MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-third Session
March 16, 2005

The Senate Committee on Judiciary was called to order by Chair Mark E. Amodei at 8 a.m. on Wednesday, March 16, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark E. Amodei, Chair
Senator Maurice E. Washington, Vice Chair
Senator Mike McGinness
Senator Dennis Nolan
Senator Valerie Wiener
Senator Terry Care
Senator Steven Horsford

GUEST LEGISLATORS PRESENT:

Senator William J. Raggio, Washoe County Senatorial District No. 3

STAFF MEMBERS PRESENT:

Nicolas Anthony, Committee Policy Analyst
Kelly Lee, Committee Counsel
Johnnie Lorraine Willis, Committee Secretary

OTHERS PRESENT:

Gene T. Porter, Nevada Judges Association
Robey Willis, Justice Court I, Justice and Municipal Court, Carson City
Jeannette N. Welsh, Nevada Association of Counties
Jim Kiernan, President, Northern Nevada Title Company
Ernest K. Nielson, Washoe County Senior Law Project
James F. Nadeau, Nevada Association of Realtors

Philip K. Goldstein, Attorney

Chair Amodei opened the hearing on Assembly Bill (A.B.) 55, and called on Gene T. Porter of the Nevada Judges Association, who introduced Judge Robey Willis, Justice Court I, Justice and Municipal Court, Carson City.

ASSEMBLY BILL 55: Revises provisions relating to bonding of justices of the peace. (BDR 1-221)

Chair Amodei noted due to his triple-booked calendar, he would turn the meeting over to Senator McGinness.

Judge Willis explained A.B. 55 was introduced because of controversy in the rural counties over bonding of rural justices of the peace. He explained that bonding of rural justices of the peace had not been addressed since 1877. He said, with the backing of the Nevada Association of Counties (NACO), the bonding should be furnished at the county's expense and increased from the original bonding limits of $1,000 to $5,000. Judge Willis said the bill brought the issue of bonding into modern times by increasing the amounts up to $10,000 to $50,000. He said in large jurisdictions such as in Carson City, Clark County and Washoe County, justices of the peace were covered by the blanket fidelity bonds that counties had for all of their employees; however, in some of the rural areas, especially White Pine County, the issue became hot. He explained that incidents in Washoe and White Pine Counties made the need for A.B. 55 evident.

Judge Willis said the Nevada Judges Association was happy to have NACO support for the bill.

Senator McGinness asked Judge Willis how long it had been since the bonding statutes for rural justices of the peace had been revised. Judge Willis replied he believed the last revision was in 1877.

Jeanette N. Welsh, Nevada Association of Counties, said NACO had reviewed and considered A.B. 55, which revised provisions relating to bonding of justices of the peace. She continued by reading "Testimony of the Nevada Association of Counties Before the Senate Committee on Judiciary March 16, 2005 in Support of A.B. 55" (Exhibit C).

Senator McGinness closed the hearing on A.B. 55 and opened the hearing on Senate Bill (S.B.) 172.

SENATE BILL 172: Provides that sale of real property under deed of trust must take place at courthouse of county where property is located. (BDR 9-1029)

Jim Kiernan, President, Northern Nevada Title Company, said over the years he had been asked to render opinions on nonjudicial foreclosures under notes and deeds of trust. He said one of the situations he was asked to look at involved a property located in Washoe County, but was sold in Clark County. Mr. Kiernan commented he found the circumstance rather strange. He said after further investigation, he found the home was worth in excess of $300,000; however, the balance of the note on the property was around $23,000. He said the reason the sale was held in Clark County was to "chill the bidding," in which case locals who may have wanted to bid on the property would have had to travel to Clark County and locate the office of the trustee or the foreclosing entity in order to bid. He stated, typically, bidders were not willing to assume the travel time and expense to bid on such a property.

Mr. Kiernan explained he requested Senator Amodei to sponsor a bill requiring the sale of such properties be conducted in the counties in which they were located rather than outside of their counties. He said this action would stimulate bidding. He said at the time of the sale, the trustee had an obligation not only to the beneficiary, but to acquire as much equity to the trustor as possible, and he hoped the bill would accomplish this.

