of conviction. Amendment 1(d) deletes the remaining provisions of the bill.

There were some amendments on page 38 (Exhibit B) from Ms. Lucille Lusk of Nevada Concerned Citizens, to narrow the bill similar to another measure pending in this Body.

Chairman Anderson:
I've discussed the proposed amendments with Assemblyman Munford. One of the benefits of voting, even for those people who have broken the rules of our society, is the hope that they're going to be accepted back into society.

I've always believed that the correctional system has a three-part responsibility. The first is to protect society. The second is a punishment to show our displeasure. The third responsibility is to correct behavior so that they can regain full, equal citizenship. There is no clearer mark of citizenship than the right to vote.

They get to come back after a certain time, depending on the nature of their crime, in a certain time period if they so choose, but there may be a drug test or something more complicated that's keeping them from the full restoration of those rights. I think we do that in 1(c) on page 36 (Exhibit B).

If somebody comes to Nevada from another state where their civil rights have been restored, under 1(b), in many cases, we take away their right to vote. We're going to make this very clear that it is a matter of full faith and credit. Once your civil rights are restored to you in another state, they are also restored here in Nevada.

Jan Gilbert, Coordinator, Progressive Leadership Alliance of Nevada:
We registered a lot of ex-felons to vote. If you voted in another state, you automatically get your voting rights here in Nevada. If you are from a state that did not give you your voting rights back, you would have to apply to get your voting rights reinstated.

Chairman Anderson:
So, 1(b) on page 36 is not necessary?

Jan Gilbert:
That is correct.

Chairman Anderson:
I was under the impression from the testimony that there were those who were losing their rights in Nevada. The state they came from had not removed their voting rights initially, but when they came to Nevada they lost their rights because of their conviction in the state they came from.

There is a stronger piece of legislation on the Senate side which has been brought to my attention. It would be a better vehicle, but there's no guarantee that it will come from the other House. I suggest we wait for the bill to come from the other House. We can amend that bill with Assemblyman Munford's name.

Assemblywoman Ohrenschall:
I would prefer to get the two bills together.

Assemblyman Carpenter:
Your suggestion is worthy of consideration and that's what we need to do.

Chairman Anderson:
Assembly Bill 452 will go back to the board.

Assembly Bill 528: Revises crime of intimidating or threatening public officers and employees and certain other persons. (BDR 15-1371)

Allison Combs:
Assembly Bill 528 on page 39 (Exhibit B) revises the crime of intimidating or threatening public officers and employees. The bill is in response to a United States District Court for the District of Nevada decision that the Nevada Supreme Court declined to review, *Chaffee v. Roger* [311 F.Supp.2d 962 (D.Nev. 2004)].

The court found that the statute was unconstitutionally overbroad and vague. The bill addresses these concerns by enumerating the circumstances in which a threat or intimidation is covered by the crime of intimidating or threatening public officers and employees.

There was testimony that the bill is necessary to protect public officers and employees from these types of threats and intimidation. During the hearing, a

representative of the American Civil Liberties Union (ACLU) testified without opposition to the bill, but requested authorization to submit amendments to help clarify that the new language would not infringe on the rights of people like whistleblowers, who are exercising their existing rights to file a complaint or a report.

[Allison Combs, continued.] The attached amendment on pages 40 and 41 of the work session document (Exhibit B) was submitted by Allen Lichtenstein on behalf of the ACLU. There are two proposed additions to the bill underlined in the middle of page 40. Section 1(d), to clarify the circumstance, "to falsely accuse any person of a crime, or wrongfully cause criminal charges to be instituted against any person knowing that such accusations are false."

The second proposed addition to the bill is on page 41 (Exhibit B). It would apply to all of the enumerated conditions that would specify "Nothing in subsection 1 shall be construed to include any statement of a good faith intention to report any misconduct or malfeasance by a public official or employee."

Chairman Anderson:
The First Amendment rights of the United States Constitution are what Mr. Lichtenstein is concerned about. You have the right to raise a concern about the actions of a public official through legitimate channels. We want to make sure those First Amendment rights are not being abridged. Access to government is the whole idea.

Assembly Bill 528, with these amendments, hopefully, will overcome the questions raised by the Nevada Supreme Court relative to intimidating public officials.

When we passed the original statute, we recognized that people who work for the government, particularly the people at the DMV [Department of Motor Vehicles], have to enforce taxes and have people standing in long lines to get their driver's licenses, license plates, and to register their vehicles. The lines exist because we don't believe in that we have to hire 8 billion people to do the job. Those people take the brunt of what we consider to be the economic efficiency of government, in the frustration of the public. They need some level of protection. At the same time, the public would be well-served by making sure they still get to raise complaints.

Assembly Bill 528 is a good piece of legislation with this amendment.

Assemblyman Carpenter:
Could you explain what number 2 is saying on page 41 (Exhibit B)?

Chairman Anderson:
"Nothing in subsection 1 shall be construed to include any statement of a good faith intention to report any misconduct or malfeasance by a public official or employee." What it's saying is, if I'm pulled over by a policeman and I feel that the policeman is out of line, I can say, "What's your name and your badge number because I want to turn in a report because you're out of line," and that would not constitute intimidation of the policeman.

Assemblyman Carpenter:
Is there any other way to say what you just said?

Chairman Anderson:
These are suggested amendments and Legal is going to put it into understandable language.

Risa Lang:
I think we'll take this language with the intent of the Committee and try to craft it so that it's a little clearer for you. It seems to me that what they're trying to do is clarify that these prohibitions won't prevent someone from making a legitimate statement in good faith that they're going to report misconduct or that that type of a threat wouldn't be captured under these prohibitions.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 528 AS OUTLINED IN THE WORK SESSION DOCUMENT, PAGES 40 TO 41 (EXHIBIT B).
>
> ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Mr. Mabey was not present for the vote.)

Assembly Bill 282: Makes various changes concerning guardianship. (BDR 13-266)

Allison Combs:
Assembly Bill 282 is on page 42 of the work session document (Exhibit B). The bill makes various changes regarding guardianships, and revises the requirements concerning the qualification, training, and competence of guardians and public guardians.

[Allison Combs, continued.] The bill also establishes a new fee to fund training programs and requires counties to establish the office of public guardian. The sponsor of the measure testified that the measure is designed to strengthen provisions governing guardians, and ensure that guardians are qualified and trained.

As the sponsor, she [Assemblywoman Giunchigliani] proposed multiple amendments that are listed on pages 42 and 43 (Exhibit B), to eliminate some concerns that had been raised on the measure. The sponsor's documentation is also attached on page 44 (Exhibit B).

The first change would change the title of professional guardian to state that it would be a private, professional guardian. It also revises other similar references in the bill in Section 2.

The bill requires a background check for persons appointed as guardians under subsection 4 of the bill. Delete subsections 2 through 6 of that new section related to the background checks.

There were concerns raised during the testimony by the members regarding the timing of the return of the background check report, and whether or not there may be a need for appointing a temporary guardian. The bill just requires the guardian to submit the fingerprints before entering into the duties of a guardian, and doesn't specify the return of the report.

There were some questions raised about the cost to the court clerk. Would A.B. 282 require the court to purchase expensive equipment to take the fingerprints from individuals? The Central Repository has indicated that the guardians, like other applicants for positions that require fingerprinting, can go to the sheriff's office for this documentation, and simply provide that to the clerk for forwarding to the Repository.

The third proposed amendment would require court review of the inventory report, and it would delete the current Section 5 of the bill and the changes to that section of existing law. It would ask for new language to be inserted in the appropriate spot, to require the court to review guardian reports as required under NRS 159.085, no less than once a year, and take action if a problem is found. The referenced statute requires the guardian to file with the court a verified report of all of the ward's property.

The fourth amendment deletes the new filing fee under Section 6 of A.B. 282.

[Allison Combs, continued.] The fifth amendment provides that the training would no longer be mandatory, and authorizes the public guardian to conduct a public training program, as it relates to the duties and responsibilities of the guardianship chapter.

A related amendment was proposed during the hearing by Chairman Anderson to clarify Section 3 of the bill on this same topic, requiring completion of a training program as under Section 9, and clarify that if the Committee adopts the fifth amendment, the guardian would complete the training if it were offered, or if it were otherwise required, at the county level.