Senator Care said, "To begin with, these covenants are optional and the parties can stipulate otherwise, can they not?" Mr. Kiernan replied the way things were currently set up, a person could enter into other covenants in the deeds of trust but that was not necessarily what happened. Senator Care asked if the Legislature enacted S.B. 172, whether the participants of such a sale could still stipulate that the sale be held in the county where the trustee had its principal office. Mr. Kiernan replied if it were stipulated in the deed of trust, the participants could stipulate that. He said typically the trustee used covenants in *Nevada Revised Statute* (NRS) 107.030 or provided his or her own covenants. He said if the trustees provided their own covenants, then the deeds of trust

were recorded. He explained when a situation went to a foreclosure sale, most often the stipulations in NRS 107.080 were followed.

Senator Care asked whether the case Mr. Kiernan cited earlier was the only instance where the bidding was chilled by having the sale in the locale of the principal trustee's home office. Mr. Kiernan replied, "No, this happens frequently, anymore." He commented about one out of ten sales were conducted this way.

Senator Care asked if given a notice of sale, was the only inconvenience the travel to where the sale was the held. Mr. Kiernan replied it was not only the inconvenience; the problem was finding bidders who bid beyond what was due on the note in other counties. He said these bidders usually only bid a dollar or so above the note amount and acquired all of the equity simply because no one normally travels from northern Nevada to southern Nevada to bid on such properties. He said he had attended sales in southern Nevada, but it was difficult because of time constraints or other business matters that required him elsewhere. He said traveling all over the State just does not happen. Mr. Kiernan observed there were people who went to these auctions as a sort of business.

Senator Care said his experience of these sales was that the only bidder was the lender. Mr. Kiernan replied that used to be the case; however, today, with equities going the way they were, there would be 10 to 20 bidders. He noted the State's statutes on foreclosures and deeds of trust were antiquated. He said he was seeing the same thing happening here that happened in California and Arizona. He said the California Civil Code on this issue went from around 4 pages to over 100 pages; a separate section of statute covered the foreclosure consultants in order to remedy miscreant deeds of those who bid on foreclosure sales or did not bid on foreclosure sales, as the case may be.

Mr. Kiernan explained groups often came in to talk prior to the sale, and money passed between hands. He continued, if four people came, three would leave and only one would stay to bid on the property. He said when that person bid, the bid for was for $1 over what was owed on the loan. Mr. Kiernan said the lender did not ordinarily take the property back, foreclosure groups took the property. He said that group then sold the property at substantial gain. He explained he was not saying it was necessarily wrong, but the bill would help solve some of the fallacy of the foreclosure sale being held in some other place than where the property was located.

Senator Care said, "You are really just saying the trustee has to travel, as opposed to the trustee saying 'I wanted everyone to come down here,' because that was what was contained in the covenants or the deed of trust." Mr. Kiernan replied, in today's world, foreclosures for banks or other major lenders were no longer handled by the old title company's trustee, or the bank's own trustee. He said foreclosures were now being handled by foreclosure mills, and banks or other lenders never attended sales. He said lenders hired sale companies that "cry sales" at most of the courthouses. He explained a lender picked up the telephone, called Elko, for example, and got trustee sales services that sent a representative to the courthouse who "cries a sale" (bid at the public auction) that day, then e-mailed or faxed the lender the sale results. Then, they were finished.

Senator Care asked whether the bill was requested because of abuse. Mr. Kiernan responded there was a perception of abuse, and there was abuse. He said foreclosure companies bought property at these sales; they held the sale somewhere other than where the property was located solely to facilitate a sale to a third party.

Vice Chair Washington asked whether S.B. 172 would have any effect on any water rights that may exist on real property, based on covenant. Mr. Kiernan replied the only effect the bill would have on water rights was if the water rights were encumbered on the deed of trust.