The sixth amendment delays the registration requirement. Section 10 requires a public guardian to be registered with the National Guardianship Foundation. The amendment proposes that this requirement be fulfilled upon completion of probationary employment, or two years from employment, as determined by the public administrator.

The seventh amendment deals with funding set aside for training. Section 11 of A.B. 282 would have established a fund for training. The proposal is to delete that language and require the Board of County Commissioners to establish a budget from the monies collected from filing fees received by the clerk under Chapter 19 of *Nevada Revised Statutes* (NRS). There are filing fees specifically for guardianship actions under that chapter. They are minimal fees to carry out the intent and enforcement of the guardianship chapter.

The eighth amendment proposes to take out of the bill the part that would require counties to establish the office of public guardian, and return to the existing condition of the law.

Chairman Anderson:
I was going to suggest that this bill go to the Ways and Means Committee if we process the bill out of this Committee. They will only deal with the money issue, and not the conceptual amendments regarding the guardianship.

Assemblyman Carpenter:
On number 7 of the proposed amendments (Exhibit B) where it says, "The board of County Commissioners must establish a budget." Under Chapter 19 of NRS, the amount collected is very small, only $1.50. A lot of these counties are not going to collect enough money to go the trouble of setting up a budget to do the training. I'm not sure where the money they are collecting now goes. What are the ramifications of saying it must be for this kind of training? We might have unintended consequences to clean up.

Chairman Anderson:
Mr. Carpenter, could you repeat your dollar question for Ms. Giunchigliani?

Assemblyman Carpenter:
On amendment number 7, page 43 (Exhibit B), where it says funding set aside for training, delete existing language and provide for the following: "The Board of County Commissioners must establish a budget." We looked under Chapter 19 of NRS where this money is supposed to come from, and right now they're only collecting $1.50 for various filings in regard to guardianships. Is it worth setting up a budget and program in some of these counties? Also, we need to investigate where those monies are being used now, and what would happen if they were taken away. My question is where they "must."

Assemblywoman Giunchigliani, Assembly District No. 9, Clark County (part):
That's a very good point. I did not realize that Chapter 19 of NRS contained other dollars for other program areas. You're right, it is very miniscule and that's why I was originally looking at increasing the fee, but in the climate that was not a responsible way to go.

There is still that other bill that I referenced in the initial hearing that's coming from the Senate that's doing something similar. If it's the wish of this Body, you might want to let this issue, and this bill, go for now. Look at that one when it comes over, and then I'd be happy to work with you on some of the training components in case it's not included. That would be fine with me.

Chairman Anderson:
We can't guarantee that the guardianship questions are going to come to us. I think the training element, where it's available in those counties, is an essential part of this. We could have moved the bill, in part, with the 8 amendments. Whether it's going to happen in smaller counties is a big issue.

Clark County is currently doing this kind of training.

Assemblyman Carpenter:
I wonder, if we changed the "must" to "may," whether that would solve the situation. I agree that there's nothing wrong with having a program.

Chairman Anderson:
That's proposed amendment 5 on page 43 (Exhibit B), which is to provide that "A public guardian of a county may conduct a public training program."

Assemblyman Carpenter:
I'm talking about proposed amendment 7.

Assemblywoman Giunchigliani:
I think it was Section 11 that specified Chapter 19 of NRS. If you want to process it—and again I'm fine if you don't—just take out Section 11. That way, in the training components there is a "may," regardless, but you're not dedicating the funds from Chapter 19 of NRS. I think that would be too restrictive.

Chairman Anderson:
You're suggesting that we remove all of Section 11 of A.B. 282?

Assemblywoman Giunchigliani:
I'm suggesting that if you want to let the bill go, I am fine with that. I'd be happy to work with the other side. It's whatever this Committee wishes to do.

Chairman Anderson:
Mr. Carpenter, are you still of the mind that there is a need for the bill? Ms. Giunchigliani seems to be of the opinion that the question of guardianship, which is a much broader issue, may need to be studied further.

Assemblyman Carpenter:
If we have a chance to look at this subject in a broader overview, I don't have a problem with that.

Assemblyman Oceguera:
I think the intent of this bill was for this training section. The rest of it is messy. I think Ms. Giunchigliani could put that training section in another bill.

Assembly Bill 473: Revises certain provisions governing payment of child support. (BDR 11-1373)

Allison Combs:
Assembly 473 revises provisions governing the payment of child support. The bill authorizes a court to waive a penalty for delinquent payment of child support if the court determines that the responsible parent will experience an undue hardship.

There was testimony in favor of the bill from the Nevada District Attorneys Association, asking us to clarify the authority of the court in cases involving undue hardship, and to address some problems associated with the timing and calculation of penalties. Concerns were raised during the hearing regarding potential abuse of the new provision, and the way a parent would experience an

undue hardship. There was some concern about the timing of imposing the penalty at the end of the calendar month, and whether this will have an unequal impact on parents with payments due at different times of the month.

[Allison Combs, continued.] There was a concern raised by Assemblyman Carpenter as to when the 10 percent would be imposed, and how it would be calculated. There is an amendment on page 46 (Exhibit B), submitted by Madelyn Shipman. There is a new subsection 2 that would say, "For the purposes of this section, a finding of undue hardship must be limited to circumstances which are outside of the control of the responsible parent." There are modifications to the new subsection 3 to provide, "The penalty is a one-time monthly late payment fee that's added to the monthly child support installment. The amount of the penalty is 10 percent of the monthly child support installment, or a portion of that installment that remains unpaid after the last day of the calendar month."

Madelyn Shipman, J. D., Attorney, Legislative Advocate, representing Nevada District Attorneys Association:
I want to make it clear that we're not doing the penalty at this time; it already exists in law. We're changing the language to clarify how the penalty is being assessed. The language to be amended in your work session document (Exhibit B) deals with Mr. Carpenter's concern about making sure that it's a one-time penalty. It doesn't accumulate interest. It's a one-time payment on the month in which the child support payment was not fully made, and only on the difference. It's like a credit card late payment charge. You get it once and it doesn't accumulate, even if that payment is not made in the following month. If you didn't make the next monthly payment there would be another penalty, but if the payment was made in the following month, the penalty would not attach.

We're not putting the 10 percent penalty on in this session; that was done in previous sessions. We struggled with the undue hardship piece of it. We felt that listing out all of the various reasons you would have a court find an undue hardship was not something we could really do in writing, especially within the time we had. We think this is a good balance to make it clear to a court that we're talking about the things that we brought to you, like wage withholding, where you don't get the full monthly payment in because you have 26 pay periods, or an input data error. If this bill doesn't go forward to allow that kind of correction to be made through the court, we'll have judges who will not do a waiver, even under their inherent authority. We have a master in Washoe who has indicated she would not waive it, even under those circumstances, in the absence of there being some language to allow that.

Assemblyman Carpenter:
It takes care of my concern, and Legal will put it into the appropriate language. For example, if you don't pay $50 dollars, they're going to assess a $5 fee, but it won't accumulate for months and months.

Assemblyman Horne:
Mr. Marshal Willick's testimony seemed compelling to me, and made a statement about the legislation being crafted to correct a problem in their computer system. Could somebody refresh my memory on this?

Madelyn Shipman:
Mr. Willick's testimony was that when a parent is ordered by a court to pay on the 5th of the month, and then another parent is ordered to pay on the 25th of the month, they are being treated differently. The parent who is being ordered to pay on the 5th has 26 days to pay, if it were January, whereas the one on the 25th would only have 6 days to pay and not be penalized. I don't believe that's a Constitutional or a discriminatory issue, or does it raise legal concerns. It may raise concerns with regard to the program that he is utilizing, and requires some changes.

The Federal law anticipates that there is a payment within each month. It's within the calendar month. The NOMADS [Nevada Operations of Multi-Automated Data Systems] program was set up to assess the penalty subsequent to the calendar month. All the federal reports go in based on calendar months.

Assemblywoman Gerhardt:
Is this going to be a one-time occurrence, or are we tailoring payments so that we can accommodate peoples' schedules?

Susan Hallahan, Chief Deputy District Attorney, Washoe County Family Support Division, Nevada:
The undue hardship can occur for a specific time period, and then stop, and then occur again. If I was ordered to pay child support starting in January of 2004, and I did not make payments for January, February, and March, I would be assessed interest and penalties for those three months.