Senator McGinness closed the hearing on S.B. 172.

Vice Chair Washington opened the hearing on S.B. 173.

SENATE BILL 173: Increases amount of homestead exemption and makes various changes relating to property which is exempt from execution by creditors. (BDR 10-616)

Ernest K. Nielson, Washoe County Senior Law Project, said his office supported S.B. 173. He explained most of his office's clients were seniors who were in debt, and the Washoe County Senior Law Project provided them legal services. He said for a variety of reasons, many seniors found themselves in financial trouble, none of which was due to their own making, and some individuals did not have enough money to make ends meet.

Mr. Nielson said the Washoe County Senior Law Project was pleased to see the bill also addressed the issue of Roth Individual Retirement Accounts (IRA) as one of the exemptions provided. He said often the State had seniors who needed to sell their homes, and by doing so, they lost the protection of the equity in the property they had while it was homesteaded. He said if a person were under the age of 71, the equity from the sale of his or her home could not be invested in a regular IRA, but could be placed in a Roth IRA. He emphasized the bill was a tremendous vehicle to address one of the major problems confronting clients of the Washoe Count Senior Law Project.

Mr. Nielson said his company often saw clients who had small pensions, which they had put into bank accounts. He said those bank accounts were not protected because most pensions, unlike Social Security proceeds, were not exempt from garnishment. He explained the ability to have an account with up to $4,000 protected from garnishment would benefit fixed- or low-income seniors who struggled financially.

Mr. Nielson said his primary reason for testifying on this bill was to offer two amendments (Exhibit D) about wage garnishment and the automation of the homesteading exemption.

Mr. Nielson said the first amendment was an amendment to the wage-garnishment laws. He stated many of his clients simply did not have enough Social Security to make ends meet, which required them to continue working in order to pay their valid debts.

Mr. Nielson explained one of the problems with the wage-garnishment exemption structure was that 30 times minimum wage equaled a weekly pay of $154.50 for exemptions with respect to take-home pay. He said if a person earned more than that, those dollars up to $206 of take-home pay were taken. He indicated the last page of Exhibit D was a graph illustrating where wage-garnishment dollars were taken from. He acknowledged the devastating effect on part-time wage earners, and said the wage-garnishment formula should be updated.

Mr. Nielson stated there were a lot if issues with equity and parity in regard to wage garnishment. He suggested it was too complicated to change the statutes to reflect size of family, age of debtor or other such factors, but the problem could be managed by raising the multiplier. He noted if the Legislature

considered the escalator difference between the Consumer Price Index (CPI) and minimum wage, that figure equaled around 45 hours times minimum wage. He explained if the multiplier was doubled to 60, that raised a family of three to the federal poverty level, which he said was still a far cry from a livable wage.

Mr. Nielson said the second amendment the Washoe County Senior Law Project suggested for addition to the bill was to have an automatic homestead provision in place. He drew attention to page 3 of Exhibit D where an option to the proposed amendment allowed a homeowner to record his or her property. On second thought, he requested not having that option in the amendment and simply making all homesteads automatic.

Mr. Nielson said the Washoe County Senior Law Project definitely supported S.B. 173 and asked the Committee to consider the proposed amendments.

Senator Care reminded everyone what a homestead exemption was for, and said last Session, the homestead exemption was raised to $200,000 that represented an average price of a new home then. However, the idea of a homestead exemption was to allow a judgment debtor to still have a roof over his head, but not to allow him to escape judgment altogether. Senator Care stated a $500,000 homestead exemption in Nevada left little reason for plaintiffs with legitimate causes of action for fraud or some sort of tortious conduct or breach of contract to pursue litigation. He said even if a judgment were obtained, there would still be a $500,000 exemption against people who may not necessarily be innocent seniors. Senator Care stated a lot of confidence men would love to have the $500,000 exemption, and they would probably move into Nevada if this bill passed.

Senator Care said he would consider the Roth IRA exemption, but the Legislature needed to keep in mind the reason for the Homestead Act. He continued, people were at risk of losing their homes or some of their holdings usually because they were found liable in an action, which involved some kind of fraud.