Subsequently, when my wages were garnished on a bi-weekly schedule and I stayed employed for a year, the court would have the ability to waive the penalties and interest that accrued during that one-year time period. The employers are allowed to honor that wage withholding according to their payroll schedule. If they pay bi-weekly, they send a bi-weekly amount. Over a year, I send my full amount, but over the calendar month, I'm short 10 months out of

the year. The court could waive the penalty and interest during those 12 months. When I lose my job in month 13, and I don't make my payments for another three months, then I get a job and I'm on the garnishment again; the interest and penalty I accrued during those three months could potentially be waived. It can start and stop.

Assemblywoman Gerhardt:
You don't have a choice on when you pay your rent and you don't get a choice on when you make your mortgage payment. Why would a child support obligation be any different?

Susan Hallahan:
You don't get a choice, as a responsible parent, when you get to pay. Under Chapter 31A of *Nevada Revised Statutes* (NRS), all child support court orders are required to include a wage withholding. As a responsible parent, you don't have an opportunity to come in and make the payment on the first of the month; you have to pay by a wage withholding. I cannot go to my employer and demand that they send my monthly payment on the first of the month.

Assemblywoman Gerhardt:
I understand your point, but it seems like a lot of hoops to jump through.

Chairman Anderson:
It's not the person making the payment who is setting up the timeline; it's the convenience of the business which is garnishing the wages. We're concerned about the dollar reaching the person who needs it as quickly as possible. The fact that we've required garnishment is a reflection of the court's trust in the person's willingness to pay, because of past bad practices. We're also giving the business the opportunity to make sure this happens. The business gets to take a dollar out for the process, which is one less dollar that could have reached the person who is entitled to it.

I think you're talking about the business that's not moving in a timely fashion.

Kim Surratt, Legislative Representative, Nevada Trial Lawyers Association:
The Nevada Trial Lawyers Association (NTLA) was concerned about opening this door too wide for a lot of excuses for getting penalties. In our case law, we have cases that talk about equitable circumstances for waiving penalties and interest. It's beyond the mistakes of the computer systems. It's situations where a person is in a coma and was unable to make their child support payments; or their employer was supposed to withhold wages and make the payments, but did not.

[Kim Surratt, continued.] Those are circumstances where it's beyond their control. We appear before judges with a mandatory statute that has no discretion in it, but they're using discretion. It's a fine line between controlling that discretion and not controlling it. Nevada Trial Lawyers Association and the private bars' position on it was, if we're going to allow undue hardship—which we already have in the interest statute, we just don't have it in the penalty statute—we define it in a way where we can control it so it's not a big open door.

Last session when I testified, the concern was whether we could lay out these specific circumstances: the computer system issues with the wage withholding, the payment input dates when people pay over the counter versus when it's actually inputted into the system, and the medical hardship circumstances. It gets out of control when you have all these different definitions. If we amend the penalty statute, we will have an interest statute that just says, "undue hardship," without a definition.

In talking to the DAs [district attorneys], I'm not sure the interest statute, and the undue hardship provision in the interest statute, has been an issue. As a practitioner in front of the justices, it has been an issue. Whether or not it's implied, it's just corralling it. I don't know if I've answered your question.

Assemblywoman Gerhardt:
I'm not concerned about somebody who is in a coma or an extreme circumstance. If my mortgage payment date doesn't fall on the date that I'm paid, I scrape together the money and pay early, and it is no longer an issue for me. There are too many exceptions in there. If you have an obligation and you're not taking care of it yourself, and now your employer has to take care of it for you through garnishment, then you have to live with the time frame when those payments are made for you. If it means you need to pay a little bit ahead to be sure that your payments aren't late, I think that's okay. Do you follow my logic?

Assemblywoman Buckley:
Did you work with Mr. Willick on the amendments? No? Okay.

Chairman Anderson:
The legislation is needed so that people won't be doubly penalized and so that more money goes to the client. This is to clarify how dollars move through the system, so you're not reaching into the pocket more than one time. Is that a fair statement to make, Ms. Shipman?

Madelyn Shipman:
That's a fair statement.

Assemblywoman Buckley:
I don't have a concern with waiving the penalty if the employer's pay periods would automatically result in a penalty. I don't have a concern about waiving the penalty if someone brings in their child support payment and by the time it gets credited, it's not timely.