Mr. Kiernan said he saw no reason not to agree with the Senator. He said the Washoe County Senior Law Project was not testifying to strongly support the homestead exemption increase to $500,000. He noted his clients never came close to that amount for a homestead. He explained some people continued to live in their homes and took reverse mortgages, which used the equity as a line

of credit. This allowed them to support themselves as they got older and had diminished incomes. However, he said, many of his clients were forced into situations where they could no longer keep their houses because they needed to enter assisted living situations. Mr. Kiernan said if equity were eliminated, these people could no longer use it to buy appropriate and affordable housing. The basic perspective from the Washoe County Senior Law Project, he said, was that this funding or equity protected a person's home and the Law Project wanted to continue using those funds for their clients. He stated these people needed the money to adequately pay for assisted living as they grew older. He said if that money was no longer available to them because of inadvertently acquired debt, they would end up living on $600 or $700 of Social Security for the rest of their lives and would probably have to live in some sort of group home or substandard housing. Mr. Kiernan emphasized that was what his office saw most often. He pointed out what the Senior Law Project liked to achieve was allowing seniors to age with dignity, with sufficient funds to afford housing comparable to what the Senator or he, himself, found acceptable.

Senator Care said he did not see how anyone could inadvertently incur a debt. He said a lot of individuals in their 20 and 30s would take advantage of a $500,000 homestead exemption. Senator Care noted a U.S. Supreme Court case said, in essence, people could file their homestead exemption up to the day of the sheriff's sale. He commented the exemption did not have to be filed before a lawsuit was filed or a court judgment rendered. Senator Care said with those options, he could not support automatic homesteading. He said some onus belonged on the homeowner to take affirmative steps toward the homestead exemption advantage.

Senator Nolan asked Mr. Kiernan about the passage in the bill that said "situated on lands not owned by him." Mr. Kiernan replied the only situation addressed was a mobile home, and said the passage referred to that. He said currently, a person could exempt his or her mobile home; however, in his experience, mobile homes were rarely valued at more than $120,000. Mr. Kiernan affirmed $500,000 was overkill for a mobile home.

Senator Nolan commented that several years ago the Internal Revenue Service (IRS) permitted self-directed and self-administered IRAs wherein many seniors took advantage of using an IRS-approved intermediary to administer the individual retirement accounts. He said the senior either rolled his existing IRA into the new account or purchased real property, as with a Roth IRA, except on

the sale of the land, which resulted in a 15-percent tax instead of a 6-percent tax. He asked if Mr. Kiernan had considered using that option for his clients. Senator Nolan said he was aware this was a recent innovation for retirement protection. Mr. Kiernan replied he was not an expert on any of these types of accounts, and the Senior Law Project did not do estate planning in his office. He said all he knew about the Roth IRA was it alleviated one of the regular IRA problems. He said he did not know if the Roth IRA also had the same prohibition against a person putting money into the account after the age of 71. He commented many of his clients were over 71 years old, and as they sold their homes, it led to the problem of protecting those incomes for their support. Senator Nolan said perhaps staff could look into the problem and make some suggestions.

Vice Chair Washington asked Mr. Kiernan to again explain the purpose of the proposed wage-garnishment amendment. Mr. Kiernan said he suggested increasing the amount of the base exemption to at least a level where minimum wage tracked the CPI. He said this was done by increasing the multiplier from 35 times to 45 times the minimum wage, which would give low-wage earners around $220 that was exempted each week. Mr. Kiernan said the Senior Law Project suggested a higher amount only because of the way the minimum wage and the basic needs of a family existed today. If a family was scrimping and saving to try to get to some meaningful level of income, and $33,000 was the federal poverty level for a family of 3, then, if that family suddenly had a judgment, which garnished its income by 25 percent of the take-home pay, that family was knocked off course pretty quickly. He said that family could lose the ability to make payments on the mortgage and a lot of other things.