It may end up creating litigation on what constitutes "outside of the control." If the parent lost their job, is that outside of their control? They probably had the opportunity to petition the court and say they've lost their job, and then they wouldn't have a child support obligation in the first place. The custodial parent has notice and planning. We have that already. If someone said, "My bills were really high and my car broke down, your honor," and that wasn't within my control, the child doesn't get their money. They could have taken the bus, but they said it was outside of their control. Maybe a judge doesn't buy that, but do they then use that to litigate more? I know what you're trying to do and I support that, but I don't know if this language gets us there.

Assemblyman Conklin:
I agree with the discussion that's going on. Maybe we could change the language in Sections 1 and 2 of A.B. 473, if necessary, to say, "Unless the court finds that either the employer or the administration is at fault for causing the payment to be late." Then we've closed the loop. If the employer's payroll doesn't match up, there's no fee. If the court gets it on time but doesn't apply it on time, which happens, there's no fee. With regard to anything else, it's just as Ms. Gerhardt said, "You got to pay your rent on time."

In subsection 3 of the amendment on page 46 of the work session document (Exhibit B), I would like to see the "per annum" taken out. We've clearly said that the penalty is 10 percent of the monthly child support, and that it's one time. There's no point in having "per annum" in there.

Susan Hallahan:
On behalf of the Washoe County District Attorney's Office, we would have no objection to that. There is existing Supreme Court case law that would allow, in the event of a coma, an obligor to come in and claim that equitably speaking, there are defenses that apply to this child support. They could use that even if they didn't have specific statutory authority. I would have no objection to that.

My biggest concern, from a practitioner's standpoint, is that whatever we do in the penalty statute, be exactly the same in the interest statute, so that the

court is clear that the interest and/or penalties would be waived only in these circumstances. The "per annum" was taken out.

Chairman Anderson:
We're not doing the per annum, we're doing the 10 percent on the payment per month for the monthly child support that is in two portions.

Mr. Conklin has suggested that we accept Ms. Shipman's amendment, which would be further amended to say, if the court finds that its employers or the administration is at fault, the penalty would be waived. Strike the language in paragraph (2), and hold the language in paragraph (3), of the suggested amendment on page 46 (Exhibit B).

Ms. Lang, do we look like we're okay?

Risa Lang:
I think so.

Assemblywoman Buckley:
Are you proposing that we revise the interest statute as well? I hate to do that because we're affecting every judgment and practitioner out there. We didn't have a hearing on that.

Madelyn Shipman:
I don't believe we have to address the interest statute right now. We have a new process starting throughout most of the state with regard to penalties and interest. If there's a problem, or if there's an issue that comes up, it could be addressed next session.

Chairman Anderson:
Two years is a long time.

Assemblywoman Buckley:
We could have an interim study.

Assemblyman Conklin:
It would be my impression in the reading of the bill that once we figure out the penalty, the only additional interest would be interest on the penalty, and if we clear up the penalty, there's no reason to address the interest. It doesn't make any sense. If we figure out the penalty phase and we get it right and if we move with it, there shouldn't be a reason to address the interest, because either interest is warranted or it's not, based on what we put in the penalty statute.

Madelyn Shipman:
The interest statute, which is not the penalty statute, also has the language of undue hardship in it, but it is not defined. The question was whether that undue hardship in the interest statute should be defined similarly to that in the penalty statute, on which hopefully, we have just reached a consensus with regard to how that should be defined.

The concern is that the interest statute is being utilized by the bar, the private bar particularly, but also in the public bar, or by the child support agencies under certain circumstances, and we don't have enough knowledge at this point in time as to what those are. It isn't appropriate to automatically impose it into the other statute without knowing what that impact would be.

Chairman Anderson:
We're not doing that. We're not going into the other statute.

> ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 473 AS FOLLOWS:
>
> IF THE EMPLOYER OR ADMINISTRATION CAUSED THE PAYMENT TO BE LATE, THEN THE PENALTY IS ELIGIBLE TO BE WAIVED.
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Mr. Mabey was not present for the vote.)