Mr. Kiernan explained the least amount the multiplier needed to be raised by was 45, which maintained parity with the 1974 minimum wage. He said if he were suggesting a higher level to bring a family of 3 up to poverty level, that multiplier would be 60 times minimum wage.

Vice Chair Washington said there was a petition to raise the minimum wage and asked if it passed, what impact would it have on Mr. Kiernan's proposed amendment. Mr. Kiernan referenced the suggestion he made and replied the multiplier increased proportionately with any minimum-wage increase.

Vice Chair Washington said, in effect, the suggestion tied the exemption to the minimum wage. Mr. Kiernan explained raising the multiplier was the simplest

way to handle the problem. Vice Chair Washington commented that was a 15-percent increase.

Senator Care said in his experience, the judgment debtor, whether he had two children, three children or no children, should think about what might happen to his family before he defrauded someone. He stated he was not sympathetic to these people, and he, obviously, had a different clientele than Mr. Kiernan. He emphasized the purpose of the protections was so people did not get tossed out on the street; however, that did not entitle them to escape judgment altogether. Senator Care said one of the things he did in consultation with a client when deciding whether or not his client was going to go after someone was to ask what the defendant had, and was it worth pursuing them to take what they had. There was no sense getting a judgment if it could not be executed. He said debtors can always file bankruptcy.

James F. Nadeau, Nevada Association of Realtors, said historically, the Nevada Association of Realtors had supported raising the amount of the homestead exemption. He explained the homestead exemption was normally raised because the cost of housing had gone up within the State. He stated those costs had gone up significantly in some areas. He said from the Association's perspective, it agreed with Senator Care that the exemption was to keep people in their homes. He said the Nevada Association of Realtors supported the idea of the exemption keeping pace with the cost of housing.

Vice Chair Washington asked Mr. Nadeau whether he agreed with the proposed amendment to make homesteading an automatic filing. Mr. Nadeau replied the Association did not take a position on that issue, as that was a policy decision for the Legislature to decide. He pointed out Senator Care had stated an individual was able to file for a homestead exemption up to the time of the sale of the home.

Vice Chair Washington said this was the third time he had sat on a committee that discussed raising the homestead exemption. He said last Session, the exemption was raised to $200,000.

Senator Care said he recalled testimony last Session stating the cost of housing in Clark County was around $200,000, and he was aware the cost was even higher at present. He said because the cost for a new home was the philosophy

guiding this body, the Committee should find out what the cost of a new home was at present and use that as its guide.

Vice Chair Washington asked staff to find out what the cost of an existing home was, not only in Clark County, but also statewide.

Philip K. Goldstein, Attorney, said he performed creditor and collection work as well as debtor work. He said with the way the economy was going lately, he found himself doing more bankruptcy work than normal. Mr. Goldstein said, as some of the previous speakers mentioned, many lawyers in the State were trying to protect people, but he also recognized the need to be fair. He said he felt neither an automatic homestead exemption was needed, nor an automatic raise in the exemption amount. Mr. Goldstein stated many people were not living on their properties; they used some properties for investments, and in fairness to the creditors, those homes that should be protected were only the homes occupied by their owners.

Mr. Goldstein said he wanted to address several issues within the bill. He indicated the first issue was NRS 21.090, subsection 1, paragraphs (a) and (b), which addressed household items. Currently, those items included basic furniture, one television and one radio. He stated he had clients in bankruptcy who may have a student's violin, a home computer or a family computer not protected under current law. Mr. Goldstein noted the language in the bill sought to address those problems by giving a little more discretion to the citizen as to what household possessions he or she might want to protect.