Assembly Bill 452: Revises provisions relating to restoration of certain civil rights to certain convicted persons. (BDR 14-1124)

Assemblyman Oceguera:
I'm reconsidering my position on A.B. 452. I emailed Senator Horsford, and the similar bill they were considering passed 4 to 3. I thought that was close. We might want to keep this vehicle alive, to keep the jurisdiction of our Committee alive, in passing something. I have some suggestions, but it's your call of course.

Chairman Anderson:
A 4 to 3 vote from Committee might not be a good indicator of what fate the bill is going to have. It deals with a sensitive topic. I'm at the will of the Committee. I think we've had an opening discussion on Mr. Munford's bill.

Assemblyman Oceguera:
I suggest we go with the initial intent of the bill in the work session document where it describes the three points on page 36 (Exhibit B). That's something we could work with, and not do the amendments, just to keep the bill alive.

Chairman Anderson:
Are you looking at paragraph 1(a), (c), and (d) on page 36 (Exhibit B)? "Dishonorably discharged Nevada conviction—Instead of the proposal under the bill, allow persons convicted in Nevada and dishonorably discharged from probation or parole to petition a court of competent jurisdiction for gradual restoration of their civil rights ... " So, we would be doing 1(a) and (c) and deleting the remaining provisions of the bill?

Assemblyman Oceguera:
I would retain 1(c), but I'm open to suggestions. If we just retained 1(c), it would have the original intent of the bill.

Chairman Anderson:
And all the rest of the material in the bill?

Assemblyman Oceguera:
As it was originally drafted.

Risa Lang:
I think 1(c) is currently in the bill. What the suggestion might be is a do pass motion. Is that where you're going?

Assemblyman Oceguera:
Yes.

Chairman Anderson:
A couple of issues were raised in the bill that we may want to talk about. More than one individual approached me after the bill was introduced to discuss the job question. I know several members in here had some questions about that. I didn't feel that it gave them adequate opportunity once they weren't eligible for an honorable discharge because of a problem. I think that they should have another opportunity, if they've been able to eliminate that problem.

Those are real problems that always have to be addressed. Once they've addressed them, and they're intending to get their civil rights restored, you're making it a real thing for them.

Assemblyman Conklin:
I'm not opposed to the bill except for Section 8 of A.B. 452. It's really Section 8, subsection 2 that bothers me. In subsection 1, if a person has gone to a court of competent jurisdiction and they've been able to seal all their records, they've been doing something right for some time beyond their conviction. I'm okay with that. In a case like this, they don't have to say they've been convicted of a felony. In subsection 2, where they haven't done that, we've taken away the right of the employer to decide if that felony is work-related.

The employee has no liability here; only the employer does. If that's going to be the case, then only the employer has the right to determine if that meets the criteria by which something is work-related, because they have to protect themselves. I can't accept subsection 2. This will be an up or down on the bill for me.

Chairman Anderson:
For instance, if we remove subsection 2 of Section 8 of A.B. 452, "A space for an applicant who indicates on the application that he has been convicted of a felony, to state whether the felony is related to the position for which he is applying." You're suggesting that even though his records have been sealed by a court of competent jurisdiction, because he has a felony record for 3 DUIs [driving under the influence] and he's going to be employed as a cab driver, he can't tell you, even though he's been sober for the last 20 years?

Assemblyman Conklin:
If they have their records sealed, technically we can't ask them anyway. We could ask them, but that information would be voluntary. Why is subsection 2 of Section 8 in there? I'm worried about other people who have not had their records sealed. I want to make sure that an employer retains the right to ask that question, and to determine on their own behalf if something is work-related or not, for liability protection purposes.

Assemblywoman Gerhardt:
How is restitution going to be handled? Under the amendments, it specifies the conditions of payment of restitution that led to the dishonorable discharge.

Chairman Anderson:
If we move with the bill as suggested by Mr. Oceguera, we would move to do pass A.B. 452 as it's presented, with no amendments. Mr. Conklin has suggested the amendment of removing subsection 2 in Section 8, lines 11 through 13, returning the responsibility to the employer to make a determination as to the fitness of his employee.

Assemblywoman Gerhardt:
I would like to be sure that they're going to have to fulfill the condition of paying restitution.