Mr. Goldstein said the second issue was to identify the business assets of an individual that may be exempt. He said currently, protected items were an office chair, a desk and things of that nature. Mr. Goldstein said sometimes, his clients had small amounts of inventory. He pointed out current law did not allow them to keep any inventory, which in essence, forced the individual to lose his or her business, leaving them with no employment or financial means of providing for themselves or their families. He said these people were forced to go to a zero-income status. Mr. Goldstein said the exemption laws were not designed to destitute people, but to provide them with a way to protect some minimum assets. He said the language needed to include small amounts of the working inventory, which would broaden the definition of business assets. He indicated if people with small amounts of inventory values kept those assets and their businesses, when they came out of bankruptcy or the judgment debtor exam,

those people could still earn a living. He said everyone should have a chance to face their creditors and should be forced to face their creditors, but also must be allowed to get back on their feet and have a means of a earning a living.

Mr. Goldstein pointed out the idea of the bankruptcy laws was to give a debtor a fresh start. These people needed to get their finances in order, get through the ordeal and then move forward with their lives. He said enabling these people to earn an income was in everyone's interest.

Mr. Goldstein said his next item to discuss was the Roth IRA. He said states typically exempted IRA or pension accounts in one or two manners. He continued, either the state law or statutory scheme was based on whether the IRS said it was a retirement account and it was validly funded, then it was protected. Other states have taken the approach of saying they would exempt the 401k, 403b deferred compensation or the 405 pension accounts. Nevada identified its statutory scheme as based on specific identification of different types of pension and IRA accounts. He pointed out because Nevada took the specific kind of approach, the Roth IRA should be identified as well as other IRA accounts. How money was funded into those accounts and how much money was protected in a judgment situation was something the Legislature should consider. Mr. Goldstein said because IRAs were identified in Nevada, the statutes needed an update to match the newer IRA or pension accounts.

Mr. Goldstein said he wanted to discuss the proposed "wildcard" exemption. He referred to his handout (Exhibit E), which had a letter from a creditor's lawyer addressed to one of his clients, a single mother, demanding the $175 left in her personal bank account be handed over to the creditors. Mr. Goldstein indicated he did not understand what the creditors thought they would get. He said after the bankruptcy trustee took his $45 and the attorney's percentage of the $175, about $10 probably went to the creditors. He said that $10 was divided into $50,000 worth of medical bills.

Mr. Goldstein stated there should be a small, reasonable amount for a wildcard exemption, primarily for cash on hand, cash in the bank or maybe a tax refund coming to the individual, so these people could pay their month's electric bill or gas bill or other small living expenses. He said he had researched statutes from 50 states, and 24 states had wildcard exemptions of some sort. He explained some of those exemptions were for cash, some were for miscellaneous assets. He said Vermont protected a person's wood and maple syrup; Oklahoma

protected a person's chickens and cows. Mr. Kiernan said Nevada did not have those specifics, but a wildcard served the same purpose.

Mr. Goldstein said the next item was a reclarification on the garnishment statute. He emphasized there were people who did not receive a 40- or 80-hour paycheck. He said these individuals worked on commission, tips or bonuses. Mr. Goldstein asserted the bankruptcy judges in Las Vegas—Clark County determined if compensation was not an ordinary paycheck based on a 40-or 80-hour fixed work period, it was not a wage. Therefore, those persons who received commissions, realtors who made income on closing costs, the mortgage broker or persons who worked for tips only, these wages were not protected. Mr. Goldstein pointed out the language in S.B. 173 redefined what was income. He said ordinary income, based on what was an ordinary job function, would be subject to the same 75-percent protections for garnishment exemption.

Mr. Goldstein said his last item of concern was the homestead. He said personally, he was not comfortable with a $500,000-homestead exemption, based on reports that the average home price in Clark County was probably in the $300,000 range. He said, as a creditor and debtor attorney, the $500,000 amount was too large. Mr. Goldstein explained he sometimes had clients who had a $500,000 house and a $500,000 pension. He would suggest those clients enter into a chapter 13 bankruptcy, to make an effort to pay back the $20,000 they might owe, because they could afford it. He stated he did not like the concept of an unlimited homestead exemption.

Mr. Goldstein indicated he sent information to Senator McGinness in regard to the personal injury exemption. He said the personal injury exemption in Nevada statute was only a copy of the federal scheme. He explained that he had spoken with the United States bankruptcy court trustees in Las Vegas regarding that exemption and had litigated over that exemption. He said the problem was the unclear wording. The current language in NRS 21.075, subsection 2, item 17, Notice of Execution basically says for judgments less than the $16,150, an exemption exists as long as it does not include compensation for pain and suffering or pecuniary loss. Mr. Goldstein said in any personal injury action, obviously, there are pecuniary losses and personal pain and suffering. He said the element not discussed in the statute was physical bodily loss, the loss of an arm, leg or an eye. He explained the trustees found this issue problematic in that the majority of personal settlements failed to identify what the recovery

was for. Insurance companies were hesitant to say the money was for this kind of loss or that kind of loss, because then the company was forced to admit liability.

Mr. Goldstein explained in his discussion with other trustees, the decision was to go with a straight 50 percent, which precluded things such as specifying the injury, the loss and the classification. He said the fairest way was to split the assets 50–50, whether the asset was $100, $1,000, $100,000 or $1,000,000 it was simply split down 50-50. If people wanted the protection of bankruptcy or protection from creditors, they needed to recognize they had to share half of their assets to pay their bills.

Senator Care referenced subsection 1 of section 5 on page 9 of S.B. 173, "The following property is exempt from execution," and under paragraph (a), the current law reads private libraries are not to exceed $1,500 in value. He said the proposed change to the statute would say "private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value." He said his first question was whether the $5,000 was in the aggregate, or if it was $5,000 each for a private library, a work of art, or for a musical instrument. Mr. Goldstein replied that is a $5,000 aggregate amount.

Senator Care pointed out the same section said, "belonging to the judgment debtor or a dependent of the judgment debtor," and asked whether there were cases involving disputes in regard to who owned a private library. Mr. Goldstein said since children were not filing bankruptcy, there was an argument over no protection for the children's library. He said this bill attempted to say if there was a family asset, whether the person using the asset was filing or a dependent, there was still a protection element.

Vice Chair Washington said the Committee would take Mr. Goldstein's recommendations under consideration when this bill was looked at during work session.

Vice Chair Washington closed the hearing on S.B. 173 and opened the hearing on S.B. 164.

SENATE BILL 164: Revises provisions requiring inclusion of personal identifying information in court orders and judgments relating to parentage. (BDR 11-1049)

William J. Raggio, Washoe County Senatorial District No. 3, said he was a messenger and the Committee had a letter from attorney Lance R. Van Lydegraf (Exhibit F). He said he believed Mr. Van Lydegraf's letter was sufficient, but he could be called upon for further information. He noted the letter explained a bill in the 1999 Legislative Session that dealt with identity theft, and one of the provisions was to have records like divorce decrees and child-support orders, which contained social security numbers and personal identification such as birth dates, driver's license numbers and other personal information, collected, but maintained in a confidential manner. He said Mr. Van Lydegraf was an attorney who dealt in these areas, and his letter indicated that the Legislative Counsel Bureau and he had overlooked the statute that dealt with the determination of paternity. Senator Raggio said that information was still required under NRS 126.163, which was one of the sections in S.B. 164. He said this bill was intended to include the information collected from a judgment on parentage, but not made available to the public as ordinarily done in a paternity suit.

Vice Chair Washington said the bill was self-explanatory and corrected something the Legislature had overlooked. He asked whether the information was gathered by the Welfare Department and shared between agencies, such as the Department of Motor Vehicles (DMV) or if Welfare had to keep it confidential. Kelly Lee, Committee Counsel, replied that was not addressed in the bill. She said if agencies were allowed to share information now, then they would continue to do so. Ms. Lee said she did not believe the welfare agencies randomly shared their information with the DMV.

Vice Chair Washington closed the hearing on S.B. 164.

Chair Amodei asked whether the Committee wanted to take action on Assembly Bill 55.

SENATOR WIENER MOVED TO DO PASS A.B. 55.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Amodei asked what the Committee would like to do with S.B. 164.