Chairman Anderson:
I don't disagree. That's one of the reasons I suggested they have the second opportunity in 1(a) on page 36 of the work session document (Exhibit B), to allow a person convicted in Nevada, and dishonorably discharged from probation or parole, to petition the court if he had cleared up his problems. That's why I liked 1(a) on page 36 (Exhibit B).

Assemblywoman Gerhardt:
Are we going to keep 1(a) (Exhibit B)?

Chairman Anderson:
I'm trying to find out whether the bill even has a chance. I could not support the bill the way it is put together.

Assemblyman Conklin:
If we want to keep the bill alive, I think there might be consensus among the Committee members to accept the proposed amendments.

Assemblyman Oceguera:
I'd be happy to do whatever you want.

Chairman Anderson:
The accepted amendments will be 1(a) and 1(c) on page 36 (Exhibit B), and eliminate the concern raised by Mr. Conklin in Section 8, subsection 2, lines 11 through 13 of A.B. 452.

Assemblyman Carpenter:
I'm comfortable with your amendments, including 1(d) (Exhibit B). Someone said that we didn't need 1(d). I think we have to have 1(d), which would delete the remaining provisions.

Assemblywoman Allen:
I'm not 100 percent comfortable with the bill. I'm going to vote yes, but I'd like to reserve the right to change my vote on the Floor.

Chairman Anderson:
The amendments will be 1(a), 1(c), and 1(d) on page 36 (Exhibit B).

ASSEMBLYMAN CONKLIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 452 WITH THE AMENDMENTS 1(a), 1(c), and 1(d) OUTLINED IN THE WORK SESSION DOCUMENT (EXHIBIT B).

ASSEMBLYWOMAN BUCKLEY SECONDED THE MOTION.

THE MOTION CARRIED. (Mr. Mabey was not present for the vote.)

Assembly Bill 383: Creates right of redemption for owner of property in common-interest community in certain instances of nonjudicial foreclosure. (BDR 10-1242)

Chairman Anderson:
The issue in front of us is the possible further amendment of Assembly Bill 383. We heard this bill the other day. Mr. Carpenter and Mr. Manendo had raised this concern and are suggesting this amendment (Exhibit C). Rather than see them put it in on their own, I suggested that the Committee would like to consider it, and make it part of the original bill.

Ms. Ohrenschall and Mr. Horne originally passed this by a very narrow vote. Three people voted against it. I don't know whether we have the opportunity here. Mr. Carpenter, before I ask for a motion of reconsideration, the first item would be whether the Committee wants to reconsider our actions to further amend A.B. 383, in which case we're placing the entire bill at risk.

ASSEMBLYMAN CARPENTER MOVED TO RECONSIDER ASSEMBLY BILL 383.

ASSEMBLYWOMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED. (Ms. Buckley, Mr. Horne and Mr. Mabey were not present for the vote.)

Allison Combs:
The handout (Exhibit C) contains the intent of the amendment. The intent is to amend the disclosure statement that's required, by statute, to be handed out when you purchase in a common-interest community, of exactly what you're buying into, and the circumstances. The amendment would add in another piece of information stating the right of redemption, and explaining to purchasers what is in this bill.

Chairman Anderson:
This satisfies one of the concerns that Mr. Carpenter had with the bill.

> ASSEMBLYWOMAN OHRENSCHALL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 383 AS PROPOSED BY ADDING A NEW SECTION WITH AN INFORMATION STATEMENT AS SET FORTH IN NRS 116.41095 (Exhibit C).
>
> ASSEMBLYMAN CARPENTER SECONDED THE MOTION.
>
> THE MOTION CARRIED WITH MRS. ANGLE VOTING NO. (Mr. Horne, Ms. Buckley, and Mr. Mabey were not present for the vote.)

[The meeting was adjourned at 12:56 p.m.]

RESPECTFULLY SUBMITTED:

_____
Jane Oliver
Committee Attaché

APPROVED BY:

_____
Assemblyman Bernie Anderson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: April 15, 2005 **Time of Meeting: 8:14 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Meeting agenda
A.B. 282 A.B. 365 A.B. 382 A.B. 452 A.B. 466 A.B. 468 A.B. 473 A.B. 528 A.B. 550	B	Allison Combs, Committee Policy Analyst	Work Session Document
A.B. 383	C	Allison Combs, Committee Policy Analyst	Proposed amendment for A.B. 383