SENATOR WIENER MOVED TO DO PASS S.B. 164.

SENATOR HORSFORD SECONDED THE MOTION.

Senator Care said if the court issued an order, he questioned whether it was necessary to pass the bill. Regarding section 2, subsection 2, paragraph (b) of S.B. 164, "...placed in the records relating to the matter and, except as otherwise required to carry out a specific statute," he asked if the Committee needed to include "or court order." He asked if this bill precluded a court from ordering the release of information in spite of existing statute, or bound the court from releasing information.

Chair Amodei said if Senator Care wanted to look into it, he could bring that amendment to the Senate Floor and, in this way, the Committee could keep the bill moving.

Vice Chair Washington said he believed there was also a concern with sharing the information if it was placed in statute to protect the confidentiality, because it dealt with the federal statute for child support in such things as confiscation of a driver's license, fishing license and other such privileges. He indicated staff should look into the matter to make sure all of the information could be shared between agencies. Chair Amodei responded it would be doable.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Amodei explained the Committee had a request from a district court judge in Nye County to place S.B. 137 on the Secretary of the Senate's desk for a potential amendment. He said he would share that language with the Committee, which looked as if it were a housekeeping problem. Senator Amodei said the district court judge was concerned because the language in the bill required someone to report to parole and probation as part of their sentencing, and the bill needed adjusting to address the issue if that person never showed up to report to parole and probation. He said he agreed to place the bill on the secretary's desk so that staff could look at it for a potential small amendment.

SENATE BILL 137: Revises provisions governing parole and probation officers. (BDR 14-757)

Senator Amodei explained during the last two Sessions, the Chair of the Judiciary Committee had a conflict of interest with the construction-defect and homeowners-association issues, and as a result, the Senate Commerce Committee handled bills dealing with those issues. Bills dealing with those issues should be returned to the jurisdiction of the Judiciary Committee, although, he suggested the Commerce and Labor Committee continue to deal with homeowners association bills this Session. Chair Amodei explained A.B. 71 and S.B. 153 needed Committee action to rerefer these bills to the Senate Committee on Commerce and Labor. He commented for the 2007 Session, all of those subjects would return to the Judiciary Committee.

SENATOR McGINNESS MOVED TO REREFER A.B. 71 AND S.B. 153 TO THE SENATE COMMITTEE ON COMMERCE AND LABOR.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Amodei said the Committee had Bill Draft Request (BDR) 1-524 to introduce.

BILL DRAFT REQUEST 1-524: Increases number of district judges in the Eighth Judicial District. (Later introduced as Senate Bill 195.)

SENATOR McGINNESS MOVED TO INTRODUCE BDR 1-524.

VICE CHAIR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senator McGinness informed the Chair that he had a request to place S.B. 75 and S.B. 77 on the Secretary of the Senate's desk, and he had agreed.

SENATE BILL 75: Allows use of audiovisual technology under certain circumstances for counseling and evaluations required for certain offences. (BDR 15-188)

SENATE BILL 77: Revises provisions pertaining to counseling required for person convicted of battery which constitutes domestic violence. (BDR 15-185)

Vice Chair Washington explained everything possible was done to inform everyone of these bills and their contents, so he opposed putting the bills on the Secretary of the Senate's desk.

Chair Amodei asked Mr. Anthony when Vice Chair Washington's bill was to be heard. Mr. Anthony replied S.B. 109 was agendized for next Tuesday at 9 a.m.

SENATE BILL 109: Revises provisions concerning presumption that joint custody is in best interest of minor child. (BDR 11-620)

Senator Care requested a copy of the court order for the gentleman who claimed he was ordered to get married because, he said, credibility of a witness was always an issue. Mr. Anthony replied that staff was going out to those counties to pull those records.

Chair Amodei adjourned the meeting at 9:23 a.m.

RESPECTFULLY SUBMITTED:

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Johnnie Lorraine Willis,
Committee Secretary

APPROVED BY:

_____
Senator Mark E. Amodei, Chair

DATE:_____